



Religion and the First Amendment: Historic Supreme Court Decisions (Litigator Series)

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This casebook contains a selection of historic Supreme Court decisions that interpret the Free Exercise Clause and the Establishment Clause of the First Amendment. The cases include concurring and dissenting opinions. The full text of the US Constitution is also included.

The Free Exercise Clause of the First Amendment, which has been applied to the States through the Fourteenth Amendment, see *Cantwell v. Connecticut*, 310 U. S. 296, 303 (1940), provides that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof" *Church of Lukumi Babalu Aye, Inc. v. City of Hialeah* 508 U.S. 520 (1993)

The Establishment Clause of the First Amendment, applied to the States through the Fourteenth Amendment, prevents a State from enacting laws that have the purpose or effect of advancing or inhibiting religion. *Zelman v. Simmons-Harris* 536 U.S. 639 (2002)

In the absence of precisely stated constitutional prohibitions, we must draw lines with reference to the three main evils against which the Establishment Clause was intended to afford protection: "sponsorship, financial support, and active involvement of the sovereign in religious activity." *Walz v. Tax Commission*, 397 U. S. 664, 668 (1970)

Every analysis in this area must begin with consideration of the cumulative criteria developed by the Court over many years. Three such tests may be gleaned from our cases. First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion, *Board of Education v. Allen*, 392 U. S. 236, 243 (1968); finally, the statute must not foster "an excessive government entanglement with religion." *Walz*, supra, at 674. *Lemon v. Kurtzman* 403 U.S. 602 (1971)

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