Religion Clause In Amend. Essay, Research Paper

Amendment I

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.

Two clauses in the First Amendment guarantee freedom of religion. The establishment clause prohibits the government from passing legislation to establish an official religion or preferring one religion to another. It enforces the “separation of church and state”. The free exercise clause prohibits the government, in most instances, from interfering with a person’s practice of their religion.

In determining weather the a governmental practice is violate the First Amendment Establishment Clause, the Courts have developed the “Lemon Test.” The Lemon Test organized in the Court’s 1971 Lemon v. Kurtzman, is a three-pronged inquiry: 1) Does the challenged legislation or activities have a legitimate secular purpose? 2) Does the legislation or activity have a primary effect that neither advances nor inhibits religion? and 3) Does the legislation or activity excessively entangle government with religion?

Several cases that demonstrate the use of the Lemon Test are Zobrest v. Catalina Foothills School District argued February 24, 1993 — Decided June 18, 1993. The issued raised was whether the State may refuse to pay for a deaf child’s sign language interpreter in a parochial school. The school district has successfully argued in the U.S. District Court and in the U.S. Court of Appeals (9th Circuit) that permitting a government-funded interpreter to work in a Catholic school would have the primary effect of advancing religion by constituting public aid to a religious institution, which violates the effects prong of the Lemon test. It was also held that paying for the sign language interpreter in a Catholic school would create, in the eyes of Zobrest’s Catholic schoolmates, a “symbolic union” of church and state, which violates the entanglement prong of the Lemon test.

The Supreme Court however held that the Establishment Clause does not prevent respondent from furnishing a disabled child enrolled in a sectarian school with a sign language interpreter in order to facilitate his education. Government programs that neutrally provide benefits to a broad class of citizens defined without reference to religion are not readily subject to an Establishment Clause challenge just because sectarian institutions may also receive an attenuated financial benefit.

The Lamb’s Chapel case, decided on June 7, 1993, raised the issue of whether free speech principles were violated by a policy that permitted civic groups, but not religious groups, to use a public school auditorium after school hours. Lamb’s Chapel, an evangelical Christian church, sought to make use of the Center Moriches Union Free School District’s public school facilities after school hours. The school district, which permitted other civic groups to use the school facilities after school hours, denied the church’s request because it would be utilizing the public school for a religious purpose. In a 9-0 decision, the Supreme Court reversed the decision, and found for the religious group by the First Amendment’s guarantee of free speech prohibits governments from discriminating against the expression of certain viewpoints on the basis of content.

Other cases such as Lee v. Weisman (1992) actually gave the Courts a chance to change the Lemon Test. By replacing it with a standard that might permit a greater presence for religion in public activities. In a precedent 5 to 4 decision they did not overturn the Lemon Test and Lee v. Weisman case out of Rhode Island held that the prayers at public high school graduation were not allowed under the Establishment Clause.

The Court’s standard for the Free Exercise Clause was that the government must demonstrate a “compelling interest,” or a clear public necessity, in order to restrict religious exercise. This was established in Sherbert v. Verner in1963. It was put to the test in 1990 in the Employment Division v. Smith case. Justice Antonin Scalis wrote: ” We have never held that an individual’s religious beliefs excuse him from compliance with an otherwise valid law prohibiting conduct that the State is free to regulate.”

Galen Black and Alfred Smith were fired by a private drug rehabilitation organization because they ingested peyote, a hallucinogenic drug, for sacramental purposes at a ceremony of their Native American Church. They claim for a religious exemption from the Oregon law cannot be evaluated under the balancing test set forth in the line of cases following Sherbert v. Verner, whereby governmental actions that significantly burden a religious practice must be justified by a “compelling governmental interest.”

The State Supreme Court held that sacramental peyote use violated, and was not excepted from, the state law prohibition, but concluded that that prohibition was invalid under the Free Exercise Clause. The Free Exercise Clause permits the State to prohibit sacramental peyote use, and thus to deny unemployment benefits to persons discharged for such use.

So who knew that when Roger Williams a Baptist leader in the 17th century coined the phrase “separation of church and state,” that it what have such an impact on the Constitution. Thomas Jefferson and James Madison both used that phrase when arguing this same subject. .

The founders of this country fled persecution in their native lands in search of this freedom, freedom of religion. This Freedom of religion is the first right protected by the Bill of Rights.

The place of religion in the nation will continue to be the subject of many debates.