MOCK SUPREME COURT CONFERENCE

**FIRST AMENDMENT CASES**

Directions You will be placed in groups of five and your group will discuss the constitutionality of each issue presented, according to the Constitutional Tests provided. Each member of the group should play one of the following roles in the discussions:

1. Chief Justice – reads each issue to the group and calls on every member of the group to speak. No one speaks twice before everyone speaks once! (Roberts’ rule)
2. Devil’s Advocate – will present the opposing view any time the group seems to be in agreement
3. Constitutional Test Advocate – will make certain that each student justifies their vote by using the Constitution or a Constitutional precedent or test (not just personal feelings).
4. Secretary – will record each vote of the group and the reasons.
5. Reporter – will check the Supreme Court vote on line (**after student’s discussion)** and will let the group know. (You need the numeric vote as well as a summary of the reasons). **All students should take notes on this.**

Before beginning your discussions, complete summaries of the parts of the Constitution, established Constitutional tests, or federal law that is indicated below. Your vote in conference should be based on these precedents. Answer the Constitutional question presented in note form verbally, only the “secretary” needs to record the group vote. **You should take notes on how the “reporter” tells you the Supreme Court ruled, because that is what you will be tested on.**

These are the Civil Liberties that will be discussed:

First Amendment – Separation of Church and State (Part I)

First Amendment – Freedom of Speech (Part II)

Fifth Amendment, etc - Due Process of Law (Part III)

Fourteenth Amendment Equal Protection under the Law (Part IV)

Right of Privacy (Part V)

# PART I: FREEDOM OF RELIGION / SEPERATION OF CHURCH AND STATE

**Constitutional Tests for First Amendment/Religion**

(1) Read the First Amendment to the US Constitution. Summarize the Free Exercise Clause.

(2) Read the First Amendment to the US Constitution. Summarize the Establishment Clause.

(3) Summarize the three prong test used by Justices after the *Lemon v. Kurtzman* ruling.

Case One: *Engel v. Vitale* (note: this case took place before *Lemon*)

Facts of the Case

The Board of Regents for the State of New York authorized a short, voluntary prayer for recitation at the start of each school day. This was an attempt to defuse the politically potent issue by taking it out of the hands of local communities. The blandest of invocations read as follows: "Almighty God, we acknowledge our dependence upon Thee, and beg Thy blessings upon us, our teachers, and our country."

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| Question  Does the reading of a nondenominational prayer at the start of the school day violate the "establishment of religion" clause of the First Amendment? | |
| Your Answer | SCOTUS Answer |
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**Case Two: *Lemon v. Kurtzman***

Facts of the Case

This case was heard concurrently with two others, Earley v. DiCenso (1971) and Robinson v. DiCenso (1971). The cases involved controversies over laws in Pennsylvania and Rhode Island. In Pennsylvania, a statute provided financial support for teacher salaries, textbooks, and instructional materials for secular subjects to non-public schools. The Rhode Island statute provided direct supplemental salary payments to teachers in non-public elementary schools. Each statute made aid available to "church-related educational institutions."

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| Question  Did the Rhode Island and Pennsylvania statutes violate the First Amendment's Establishment Clause by making state financial aid available to "church-related educational institutions"? | |
| Your Answer | SCOTUS Answer |
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**Case Three: *Everson v. Board of Education***

Facts of the Case

A New Jersey law allowed reimbursements of money to parents who sent their children to school on buses operated by the public transportation system. Children who attended Catholic schools also qualified for this transportation subsidy.

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| Question  Did the New Jersey statute violate the Establishment Clause of of the First Amendment as made applicable to the states through the Fourteenth Amendment? | |
| Your Answer | SCOTUS Answer |
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**Case Four: *Edwards v. Aguillard***

Facts of the Case

A Louisiana law entitled the "Balanced Treatment for Creation-Science and Evolution-Science in Public School Instruction Act" prohibited the teaching of the theory of evolution in the public schools unless that instruction was accompanied by the teaching of creation science, a Biblical belief that advanced forms of life appeared abruptly on Earth. Schools were not forced to teach creation science. However, if either topic was to be addressed, evolution or creation, teachers were obligated to discuss the other as well.

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| Question  Did the Louisiana law, which mandated the teaching of "creation science" along with the theory of evolution, violate the Establishment Clause of the First Amendment as applied to the states through the Fourteenth Amendment? | |
| Your Answer | SCOTUS Answer |
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**Case Five: *Employment Division of Ohio v. Smith***

Facts of the Case

Two Native Americans who worked as counselors for a private drug rehabilitation organization, ingested peyote -- a powerful hallucinogen -- as part of their religious ceremonies as members of the Native American Church. As a result of this conduct, the rehabilitation organization fired the counselors. The counselors filed a claim for unemployment compensation. The government denied them benefits because the reason for their dismissal was considered work-related "misconduct." The counselors lost their battle in state court. But the U.S. Supreme Court vacated the Oregon Supreme Court's judgment against the disgruntled employees, and returned the case to the Oregon courts to determine whether or not sacramental use of illegal drugs violated Oregon's state drug laws (485 U.S. 660 (1988)). On remand, the Oregon Supreme Court concluded that while Oregon drug law prohibited the consumption of illegal drugs for sacramental religious uses, this prohibition violated the free exercise clause. The case returned to the U.S. Supreme Court in this new posture.

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| Question  Does the state law violate the Free Exercise Clause of the First Amendment? | |
| Your Answer | SCOTUS Answer |
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Case Six: *McCollum v. Board of Education*

Facts of the Case

In 1940, members of the Jewish, Roman Catholic, and some Protestant faiths formed a voluntary association called the Champaign (Illinois) Council on Religious Education. Cooperating with the Champaign Board of Education, the Council offered voluntary classes in religious instruction to public school pupils. The courses were conducted in the regular classrooms of the school building. Students who did not attend the religious instruction were required to go to some other place in the building to pursue secular studies.

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| Question  Did the use of the public school system for religious classes violate the First Amendment's Establishment Clause? | |
| Your Answer | SCOTUS Answer |
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**Case Seven: *Stone v. Graham***

Facts of the Case

Sydell Stone and a number of other parents challenged a Kentucky state law that required the posting of a copy of the Ten Commandments in each public school classroom. They filed a claim against James Graham, the superintendent of public schools in Kentucky.

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| Question  Did the Kentucky statute violate the Establishment Clause of the First Amendment? | |
| Your Answer | SCOTUS Answer |
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**Case 8: *Lynch v. Donnelly***

Facts of the Case

The city of Pawtucket, Rhode Island, annually erected a Christmas display located in the city's shopping district. The display included such objects as a Santa Claus house, a Christmas tree, a banner reading "Seasons Greetings," and a nativity scene. The cr&#232;che had been included in the display for over 40 years. Daniel Donnelly objected to the display and took action against Dennis Lynch, the Mayor of Pawtucket.

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| Question  Did the inclusion of a nativity scene in the city's display violate the Establishment Clause of the First Amendment? | |
| Your Answer | SCOTUS Answer |
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**Case 9: *Allegheny v. ACLU***

Facts of the Case

Two public-sponsored holiday displays in Pittsburgh, Pennsylvania, were challenged by the American Civil Liberties Union. The first display involved a Christian nativity scene inside the Allegheny County Courthouse. The second display was a large Chanukah menorah, erected each year by the Chabad Jewish organization, outside the City-County building. The ACLU claimed the displays constituted state endorsement of religion. This case was decided together with Chabad v. ACLU and City of Pittsburgh v. ACLU of Greater Pittsburgh.

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| Question  Did the public displays violate the Establishment Clause of the First Amendment? | |
| Your Answer | SCOTUS Answer |
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