

Epperson v. Arkansas

“There is and can be no doubt that the First Amendment does not permit the state to require that the teaching and learning must be tailored to the principles or prohibitions of any religious sect or dogma.”

Edwards v. Aquillard

“[T]he law’s primary purpose was to change the science curriculum of public schools in order to provide persuasive advantage to a particular religious doctrine that rejects the factual basis of evolution in its entirety.”

Religious Symbols on Government Property

Capital Square Review and Advisory Board v. Pinnete

The cross did not violate the Establishment Clause because religious expression cannot violate the Establishment Clause where it

1. Is purely private and
2. Occurs in a traditional or designated forum, publicly announced and open to all on equal terms.

McCreary County Kentucky v. ACLU of Kentucky & Van Orden v. Perry

- Court declared unconstitutional displays of the Ten Commandments in all county courthouses on the grounds that the government had the impermissible purpose of advancing religion.
- Court upheld constitutionality of six-foot high, three-foot wide ten Commandments monument placed between the State Capitol and the Texas Supreme Court on the grounds that it was permissible to place religious symbols on government property.
- Breyer reasoned that the 40-year history of the monument the secular displays around it and its donation by a private organization made it not a state sponsored symbolic endorsement by the state.

Prayers Before Legislative Sessions

Marsh v. Chambers

“From colonial times through the founding of the republic and ever since, the practice of legislative prayer has coexisted with the principles of disestablishment and religious freedom...This unique history leads us to accept the interpretation of the First Amendment draftsmen who saw no real threat to the Establishment Clause arising from a practice of prayer similar to that now challenged.”

Government Aid to Churches and Religious Institutions

- Tax exemptions for religious institutions
- Assistance to parochial elementary and secondary schools
- Aid to religious colleges and universities
- Assistance to religious institutions other than schools

Waltz v. Tax Commission

The Court noted that the government

“...granted exemptions to all houses of religious worship within a broad class of property owned by non-profit, quasi-public corporations which include hospitals, libraries, playgrounds, scientific, professional, historic and patriotic groups..[T]he legislative purpose of a property tax exemption is neither the advancement or the inhibition of religion; it is neither sponsorship nor hostility.”

Texas Monthly v. Bullock

“Insofar as that subsidy is conferred on a wide array of non-sectarian groups as well as religious organizations...the fact that religious groups benefit incidentally does not deprive the subsidy of the secular purpose and primary effect mandated by the Establishment Clause. However, when government directs a subsidy exclusively to religious organizations of the community that is not required by the Free Exercise Clause...it provides unjustifiable awards of assistance to religious organizations and cannot but ‘convey a message of endorsement’ to slighted members of the community.”

Three Criteria

1. The aid must be available to both public and parochial school students.
2. The aid is more often declared constitutional if it is given directly to students rather than the parochial school.
3. The aid will be permitted if it is not used for religious instruction.

Committee for Public Education v. Nyquist & Sloan v. Lemon

- N.Y. state law provided reimbursements and tax credits for up to ½ of tuition at non-public elementary and secondary schools to low and middle-income students.
- Penn. law reimbursed parents for part of tuition at non-public schools.
- Court struck down both laws because aid went only to non-public school students
- Court said aid's primary effect was to advance religion thereby violating the Establishment Clause.

Mueller v. Allen & Zelman v. Simons-Harris

- Court upheld tax credits available to both public and parochial school students using the *Lemon* test in *Mueller* decision.
- Court saw helping parents pay tuition costs was both secular and understandable purpose.
- Deduction was available to parents of both public and parochial - school students so its main effect was not to promote religion.
- Providing tax credits did not lead to unnecessary entanglement with religion.
- Court upheld vouchers for students in *Zelman* decision because they went to parents who decided where to send their children.

Witter v. Washington Dept. of Services to the Blind, Levitt v. Committee for Public Education, Comm. For Public Ed. and Religious Lib. v. Regan

- “[T]he state may not grant aid to a religious school, whether cash or in kind, where the effect of the aid is that of a direct subsidy to the religious school from the state.”
- Court struck down law giving non-public schools a sum of money to reimburse it for following state rules for standardized tests; lump sum payment violated the Establishment Clause.
- Court allowed the state to continue reimbursing private schools for the costs of compiling state required data.

State Money Used for Religious Instruction

Lemon v. Kurtzman, Agostini v. Felton, Zobrest v. Catalina Foothills School District, Bd. of Ed. v. Allen, Meek v. Pittinger, Mitchell v. Helms

- *Lemon* - Government could not pay the salaries of teachers in parochial schools, even those teaching secular subjects.
- *Agostini* – Court allowed government program sending remedial teachers into parochial schools to provide instruction.
- *Zobrest* – Court declared constitutional a government program providing sign interpreters to students in religious schools.
- *Allen* – Court allowed state to provide secular textbooks to parochial schools.
- *Meek* – Unconstitutional for state to provide instructional materials to parochial schools.
- *Mitchell* – Court overruled *Meeks* allowing Louisiana to provide instructional materials to parochial schools.

Tilton v. Richardson, Hunt v. McNair, Roemer v. Bd. Of Pub. Works, Witters v. Washington Dept. of Serv. For the Blind

- *Tilton* – Ct. upheld program using federal money to religious colleges and universities to build facilities not used for teaching religion.
- *Hunt* – Ct. upheld state issued bonds for building facilities at both public and religious universities in the state.
- *Roemer* – Ct. upheld Md. Program providing money to both public and religiously based colleges and universities.
- *Witters* – Ct. upheld state program providing vocational aid to physically disabled students, including a blind student at a religious college.