

## *Religion and the Law in America: An Encyclopedia of Personal Belief and Public Policy*

Scott A. Merriman. *Religion and the Law in America: An Encyclopedia of Personal Belief and Public Policy*. Santa Barbara, CA: ABC-CLIO, 2007. 2 vols: 577 pp. \$195.00. Hardcover. ISBN: 1851098631 (set).

This two-volume encyclopedia explores the legal and political history of the freedom of religion in the United States. A timeline of significant events, people, and decisions is provided on pages one to nine. This is followed by fifteen essays on general themes, such as “Prayer and Bible Reading in Public Schools,” “Religion and Politics in the Framing of the Constitution,” and “Religious Proselytizers and the Law.” About four hundred pages are dedicated to entries from A to Z, examining the presence of religion in American life. Coverage includes public controversies, government legislation, landmark court cases, and special organizations relevant to the legal history of religious freedom. Near the end of each entry, a brief bibliography for further reading is provided.

From 1776 to 1940, the Supreme Court and the Congress were content to let the states have the primary role in dealing with religion in the United States. From 1940 to 2005, however, over 150 cases in which religious expression was a major factor have come before the Supreme Court. In the 1960s, Bible reading and prayer in school were at the center of controversy. One often-discussed example is the principle proposed in the 1970s; the “Lemon Test” was supposed to provide a guide for making such decisions, based on three principles of constitutionality: (1) laws must have a secular purpose, not a religious one, (2) laws must neither advance nor inhibit the interests of a particular religion, and (3) a law must not lead to “excessive entanglement” between church and state.

People of faith, however, have often protested that the very structure of the three-pronged Lemon test is hostile to religion. For their part, judges have felt that Lemon imposes on them a burden better suited to Hercules because it is so heavy, or to Sisyphus, because like his rock, it keeps coming back. Administrative policies of “religious accommodation” have been proposed as one way of setting things right again, and they have met with some success. “Faith-based initiatives” were also supposed to re-establish the “lost” balance between freedom of religious expression and separation of church and state. However, up to this point in time, faith-based organizations have not yielded the fruit their most vocal supporters were hoping to see.

We can read further about these issues in scholarly periodicals such as *Journal of Church and State* and *Journal of Law and Religion* (both indexed in ATLA’s Religion Database). There are also special graduate programs that focus on research into the changing relationship between religion and law at universities such as Emory, Baylor, Notre Dame, and Hamline. But, given the dynamic nature of these two fields and the great passions human beings often bring to them, librarians and researchers could profit greatly from one comprehensive encyclopedia that might provide us with a learned overview of the whole field. In *Religion and the Law in America: An Encyclopedia of Personal Belief and Public Policy*, we have what amounts to a fairly good attempt, but we do not yet have that single outstanding encyclopedia on law and religion that we may have been waiting for.

For example, odd headings for the entries are found in abundance: “Addition of under God to Pledge of Allegiance”; “Celebration of Halloween and singing Christmas carols”; “Avoidance of the issue of evolution in many teaching

standards.” Also, why are notable persons in the field of religion and law omitted? There is no mention of John Courtney Murray, the Catholic thinker whose book *We Hold These Truths: Catholic Reflections on the American Proposition* is a meditation on the commensurability of Catholic doctrine and the First Amendment. Leo Pfeffer is missing, too. Pfeffer was the lawyer whose concern for a Jewish minority in America motivated his many appearances before the Supreme Court, where he always argued for a strict separation between church and state. Likewise, Richard John Neuhaus, the author of *The Naked Public Square*, a landmark book in this field that seeks to undo what he calls Pfeffer’s “inversion” of the religion clause, should have been included. Taken together, offbeat entries and unaccountable omissions seem to be symptoms of a deeper problem—lack of a controlling perspective or theory from which to view the whole procession of characters and historical developments.

A related editorial question needs to be raised as well: Is it possible for one person to write an encyclopedia by himself? Don’t we expect an encyclopedia to be a joint effort, from a team of invited experts, each of whom has submitted work on his or her specialty to a general editor? Instead, what we have here has been written as a solo effort, and that may account for this work’s limitations in scope and depth.

Overall assessment: It is difficult to gauge the audience for which this publication is designed. On balance, it appears to be aimed mainly at lower-division college students who might use it for “reports,” rather than at students who are engaged in graduate theological education, who are expected to do “research” instead. Some good information is present in the entries, but we can get to it only after laboring with search terms that are quirky and unreliable. With respect to genre, this work is closer to a handbook than a full-blown encyclopedia. All in all, theological libraries will probably want to spend their limited funds on alternatives more appropriate for students who are working at the master’s level and beyond. Among these, the following titles ought to be considered: *Religion and American Law: An Encyclopedia* edited by Paul Finkelman (2000); John T. Noonan, *The Believer and the Powers that Are* (1987); Kent Greenawalt’s two volume work, *Religion and the Constitution: Free Exercise and Fairness/Establishment and Fairness* (2006-2008); James Hitchcock’s *The Supreme Court and Religion in American Life* (2004); Leslie Griffin’s *Law and Religion, Cases and Materials* (2007); Stephen M. Feldman, *Law and Religion: A Critical Anthology* (2000), and *Religion and the Law: A Dictionary* by Christopher Anglim (1999).

*Fred Guyette*  
*Erskine College and Theological Seminary*

