

UNIVERSITY OF CALIFORNIA, SAN DIEGO
Department of History
Spring Quarter, 2005

PROF. PARRISH
HIS169/269

RELIGION, THE CONSTITUTION AND THE SUPREME COURT

This colloquium will explore how religion has influenced American constitutional law since the founding era of the eighteenth century and, in turn, how constitutional decisions rendered by the Supreme Court of the United States have influenced religious practices and organizations. Special attention will be paid to the history of state-religion issues before adoption of the Constitution, especially in states such as Virginia and Massachusetts; the intentions of those who shaped the religion clauses of the First Amendment; and nineteenth and twentieth-century interpretations of these clauses by the Supreme Court.

Assigned Readings: The following three books will be used extensively in the course. They may be purchased in the University bookstore; a few copies will be placed on reserve in Geisel.

John T. Noonan & Edward Gaffney, Jr., **Religious Freedom**
Daniel O. Conkle, **Constitutional Law: The Religion Clauses**
Edwin S. Gaustad, **Proclaim Liberty Throughout the Land**

Course Requirements: Attendance, while not mandatory, will be factored (10 percent) into a final grade along with class participation. Please bring the assigned texts to class each week and participate in the discussions. **There will be a three-hour final** examination, part objective and part essay that will count for 40% of the course grade. **An essay (10-15 pages), due in class on the tenth week**, will count for 50% of the course grade.

The essay, requiring library research, will focus on one or two major cases covered in the course and will incorporate major books and law review articles about the case as well as a student's own conclusions. Law review articles may be researched on line through Lexus-Nexus in the library. Citation of sources and footnotes are mandatory. The essay will be assessed on the basis of content and strength of argument as well as fundamentals of grammar, spelling, punctuation, diction and syntax. **Plagiarism, utilizing someone else's ideas or conclusions without attribution, is a serious offense and will result in a failing course grade and other disciplinary actions by the university.** Each student will consult with me before selecting cases or topics. The case or topic should be finalized by the sixth week of class.

Reading Assignments

WEEK II:

Gaustad, Proclaim Liberty, chapter 1
Conkle, Constitutional Law, chapter 1 & 2
Noonan, pp. 122-131; 158-200.

WEEK III:

Gaustad, Proclaim Liberty, chapter 2
Noonan, pp. 279-287; 289-307 (Reynolds v. US; Davis v. Beason; and Late Corporation of Church of Jesus Christ v. US)

WEEK IV:

Gaustad, Proclaim Liberty, chapter 3
Conkle, Constitutional Law, chapter 3
Noonan, pp. 201-216; 244-253; 308-313; 344-347 (People v. Ruggles; Worcester v. Georgia; Tocqueville selections; Holy Trinity Church; U.S. v. Schwimmer; Macintosh v. US)

WEEK V:

Gaustad, Proclaim Liberty, chapter 4
Noonan, pp. 781-788; 650-669; 814-818; 637-644 (Wallace v. Jaffree; Lynch v. Donnally; Allegheny County v. ACLU; Santa Fe School District v. Doe; Marsh v. Chambers)

WEEK VI:

Gaustad, Proclaim Liberty, review chapter 4
Conkle, chapter 4 (Impermissible Burdens; Impermissible Benefits)
Noonan, pp. 332-337; 536-546; 771-781 (Pierce v. Society of Sisters; Church of Lukumi Babalu Aye; School District of Abington; Stone v. Graham)

WEEK VII:

Conkle, review chapter 4 (Non Discrimination and Defining Religion)
Noonan, pp. 880-881; 616-618 (Larson v. Valente; McGowan v. Maryland)
Noonan, pp. 400-408; 424-25; 559-570; 416-417 (US v. Seeger; Welsh v. US; Frazee v. Illinois Dept. of Unemployment; US v. Ballard; Founding Church of Scientology v. US; Thomas v. Review Board)

WEEK VIII:

Gaustad, Proclaim Liberty, chapter 7
Conkle, chapter 5
Noonan, pp. 418-425; 446-56; 457-461; 480-500; 517-534; 857-870 (Sherbert v. Verner; Wisconsin v. Yoder; Goldman v. Weinberger; Employment Division v. Smith; City of Boerne v. Flores; Rosenberger v. Rector & Visitors of University of Virginia)

WEEK IX:

Gaustad, Proclaim Liberty, chapters 5&6
Conkle, chapter 6
Noonan, pp. 680-748; 823-843 (Everson v. Board; Lemon v. Kurtzman; Mueller v. Allen; Grand Rapids v. Ball; Aguilar v. Felton; Agustini v. Felton; Mitchell v. Helms; Epperson v. Arkansas; Edwards v. Aguillard)

WEEK X:

Gaustad, Proclaim Liberty, chapter 8
Conkle, chapter 7
Noonan, pp. 912-927 (Religion, Law & Morals)