

Law and Theology

Law and Theology

Cases and Readings

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To Kate and to Kay:
Legally and Devotedly Yours

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Foreword

In the Spring semester of 1999, the two of us offered a new course called Law and Theological Ethics. Cross-listed at the University of Tulsa College of Law and Phillips Theological Seminary, we described our goal for the course as an attempt to explore the tensions within, and the intersections between, legal and religious traditions as they negotiated the complex processes of social and cultural change. We wanted our students to analyze and interpret the legal and theological questions embedded in a series of issues. In addition, we wanted our law and seminary students to see how a discipline different from their own approached newly emerging questions and problems in civil society.

Most textbooks on Law and Religion deal exclusively with the two religion clauses in the First Amendment to the Constitution and the impact of their legal interpretation for churches and American religious life. We both felt that approach was too narrow. We wanted students, teachers, and lay readers to explore the influences flowing both ways between Law and Theology. Widening the breadth of investigation, we hope to help readers grasp some of the clearly competing perspectives *within* each of these disciplines as well as how these disciplines overlap in their concern for the public good.

Our text selections were governed by a variety of criteria, but a central criterion was readability. We did not want the volume to be pitched at a level only for experts. On the legal side, we have used principally, but not exclusively, Supreme Court decisions, which show the American legal institution wrestling with major cultural and moral issues from within a Constitutional framework. On the religious side, we have used a variety of writings, drawn principally from Protestant and Roman Catholic scholars and theologians writing for a lay audience. We have included as well a number of pieces from Jewish scholars, and several from Muslim and other scholars of various religious traditions. While attempting to acknowledge America's growing religious diversity, we have also tried to emphasize major lines of religious influence in America's history to this point.

We have not divided the chapters into distinct legal and theological sections. Instead we have interspersed readings with cases in order to prompt questions and concerns that cross between the disciplines.

Special thanks to Jeannette Liu, Sally Houck, and Deborah Meinke, who helped research, organize and edit portions of the text, and to Kasia Krzysztoforska at Carolina Academic Press who guided us skillfully through the final editing process.

Arrangement of the Text

Following an Introduction, the book is arranged in Four Parts: 1) on equality, 2) on America's faith-based society, and the complex balancing involved in negotiating the Establishment and Free-Exercise clauses of the First Amendment, 3) on human life, and 4) on American Law and Theology at the beginning of the 21st century.

At the beginning of each Part, readers will find a brief overview of its chapters, to which they may want to refer in the course of their reading. In addition, we have chosen a rather minimalist approach to introductions and conclusions. Transitions both between topics in a chapter, as well as concluding remarks, are frequently found in the *Notes* that follow the particular cases and readings throughout each chapter.

Joseph Bessler-Northcutt
Martin H. Belsky

November, 2004

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