CHAPTER 19:2 Freedom of Religion

THE FIRST AMENDMENT
Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. Protect the First Amendment, support the CBLDF.
Chapter 19:2: Freedom of Religion

- We will analyze the extent to which the Constitution prohibits the establishment of religion by government.
- We will define the extent to which Americans enjoy free exercise of religion.
Rom_14:5 One man esteemeth one day above another: another esteemeth every day alike. Let every man be fully persuaded in his own mind.
United States when presented to the prophet as "coming up" in 1798. Among the Christian exiles who first fled to America and sought an asylum from royal oppression and priestly intolerance were many who determined to establish a government upon the broad foundation of civil and religious liberty. Their views found place in the Declaration of Independence, which sets forth the great truth that "all men are created equal" and endowed with the inalienable right to "life, liberty, and the pursuit of happiness." And the Constitution guarantees to the people the right of self-government, providing that representatives elected by the popular vote shall enact and administer the laws.
“Freedom of religious faith was also granted, every man being permitted to worship God according to the dictates of his conscience. Republicanism and Protestantism became the fundamental principles of the nation. These principles are the secret of its power and prosperity. The oppressed and downtrodden throughout Christendom have turned to this land with interest and hope. Millions have sought its shores, and the United States has risen to a place among the most powerful nations of the earth.” {Great Controversy, page 441.1}
Introduction:

- “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or of the press; or the right of the people peaceable to assemble, and to petition the government for a redress of grievances.”
Introduction:

- The 1st and 14th Amendments set out two guarantees of religious freedom.
- They prohibit:
  - (1) an establishment of religion (The establishment clause) and...
  - (2) any arbitrary interference by government in “the free exercise” of religion (Free exercise clause.)
Establishment Clause:

- Sets up a wall of separation between church and state.
- But just how high is that wall?
- Government has done much to encourage churches and religion in this country.
- Thus, nearly all property of and contributions to churches and religious sects are free from federal, state, and local taxes.
Establishment Clause:

- Most public officials take an oath of office in the name of God.
- Sessions of congress and of most state legislatures and many city councils open with prayer.
- The nation’s anthem and its coins and currency make reference to God.
- Clearly, there are limits of the Establishment Clause and cannot be described in precise terms.
Court Cases:

- *Pierce v. Society of Sisters, 1925,*
- A Oregon public school district that sought to force all children to attend their public schools to purposely eliminate private and parochial education.
- Court found it unreasonable interference with the liberty of parents to direct upbringing of their children, and so, in conflict, with the Due Process law of the 14th Amendment.
Court Cases:

- First establishment clause case was *Everson v. Board of Education*, a 1947 case where New Jersey provided tax supporting busing to students in both private and public schools.
- Court held that law was constitutional because it sought to secure safety of all students no matter what school they attended.
Released Time:

- “Release Time” programs allow public schools to release students from school time to attend religious classes.
- Two cases, one against, and one in favor of release time.
Prayers and the Bible:

- Supreme Court decided six major cases involving public prayers and public Bible readings.
- In *Engel v. Vitale*, 1962, the court outlawed, even in a voluntary basis of a prayer written by New York State Board of Regents.
- The Supreme Court held: “The constitutional prohibition against laws respecting an establishment of religion must at least mean that in this country it is no part of the business of government to compose official prayers of any group of the American people to recite as part of a religious program carried on by the government.”
Prayers and the Bible:

- In 1963, in *Abington School District v. Schempp*, it struck down a Pennsylvania law that required that each school day begin with readings from the Bible and a recitation of the Lord’s prayer.

- In *Murray v. Curlett*, the Court erased a similar rule in the city of Baltimore.

- Government should neither aid nor oppose religion according to the Court’s ruling from the first amendment.
Prayers and the Bible:

- The court has held in summary that public schools cannot sponsor religious exercises.
- But it has not held that individuals cannot pray, when and as they choose, in schools, or in any other place.
- Nor has it held that students cannot study the Bible in a literary or historic frame in the schools.
- Still great many organized prayers and bible readings happen in public schools today.
STUDENT RELIGIOUS GROUPS:

- Equal Access Act of 1994 where Congress passed a statute that declares that any public high school that receives federal funds nearly all must allow student religious groups to meet in the school on the terms that it sets for other student organizations.
- So, they can get funding like any other club, for example, the school should pay for the publication of a Christian group’s newspaper if it paid for the other respective clubs and other organizations.
Nativity Scene:

- Christmas display, court permitted such if there were also nonreligious imagery such as candy canes, Santa’s sleigh, along with nativity scene.
- With just the religious scene is not permissible.
- And with diverse religious scenes, such as a menorah and a Christmas tree it was permissible.
Evolution:

- Court has held that evolution should not be prohibited and forbids preference of a religious doctrine or the prohibition of a theory which is deemed antagonistic to a particular dogma.
Chaplains in Congress and the State Legislature:

- Daily session of both houses of Congress and most of the State legislatures begin with prayer.
- Chaplain paid with public funds offers the opening prayer.
Chaplains in Congress and the State Legislature:

- Supreme Court has ruled that this practice, unlike prayers in the public schools, is constitutionally permissible.
- The Court rested its distinction between school prayers and legislative prayers on two points.
- First, prayers have been offered in the nation’s legislative bodies “from colonial times through the founding of the Republic ever since.”
- Second, legislators, unlike schoolchildren, are not “susceptible to religious indoctrination or peer pressure.”
• Do you think allowing prayers in public schools is a threat to religious liberty?
TAX EXEMPTION:

- Every State exempts property for religious purposes for state and local taxation.
- A citizen named Walz challenged the exemption of houses of worship from local property taxes.
- He argued that these exemptions made property tax bills higher than they would otherwise be, and that the exemptions amounted to a public support of religion.
- The Supreme Court held that those exemptions are evidence only of a state’s “benevolent neutrality” toward religion, not support of it.
- Said the Court, the exemptions “create only a minimal and remote,” and therefore permissible, “involvement between church and state.”
TAX EXEMPTION:

- But the Court has ruled that church-related schools that discriminate on the basis of race can be denied tax-exempt status under Federal law such as *Bob Jones University v. United States*.
- The schools involved in this 1983 case argued that their racial policies reflected their sincerely held religious beliefs.
- The Supreme Court granted that point.
- Nevertheless, the nation’s eradication of racial discrimination in education “substantially outweighs whatever burden denial of tax benefits places on those schools in the exercise of their religious beliefs.”
What do you think is more important in protecting? Equal rights for a group that feels discriminated or the religious beliefs of a religion that does not agree with the actions of a group that feels that they are discriminated?
Do you think Dr. Walsh should have been fired for his private religious beliefs as a Seventh-day Adventist Church member?

Do you think Christian schools who believe that marriage is between a man and woman be forced to hire homosexual teachers and employees by law?
STATE AID TO PAROCHIAL SCHOOLS:

- Voucher programs are acceptable.
- Several states help private schools including those related to church organizations for transportation, textbooks, laboratory equipment, standardized testing, etc.
- Those who support this argue that parochial schools enroll large numbers of students who otherwise have to be educated at the public’s expense.
STATE AID TO PAROCHIAL SCHOOLS:

- They point to the legal right to send their children to those schools.
- To give that right, they say, the State must give some aid to parochial schools to relieve parents of some of the double burden they carry because they must pay taxes to support the public schools their children do not attend.
LEMON TEST: Three Prong Standard involving state aid.

- (1) The purpose of the aid must be clearly secular and not religious.
- (2) Its primary effect must neither advance or inhibit religion.
- (3) It must avoid excessive entanglement of government with religion.
LEMON TEST: Three Prong Standard involving state aid.

- The Supreme Court held that the Establishment Clause is designed to prevent three main evils: “sponsorship,
- financial support,
- and active involvement of the sovereign in religious activity.”
LEMON TEST: Three Prong Standard involving state aid.

- The Lemon court struck down a Pennsylvania law that provided reimbursements—financial payments—to private schools to cover their costs for teachers’ salaries, textbooks, and other teaching materials in nonreligious courses.

- The court held that the State program was of direct benefit to the parochial schools, and so to the church sponsoring them.

- It also found that the program required such close state supervision that it produced an excessive entanglement of government with religion.
Examples of Lemon Rule:

- Court allowed the use of public funds to loan textbooks to students in parochial schools.

- It held that a state can pay church related schools what it costs them to administer the State’s standardized tests and can be evaluated to be sure that they do not promote religion.
Examples of Lemon Rule:

- Public funds cannot be used to pay for such things as field trips for students at parochial schools, the court held that field trips managed by parochial school teachers present “an unacceptable risk of fostering of religion.”

- Nor can tax money used to pay any part of the salaries of parochial school teachers, including those who teach only secular courses.
Examples of Lemon Rule:

- Supreme Court struck down direct cash payments to parents to reimburse them for the tuition they paid to schools operated by religious organizations.
Examples of Lemon Rule:

- The law gives parents a State income tax deduction of the costs of tuition, textbooks, and transportation.
- Parents can claim the tax break no matter what schools their children attend.
- Most public school parents pay little or nothing for these items.
Examples of Lemon Rule:

- Hence, the law is of particular benefit to parents with children in private, mostly parochial, schools.
- The court found that the law meets the Lemon test, and it also leaned on this point:
- The deduction is available to all parents with children in school, and they are free to decide which type of school their children attend.
Examples of Lemon Rule:

- More tolerant view in this case.
- Dealing with government funding of both public and private agencies that deal with problems of adolescent sex and pregnancy.
- Some being religious that opposed abortion.
Examples of Lemon Rule:

- The Court held, that the law’s purpose was curbing “the social and economic problems caused by teenage sexuality, pregnancy, and parenthood” to be a legitimate one.
- That some grants pay for counseling that “happens to coincide with the religious views” of some groups does not by itself mean that the federal funds are being used with “a primary effect of advancing religion.”
THE FREE EXERCISE OF RELIGION:

- The second part of the constitutional guarantee of religious freedom is set out in the Constitution’s Free Exercise Clause.
- That clause guarantees to each person the right to believe whatever that person chooses to believe in matters of religion.
- That right is protected by the First and Fourteenth Amendments.
THE FREE EXERCISE OF RELIGION:

- No person has an absolute right to act as he or she chooses, however.
- The Free Exercise Clause does not give one the right to violate the criminal laws, offend public morals, or otherwise threaten the health, welfare, or safety of the community.
THE FREE EXERCISE OF RELIGION:

- 1879, Mormon situation of polygamy was prohibited by a federal law banning the practice in any territory of the United States.
- Reynolds was tried and convicted under the law.
- On appeal, he argued that the law violated religious beliefs.
- The court held, “Would be to make the professed doctrines of religious belief superior to the law of the land, and in effect permit every citizen to become a law unto himself.”
THE FREE EXERCISE OF RELIGION:

- Over the years, the court has approved many regulations of human conduct in face of free exercise challenges.
- It has upheld the laws that require the vaccination of school children, forbid the use of poisonous snakes in religious rites, and so-called blue laws that require businesses to be closed on Sundays (McGowan v. Maryland, 1961).
THE FREE EXERCISE OF RELIGION:

- A State can require religious groups to have a permit to hold a parade on the public streets and organizations that enlist children to sell religious literature must obey child labor laws.

- The Federal Government can draft those who have religious objections to military service (Welsh v. United States, 1970).
THE FREE EXERCISE OF RELIGION:

- The Air Force can forbid an Orthodox Jew the right to wear his skull cap while on active duty.
- The U.S. Forest Service can allow private companies to build roads and cut timber in national forests that Native Americans believe are used for traditional purposes.
THE FREE EXERCISE OF RELIGION:

- A state can deny unemployment benefits to a man fired by a private drug counseling group because he used peyote in violation of the State’s drug laws even though he ingested the hallucinogenic drug as part of a ceremony of his Native American church. *(Oregon v. Smith, 1990).*
THE FREE EXERCISE OF RELIGION:

- Court also found many actions by governments to be contrary to the Free Exercise guarantee.

- The Court did so for the first time in one of the landmark Due Process cases cited earlier in this chapter, *Cantwell v. Connecticut, 1940*.

- There, the Court struck down a law requiring a license before any person could solicit money for a religious cause.
THE FREE EXERCISE OF RELIGION:

- Amish Children cannot be forced to attend school beyond the eighth grade because that sect’s centuries-old “self sufficient agrarian lifestyle essential to their religious faith is threatened by modern education.”

- But Amish could take care of their own people, must pay social security taxes like all other employees do.
THE FREE EXERCISE OF RELIGION:

- States cannot forbid ministers to hold elected public offices.
- Nor can it deny unemployment compensated benefits to a worker who quit a job because it involved some conflict with his or her religious beliefs.
THE FREE EXERCISE OF RELIGION:

- The Court has often held that “only those beliefs rooted in religion are protected by the free exercise clause.

- Even religions that seem strange or even bizarre to most Americans are as entitled to constitutional protection as are the more traditional ones.

- Animal Sacrifices were permitted (1993).
THE FREE EXERCISE OF RELIGION:

- Flag salute Case, 1940s, Jehovah Witness case.
- “To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds.”
It is our duty to do all in our power to avert the threatened danger. We should endeavor to disarm prejudice by placing ourselves in a proper light before the people. We should bring before them the real question at issue, thus interposing the most effectual protest against measures to restrict liberty of conscience.--Testimonies, vol. 5 p. 452. {ChS 162.2}
We are not doing the will of God if we sit in quietude, doing nothing to preserve liberty of conscience. Fervent, effectual prayer should be ascending to heaven that this calamity may be deferred until we can accomplish the work which has so long been neglected. Let there be most earnest prayer, and then let us work in harmony with our prayers. It may appear that Satan is triumphant and that truth is overborne with falsehood and error; the people over whom God has spread His shield, and the country which has been an asylum for the conscience-oppressed servants of God and defenders of His truth, may be placed in jeopardy. {CCh 336.1}
Examples of Religious Persecution in the Bible:

“That at what time ye hear the sound of the cornet, flute, harp, sackbut, psaltery, dulcimer, and all kinds of musick, ye fall down and worship the golden image that Nebuchadnezzar the king hath set up: And whoso falleth not down and worshippeth shall the same hour be cast into the midst of a burning fiery furnace.” Daniel 3:5-6 (Violating Establishment Clause)
Examples of Religious Persecution in the Bible:

“All the presidents of the kingdom, the governors, and the princes, the counsellors, and the captains, have consulted together to establish a royal statute, and to make a firm decree, that whosoever shall ask a petition of any God or man for thirty days, save of thee, O king, he shall be cast into the den of lions.” Daniel 6:7 (Free Exercise Clause)
Religious Liberty:
“Then Pilate entered into the judgment hall again, and called Jesus, and said unto him, Art thou the King of the Jews? Jesus answered him, Sayest thou this thing of thyself, or did others tell it thee of me? Pilate answered, Am I a Jew? Thine own nation and the chief priests have delivered thee unto me: what hast thou done? Jesus answered, My kingdom is not of this world: if my kingdom were of this world, then would my servants fight, that I should not be delivered to the Jews: but now is my kingdom not from hence.” John 18:33-36

"Maybe it's time to ask ourselves if working on Sundays is true freedom."

- Pope Francis
CAMPOBASSO, Italy (AP) July 5, 2014 — Pope Francis has lamented the abandoning of the traditionally Christian practice of not working on Sundays, saying it has a negative impact on families and friendships. He said that spending Sundays with family and friends is an "ethical choice" for faithful and non-faithful alike.
In Old Testament times, worshippers of the god Baal promoted child sacrifices. What type of religious practices do you think should not be protected by First Amendment Rights? Explain.

What are ways that you can do to help promote and preserve religious liberty?