

TABLE OF CONTENTS

Page

CHAPTER I

JUDICIAL REVIEW: ESTABLISHMENT AND OPERATION

§ 1.01	Establishment	1
	<i>Marbury v. Madison</i> (1803)	1
	Notes	7
§ 1.02	Review of State Courts	9
	<i>Martin v. Hunter's Lessee</i> (1816)	9
	Notes	14
§ 1.03	Court Organization	16
	[1] Supreme Court	16
	Notes	16
	[2] Lower Courts	18
	<i>Palmore v. United States</i> (1973)	18
	Notes	22
§ 1.04	Jurisdiction	23
	[1] Lower Courts	23
	<i>Swain v. Pressley</i> (1977)	23
	Notes	25
	[2] Supreme Court	26
	<i>Ex Parte McCordle</i> (1869)	26
	Notes	27
	<i>Plaut v. Spendthrift Farm, Inc.</i> (1995)	29
	Notes	34
§ 1.05	Cases and Controversies	35
	Notes	35
	[1] Advisory Opinions	36
	<i>Chicago & Southern Air Lines v. Waterman Steamship Corp.</i> (1948)	36
	Notes	38
	[2] Feigned, Hypothetical, and Moot Cases	39
	Notes	39
§ 1.06	Ripeness	43
	<i>Civil Service Commission v. Letter Carriers</i> (1973)	43

	Page
Notes	45
§ 1.07 Standing	47
<i>Lujan v. Defenders of Wildlife</i> (1992)	47
Notes	53
[1] State Standing	56
Notes	56
[2] Statutory Standing	57
Notes	57
[3] Rights of Others	58
§ 1.08 Political Questions	59
<i>Goldwater v. Carter</i> (1979)	59
Notes	63
<i>Nixon v. United States</i> (1993)	66
Notes	70

CHAPTER II
CONGRESSIONAL POWERS

§ 2.01 Enumerated and Implied Powers	75
<i>McCulloch v. Maryland</i> (1819)	75
Notes	81
§ 2.02 Commerce Power	83
William O. Douglas, <i>We the Judges</i> (1956)	83
Samuel F. Miller, <i>Lectures on the Constitution of the United States</i> (1893)	83
[1] Marshall's Conception	84
<i>Gibbons v. Ogden</i> (1824)	84
Notes	87
[2] Interstate Versus Local Commerce	88
Notes	88
[3] Productive Industries	89
<i>United States v. E. C. Knight Co.</i> (1895)	89
Notes	91
<i>Carter v. Carter Coal Co.</i> (1936)	92
Notes	94
[4] Conflicting Currents	95
Notes	95
[5] "The Court Retreats to the Constitution"	97
<i>National Labor Relations Board v. Jones & Laughlin Steel Corp.</i> (1937)	97

	Page
Notes	101
<i>Wickard v. Filburn</i> (1942)	102
Notes	104
Notes: Fair Labor Standards Act Cases	105
[6] Regulation Versus Prohibition	106
<i>Champion v. Ames [Lottery Case]</i> (1903)	106
Notes	108
<i>Hammer v. Dagenhart [Child Labor Case]</i> (1918)	109
Notes	112
<i>United States v. Darby</i> (1941)	112
Notes	116
[7] Commerce and Civil Rights	118
<i>Heart of Atlanta Motel v. United States</i> (1964)	118
Notes	121
[8] A New Turning Point?	122
Notes	122
<i>United States v. Lopez</i> (1995)	123
Notes	135
§ 2.03 Taxing Power	136
<i>Bailey v. Drexel Furniture Co. [Child Labor Tax Case]</i> (1922)	136
Notes	140
<i>United States v. Kahriger</i> (1953)	141
Notes	144
§ 2.04 Spending Power	145
<i>United States v. Butler</i> (1936)	145
Notes	149
<i>South Dakota v. Dole</i> (1987)	150
Notes	153
§ 2.05 Treaty Power	155
[1] Legal Effect of Treaties	155
Notes	155
[2] Treaties and the Constitution	156
<i>Missouri v. Holland</i> (1920)	156
Notes	158
<i>Reid v. Covert</i> (1957)	159
Notes	161

CHAPTER III
FEDERALISM AND STATE REGULATORY POWER

E. S. Corwin, *The Constitution of the United States of America: Analysis and Interpretation* (1953) 163

§ 3.01 Federal Supremacy 164

McCulloch v. Maryland (1819) 164

 Notes 166

§ 3.02 Reserved Powers and Federal Authority 167

U.S. Term Limits Inc. v. Thornton (1995) 167

 Notes 181

Garcia v. San Antonio Metropolitan Transit Authority [SAMTA] (1985) 182

 Notes 188

 [1] Federal Regulatory Immunity 189

 Notes 189

New York v. United States (1992) 190

 Notes 201

§ 3.03 Intergovernmental Tax Immunities: Federal Immunity 202

United States v. New Mexico (1982) 202

 Notes 207

§ 3.04 State Tax Immunity 212

South Carolina v. Baker (1988) 212

 Notes 216

§ 3.05 Interstate Relationships 218

 [1] Privileges and Immunities 218

Supreme Court of Virginia v. Friedman (1988) 218

 Notes 221

 [2] Cooperative Federalism 222

United States Steel Corp. v. Multistate Tax Commn. (1978) 222

 Notes 227

§ 3.06 State Regulation of Commerce 229

 Wiley B. Rutledge, *A Declaration of Legal Faith* (1947) 229

Cooley v. Board of Wardens of the Port of Philadelphia (1851) 229

 Notes 231

 [1] Regulation of Transportation 232

 Notes 232

	Page
<i>Kassel v. Consolidated Freightway Corp.</i> (1981) . . .	233
Notes	238
[2] Prohibition of Imports	239
<i>Fort Gratiot Sanitary Landfill v. Michigan Department of Natural Resources</i> (1992)	239
Notes	243
[3] Embargo Laws	245
<i>C & A Carbone, Inc. v. Clarkstown, New York</i> (1994)	245
Notes	249
<i>Sporhase v. Nebraska</i> (1982)	250
Notes	253
<i>Reeves, Inc. v. Stake</i> (1980)	254
Notes	256
[4] Congressional Action	259
<i>Ray v. Atlantic Richfield Co.</i> (1978)	259
Notes	264

CHAPTER IV
THE PRESIDENCY AND SEPARATION OF POWERS

§ 4.01	Legislative Powers	269
	<i>Immigration and Naturalization Service v. Chadha</i> (1983)	269
	Notes	275
§ 4.02	Administrative Chief	276
	Notes	276
[1]	Appointing Power	277
	<i>Freytag v. Commissioner of Internal Revenue</i> (1991)	277
	Notes	280
[2]	Removal Power	281
	<i>Morrison v. Olson</i> (1988)	281
	Notes	289
§ 4.03	Inherent Power	290
	<i>Youngstown Sheet & Tube Co. v. Sawyer</i> (1952)	290
	Notes	300
§ 4.04	Foreign Affairs	302
	<i>United States v. Curtiss-Wright Export Corp.</i> (1936) . . .	302

	Page
Notes	306
§ 4.05 Executive Agreements	307
<i>Dames & Moore v. Regan</i> (1981)	307
Notes	311
§ 4.06 Commander-in-Chief	312
<i>Prize Cases</i> (1863)	312
Notes	313
<i>Durand v. Hollins</i> (1860)	315
Notes	316
§ 4.07 Military Justice	321
<i>Reid v. Covert</i> (1957)	321
Notes	324
§ 4.08 Separation of Powers	325
<i>United States v. Nixon</i> (1974)	325
Notes	330
<i>Mistretta v. United States</i> (1989)	334
Notes	340

CHAPTER V
CONGRESSIONAL PROTECTION OF CIVIL RIGHTS

§ 5.01 Post-Civil War Amendments	342
§ 5.02 State Action	343
<i>Shelley v. Kraemer</i> (1948)	343
Notes	345
<i>Georgia v. McCollum</i> (1992)	346
Notes	350
<i>Moose Lodge No. 107 v. Irvis</i> (1972)	352
Notes	354
§ 5.03 Post-Bellum Civil Rights Statutes	356
[1] Principal Provisions Derived from Post-Civil War Statutes	357
§ 5.04 Congressional Enforcement Power: Fourteenth Amendment	358
<i>United States v. Guest</i> (1966)	358
Notes	366
<i>Katzenbach & Morgan</i> (1966)	367
Notes	373
<i>Oregon v. Mitchell</i> (1970)	373

	Page
Notes	379
§ 5.05 Thirteenth and Fifteenth Amendments	380
<i>South Carolina v. Katzenbach</i> (1966)	380
Notes	386
<i>Jones v. Alfred H. Mayer Co.</i> (1968)	387
Notes	390
<i>Runyon v. McCrary</i> (1976)	391
Notes	394

CHAPTER VI

LIBERTY AND PROPERTY RIGHTS IN THE DUE PROCESS, TAKING AND CONTRACT CLAUSES

§ 6.01 Introduction to the Incorporation Controversy and the Bill of Rights	398
<i>Slaughter-House Cases</i> (1873)	399
Notes	412
§ 6.02 The Rights of the Accused: The “Incorporation Controversy”	414
<i>Palko v. Connecticut</i> (1937)	414
<i>Adamson v. California</i> (1947)	415
<i>Duncan v. Louisiana</i> (1968)	416
Notes	426
§ 6.03 Regulation of Business and Other Property Interests	431
[1] Liberty of Contract Under the Due Process Clauses	431
<i>Lochner v. New York</i> (1905)	431
Note: The Development of Liberty of Contract and the Court-Packing Crisis	436
<i>Nebbia v. New York</i> (1934)	438
Note: The New Deal, Constitutional Crisis, Economic Regulation, and Property Rights	438
<i>United States v. Carolene Products Co.</i> (1938)	440
Notes	443
<i>TXO Production Corp. v. Alliance Resources</i> (1993)	444
Notes	446
[2] Economic Regulation and the Contract Clause of Article I, Section 10	448
<i>Energy Reserves Group, Inc. v. Kansas Power and Light Co.</i> (1983)	448
<i>Exxon Corporation v. Eagerton</i> (1983)	453

	Page
Notes	453
[3] Government Takings of Property Requiring Just Compensation	454
<i>Keystone Bituminous Coal Association v. Debenedictis</i> (1987)	454
Notes: Taking “Without Just Compensation”	465
<i>Lucas v. South Carolina Coastal Council</i> (1992)	475
<i>First English Evangelical Lutheran Church of Glendale v. County of Los Angeles, California</i> (1987)	479
<i>Nollan v. California Coastal Comm’n</i> (1987)	480
<i>Dolan v. City of Tigard</i> (1994)	482
Note	485
§ 6.04 Liberty in Procreation and Other Personal Matters	486
[1] The Childbearing Decision: Contraception and Abortion	486
<i>Skinner v. Oklahoma</i> (1942)	486
Note	487
<i>Griswold v. Connecticut</i> (1965)	487
Notes	498
<i>Roe v. Wade</i> (1973)	500
Notes	511
<i>Harris v. McRae</i> (1980)	517
Notes	519
<i>Webster v. Reproductive Health Service</i> (1989)	525
Note	529
<i>Planned Parenthood of Southeastern Pa. v. Casey</i> (1992)	530
Note	564
<i>Hodgson v. Minnesota</i>	565
Notes	567
[2] The Family Relationship	568
<i>Moore v. City of East Cleveland</i> (1977)	568
<i>Zablocki v. Redhail</i> (1978)	569
<i>Michael H. v. Gerald D.</i> (1989)	570
Notes	572
[3] Homosexuality	574
<i>Bowers v. Hardwick</i> (1986)	574
Note	583
[4] Right to Die	583

	Page
<i>Cruzan v. Director, Missouri Department of Health</i> (1990)	583
[5] Other Autonomy Issues	598
<i>Whalen v. Roe</i> (1977)	598
Notes	600
§ 6.05 Personal Property Rights: New Forms of Protection for New Property Interests	604
<i>Goldberg v. Kelly</i> (1970)	604
<i>Paul v. Davis</i> (1976)	606
Notes	607
[1] Approaches to deprivations	609
<i>Cleveland Board of Education v. Loudermill</i> (1985) . . .	609
Notes	610
<i>DeShaney v. Winnebago County Department of Social Services</i> (1989)	613
Note	615

CHAPTER VII
RACIAL EQUALITY

<i>Dred Scott v. Sandford</i> (1857)	617
§ 7.01 Segregation in Public Facilities	622
[1] The Rise and Fall of “Separate but Equal”	622
<i>Plessy v. Ferguson</i> (1896)	622
Note	628
<i>Brown v. Board of Education of Topeka</i> (1954)	628
Notes	632
[2] Enforcing <i>Brown</i> : The Fashioning of Judicial Re- lief	634
<i>Brown v. Board of Education (Brown II)</i> (1955)	634
Notes: State Reaction to <i>Brown</i>	636
<i>Swann v. Charlotte-Mecklenburg Board of Education</i> (1971)	638
Note	640
<i>Keyes v. School District No. 1, Denver, Colo.</i> (1973)	640
Note	643
<i>Columbus Board of Education v. Penick</i> (1979)	643
<i>Dayton Board of Education v. Brinkman</i> (1979)	645
[3] Limiting the Remedies	646

	Page
<i>Milliken v. Bradley</i> (1974)	646
Notes	656
<i>Board of Education of Oklahoma City v. Dowell</i> (1991)	659
<i>Freeman v. Pitts</i> (1992)	661
Notes	677
<i>Missouri v. Jenkins (Jenkins II)</i> (1995)	678
<i>United States v. Fordice</i> (1992)	682
Notes	688
§ 7.02 Other Forms of Racial Discrimination	689
[1] General Principles: Purposeful Discrimination and Suspect Classes	689
<i>Korematsu v. United States</i> (1944)	690
Notes on “Suspect Classes”	696
<i>Palmore v. Sidoti</i> (1984)	697
Notes	700
[2] Racial Discrimination in Employment	703
<i>Washington v. Davis</i> (1976)	703
Notes	709
[3] Housing and Zoning	709
<i>Arlington Heights v. Metropolitan Housing Development Corp.</i> (1977)	709
Notes	713
[4] Voting	716
<i>Rogers v. Lodge</i> (1982)	716
Notes	719
<i>Shaw v. Reno</i> (1993)	720
Notes	732
<i>Miller v. Johnson</i> (1995)	733
Notes	735
[5] The Criminal Justice System	736
<i>Batson v. Kentucky</i> (1986)	736
Notes	738
<i>McCleskey v. Kemp</i> (1987)	743
Note	746

CHAPTER VIII
EQUAL RIGHTS FOR THE SEXES

§ 8.01	Changing Attitudes Toward Gender-based Classifications	747
	<i>Goesaert v. Cleary</i> (1948)	747
	Notes	748
	<i>Frontiero v. Richardson</i> (1973)	749
	<i>Craig v. Boren</i> (1976)	751
	<i>Rostker v. Goldberg</i> (1981)	756
	Notes	757
	<i>Mississippi University for Women v. Hogan</i> (1982)	760
	Notes	768
	<i>J.E.B. v. Alabama</i> (1994)	770
§ 8.02	Employment Discrimination Based on Gender	772
	<i>Schlesinger v. Ballard</i> (1975)	772
	<i>Massachusetts v. Feeney</i> (1979)	774
	Note	776
§ 8.03	Gender Discrimination in Government Benefit Programs . . .	777
	<i>Kahn v. Shevin</i> (1974)	777
	<i>Weinberger v. Wiesenfeld</i> (1975)	778
	Notes	782
§ 8.04	Discrimination Involving Pregnancy	786
	<i>Cleveland Board of Education v. La Fleur</i> (1974)	786
	Notes: “Irrebuttable Presumption” Analysis in Equal Protection Cases	788
	<i>Geduldig v. Aiello</i> (1974)	788
	Notes	793
	Concluding Note	795

CHAPTER IX
AFFIRMATIVE ACTION

§ 9.01	Education	798
	<i>Regents of University of California v. Bakke</i> (1978)	798
	Appendix	813
	Notes	828
§ 9.02	Employment	830
	[1] Title VII and the Equal Protection Clause	830

	Page
<i>United Steelworkers of America v. Weber</i> (1979) . . .	830
Note	833
<i>Wygant v. Jackson Board of Education</i> (1986)	833
Notes	836
<i>Johnson v. Transportation Agency</i> (1987)	837
Notes	851
[2] Government Set Asides	852
Notes	852
<i>City of Richmond v. J.A. Croson Company</i> (1989) . . .	854
Notes	877
<i>Metro Broadcasting, Inc. v. Federal Communications Commission</i> (1990)	878
<i>Adarand Constructors, Inc. v. Pena, Secretary of Transportation</i> (1995)	881
Notes	885

CHAPTER X
EQUAL PROTECTION FOR OTHER GROUPS AND INTERESTS

§ 10.01 Discrete and Insular Minorities	890
[1] Aliens	890
[a] Resident Aliens	890
<i>In Re Griffiths</i> (1984)	890
<i>Bernal v. Fainter</i>	891
Notes	895
[b] Illegal Aliens	898
Notes	898
[2] Illegitimate Children	899
<i>Trimble v. Gordon</i> (1977)	899
<i>Lalli v. Lalli</i> (1978)	900
Notes	901
[3] The Aged	902
<i>Massachusetts Board of Retirement v. Murgia</i> (1976)	902
Notes	907
[4] The Mentally Retarded	908
<i>Cleburne v. Cleburne Living Center</i> (1985)	908
Note	917
§ 10.02 Equal Protection for the Poor	918

	Page
[1] Wealth as a Suspect Classification; Fundamental Rights to Necessities	919
<i>San Antonio School District v. Rodriguez</i> (1973)	919
Notes	923
[2] Access to the Justice System	928
<i>Douglas v. California</i> (1963)	928
Notes	929
<i>United States v. Kras</i> (1973)	931
Notes	932
<i>Ake v. Oklahoma</i> (1985)	933
Note	936
§ 10.03 Equality in the Political Process	936
[1] Distinctions Based on Wealth	936
<i>Harper v. Virginia State Board of Elections</i> (1966)	936
<i>Kramer v. Union Free School District</i> (1969)	937
Notes	938
[2] Other Barriers to Political Participation: Apportionment, Ballot Access for Minority Parties, Gerrymandering	939
<i>Reynolds v. Sims</i> (1964)	939
Notes	949
<i>Davis v. Bandemer</i> (1986)	952
Note	956
§ 10.04 The Right to Travel	956
[1] Domestic Travel	956
<i>Shapiro v. Thompson</i> (1969)	956
Notes	959
[2] International Travel	961
<i>Regan v. Wald</i> (1984)	961
Notes	963
§ 10.05 “Economic and Social Legislation”	964
<i>Railway Express v. New York</i> (1949)	964
Notes	968
Concluding Notes	974

CHAPTER XI
POLITICAL SPEECH AND ASSOCIATION

§ 11.01 Advocacy of Unlawful Objectives	977
<i>Schenck v. United States</i> (1919)	977

	<i>Debs v. United States</i> (1919)	979
	<i>Abrams v. United States</i> (1919)	981
	<i>Gitlow v. New York</i> (1925)	986
	Notes	988
	<i>Whitney v. California</i> (1927)	989
	Notes	993
	<i>Dennis v. United States</i> (1951)	994
	Note	1000
	<i>Brandenburg v. Ohio</i> (1969)	1001
	Notes	1004
	<i>McIntyre v. Ohio Elections Commission</i> (1995)	1007
§ 11.02	Membership in Political Organizations as a Basis for Govern- ment Sanctions	1011
	<i>Scales v. United States</i> (1961)	1011
	Notes	1012
	<i>Keyishian v. Board of Regents</i> (1967)	1013
	Notes	1014
§ 11.03	Compulsory Disclosure of Political Affiliations	1016
	<i>Communist Party of United States v. Subversive Activities Control Board</i> (1961)	1016
	Notes	1018
	<i>Barenblatt v. United States</i> (1959)	1019
	<i>Gibson v. Florida Legislative Investigation Committee</i> (1963)	1020
	Notes	1022
§ 11.04	Associational Rights in Other Contexts	1024
	<i>Eu v. San Francisco County Democratic Central Committee</i> (1989)	1024
	Note	1026
	<i>Norman v. Reed</i> (1992)	1027
	Notes	1028
	<i>N.A.A.C.P. v. Claiborne Hardware Co.</i> (1982)	1030
	Notes	1040
§ 11.05	Free Speech Problems of Government Employees	1043
[1]	Patronage Dismissals	1043
	<i>Branti v. Finkel</i> (1980)	1043
	Note	1050
	<i>Rutan v. Republican Party of Illinois</i> (1990)	1051
	Note	1055

	Page
[2] Restraints on Political Activity	1056
<i>Broadrick v. Oklahoma</i> (1973)	1056
Notes	1061
[3] Employee's Right to Criticize Government	1066
<i>Connick v. Myers</i> (1983)	1066
Notes	1073
<i>Waters v. Churchill</i> (1994)	1076
<i>United States v. National Treasury Employees Union</i> (1995)	1078
[4] Special Protection for Legislators and other Government Employees	1081
<i>Hutchinson v. Proxmire</i> (1979)	1081
Notes	1081

CHAPTER XII
GOVERNMENT AND THE MEDIA: PRINT AND ELECTRONIC

§ 12.01	The Doctrine Against Prior Restraints	1083
	<i>Near v. Minnesota</i> (1931)	1083
	<i>New York Times Co. v. United States</i> (1971)	1085
	Notes	1097
§ 12.02	The Right to Report Governmental Affairs	1098
	<i>Nebraska Press Association v. Stuart</i> (1976)	1098
	Notes	1105
§ 12.03	Access by the Media to Government Activity	1109
	<i>Houchins v. K.Q.E.D., Inc.</i> (1978)	1109
	Note	1115
	<i>Richmond Newspapers, Inc. v. Virginia</i> (1980)	1116
	Notes	1123
	<i>Press Enterprise Company v. Superior Court of California</i> (1986)	1126
§ 12.04	Regulation and Taxation	1127
[1]	Right of Access to the Media	1127
	<i>Red Lion Broadcasting Co. v. F.C.C.</i> (1969)	1127
	Notes	1132
	<i>Columbia Broadcasting System v. Democratic National</i> <i>Committee</i> (1973)	1133
	Notes	1135
	<i>Miami Herald Publishing Company v. Tornillo</i> (1974)	1135

	Page
Note	1137
[2] Taxation	1137
<i>Minneapolis Star and Tribune v. Minnesota Commissioner of Revenue</i> (1983)	1137
Notes	1139
[3] Special Problems of the Electronic Media	1140
<i>Federal Communications Commission v. League of Women Voters of California</i> (1984)	1140
Note	1142
<i>Turner Broadcasting System, Inc. v. Federal Communications Commission</i> (1994)	1143
Notes	1156
§ 12.05 Protecting the Newsgathering Process	1156
<i>Branzburg v. Hayes</i> (1972)	1156
Notes	1164
§ 12.06 Injury to Reputation and Invasions of Privacy: Tort Actions as a Restraint on the Media	1167
[1] General Principles	1167
<i>New York Times Company v. Sullivan</i> (1964)	1167
Notes	1176
<i>Gertz v. Welch, Inc.</i> (1974)	1179
Notes	1189
[2] Opinions	1191
<i>Milkovich v. Lorain Journal Co.</i> (1990)	1191
[3] Quoted Material	1194
<i>Masson v. New Yorker Magazine, Inc.</i> (1991)	1194
[4] Jurisdictional and Other Procedural Rules	1196
<i>Bose Corporation v. Consumers Union of the United States, Inc.</i> (1984)	1196
Notes	1198
[5] Matters of Public Concern	1199
<i>Dun & Bradstreet v. Greenmoss Builders, Inc.</i> (1985)	1199
Notes	1202
[6] Invasions of Privacy	1204
<i>Zacchini v. Scripps-Howard</i> (1977)	1204
Notes: Invasions of Privacy	1205
<i>Florida Star v. B.J.F.</i> (1989)1206	

CHAPTER XIII
SPEECH IN PUBLIC PLACES

§ 13.01 Offensive Speech in Public Places 1212

 [1] General Principles 1212

Chaplinsky v. New Hampshire (1942) 1212

Cohen v. California (1971) 1214

 Notes 1215

National Socialist Party v. Skokie (1977) 1216

 Notes 1218

R.A.V. v. St. Paul (1992) 1219

 Notes 1233

 [2] Sexually Offensive Speech 1235

Young v. American Mini Theatres, Inc. (1976) 1235

Federal Communications Commission v. Pacifica Founda-
 tion (1978) 1243

 Notes 1247

Barnes v. Glen Theatre (1991) 1249

§ 13.02 Speech in Traditional Public Forums: Streets, Sidewalks,
Parks 1252

Cantwell v. Connecticut (1940) 1252

Cox v. New Hampshire (1941) 1257

Forsyth County v. Nationalist Movement (1992) 1259

 Notes 1262

Carey v. Brown (1980) 1266

Hurley v. Irish-American Gay, Lesbian, and Bisexual Group
 of Boston (1995) 1267

 Notes 1270

§ 13.03 The Civil Rights Movement, Mass Demonstrations, and New
Rules for New Public Forums 1272

Cox v. Louisiana (No. 24 — *Cox I*) (1965) 1272

Cox v. Louisiana (No. 49 — *Cox II*) (1965) 1278

 Notes 1280

§ 13.04 The Modern Approach: Limiting Speech According to the
Character of the Property 1282

 [1] Public Property 1282

Greer v. Spock (1976) 1282

 Note 1284

Perry Education Assn. v. Perry Local Educators' Assn.
 (1983) 1285

	Page
Note	1293
<i>Cornelius v. NAACP Legal Defense & Education Fund</i> (1985)	1294
Notes	1303
<i>Ward v. Rock Against Racism</i> (1989)	1307
<i>United States v. Kokinda</i> (1990)	1309
<i>Society for Krishna Consciousness v. Lee</i> (1992)	1312
Note	1316
<i>City of Ladue v. Gilleo</i> (1994)	1317
Note	1319
<i>Burson v. Freeman</i> (1992)	1319
<i>Madsen v. Women's Health Center, Inc.</i> (1994)	1321
Note	1336
[2] Private Party as a Public Forum: Shopping Centers and Company Towns	1337
<i>Hudgens v. N.L.R.B.</i> (1976)	1337
Notes	1344
§ 13.05 Speech in Public Schools	1345
<i>Tinker v. Des Moines Ind. School District</i> (1969)	1345
<i>Hazelwood School District v. Kuhlmeier</i> (1988)	1349
Notes	1357
<i>Board of Education, Island Trees Union Free School District</i> <i>No. 26 v. Pico</i> (1982)	1358
Notes	1361
§ 13.06 Religious Speech in Public Places	1362
<i>Widmar v. Vincent</i> (1981)	1362
<i>Board of Education v. Mergens</i> (1990)	1367
Notes	1370
<i>Capitol Sq. Review Bd. v. Pinette</i> (1995)	1371
Notes	1376

CHAPTER XIV

SPECIAL DOCTRINES IN THE SYSTEM OF FREEDOM OF EXPRESSION

§ 14.01 Expressive Conduct	1380
<i>United States v. O'Brien</i> (1968)	1380
Note	1384
<i>Spence v. Washington</i> (1974)	1385

	Page
Notes	1389
<i>Texas v. Johnson</i> (1989)	1390
Notes	1401
<i>Clark v. Community for Creative Non-Violence</i> (1984) . . .	1402
§ 14.02 Expenditures of Money in the Political Arena	1404
<i>Buckley v. Valeo</i> (1976)	1404
Notes	1423
<i>First National Bank v. Bellotti</i> (1978)	1426
<i>Federal Election Commission v. Massachusetts Citizens For Life Inc.</i>	1469
<i>Austin v. Michigan Chamber of Commerce</i> (1990)	1431
Note	1435
<i>Lehnert v. Ferris Faculty Association</i> (1991)	1436
Note	1437
§ 14.03 Government Funding of Speech-Related Activities	1438
<i>Rust v. Sullivan</i> (1991)	1438
Note	1450
<i>Rosenberger v. University of Virginia</i> (1995)	1451
Notes	1465
§ 14.04 Commercial Speech	1466
[1] Protection for Commercial Speech: General Principles	1466
<i>Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.</i> (1976)	1466
<i>Bolger v. Youngs Drug Products Corp.</i> (1983)	1476
Note	1477
<i>Central Hudson Gas & Electric Corporation v. Public Service Commission of New York</i> (1980)	1477
Notes	1479
<i>Board of Trustees of the State University of New York v. Fox</i> (1989)	1482
Notes	1488
[2] Lawyer Advertising	1491
<i>Bates v. State of Arizona</i> (1977)	1491
Notes	1492
§ 14.04 Obscenity	1498
[1] The Constitutional Standard	1498
<i>Miller v. California</i> (1973)	1498
<i>Paris Adult Theater I v. Slaton</i> (1973)	1505

	Page
<i>Arcara v. Cloud Books, Inc.</i> (1986)	1506
Notes	1508
<i>New York v. Ferber</i> (1982)	1511
Notes	1513
Note: The Feminist Attack on Pornography	1514
[2] Procedural Issues in Obscenity Cases — “Prior Restraints” and Seizure of Materials	1515
<i>Southeastern Promotions Ltd. v. Conrad</i> (1975)	1515
Notes	1517
<i>Fort Wayne Books, Inc. v. Indiana</i> and <i>Sappenfield v. Indiana</i> (1989)	1521
<i>Alexander v. United States</i> (1993)	1524

CHAPTER XV
RELIGIOUS FREEDOM

§ 15.01	Competing Approaches: Wall of Separation Versus Accommo- dation	1528
	<i>Everson v. Board of Education</i> (1947)	1528
	Notes	1542
	<i>Illinois Ex Rel. McCollum v. Board of Education</i> (1948)	1543
	<i>Zorach v. Clauson</i> (1952)	1545
	Note	1549
§ 15.02	The Establishment Clause and Aid to Religious Institu- tions	1550
	<i>Walz v. Tax Commission of City of New York</i> (1970)	1550
[1]	Aid to Religious Schools	1552
	<i>Lemon v. Kurtzman</i> (1971)	1552
	Notes: Government Aid to Church-Related Colleges and Universities	1560
	<i>Committee for Public Education and Religious Liberty v. Nyquist</i> (1973)	1561
	Notes	1563
	<i>Mueller v. Allen</i> (1983)	1566
	Notes	1576
[2]	Governmental Funds to Religious Institutions in Contexts Other Than Parochial Education	1579
	<i>Bowen v. Kendrick</i> (1988)	1579
	Notes	1583
	<i>Texas Monthly, Inc. v. Bullock</i> (1989)	1584

	Page
§ 15.03 Government Support for Religious Practices	1588
<i>Engel v. Vitale</i> (1962)	1588
Notes	1594
<i>Lee v. Weisman</i> (1992)	1597
Note	1601
<i>Lynch v. Donnelly</i> (1984)	1601
Notes	1617
<i>County of Allegheny v. American Civil Liberties Union, Greater Pittsburgh</i> (1989)	1618
Notes	1625
<i>Wallace v. Jaffree</i> (1985)	1627
Note: Accommodations to the Religious Practices of Individuals and Organizations	1642
<i>Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints v. Amos</i> (1987)	1643
Note	1644
§ 15.04 Establishment of Religion Through Religious Institutions Becoming Involved in Governmental Decisions	1645
<i>Larkin v. Grendel's Den, Inc.</i> (1983)	1645
<i>Board of Education of Kiryas Joel Village School District v. Grumet</i> (1994)	1646
Note	1650
§ 15.05 Free Exercise of Religion	1651
<i>Sherbert v. Verner</i> (1963)	1651
Notes	1657
<i>Wisconsin v. Yoder</i> (1972)	1659
<i>Thomas v. Review Board of the Indiana Employment Security Division</i> (1981)	1661
Note: What is a Religion?	1666
Notes	1667
<i>Goldman v. Weinberger</i> (1986)	1669
<i>Bowen v. Roy</i> (1986)	1671
Note	1673
<i>Lyng v. Northwest Indian Cemetery Protective Assn.</i> (1988)	1673
Notes	1675

	Page
<i>Hernandez v. Commissioner of Internal Revenue</i> (1989) . . .	1677
<i>Employment Division, Department of Human Resources of Oregon v. Smith</i> (1990)	1679
Notes	1691