

RELIGION AND THE CONSTITUTION

Political Science 358
Northern Illinois University

Fall 2017
MW 9:30-10:45am
DuSable 459

“I rejoice that a spirit of liberality and philanthropy is much more prevalent than it formerly was among the enlightened nations of the earth...”

George Washington

“To act in the spirit of religion is to unite what lies apart, to remember that humanity as a whole is God’s beloved child.”

Abraham Joshua Heschel

INTRODUCTION

Introduction to the course and themes

THINKING ABOUT RELIGIOUS LIBERTY

Arthur Miller, *The Crucible* (1953)*

CONTEXT: RELIGIOUS LIBERTY IN THE WEST AND IN AMERICA

Witte and Nichols, “Ch. 1: The American Experiment in Historical Context,” pp. 7-23

Gaustad and Schmidt, “Ch. 1: Beginnings,” pp. 3-29

GS, “Ch. 2: English Exploration and Anglican Establishment,” pp. 30-48

GS, “Ch. 3: Puritan New England,” pp. 49-73

GS, “Ch. 4: Middle Colony Diversity,” pp. 74-94

GS, “Ch. 5: From Maryland Catholics to Georgia Evangelicals,” 95-114

Witte and Nichols, “Ch. 3: The Essential Rights and Liberties of Religion,” pp. 41-63

COLONIAL DEBATES

Mayflower Compact (1620, in APT)

Nathaniel Ward, *The Simple Cobler of Aggawam* (1647, in FGM)

John Winthrop, *A Model of Christian Charity* (1630, in APT)

John Winthrop, “*Little Speech*” on Liberty (1645, in FGM)

John Cotton, *Limitation of Government* (1646, in FGM)

Roger Williams, *The Bloody Tenent of Persecution for Cause of Conscience Discussed: and Mr. Cotton’s Letter Examined and Answered* (1644, in FGM)

William Penn, *Preface to the First Frame of Government for Pennsylvania* (1682, in APT)

John Wise, *A Vindication of the Government of New England Churches* (1717, in FGM)

Jonathan Mayhew, *A Discourse Concerning Unlimited Submission and Non-Resistance to the Higher Powers* (1750, in FGM)

CONSTITUTIONAL FRAMEWORK

Thomas Jefferson, Bill for the Establishing Religious Freedom in Virginia (1777, 1786, in VPM)
James Madison, Memorial and Remonstrance Against Religious Assessments (1785, in VPM)
Witte and Nichols, "Ch. 4: Forging the First Amendment Religion Clauses"
George Washington, Letter to the Annual Meeting of Quakers (1789, in VPM)
George Washington, Letter to the Hebrew Congregation at Newport (1790, in VPM)
George Washington, Letter to the Hebrew Congregation at Savannah (online)
Thomas Jefferson, Letter to Danbury Baptist Association (1802, in VPM)

FREE EXERCISE

Interlude: Jurisprudence, Courts, and Cases

Witte and Nichols, "Ch. 6: The Free Exercise of Religion: Mapping the Doctrinal Terrain"

Reynolds v. United States (1879)
Cantwell v. Connecticut (1940)
Employment Division v. Smith (1990)
Religious Freedom Restoration Act (1993)*
Boerne v. Flores (1997)
Religious Land Use and Institutionalized Persons Act (2000)*

RELIGIOUS EXERCISE, SPEECH, AND STATUTES

Reynolds v. United States (1879)
Murdock v. Pennsylvania (1943)
West Virginia State Board of Education v. Barnette (1943)
Torcaso v. Watkins (1961)
Sherbert v. Verner (1963)
Wisconsin v. Yoder (1972)
McDaniel v. Paty (1978)
United States v. Lee (1982)
Goldman v. Weinberger (1986)
Lyng v. Northwest Indian Cemetery Protective Association (1988)
Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah (1993)
Locke v. Davey (2004)
Holt v. Hobbs (2015)
Trinity Lutheran v. Pauley (2017)*

ESTABLISHMENT

Witte and Nichols, "Ch. 8: Modern Establishment Law: Mapping the Doctrinal Terrain"

Everson v. Board of Education of Ewing Township (1947)
Zorach v. Clauson (1952)
Walz v. Tax Commission of the City of New York (1970)

Lemon v. Kurtzman (1971)
Agostini v. Felton (1997)
Zelman v. Simmons-Harris (2002)
Santa Fe Independent School District v. Doe (2000)
Lee v. Weisman (1992)
Town of Greece v. Galloway (2014)*
McCreary County v. American Civil Liberties Union of Kentucky (2005)
Capitol Square Review and Advisory Board v. Pinette (1995)
Rosenberger v. Rector and Visitors of the University of Virginia (1995)
Good News Club v. Milford Central School (2001)
Van Orden v. Perry (2005)

RELIGION AND PUBLIC EDUCATION

Engle v. Vitale (1962)
Abington School District v. Schempp (1963)
Stone v. Graham (1980)
Edwards v. Aguillard (1987)
Wallace v. Jaffree (1985)
Widmar v. Vincent (1981)
Board of Education of the Westside Community Schools v. Mergens (1990)
Lamb's Chapel and John Steigerwald v. Center Moriches Union Free School District (1993)
Christian Legal Society v. Martinez (2010)

GOVERNMENT AND RELIGIOUS EDUCATION

Everson v. Board of Education (1947)
Tilton v. Richardson (1971)
Lemon v. Kurtzman (1971)
Committee for Public Education and Religious Liberty v. Nyquist (1973)
Argostini v. Felton (1997)
Mueller v. Allen (1983)
Witters v. Washington Department of Services for the Blind (1986)
Zobrest v. Catalina Foothills School District (1993)
Mitchell v. Helms (2000)
Zelman v. Simmons-Harris (2002)
Locke v. Davey (2004)
Arizona Christian School Tuition Organization v. Winn (2011)

RELIGION AND PUBLIC LIFE

Braunfield v. Brown (1961)
Sherbert v. Verner (1963)
Marsh v. Chambers (1963)
Town of Greece v. Galloway (2014)
Stone v. Graham (1980)
Lynch v. Donnelly (1984)
County of Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter (1989)
Capitol Square v. Pinette (1995)

McCreary v. ACLU (2005)
Van Orden v. Perry (2005)

RELIGIOUS ORGANIZATIONS AND LAW

Walz v. Tax Commission of the City of New York (1970)
Boy Scouts v. Dale (2000)
Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC (2012)

CONCLUSION

Witte and Nichols, "Ch. 14: Concluding Reflections"

Martin Luther King, Jr., "The Ethical Demands for Integration" (1962)
Barack Obama, Charleston Eulogy (2015)

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COURSE OVERVIEW AND OBJECTIVES

Our aim in this course is to better understand the relationship between religion and the constitution in America. Specifically, we will focus on the American experiment in religious liberty, and the development of a constitutional framework in relation to that experiment. A central goal of our study is to understand key religion clauses and case law. More foundationally, we want to understand the major themes and conflicts in constitutional jurisprudence that inform the development and current state of the law. Toward these ends, we will read sources on key colonial debates and constitutional framing on religion, significant decisions in the U.S. Supreme Court's church-state jurisprudence, and secondary scholarship on religious history and the legal history of the rights of conscience. We begin, however, with a narrative that invites us to consider the meaning of religious liberty. Our goal throughout is to develop an understanding of the liberties of conscience and their place in American political and legal thought.

COURSE REQUIREMENTS

Reflection journal entries = 30%	Three 1-page reflections (10% each)
Midterm Exam = 20%	In-class
Unannounced quizzes = 25%	Five quizzes based on readings and lecture notes (5 pts each). Entirely unannounced.
Final Exam = 25%	8-9:50am, Wednesday, December 13 (DuSable 459)

Grading Scale

A+ = 97-100
A = 93-96
A- = 90-92
B+ = 87-89
B = 83-86
B- = 80-82
C+ = 77-79
C = 73-76
C- = 70-72
D+ = 67-69
D = 63-66
D- = 60-62
F = <60

NIU has a plus/minus grading scale for final course grades. Your course grade is based on three 1-page journal entries (30%), a midterm exam (20%), five pop quizzes (25%), and a final exam (25%). I will provide further instruction on the journal entries and expectations for writing. For each pop quiz and both exams, you will need a **pencil** (*be prepared*); I will supply the Scantron forms. For both exams, you must also provide a **Blue Book**. I will administer seven quizzes and drop the two lowest quiz grades. Your final exam will be in DuSable 459, **8-9:50am, Wednesday, December 13, 2017**. *All late material will be penalized.* I may administer unannounced bonus quizzes.

PRESENCE, READING, AND ACADEMIC INTEGRITY

Your success in this class depends upon your consistent presence, participation, and integrity. College is about challenging yourself to learn, to think about what matters and about who you want to be. Those are difficult tasks, but tasks more than worth the effort. University life requires us to prepare, to think, and to be present. Presence is about much more than simply showing up to class. It is about sharing in the task of understanding and analysis. That said, showing up to class is an important prerequisite for success. Your classmates, and you, depend on your presence for success in university life.

Before each class period, you should read the assigned materials and thoughtfully consider their significance for our study. Our task is to read sympathetically in order to read critically—that is, to understand what each author is asking and arguing, and then to thoughtfully evaluate the work. Of course, you should bring your copy of the text to class. I will post a **weekly reading schedule** on Blackboard.

In university, all you have is your integrity. All forms of cheating, including plagiarism, harm both the person who commits the offense and the class as a whole. I expect you to show integrity; there is no other way to accomplish what we are here to do. Those who fail this standard should expect to face themselves, and meet appropriate consequences. Familiarize yourself with the NIU Student Code of Conduct (<http://www.niu.edu/conduct/student-code-of-conduct/>) for guidelines.

CONDUCT AND ELECTRONICS IN CLASS

Class time is set apart for a special purpose. Your aim is to respect others in word and in deed. **The use of laptops, tablets, and smart phones is *not* allowed in class**, except when approved for official note-takers. When you use pen and paper, you avoid the distractions a laptop would present to you and your neighbor. In addition, studies show that using pen and paper improves your ability to learn. You may not record this class without permission.

BLACKBOARD

Login to Blackboard through your myNIU account to access readings and other course materials (posted as PDF files or Internet links) as well as your grades.

RESOURCES

Office Hours. These are for you. Come during regularly scheduled hours, or we can arrange another time.

Group Study. I encourage you to organize your own group study, as it facilitates your understanding of the material and challenges you to think about the major questions and arguments of the texts.

University Writing Center. For tutoring in writing, schedule: <http://www.niu.edu/uwc/>.

Students with Disabilities. Northern Illinois University is committed to providing an accessible educational environment in collaboration with the Disability Resource Center. Any student requiring an academic accommodation due to a disability should let his or her faculty member know as soon as possible. Students who need academic accommodations based on the impact of a disability will be encouraged to contact the Disability Resource Center if they have not done so already. The Disability Resource Center is located on the fourth floor of the Health Services Building, and can be reached at 815-753-1303 [v] or 815-753-3000 [TTY] or by email at drc@niu.edu.

Department of Political Science Website. To reach the site, go to <http://polisci.niu.edu>.

REQUIRED TEXTS

**** Students should print the selections marked on syllabus with a double asterisk from Blackboard.**

*** Students should purchase the following books (available at the NIU bookstore and through online retailer such as Amazon, AbeBooks, etc.).**

Arthur Miller, *The Crucible*, Penguin Classics, 2003
ISBN 9780142437339

Vincent Phillip Muñoz, *Religious Liberty and the American Supreme Court: The Essential Cases and Documents*, Rowman & Littlefield, updated edition, 2015
ISBN 9781442208285

John Witte, Jr. and Joel A. Nichols, *Religion and the American Constitutional Experiment*, Oxford University Press, 4th edition, 2016
ISBN 9780190459420