
TABLE OF CONTENTS

ACKNOWLEDGMENTS.....	V
TABLE OF CASES.....	XVII
TABLE OF AUTHORITIES	XXIII
Chapter 1. Free Exercise of “Religion”	1
A. What Is Free Exercise?.....	1
Reynolds v. United States	1
Notes and Questions	5
Employment Div., Dept. of Human Resources of Oregon v. Smith	7
Notes and Questions	12
Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah	13
Notes and Questions	17
B. What Is Religion?.....	18
1. The Churches of Marijuana.....	18
2. Veganism	20
3. QAnon Shaman	20
4. MOVE	21
5. Kozy Kitten Cat Food.....	21
6. Humanism	21
7. Creative Intelligence and Transcendental Meditation	22
8. The Religiously-Unaffiliated Nones.....	22
9. Sun Worshipping Atheism.....	23
10. The Satanic Temple	24
11. Scientology.....	24
12. Utilitarianism.....	25
13. Church of the New Song	26
14. Wicca	26
15. Ku Klux Klan.....	26
16. Pagans.....	27
17. The Church of the Flying Spaghetti Monster	27
18. Jediism	28
19. Environmentalism.....	28
20. Traditional Hawaiian Religion	28
21. Religion or Philosophy?.....	29
C. How Shall Courts Define Religion?	31
Ninian Smart, The World’s Religions	31
Notes and Questions	36
United States v. Seeger	36
Notes and Questions	42
David Kuo, Appleism is a New Religion	43
Chapter 2. Introduction to Establishment.....	47
A. Fusion of Governmental and Religious Functions.....	49
Larkin v. Grendel’s Den, Inc.	49
Notes and Questions	52
Board of Education of Kiryas Joel Village School District v. Grumet.....	53

	Notes and Questions	61
B.	The <i>Lemon</i> Test, Endorsement, and Coercion	66
	<i>Lemon v. Kurtzman</i>	67
	Notes and Questions	70
C.	Prayer and Government	77
	<i>Lee v. Weisman</i>	77
	Notes and Questions	85
	<i>Town of Greece, New York v. Galloway</i>	87
	Notes and Questions	99
Chapter 3. What Is an Establishment of Religion?		107
A.	Religious Symbols and Monuments	109
	<i>McCreary County, Kentucky v. American Civil Liberties Union of</i> <i>Kentucky</i>	114
	<i>Van Orden v. Perry</i>	122
	Notes and Questions	127
	<i>Salazar v. Buono</i>	136
	Notes and Questions	139
	<i>American Legion v. American Humanist Association</i>	143
	Notes and Questions	150
B.	Public Funding of Religion	153
	1. The Wall of Separation: No Aid to Religion	153
	<i>Everson v. Board of Education of Ewing Township</i>	153
	Notes and Questions	160
	2. Taking a Wrecking Ball to the Wall: Some Aid to Religion	166
	<i>Zelman v. Simmons-Harris</i>	166
	Notes and Questions	173
	3. Must the Wall Be Torn Down?: Neutral Aid to All	178
	<i>Trinity Lutheran Church of Columbia v. Comer</i>	182
	Notes and Questions	185
	<i>Espinoza v. Montana Department of Revenue</i>	187
	Notes and Questions	196
C.	The Establishment Clause as a Defense: Equal Access	200
	<i>Widmar v. Vincent</i>	200
	Notes and Questions	204
	<i>Pleasant Grove City, Utah v. Sumnum</i>	207
	Notes and Questions	215
Chapter 4. Constitutional and Statutory Protection of Free		
	Exercise	217
A.	Constitutional Exemptions: From <i>Sherbert</i> to <i>Smith</i>	219
	<i>Sherbert v. Verner</i>	220
	Notes and Questions	223
	<i>Employment Div., Dept. of Human Resources of Oregon v. Smith</i>	229
	Notes and Questions	238
	<i>Fulton v. City of Philadelphia</i>	251
	Notes and Questions	261
B.	Statutory Exemptions: RFRA	266
	<i>Burwell v. Hobby Lobby Stores, Inc.</i>	271

Notes and Questions	287
C. Statutory Exemptions: RLUIPA	295
1. Institutionalized Persons.....	296
Cutter v. Wilkinson.....	297
Notes and Questions	300
Holt v. Hobbs	302
Notes and Questions	309
2. Land Use.....	313
River of Life Kingdom Ministries v. Village of Hazel Crest, Illinois	315
Notes and Questions	320
D. The COVID Cases	327
1. Public Health.....	327
Jacobson v. Commonwealth of Massachusetts.....	327
Notes and Questions	331
2. COVID and the Shadow Docket.....	334
a. Justice Ginsburg.....	336
South Bay United Pentecostal Church v. Newsom	336
Notes and Questions	339
b. Justice Barrett.....	339
Roman Catholic Diocese of Brooklyn v. Cuomo.....	342
Notes and Questions	349
South Bay United Pentecostal Church v. Newsom	353
Notes and Questions	357
Tandon v. Newsom	359
Notes and Questions	360

Chapter 5. Conscience, Complicity, and Conscientious

Objection	365
A. Medicine and Reproductive Health	366
1. Claims of Conscience and Complicity	367
University of Notre Dame v. Burwell	368
Notes and Questions	380
Zubik v. Burwell.....	385
Little Sisters of the Poor Saints Peter and Paul Home v. Pennsylvania	387
Notes and Questions	403
2. Conscience Clauses	404
Elizabeth B. Deutsch, Expanding Conscience, Shrinking Care	404
Cenzon-DeCarlo v. Mount Sinai Hospital	406
Notes and Questions	408
B. The Military	417
Hanna v. Secretary of the Army	417
Notes and Questions	428
C. Law and Government	435
Miller v. Davis.....	436
Notes and Questions	441

Chapter 6. Conflicts Between Individual and Institutional	
Religious Freedom	449
A. Disputes over Church Property	451
Episcopal Church Cases	451
Notes and Questions	460
B. Disputes About Religious Employment	466
1. Religious Discrimination	467
Reed v. The Great Lakes Companies, Inc.	467
Notes and Questions	470
EEOC v. Abercrombie & Fitch Stores, Inc.	472
Notes and Questions	480
2. The Ministerial Exception	484
Hosanna-Tabor Evangelical Lutheran Church and School v.	
EEOC	484
Notes and Questions	495
Our Lady of Guadalupe School v. Morrissey-Berru.....	501
Notes and Questions	516
C. Tort Suits Against Religious Organizations	517
Pleasant Glade Assembly of God v. Schubert	519
Notes and Questions	531
Redwing v. Catholic Bishop for the Diocese of Memphis	537
Notes and Questions	541
Chapter 7. Comparative Religious Freedom	549
A. Religious Garb.....	550
Leyla Şahin v. Turkey	551
Notes and Questions	567
B. Blasphemy and the Defamation of Religion.....	579
People v. Ruggles	579
Updegraph v. Commonwealth.....	580
Notes and Questions	580
Robert C. Blitt, Should New Bills of Rights Address Emerging	
International Rights Norms? The Challenge of “Defamation	
of Religion”	582
Notes and Questions	587
C. Conscience	591
1. The Military.....	591
Bayatyan v. Armenia	591
Notes and Questions	602
2. Law and Government	605
Eweida and Others v. United Kingdom.....	605
Notes and Questions	614
3. Religious Exemptions	616
Christian Youth Camps LTD v. Cobaw Community Health	
Services LTD	616
Notes and Questions	624

Chapter 8. Religion and Politics.....627

A. Presidential Religion 628

 Address of Senator John F. Kennedy to the Greater Houston Ministerial Association 628

 Senator Barack Obama, Call to Renewal: Keynote Address 631

 Remarks by President George W. Bush on a Constitutional Amendment to Protect Marriage in America 632

 Barack Obama, The Audacity of Hope 633

 President Obama Supports Same-Sex Marriage 634

 Remarks by President Barack Obama on the Supreme Court Decision on Marriage 635

 Obergefell v. Hodges 635

 Notes and Questions 639

B. Political Morality and Religion 655

 John Rawls, The Idea of Public Reason Revisited 657

 Notes and Questions 663

C. Taxes and Political Activity 674

 Branch Ministries v. Rossotti..... 675

 Notes and Questions 681

 Sam Brunson, Stuck in the Middle with . . . the IRS?..... 689

 Notes and Questions 691

D. Civil Religion 694

 Second Inaugural Address of Abraham Lincoln 694

 Notes and Questions 695

 Robert N. Bellah, Civil Religion in America 701

 Notes and Questions 706

Chapter 9. Teaching About Religion and Science.....717

A. Prayer, Theology, and Religious Studies 718

 Leslie C. Griffin, “We Do Not Preach. We Teach.”: Religion Professors and the First Amendment 719

 Notes and Questions 727

 Locke v. Davey 734

 Notes and Questions 741

B. Creation, Evolution, and Intelligent Design 744

 1. Creation 744

 The Book of Genesis 744

 The Book of Genesis 746

 Notes and Questions 747

 2. Evolution..... 749

 Charles Darwin, The Origin of Species 749

 Notes and Questions 750

 3. Evolution and Creation-Science 753

 McLean v. Arkansas Board of Education 753

 Notes and Questions 766

 4. Intelligent Design..... 777

 Kitzmiller v. Dover Area School District 777

 Notes and Questions 795

Chapter 10. The Old and New Law of Religion.....	805
A. The Old	805
Wisconsin v. Yoder	805
Notes and Questions	817
B. The New.....	825
About Three-in-Ten U.S. Adults Are Now Religiously Unaffiliated	825
Notes and Questions	827
INDEX	835