

DATING GOD: WHAT IS “YEAR OF OUR LORD” DOING IN THE U.S. CONSTITUTION?

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ABSTRACT

The U.S. Constitution is a godless document, except for an appended date: “the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven.” Christian nationalists and zealous politicians use that date to argue that the United States is a Christian nation and to push legislative initiatives that promote religion. This article examines the legal and historical significance of that lordly date by piecing together how exactly it was added to the parchment during the Constitutional Convention, who added it, and what significance it may have had for the delegates and scribe. The article also traces the origins of the argument that “Year of our Lord” is consequential to a preacher writing fifty years after the Constitution was drafted. All the evidence strongly suggests that “Year of our Lord” has no legal, historical, or even religious significance.

KEYWORDS: *U.S. Constitution, Year of our Lord, religion, God, Christian nationalism, Constitutional Convention, date*

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GOD IS MAKING A COMEBACK in Kentucky. Governor Matt Bevin declared 2016 “the Year of the Bible.” He did the same for 2017.² Bevin also launched a crime-fighting strategy that included prayer.³ And when he took office, he ensured that a \$100 million homage to the biblical story of Noah’s Ark will receive millions in tax incentives by ending Kentucky’s appeal of a decision upholding those incentives (Pilcher 2016).⁴

In March 2017, in the final hours of the session, the Kentucky legislature joined the revival and resolved to do its business “in the Year of our Lord.”⁵ The resolution was meant to “follow the lofty example set in the U.S. Constitution and other significant founding documents.”⁶

“It’s important for us to go back to the basics of our U.S. and state constitutions that used that phrase,” explained Kentucky state senator Albert Robinson, who proposed the bill. “I’m also trying anywhere and everywhere I can to respect our creator” (Brammer 2017).⁷

Robinson is one of the latest in a line of politicians and others who are using these words to claim, as Congressman Randy Forbes did in 2009, that the

2. Commonwealth of Kentucky, gubernatorial proclamation of December 19, 2016, proclaiming 2017 as the year of the bible, available at <http://apps.sos.ky.gov/Executive/Journal/execjournalimages/2016-PROC-247701.pdf>. The proclamation refers to its 2016 counterpart: this “marks the second year Kentucky has led the nation in celebrating the Bible’s significant impact on Kentucky and American institutions and culture by leaders in each county taking shifts to read through the entire Bible in Kentucky’s Bible Reading Marathon beginning Jan. 1, 2017.” Brammer (2016) quipped that “The ‘Year of the Bible’ will apparently last 24 months in Kentucky.”

3. Announcing these prayer patrols, Bevin said: “The lieutenant governor and myself laid forth [a] very simple request to people and I’ll share with you what that is: It is harnessing people of faith to pray for the community, engage with the community by physically walking blocks in that community, praying for the community, for the people in those communities, and engaging with them. . . . We need young and old people alike who genuinely believe in the power of prayer, who want to restore dignity and hope into these communities, and want to do that by physically being in those communities and walking around. . . . We ask people to spend no more than 30 minutes moving around the block. Go around the block, pause on each corner, pray for the people there, move to the next corner” (Sayers et al. 2017). This story includes the video of Bevin’s speech, from which this transcript was taken.

4. I’ve had the displeasure of visiting the Ark Encounter and even filmed a commercial there: <http://www.patheos.com/blogs/freethoughtnow/andrew-visits-ark>.

5. SR 294 and HR 218 were passed by voice vote (see <http://www.lrc.ky.gov/recorddocuments/bill/17RS/SR294/bill.pdf> and <http://www.lrc.ky.gov/record/17RS/SR294.htm>).

6. Section 1 of the resolution: <http://www.lrc.ky.gov/recorddocuments/bill/17RS/SR294/bill.pdf>.

7. The resolution presents, with no apparent irony, the fact that “Kentucky’s 1891 Constitution was dated in the Year of our Lord” as evidence for its need but neglects to mention that Kentucky’s 1792 Constitution and 1799 Constitution did not use the phrase.

United States is a “Christian nation.”⁸ The argument is weak, but it’s also a must win for the Christian nationalists. The United States cannot possibly be a Christian nation unless the founding document mentions the Christian god.

The U.S. Constitution is unique in its godlessness. Its only mentions of religion are exclusionary, keeping religion out of government and vice versa, except for a curious little appendage: the date, “the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven.”

These days, “Year of our Lord” is a relic that has been mostly discarded. This anachronistic dating convention is, from time to time, reported to my organization, the Freedom From Religion Foundation,⁹ and we’ve helped remove it from diplomas and other government documents. Often all it takes is a complaint. After all, more than 100 million Americans are not Christian¹⁰ and having the Christian lord on their diploma or marriage certificate or bar admission is understandably a bit galling.

8. “When our constitution was signed,” Forbes said, “the signers made sure that they punctuated the end of it by saying, ‘in the year of our lord, 1787’” (<https://www.c-span.org/video/?285755-1/house-session>; <https://web.archive.org/web/20090805083910/http://forbes.house.gov/uploadedfiles/ForbesTranscript050609.pdf>). Forbes was the first to convene the Congressional Prayer Caucus. He’s not alone in making these claims, however. Claims like this range from the fair-minded, such as Hutson (2007) (“The Constitution did, in fact, glance in the Almighty’s direction—certifying in Article 7 that it was adopted ‘in the Year of our Lord’. . .” [140]) to the vacuous. Examples of the latter include: “The Constitution is explicitly signed ‘in the year of our Lord.’ Not only does the Constitution mention God, but it affirms the deity of Jesus Christ, our Lord” (Kennedy 2005, 209; Barton 2011) and “Early laws written by the Colonists before America’s Independence reveal that they looked to the Bible for the source of their laws and ordering of civil society. . . . The U.S. Constitution requires a Christian oath, acknowledges the Christian Sabbath, and is dated in the year of our Lord” (McDowell 2005, 12–15) and even, “Note: ‘Year of our Lord’ means Jesus Christ is Lord of the USA. (Founding fathers didn’t use year of the Lord)” (Zamorano 2010, 26). In his March 23, 2012 broadcast (see <https://youtu.be/zppg5J3Xaxo>), Brian Fischer of American Family Association’s Focal Point radio program was perhaps the most emphatic, “We even dated both the Declaration of Independence and the Constitution . . . to the year of the birth of Jesus Christ. In fact, when the Founders, when they dated the Constitution ‘the year of our Lord, 1787,’ they referred to Jesus as ‘our Lord.’ Don’t let people tell you that Christ is not in the Constitution; He’s in there.”)

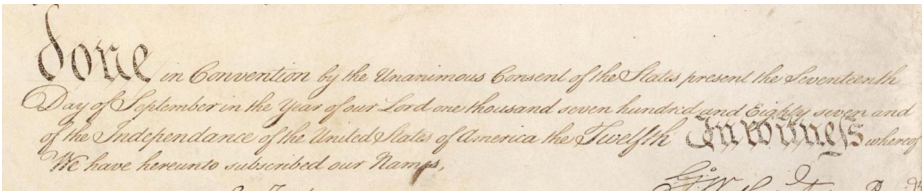
9. The Freedom From Religion Foundation (FFRF) is a national 501(c)(3) nonprofit with more than 32,000 members. FFRF works to educate the public about matters of nontheism and to keep state and church separate.

10. Robert P. Jones and Daniel Cox, *America’s Changing Religious Identity*, Public Religion Research Institute (2017), available at <https://www.prrri.org/wp-content/uploads/2017/09/PRRI-Religion-Report.pdf>. This study shows that 33 percent of the 325,000,000 Americans are not Christian.

Most institutions offer an alternative. For example, attorneys seeking admission to the U.S. Supreme Court are able to choose whether or not they want the “Year of our Lord” language on their admission certificate.¹¹

Defenders of the “America is a Christian nation” trope occasionally cite the vestigial phrase as evidence to support their claim. These four words—“Year of our Lord”—allegedly show that, far from being godless, the Constitution is a deliberately Christian document.

This article will examine the legal and historical significance of the “Year of our Lord” language added to the U.S. Constitution. I conclude that this phrase has no real legal or historical value.



done in Convention by the Unanimous Consent of the States present the Seventeenth Day of September in the Year of our Lord one thousand seven hundred and Eighty seven and of the Independance of the United States of America the Twelfth **In witness** whereof We have hereunto subscribed our Names

The facts bear out this conclusion. First, the “Year of our Lord” language is not actually part of the Constitution itself, which ends at Article VII. The phrase was not debated or ratified by the Constitutional Convention and it seems unlikely that the specific verbiage was even approved by the delegates. In all likelihood, it was a formalism unthinkingly added by the Constitution’s scribe, Jacob Shallus. Perhaps most importantly, the language was not viewed as having any religious significance at the time.

I. THE DATE IS NOT PART OF THE CONSTITUTION

“Year of our Lord” is not actually *in* the Constitution. The legal document ends with the errata and words of Article VII: “The Ratification of the Conventions of

11. The Supreme Court’s current bar admission instruction form reads: “BAR CERTIFICATE. The Certificate evidencing admission to the Bar of this Court contains the following words: ‘. . . in the year of our Lord, two thousand.’ An alternate Certificate is available that omits the underlined words. If you want an alternate Certificate, check the block on the application form.” See U.S. Supreme Court, “Instructions for Admission to the Bar,” form number CLER-0078-5-13, available at <https://www.supremecourt.gov/bar/barinstructions.pdf>.

nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.” The fifty words of the attestation clause are not part of the legal document itself. Akhil Reed Amar clarified this point: “As it turns out—though this fact has until now not been widely understood—the ‘our Lord’ clause is not part of the official legal Constitution. The official Constitution’s text ends just before these extra words of attestation—extra words that in fact were not ratified by various state conventions in 1787–88 (Amar 2016, 42). Amar also addressed this issue in his book *America’s Unwritten Constitution*: “The words ‘in the Year of our Lord’ do not merely lie outside of Article VII. They lie outside of the official written Constitution—that is, the legal one—altogether” (Amar 2012, 71).

When you sign a contract, that signature is attesting to your consent—it is not part of the terms of the contract.¹² The signatures and dates are not part of the Constitution itself.

This point is bolstered by the document’s subsequent ratification. When the printed text of the Constitution was sent to the states for ratification, five of the first nine states that would ratify it only ratified the language preceding the date. In other words, they ratified the text only up to the final sentence in Article VII and did not even consider the attestations of the witnesses because they did not have that language in front of them. “No matter how we count, this closing flourish was never ratified by the nine-state minimum required by Article VII,” concludes Amar (2012, 73). Thus, those unratified words cannot be part of the legal Constitution according to the terms of the Constitution itself.¹³

The other dates in the Constitution also suggest that the lordly words were not part of the Constitution itself. The Constitution has several other years written out within the text, and none use the phrase “Year of our Lord.”

Even though the word “slavery” is never used in the Constitution, slavery contaminated the delegates’ debates on representation, taxation, and more. The slave trade could not be “prohibited by the Congress prior to the Year one thousand eight hundred and eight,” according to Article 1, Section 9. Nor could the Constitution be amended in a way to prohibit the slave trade “prior to the Year one thousand eight hundred and eight,” according to Article V.

12. Of course, the execution date (not part of the contract itself) is distinct from the effective date, duration dates, due dates, or other dates that are deliberately included within the terms of the contract itself. This is not to say that it is not legally important; cases can turn on the date a contract was signed, but that importance does not make it part of the contract itself.

13. Article VII: “The Ratification of the Conventions of nine States, shall be sufficient for the Establishment of this Constitution between the States so ratifying the Same.”

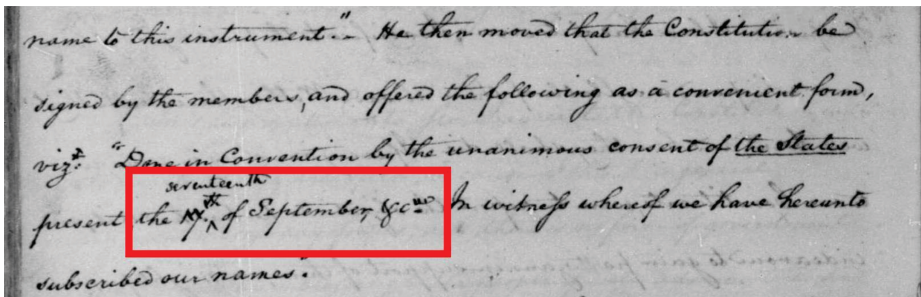
This is language that the founders debated bitterly—for days in August 1787. That exhaustive debate yielded godless dates. Thus, we know that when the framers were responsible for debating, approving, and voting on dating language, that language did not contain the religious convention—it was secular.

So, if the date is not part of the legal Constitution, was not ratified, and is not consistent in form with the other, heavily litigated dates, how did “Year of our Lord” come to be in the Constitution?

II. IT IS UNLIKELY THAT THE CONVENTION PROPOSED THE “YEAR OF OUR LORD” LANGUAGE

The phrase “Year of our Lord” does not appear in any records of the Constitutional Convention. James Madison recorded the proceedings of September 17, 1787, the day the Constitution is dated and presumably received the four words. He notes that Ben Franklin made a motion: “that the Constitution be signed by the members and offered the following as a convenient form viz. ‘Done in Convention, by the unanimous consent of the States present the seventeenth of September, &c—In Witness whereof we have hereunto subscribed our names’” (Farrand 1911b, 643).

Here are Madison’s original handwritten notes:¹⁴



The actual words “Year of our Lord” are not present in Madison’s notes before the final version of the Constitution appears.¹⁵ Madison’s abbreviation, “&c—”

14. James Madison, *John C. Payne’s Copy of James Madison’s Original Notes on Debates in the Federal Convention of 1787*. From the Library of Congress, <https://www.loc.gov/item/mjm023110>.

15. Madison’s handwritten notes include the final version of the engrossed and signed Constitution that does include the explicit phrase, but he was copying directly from the final version so this does not change the analysis in this article (see https://www.loc.gov/resource/mjm.28_0270_1617/?sp=1294). We know Madison was copying from the final, signed version (after “Year of our Lord” was added)

and the appearance of “Year of our Lord” on the final Constitution gives two basic possibilities. First, it is possible that the delegates wanted this dating convention but that it was so common and unremarkable that Madison did not bother to record it verbatim. He lumped “Lord” in with a dry formality, an “etc.” If this is true, and it may be, it seriously undercuts any claim that the founders meant the language to transform the entirely godless document into a Christian manifesto.

The second possibility is that the founders did not specifically or explicitly vote on or approve the “Year of our Lord” language, which was instead added later. This second possibility squares with the evidence better than the first.

A. “Year of Our Lord” Does Not Appear in Any of the Drafts of the Constitution

The first real draft of the Constitution came in early August of 1787. The Convention adjourned on July 27 for several days to allow the Committee of Detail to combine the disconnected votes and motions and principles into a coherent document. “On 6 Aug. John Rutledge delivered the report of the ‘Committee of detail’ in the form of a printed draft of the proposed federal constitution and provided copies for the members.”¹⁶ George Washington’s copy of this early printed version of the Constitution (v1.0) can be viewed, along with all his handwritten annotations, on the National Archives website.¹⁷ It does not contain that “Year of our Lord” verbiage.¹⁸

The Convention debated and edited v1.0 for more than a month and then passed it and the copious edits off to the Committee of Style. This committee, a political dream team that included James Madison, Alexander Hamilton, and Gouverneur Morris, would put a polish on the Constitution. The committee gave

because Madison’s list of signers directly mirrors the engrossed version. Starting with Washington and moving down the right-hand column of signatures, Madison copied out the states—signing from north to south—and names, and then moved on to the left-hand column. The lists are identical and that could not have been possible had Madison not been copying from the final, which already contained the “Year of our Lord” language.

16. *Draft of the Federal Constitution: Report of Committee of Detail, 6 August 1787*, Founders Online, National Archives, last modified March 30, 2017, <http://founders.archives.gov/documents/Washington/04-05-02-0261>. Original source: *The Papers of George Washington, Confederation Series, Vol. 5, 1 February 1787–31 December 1787* (W. W. Abbot, ed., University Press of Virginia 1997).

17. Available at <https://catalog.archives.gov/id/1501555>.

18. Interestingly, this version of the Constitution does contain a handwritten note, complete with a date: “Printed draughts of the Constitution, received from the President of the United States, March 19. 1796, by Timothy Pickering Secy. of State.”

the job to Morris, a peg-legged bon vivant who spoke more than any other delegate at the Convention. Morris gave us those famous first words, “We the People.”¹⁹

The Committee of Style brought the refined product back to the whole convention on September 12, 1787. The delegates debated and edited this version, v2.0, for three days. George Washington’s copy of this nearly final version of the Constitution and his handwritten edits are in the Library of Congress.²⁰ It runs to four pages and ends with Article VII; there is no lordly date.²¹

Three days later, on September 15, the Convention agreed on the complete text, what would become v3.0. They also agreed that 500 copies of v3.0 would be printed by Dunlap and Claypoole (Farrand 1911b, 634), and, for \$30, hired someone, almost certainly Jacob Shallus, to engross (transcribe in legible, bold, and occasionally ornate lettering) v3.0 onto the four sheets of vellum that reside in that National Archives today (Fitzpatrick 1946, 761–69). Oddly, according to the National Archives, none of the 500 copies of v3.0 Dunlap and Claypoole printed for the Convention’s use on September 17 survives.²²

Shallus and Dunlap and Claypoole worked to complete their work over the September 15–16 weekend. The Convention met after the engrossing and printing was complete on Monday, September 17.

19. Morris made a significant change, dropping the various states. Originally it read: “We the People of the States of New-Hampshire, Massachusetts, Rhode Island and Providence Plantations, Connecticut, New-York, New-Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South-Carolina, and Georgia.”

20. Draft of the U.S. Constitution 4 (September 12, 1787), available at <http://memory.loc.gov/mss/mgw/mgw4/097/0200/0246.jpg>.

21. Draft of the Federal Constitution, Report of Committee of Style, Washington Papers, available at <http://gwpapers.virginia.edu/documents/draft-of-the-federal-constitution-report-of-committee-of-style>.

22. This could be because fresh, correct versions were printed after the final version was signed, so the versions that contained old language were destroyed: “The text produced by Dunlap and Claypoole contained a few more flaws. It must have contained the uncorrected ‘forty thousand’; it also cannot have had a correct list of the signers, for when the Convention began its final day, the members did not know precisely who was going to sign the document. There was a determined but unsuccessful effort, led by Benjamin Franklin, to bring aboard three delegates who had not committed themselves—Edmund Randolph, George Mason, and Elbridge Gerry. There was also some doubt, right up to the end, about another member—William Blount of North Carolina—who finally did sign. We do not know how the print of Monday, September 17, dealt with these uncertainties. No copy of that print has ever come to light. (We do know that the printing was done, for the archives contain a record of payment to the printers large enough to cover two jobs, each running to 500 copies or more.) Apparently the stack of 500 prints was held closely by someone and not distributed. Otherwise, a few copies would likely have migrated into the papers of some members and could now be found preserved in various archives” (Bain 2012).

“The engrossed Constitution being read . . .” was the first order of business; in other words, it was read aloud. Then, “Doctr. Franklin rose with a speech in hand . . .” and delivered a duly famous speech—“Thus I consent, Sir, to this Constitution because I expect no better, and because I am not sure, that it is not the best.” This was followed by Franklin’s motion to add on the date and signatures. This is the motion that Madison recorded as: “offered the following as a convenient form . . . ‘Done in Convention, by the unanimous consent of the States present the seven-teenth of September, &c—’ ” (Farrand 1911b, 643).

It stands to reason that because Franklin’s motion to add the signatures and date was made after v3.0 was read aloud, that v3.0 did not include that date, let alone “Year of our Lord,” when it was read aloud. This also means it is highly unlikely that the printed version of v3.0, of which we have no copy, contained the language. This is even more likely for two additional reasons. First, the other drafts were undated.²³ Second, the printer and engrosser would not have known the actual date of the signing. The Convention was aiming for Monday, September 17, but the delegates had already overstayed their welcome.

In short, none of the drafts contains the “Year of our Lord.” The absence of the date—“Year of our Lord” or otherwise—on the three drafts of the Constitution demonstrates that it was never debated. It also helps to illustrate the previous point: the date and signatures are not part of the Constitution itself.

B. The Delegates Were Not Focused on and May Not Have Even Noticed the Christian Addition to the Date

Daniel Dreisbach has pointed out what seems to be an inconsistency in the Constitution: “[I]f the Constitution was deliberately secular or hostile to traditional religion, the reference to Jesus Christ could have been avoided. The framers broke with tradition by omitting from the body of the text all references to the Deity, and they could have just as easily omitted the reference to Christ in the dating clause” (Dreisbach 1996, 967).

A fair point. But what if the framers didn’t know about the “Year of our Lord” language? What if they did not propose the language, did not approve the language, and were busy debating important issues, such as what to do with the records of the Convention, while a scribe added the date in the most formal fashion he was accustomed to using? That would explain the apparent contradiction and that seems to be what happened.

23. See notes 16 and 20.

It might seem impossible that this could be the case, but the impossible becomes probable if we picture this formative moment in American history, if we actually imagine the scene as the framers signed the Constitution.²⁴ After the engrossed Constitution was read—without the “Year of our Lord” language as we have seen—Ben Franklin, the respected elder statesman, rose to urge unanimity and propose workable language for achieving that goal: “Done in Convention, by the unanimous consent of the States present.” This language was subtle, sly, and extraordinarily important, but before the delegates debated it, a minor amendment to the upper limit on representational ratio was proposed and seconded. It would be changed from no more than one representative for every 40,000 people to one for every 30,000 people.²⁵

George Washington, the Convention’s president and future president of the nation, stood to his full imposing height, echoed Franklin, and asked the delegates to approve the minor amendment to congressional apportionment, which they did unanimously. At that point, Jacob Shallus, the engrosser, probably began making the approved edit, scraping off “forty” and writing in “thirty.”

As Shallus was making the change, the heart of Franklin’s motion was discussed. The delegates in that room were focused on the first bit of Franklin’s language and not the language of the date. “Done in Convention, by the unanimous consent of the States present” was both clever and crucial to those delegates—the date was not. Gouverneur Morris conceived this ingeniously ambiguous language “in order to gain dissenting members” (Farrand 1911b, 643). Here’s how Michael Meyerson describes the semantic maneuver:

To create the appearance of unanimity . . . [t]hose individuals signing would not endorse the document itself, but only attest to the fact that the Constitution had been “Done in Convention by the *unanimous consent of the states present*.” Since a majority of delegates of every state but New York supported the Constitution, and New York, with only one delegate in attendance, was not technically “present,” the signers could truthfully declare there had been “unanimous consent” of “the states present.” (Meyerson 2012, 143)

This language allowed Alexander Hamilton of New York to sign the Constitution, a document he had worked hard to bring about, even though his delegation had

24. The recounting of this moment can be found in Farrand (1911b, 643–47).

25. Article I, Section 2, Clause 3 now reads “The Number of Representatives shall not exceed one for every thirty Thousand.” The Apportionment Acts of 1911 and 1929 essentially set the number of members in the House at 435 irrespective of population.

departed early to protest the proceedings.²⁶ Not everyone appreciated the dialectical dodge; several “disliked the equivocal form of the signing” (Farrand 1911b).²⁷

So as Shallus was changing “forty” to “thirty” some of the most important delegates debated signing the document. Edmund Randolph of Virginia refused to sign. Gouverneur Morris admitted that he had objections and found faults but that he would sign it. Alexander Hamilton was anxious that all should sign, fearing that any opposition would “do infinite mischief.” William Blount of North Carolina would not sign but would support it. Charles Cotesworth Pinckney thought the Convention “not likely to gain many converts by the ambiguity of the proposed form of signing.” Eventually, the delegates, who must have been drained from the debates and relieved that the end of their labors was in sight, voted for Franklin’s proposed language.

It was only then that Jacob Shallus, the penman of the Constitution, could begin to add the language that Madison recorded as “Done in Convention, by the unanimous consent of the States present the seventeenth of September, &c—” The delegates did not look over Shallus’s shoulder while he wrote. Instead, they took up yet another debate: What was to be done with the journals of the Convention? Should they be destroyed or preserved in the custody of George Washington to be given to the new Congress if the Constitution were ratified? Only after that question was settled in favor of preservation, by which time Shallus was certainly done appending the date, did “the members then proceed to sign the instrument.”

As the delegates signed by state, from north to south, Franklin, with his unerring sense of history, piled on additional drama and heft. Franklin pointed to the painting of the sun on the chair Washington had occupied as president of the Convention. Franklin explained that artists struggle to distinguish between rising and setting suns. Throughout the Convention, Franklin said that he had looked on the sun, “without being able to tell whether it was rising or setting: But now at length I have the happiness to know that it is a rising and not a setting Sun” (Farrand 1911b, 646–48).

The debate over destroying the journals and Franklin’s poetic musings on the rising sun as a metaphor for a rising world power surely drew the delegates’

26. Washington would write in his diary that “the Constitution received the unanimous assent of 11 States and Colo. Hamilton’s from New York (the only delegate from thence in Convention) and was subscribed to by every Member present except Govr. Randolph and Colo. Mason from Virginia—and Mr. Gerry from Massachusetts. The business being thus closed, the Members adjourned to the City Tavern, dined together and took a cordial leave of each other” (Farrand 1911c) (see http://oll.libertyfund.org/titles/1787#Farrand_0544-03_269).

27. Available at http://oll.libertyfund.org/titles/1786#Farrand_0544-02_4797.

attention, not Shallus’s scratching quill. Nor were they likely to carefully reexamine a document they had debated for weeks and heard read a few minutes earlier. Exhausted, they simply stepped up and signed, as Hamilton hovered nearby to write in the names of the states beside the delegates’ signatures, infamously misspelling Pennsylvania (Bain 2012).

The day after the engrossing and signing, the printers Dunlap and Claypoole gave the Convention a fresh batch of corrected, printed Constitutions²⁸—this would be v4.0—and these contained the phrase “Year of our Lord.” As we’ve seen, v1.0, v2.0, and v3.0 all omitted “Year of our Lord” when the framers were discussing, editing, and voting on the language. So it is virtually certain that it was not until after all the discussion was over and the framers were ready to sign that “Year of our Lord” was added.

C. Several Additional Pieces of Evidence Point to a Scrivener’s Flourish Rather Than Proposed, Heavily Debated Language

Madison may have indeed lumped the Lord in with his “etc.” notation. “Year of our Lord” appears in other documents from the era, including the Articles of Confederation and the Northwest Ordinance. But it was not used in the Declaration of Independence.²⁹ So it was a convention that might merit a Madisonian “etc.” but was by no means universal.

Madison himself was not in the habit of writing “Year of our Lord,” including on dates. In Gaillard Hunt’s nine volumes of edited Madison papers, the phrase appears exactly once: in a copy of the engrossed Constitution.³⁰

Some might be inclined to think that “etc.” should include the reference to “our Lord” because Franklin made the motion on which Madison was taking notes and Franklin also made a motion for the Convention to say a prayer. If Franklin

28. “When Dunlap and Claypoole provided a fresh printing of the Constitution to the departing delegates on Tuesday morning, September 18, it contained a correct ‘thirty thousand’ and an accurate list of the signers” (Bain 2012).

29. Of course, the explanation for the Declaration’s simple date might be that it was written by Thomas Jefferson, a man who cut the virgin birth, resurrection, and other supernatural nonsense out of the bible. See Jefferson’s *The Life and Morals of Jesus of Nazareth Hardcover*, known as “The Jefferson Bible” (Smithsonian Edition 2011).

30. Madison (1900). Searchable set available at <http://oll.libertyfund.org/titles/1933>. Hunt introduced this version of the Constitution: “[Following is a literal copy of the engrossed Constitution as signed. It is in four sheets, with an additional sheet containing the resolutions of transmissal. The note indented at the end is in the original precisely as reproduced here.]”

wanted them to pray, proposing a date with a salting of religion might make sense. On the other hand, his prayer motion was so unimportant that the Constitutional Convention did not even bring it to a vote, let alone pass the resolution. “After several unsuccessful attempts for silently postponing the matter by adjourning,” it failed. Franklin himself wrote that “The [Constitutional] Convention, except three or four persons, thought Prayers unnecessary” (Farrand 1911a, 452n15).³¹ If anything, his prior experience with trying to inject religion into the proceedings ought to have dissuaded him from doing so here.³²

Like Madison, Franklin typically did not employ “Year of our Lord” to date his own correspondence or documents that might have used that dating convention, including during the year in question, 1787.³³ The exception to Franklin’s general practice are the documents he signed as President of the Supreme Executive Council of the Commonwealth of Pennsylvania, and they actually support the idea that the engrosser, Jacob Shallus, added “Year of our Lord” to the formal document out of habit, as we will see later.

It also seems unlikely Franklin would have recommended language that might be interpreted as calling Jesus Lord, given that his personal beliefs about Jesus were probably more like Jefferson’s—at the very least, Franklin had “some Doubts as to his Divinity.”³⁴

31. Available at <http://memory.loc.gov/cgi-bin/query/r?ammem/hlaw:@field%28DOCID+@lit%28fr001136%29%29>.

32. Some scholars have questioned Franklin’s motives. “Whether [he] spoke from a genuine faith in the efficacy of prayer or merely to shift attention from quarrelsome issues to more solemn reflections, his suggestion at the very least surely and forcefully reminded all delegates of the basic importance of their work” (Carr 1990).

33. See, e.g., Benjamin Franklin to Thomas Jefferson, October 14, 1787, retrieved from the Library of Congress, <https://www.loc.gov/item/mjtbib003045>; Benjamin Franklin to Thomas Jefferson, April 19, 1787, *Founders Online*, National Archives, <http://founders.archives.gov/documents/Jefferson/01-11-02-0292>; and Benjamin Franklin to John Adams, May 18, 1787, *Founders Online*, National Archives, <http://founders.archives.gov/documents/Adams/99-02-02-0129>. As to more formal documents, see, e.g., Pennsylvania Society for Promoting the Abolition Of Slavery, “An address to the public, from the Pennsylvania Society for promoting the abolition of slavery, and the relief of free negroes, unlawfully held in bondage . . . Signed by order of the Society, B. Franklin, President. Philadelphia, 9th of November,” available at <https://www.loc.gov/item/2005577131>.

34. Both Jefferson and Franklin viewed Jesus as a moral teacher, but it is unlikely that they viewed him as a divine savior. In a letter to the Calvinist president of Yale, Ezra Stiles, Franklin addressed Christianity: “As to Jesus of Nazareth, my Opinion of whom you particularly desire, I think the System of Morals and his Religion as he left them to us, the best the World ever saw, or is likely to see; but I apprehend it has received various corrupting Changes, and I have with most of the present Dissenters in England, some Doubts as to his Divinity: tho’ it is a Question I do not dogmatise upon, having

Thus, the evidence cuts against the idea that Franklin proposed the “Year of our Lord” language and that Madison simply lumped that proposal in with an “etc.” Instead, the most likely explanation seems to be that the engrosser Jacob Shallus added the language of his own volition. The reference was, as Dreisbach (1996) has posited, “merely a scrivener’s touch.”

III. THE SCRIVENER

Jacob Shallus’s important role in penning our founding document was not discovered until 1937, when Congress began investigating and preserving our constitutional history—i.e., that of the physical manuscript itself—for the document’s 150th anniversary. Although we do not know much about Shallus, what we do know agrees with the hypothesis that he used a familiar, pro forma phrase that had little to no religious significance at the time, including for him.

Shallus himself does not appear to have been religious. His son made no mention of religion in Shallus’s obituary (Plotnik 1987, 63–64). He was a Freemason, a member of Masonic Lodge 2 and even contributed funds for a new lodge (Plotnik 1987, 33). Freemasons have often been at odds with organized religion.

According to Arthur Plotnik, the intrepid researcher and author who has written the only biography of Shallus, *The Man Behind the Quill*, there are “no mentions of God” in Shallus’s diary of the Revolutionary War or any of his other writings.³⁵ Even Shallus’s more oblique mentions of religion in that diary, kept while campaigning with the First Pennsylvania Battalion in 1776 as a quartermaster under General Benedict Arnold, are sparse and impersonal. One of his only mentions of the ecclesiastical realm paints an unflattering picture. On the march through Canada, local priests “elegantly entertained” his company in “St. Anthony’s Village” north of Montreal: “These priests live like Princes, while their poor Canadians are starving.”

Returning south, Shallus was a bit more forgiving. “[F]rom Sorrell to st. Anns, and down again, I never was more kindly treated; the Clergy and Noblesse gave

never studied it, and think it needless to busy myself with it now, when I expect soon an Opportunity of knowing the Truth with less Trouble.” Benjamin Franklin, letter to Ezra Stiles, March 9, 1790, available at <http://franklinpapers.org/franklin/framedVolumes.jsp?vol=45&page=113>. See also first and only footnote from Jefferson’s “Letter to William Short, October 31, 1819.” Image of page with footnote available at <http://memory.loc.gov/cgi-bin/ampage?collId=mtj1&fileName=mtj1page051.db&recNum=891>.

35. I have had the privilege and pleasure of corresponding with Mr. Plotnik for this article. A very warm thank you to Mr. Plotnik for his assistance and kindness.

us everything their Houses afforded; in short, we lived like Princes” (Plotnik 1987, 18–19).³⁶ As he was writing, the Declaration of Independence was being debated and adopted in Philadelphia, but Shallus would soldier on for another five months before returning home to Philadelphia.

After several attempts in business, including outfitting a privateer ship, the *Retrieve*, Shallus became the assistant clerk for the Pennsylvania Legislature in October 1783. He assisted Samuel Sterett, who succeeded Thomas Paine as clerk, and worked in the state house, the building we know as Independence Hall, where the Constitutional Convention also met. Thus, he was well placed to serve the Convention as an engrosser on that mid-September weekend. Shallus continued as an assistant clerk—a position the legislators filled by election—for the next decade. He also served as the assistant secretary in Pennsylvania’s constitutional convention in 1790 (Plotnik 1987, 31–33).

So Shallus was not a particularly pious individual and probably considered himself a professional scribe, able to divorce his personal views from what he was required to write. This makes it unlikely that Shallus abused his unique position to sneak his personal religious conviction into a government document—a tactic that has borne such fruit as “In God We Trust” on our coinage and “under God” dividing an indivisible sentiment in the Pledge of Allegiance (both perpetrated during times of national fear and distraction, 1863 and 1954, the Civil War and Red Scare, respectively).

Despite his professionalism, Shallus may have brought a good deal of his own style into the small things of the Constitution. For instance, as the official Senate report on this very topic notes, “The capitalization of all nouns by Shallus in the engrossed copy may be dismissed as an innocent matter of style and its reproduction in some editions with the spelling ‘Tranquillity’ in the Preamble is indifferent” (Myers 1961, 46–65).³⁷ There are variations in punctuation, capitalization, and

36. Sorrell, likely now Sorel, is on the St. Lawrence River, about a fifty-mile march north of Montreal. St. Anns likely refers a fort of that name on Isle La Motte, an island in Lake Champlain just on the Vermont side of the modern New York/Vermont border. The fort was constructed in the mid-1660s. Sorel and St. Anns are connected by the Richelieu River, along which Shallus probably marched.

37. Available at http://www.greenbag.org/v11n2/v11n2_myers.pdf. There are, of course, other differences between Shallus’s writing and the printed Constitution: “The main differences between the engrossed and printed archetypes are few by category. The Committee of Style and Arrangement allowed Shallus to capitalize every noun in his engrossing but it was restrained in using initial capitals in the printed copy for the Federal Convention. Abbreviation of “section” in the print accounts for 21 variations from the engrossed copy, which does not indicate italics for Latin words. The print closes the 17 short paragraphs enumerating the powers of Congress in Article I, Section 8, with colons; the engrossed copy uses semicolons. In Article I the sixth sentence in Section 9 and the third sentence in

formatting (Myers 1961). All seemingly minor things that were unlikely to preoccupy the convention delegates—which they were unlikely to notice, just like the language preceding the date.

As noted, “Year of our Lord” was a common though certainly not universal dating convention. Up to a few years ago this type of dating was the norm. A.D. as a dating system comes from the Latin *Anno Domini*, or Year of our Lord. This system was developed by Christians in the sixth century. The Articles of Confederation used the “Year of our Lord” dating custom. On the other hand, the phrase does not appear in the records of the First U.S. Congress, except in correspondence from the states, Pennsylvania included, regarding ratification of the Bill of Rights.³⁸

It looks like the Pennsylvania General Assembly, for which Shallus clerked, used this dating convention at more formal and ceremonial moments—to begin each session, for instance (Bloom 1940).³⁹ Shallus may simply have slipped into his habit of using “Year of our Lord” on important documents and because the delegates’ attention was directed to more important debates, they didn’t notice the addition, or found it unremarkable, when they were signing immediately after.

Plotnik’s (1987) biography of Shallus reproduces two documents that indicate that “Year of our Lord” was both formal and formalistic. Both are fill-in-the-blank forms that, as reproduced in Plotnik’s book, contain handwritten text in the blanks. The first form is a letter of marque Shallus signed as co-owner of the *Retrieve*, making him a privateer (26–28). That form read, “and dated the ____Day of ____in the Year of our Lord ____ and in the ____ Year of the Independence of the United States of America” (27). The second document is the Supreme Executive Council of the Commonwealth of Pennsylvania’s certification that it hired Shallus and it is signed by Benjamin Franklin. Like the letter of marque, it’s a printed form: “day of _____ in the Year of Our Lord, one thousand seven hundred and eighty” (42).

Section 10 are not set off as paragraphs, which is done in the engrossed copy. In the printed copy all the signatures are spelled out, though there are 25 abbreviations in the holograph originals and three misspellings on the engrossed parchment, which lacks 41 commas or periods.”

38. *House Journal*. 1st Cong., 1st sess., 6 May 1789, 29; 2nd sess., 25 Jan. 1790, 145; 8 Mar. 1790, 170; 16 Mar. 1790, 175; *Senate Journal*. 1st Cong., 1st sess., 6 Apr. 1789, 9; 2nd sess., 8 Mar. 1790, 118; 16 Mar. 1790, 121; 14 June 1790, 156; 16 June 1790, 161; 6 Aug. 1790, 201; 3rd sess., 3 Jan. 1791, 228; 9 Feb. 1791, 243–5.

39. As to the use of the dating convention at formal and ceremonial moments, see *Minutes of the General Assembly of the Commonwealth of Pennsylvania 1787–1790* (<https://archive.org/details/minutesofgeneral-178790penn>). This book includes the various sessions of the Twelfth through the Fourteenth General Assemblies. On the title pages of each session, “Year of our Lord” is used. See, e.g., pp. 103, 160, 201, 276, and 289.

In a remarkable historical coincidence, in November 1787, shortly after the Constitution was finalized, Shallus billed the American Philosophical Society without using the formal religious date, and Franklin, as president and founder of the APS, approved the expenditure on December 7, 1787, also without using that religious dating convention (Plotnik 1987).

What we know of Shallus means that it is unlikely he had any ulterior religious motive for using the lordly verbiage. It also appears likely that he used the phrase, a “grandiose mannerism” as Plotnik described it to me, as a formal date with no more religious significance than writing “January” would be meant to worship the Roman god Janus after whom that month is named or “Thursday” would be meant to revere Thor.

Treating “Year of our Lord” as an incidental addition by Shallus that had no religious significance agrees with all the evidence. More importantly, the conclusion that the lordly language should not taint the beautiful godlessness of our Constitution is bolstered by contemporaneous criticism of the Constitution.

IV. AT THAT TIME, SHALLUS’S “YEAR OF OUR LORD” ADDITION DID NOT MAKE THE GODLESS CONSTITUTION GODLY

Since the founders did not propose or vote on language that is not even part of the Constitution, claiming that this dating convention somehow injects religion into our godless Constitution is tenuous. Perhaps that’s why no one argued for the Christian significance of the “Year of our Lord” until nearly fifty years after the Constitutional Convention. The argument was not made by a jurist or statesman or even a surviving constitutional delegate, but by a reverend giving a sermon.⁴⁰

That reverend, Jasper Adams, argued that, by using this language in the date, “the people of the United States profess themselves to be a Christian nation” (Dreisbach 1996, 46). Adams was also struck by the mention of Sunday in Article I.⁴¹ The reverend saw the mention of Sunday not as a societal custom or a standard dating convention but as a nod to his holy Sabbath.⁴²

40. Reverend Jasper Adams of the St. Michael’s Church in Charleston, South Carolina, on February 13, 1833. Dreisbach (1996) notes that Adams was the first to make the argument, at 141, and reproduces the sermon in which Adams does so, at 63–64.

41. §7 “If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law.”

42. One could also argue that the mention is a recognition of the Sun god for whom the day is named

A day of mandatory rest is one of the Ten Commandments, and the Hebrew bible even dictates capital punishment for violators.⁴³ Though our courts have routinely rejected Rev. Adams’s idea that Sunday closing laws are a codification of Christianity, the idea is worth addressing here because it is still raised by Christian nationalists.

The Supreme Court has catalogued “the evolution of Sunday Closing Laws from wholly religious sanctions to legislation concerned with the establishment of a day of community tranquility, respite and recreation, a day when the atmosphere is one of calm and relaxation rather than one of commercialism, as it is during the other six days of the week.”⁴⁴ As early as 1885, the Supreme Court recognized that Sunday closings were not about the Sabbath:

Laws setting aside Sunday as a day of rest are upheld not from any right of the government to legislate for the promotion of religious observances, but from its right to protect all persons from the physical and moral debasement which comes from uninterrupted labor. Such laws have always been deemed beneficent and merciful laws, especially to the poor and dependent, to the laborers in our factories and workshops, and in the heated rooms of our cities, and their validity has been sustained by the highest courts of the states.⁴⁵

In the early days of the United States Post Office, a debate erupted over the then-regular delivery of mail on Sundays. Congress would halt the practice, but it issued a report on the controversy on January 19, 1829, that specifically stated that religious reasons did not and, from a constitutional perspective, could not motivate

and that Adams should have applied the logic of this claim to argue that “Monday” in Article I is evidence of moon worship or paganism. And that he would also have to argue that the Twelfth Amendment honors the god of war, Mars, because it includes the month named after him; or that the Twentieth Amendment honors the two-faced Roman god, Janus for mentioning the month that honors him. These arguments would, of course, be risible; but so should those offering up the Christian dating convention to declare that America is “a Christian nation.”

43. “When the Israelites were in the wilderness, they found a man gathering sticks on the sabbath day. Those who found him gathering sticks brought him to Moses, Aaron, and to the whole congregation. They put him in custody, because it was not clear what should be done to him. Then the Lord said to Moses, ‘The man shall be put to death; all the congregation shall stone him outside the camp.’ The whole congregation brought him outside the camp and stoned him to death, just as the Lord had commanded Moses.” Num. 15:32–36.

44. *Braunfeld v. Brown*, 366 U.S. 599, 602 (1961), citing *McGowan v. Maryland*, 366 U.S. 420, 437–40 (1961).

45. *Soon Hing v. Crowley*, 113 U.S. 703, 710 (1885).

Sunday closings. The report explains that “some respite is required from the ordinary vocations of life, is an established principle, sanctioned by the usages of all nations, whether Christian or pagan. One day in seven has also been determined upon as the proportion of time; and, in conformity with the wishes of the great majority of citizens of this country, the first day of the week, commonly called Sunday, has been set apart to that object.”⁴⁶ Thus, it was not for religious reasons that the government chose Sunday to close, but a matter of convenience. So despite their history, Sunday closings are not adopted for religious reasons. Any Sunday closing law would violate “the Establishment Clause if it can be demonstrated that its purpose . . . is to use the State’s coercive power to aid religion.”⁴⁷

Interestingly, Rev. Adams sent a copy of his “Year of our Lord” sermon to James Madison who, at age 83, responded. Madison’s response was to defend the separation of state and church, pointing out as he had on previous occasions that the religion and government are better off—more pure—the less they are mixed together (Dreisbach 1996, 117–21).⁴⁸

The greatest point against Rev. Adams’s argument is that if the framers really wanted the Christian god in the Constitution, it would have been easy enough to include him. Instead, they chose to exclude all gods. Indeed, at the time, the deliberate godlessness of the Constitution was lamented by some citizens. Had the “Year of our Lord” language had any genuine significance in contemporary eyes, this citizens’ lament would not have been heard.

People at the time did not view the phrase “Year of our Lord” as significantly religious. “God and Christianity are nowhere to be found in the American Constitution, a reality that infuriated many at the time,” write Isaac Kramnick and

46. Senator Richard Johnson made the Sunday Mails report to the Senate on January 19, 1829, the 20th Congress, 2nd session. In *American State Papers, legislative and executive, of the Congress of the United States, from the first session of the First to the second session of the Twenty-Second Congress* (Gales and Seaton, 1834) Class VII, Post Office Department, Document #74, pp. 211–12. See also Sunday Mail Report to House of Representatives, on the same date, Document #75, pp. 212–5.

47. *McGowan v. Maryland*, 366 U.S. 420, 453 (1961).

48. James Madison, letter to Japer Adams, September 1833. There is a beautiful line tucked into this letter: “I must admit, moreover, that it may not be easy, in every possible case, to trace the line of separation, between the rights of Religion & the Civil authority, with such distinctness, as to avoid collisions & doubts on unessential points. The tendency to a usurpation on one side, or the other, or to a corrupting coalition or alliance between them, will be best guarded against by an entire abstinence of the Government from interference, in any way whatever, beyond the necessity of preserving public order, & protecting each sect against trespass on its legal rights by others.”

Laurence Moore in their seminal book, *The Godless Constitution*. In fact, “the Constitution was bitterly attacked for its failure to mention God or Christianity” (26–27).

When the proposed Constitution was announced and the debate over ratification began, people complained about the absence of religion. The ban on religious tests for public office was particularly troubling, but, as one anonymous Virginian complained, the “general disregard of religion” and the Constitution’s “cold indifference towards religion” were issues too (33–37). Charles Turner of Massachusetts, later a U.S. Representative for that state, warned, “without the presence of Christian piety and morals the best Republican Constitution can never save us from slavery and ruin” (36). In Connecticut’s ratifying convention, one delegate actually sought to inject god into the preamble, moving for new language:

We the people of the United States in a firm belief of the being and perfection of the one living and true God, the creator and supreme Governor of the World, in His universal providence and the authority of His laws: that He will require of all moral agents an account of their conduct, that all rightful powers among men are ordained of, and mediately derived from God, therefore in a dependence on His blessing and acknowledgment of His efficient protection in establishing our Independence, whereby it is become necessary to agree upon and settle a Constitution of federal government for ourselves. (37)

That verbose ninety-five-word addition would nearly have doubled—and disfigured—Gouverneur Morris’s admirably succinct and distinctly poetic 52-word preamble.

If the Constitution were already a Christian document because of the “Year of our Lord” addition, this fuss and opposition would not have occurred.

Until it became politically convenient to bolster a conservative religious agenda with the claim that our Constitution is a Christian document, church leaders actually worked to include god in the text via constitutional amendments. One of the most colorful calls was by Presbyterian pastor John T. Pressly:

[A]ppended to the instrument we find the declaration that it was “done in Convention in the year of our Lord one thousand seven hundred and eighty seven.” But surely something more than this is required of a Christian nation; a nation which God, by a mighty hand and outstretched arm, had delivered from the yoke of oppression and had blessed with the light and privileges of the Gospel. *Surely the national Constitution of such a people should have impressed upon its forehead, a distinct acknowledgment of the God of the whole earth; an unequivocal testimony to all*

people that we are a Christian nation, who own subjection to Him to whom “all power in heaven and earth is given”—“the Prince of the kings of the earth.”⁴⁹

Fortunately, Pressly’s Lord is not impressed on the Constitution’s forehead. It didn’t even make it to the document’s vestigial tail.

V. CONCLUSION

The Kentucky Legislature found other examples to support dating its official business in the “Year of our Lord.” The resolution included eleven “whereas” clauses, justifications that are highly selective. For instance, the fourth “whereas” in the resolution points out that “Kentucky’s 1891 Constitution was dated in the Year of our Lord” but neglects to mention that Kentucky’s 1792 Constitution and 1799 Constitution did not use the phrase.

The resolution cites an obscure government document—written permission for a ship named the *Herschel* to proceed to the Port of London—that Thomas Jefferson signed but which has no legal or historical relevance, instead of the Declaration of Independence, which does not use the “Year of our Lord” dating convention, or the “Jefferson Bible,” a bible from which Jefferson excised with a razor every mention of Jesus as a divine lord and savior. Jefferson actually refused to issue religious proclamations because “the government of the U.S. as interdicted by the Constitution from intermeddling with religious institutions, their doctrines, discipline, or exercises. . . . Certainly no power to prescribe any religious exercise, or to assume authority in religious discipline, has been delegated to the general government.”⁵⁰

Four of the resolution’s eleven supporting examples date from before there was a federal Constitution—in other words, before there was a separation of state and church. The final “whereas” cites Governor Bevin’s 2017 “Year of the Bible” proclamation.

Kentucky’s resolution was ill conceived, poorly researched, and intended to promote Christianity. The Kentucky legislature was attempting to instill religious

49. John T. Pressly, “Address of the Committee appointed by the Convention composed of representatives from the different churches which met to confer in relation to certain proposed amendments to the National Constitution.” From *The Evangelical Repository and United Presbyterian Review* (William Young printers, Philadelphia, June 1863) (Old Series Vol. XL; New Series Vol. II, pp 452–54) (emphasis added).

50. Thomas Jefferson, letter to Rev. Samuel Miller, January 23, 1808, available at http://press-pubs.uchicago.edu/founders/documents/amendI_religions60.html.

significance into a phrase that, in the eyes of our Framers, had none and to rewrite history in a way that is more pleasing to their personal beliefs.

The available evidence as to how “Year of our Lord” was appended to the Constitution undercuts any legal, historical, or religious significance the phrase “Year of our Lord” might add to the U.S. Constitution. The phrase certainly does not prove or evidence an intent to found a “Christian nation.” Pious politicians ought to stop claiming otherwise and legislators should avoid citing this as evidentiary support for promoting their personal religion.

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