

ANTONIO SÁNCHEZ-BAYÓN

FREEDOM OF RELIGION AT LARGE IN AMERICAN COMMON LAW: A CRITICAL REVIEW AND NEW TOPICS

Antonio Sánchez-Bayón

Camilo José Cela University, Legal Sciences & Economics College (Research Coord.,
GiDeCoG), Madrid, Spain.
Email: sabayon@ucjc.edu

Abstract: This paper is a critical and comparative legal historical study, which offers a global vision of the U.S. Legal System, according to the religious factor impact and its complex dimensions (e.g. religious liberty, Church-State relations, welfare state & solidarity). The principal goal is the deconstruction of the fake official History, elaborated after the Second World War (e.g. inferences, impostures, fallacies). At the same time, it shows the social development (and the kind of commitment in each period), and how it happens the consolidation of the system thanks to the regulation. In this way, it is possible to pay attention to the American experimental evolution (not lineal or exceptional –as many U.S. hand-books pretend): from colonial *Blue Laws* (or Sunday regulation), up to the current regulation on freedom of religion and non-discrimination. Also, this paper offers a systematic set of diverse legal sources (e.g. Executive orders & rules, Legislative statutes, Judicial cases & resolutions). Another goal of this paper is the evaluation of the allegedly paradoxical policies and regulations in this field, during the last two Administrations (Clinton and W. Bush); both of them, from extreme views (linked at the end), they used incorrectly the religious factor, and they confused the institutions. The result seems to be a landed in the *Postmodernity* (less realistic and more speech based).

Key Words: The United States of America (US/USA), American Common Law, Legal System, Ecclesiastical Law/Church-State Studies, religious factor, freedom of religion, non-discrimination, case study.

Introduction: a critical review against fake beliefs

There are many foreign studies (in the fields of Politics and Constitutional Law or the area of Ecclesiastical Law/Church-State Studies, mostly by Continental European authors), that assume several wrong premises about the USA and its culture (*lato sensu* –including political and legal institutions), which makes it difficult to properly conduct the analysis and the model obtained. The most common mistakes committed by Continental authors are the following:

a) *Prejudice 1*: the wrong assumption that most American people are Protestant and, consequently, guide their lives by a professional logic. The author who spread this explanation in Continental Europe was Weber in his popular book *The Protestant Ethic and the Spirit of Capitalism*. Following this premise, education in USA should mainly be professionally oriented from the very beginning to develop specific work skills. Nevertheless, this is not the case- it is more likely to be an ethnocentric mistake on the part of Continental Europe people, who do indeed educate their future generations in this way. In the USA a personalized education (a broad scope of selection) is predominant (in the academic world). In addition, it is based on mature knowledge (not memorization), and on critical reflection in order to learn to be resolute and diligent in any social aspect, not only in the professional sense. This evaluation was established because of *Pragmatism*¹. This pragmatism has favored the broadening of the educative method as the case method, of which some examples will be given in this paper in order to understand how an American Jurist reasons.

b) *Prejudice 2*: there is a mystifying presumption about the American model, as a model of complete independence between Church and State and a total freedom of religion; this is an oversimplification of a complex reality. Thanks to this prototypical secularization, in the USA there is a distance between religion and policy, as two different social spheres, but it does not imply independence, just separation (a definition of competences). Also, this model could be described as an implementation of a multifaceted system of accommodation, based on some principles, and each generation has to reinterpret those principles and this model, to adjust the Legal System to its circumstances. In the same way, the freedom of religion is not total, because public powers have the constitutional commitment to protect and to promote the free exercise of religious liberty and non-discrimination, and other associated rights, and this is a continuous mission. Also, in the last two (Presidential) Administrations (Clinton and W. Bush), there are a lot examples of violations of this freedom and its associated rights - certain measures have been taken of positive discrimination at both extremes (see case study).

c) *Prejudice 3*: another kind of legal misunderstanding is about the extreme simplification of American Common Law, which is reduced to the

(federal) Constitution and some Case Law, despite the many sources that exist in the US Legal System. As a consequence, another mistake (linked to the previous one) is the ignorance about the special branch of the Legal System and its academic discipline, both focused on the legal dimension of the religious factor: a) primary or direct sources of Law (basic and auxiliary regulation, e.g. Constitutions, Case Law; regulation of development, e.g. Statutory Law, Executive Law); b) secondary or indirect sources (doctrine/scholars, e.g. handbooks, treatises; other less common, e.g. practice guides, form books).

Hence, having observed so many erroneous prejudices, this research aims to discover the authentic relations between Church and State, the type of protection given to Freedom of Religion and how it affects Public policies, while obtaining a clear and systematic vision of the American Legal System regarding the subject in question.

Interdisciplinary area of American Civil Church Law²

a) <i>Constitutional Studies</i> : This branch of the study has mainly been developed in Schools of Law, following a positive-formalist approach (First Amendment and its judicial interpretation).
b) <i>Church-State Studies</i> : This area has been developed in Schools of Theology and Humanities, under a philosophical-historical approach, different from political and sociologic approaches
c) <i>Religion and</i> /&: This is the most recent and eclectic vision (origin of <i>Critical & Cultural Studies</i>), consolidated, above all, in Schools of Humanities and Communications, and it includes new approaches, such as Geostrategic and Biopolitics.
d) <i>Church-State patterns</i> (part of <i>Cultural Studies</i> , above all of <i>Latin American Studies</i>): one of its main proponents was Prof. MECHAM (<i>Church and State in Latin America</i> , Chapel Hill: University of North Carolina Press, 1934), creating a well-known school in southern USA (above all in Texas).

Historical approach: Blue Laws & Colonial Legal System

Blue Laws or *Sunday Laws* were a kind of regulation of religious aspects during the colonial period (1604-1776), and the beginning of the national period. From the first settlements until the Civil War, it was also necessary to pass the Fourteenth Amendment. It is a diverse System, which includes different regulations (e.g. ordinances, covenants, chapters) and it covers from *confessionalism* (Church-State union) to *preferentialism* (a principal Church and tolerance of other confessions). The Fourteenth Amendment standardized the guarantee of religious liberty and the separation of Church and State within the Union, because the Supreme Court becomes the highest organ of supervision.

Colonial Typology

Thirteen Colonies/Periods Originals (confession/model) 1900	(length of the ecclesiastical support of the State) 1600 1650 1700 1750 1800 1850
Virginia (Anglican/institutional)	223 years of preferential support (1607-1830)
New York (Anglican and reformed/predilection)	225 years of preferential support (1614-1846)
Massachusetts (Congregat./Theonomist)	213 years of preferential support (1620-1833)
Maryland (Anglican and Catholic/predilection)	235 years of preferential support (1632-1867)
Delaware (deism/reciprocity)	155 years of preferential support (1637-1792)
Connecticut (Congregat./Theonomist)	179 years of preferential support (1639-1818)
New Hampshire (Congregat./Theonomist)	238 years of preferential support (1639-1877)
Rhode Island (deism/tolerance)	199 years of preferential support (1643-1842)
Georgia (Anglican/institutional)	135 years of preferential support (1663-1798)
North Carolina (Anglican/institutional)	212 years of preferential support (1663-1875)
South Carolina (Anglican/institutional)	205 years of preferential support (1663-1868)
Pennsylvania (deism/tolerance)	109 years of preferential support (1681-1790)
New Jersey (deism/predilection)	142 years of preferential support (1702-1844)
Key dates to the change: 1776(Declaration of Independence)-1787(USA Constitution)-1791(1 st Amend)-1868(14 th Amend.)	

* the shading allows the most polarized cases regarding models and length to be highlighted.

An elementary explanation (of Blue Laws) will be presented with respect to the main foundational settlements in the USA below. The experience of previous settlements has been useful in reaching the current Legal System (as presented in the following section). The areas mentioned are: a) Southern plantations, b) New England, c) the Middle Provinces, and d) social laboratories where the effective transit over to freedom of religion will be tested.

Three big colonial Settlements

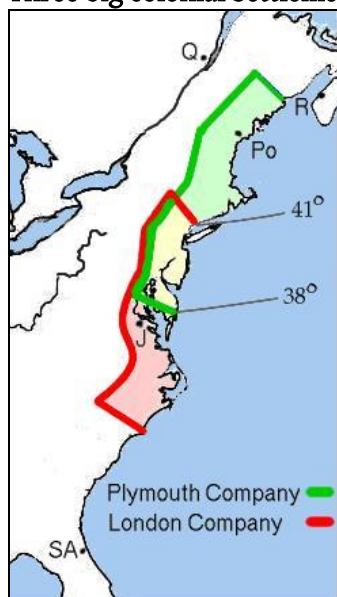


Figure from *La Modernidad sin prejuicios* (vol. 1, see references).

a) *Southern plantations and the stamp of Anglicanism (ecclesiastic official recognition)*: this consists of four great administrative groups (Colony and Dominion of Virginia -today, Virginia, West Virginia and Kentucky; Province of North Carolina -currently, North Carolina

a) *Southern plantations and the stamp of Anglicanism (ecclesiastic official recognition)*: this consists of four great administrative groups (Colony and Dominion of Virginia -today, Virginia, West Virginia and Kentucky; Province of North Carolina -currently, North Carolina and Tennessee; Province of South Carolina and Province of Georgia). These colonies are directly dependent on the British Crown, and therefore, with an institutional model of state-Anglican religion. However, the model-overcome episodes of 1642 - because it comes with an initial motivation colony on the enrichment, the Anglican institutional model is more flexible and permeable for dissidents in UK, by imposing the requirement material manpower requirement. Try this, for example, is the admission of the Episcopalian and Presbyterian variants becoming part of the power elites. Within this core foundation, the referent is Virginia colony, which was the first settlement (Jamestown, 1607), which branches from the adjoining settlement (North Carolina, 1663, South Carolina, 1670; Georgia, 1732), and where changes to the model of freedom were ratified (e.g. art. 16 of *Virginia Declaration of Rights*, 1776).

- *Virginia*: a) Its fundamental/constitutional rules (*Grants, Charters, Statutes & Constitutions*)³, like the first (*Royal*) *Charter* of 1606, stated the mission of Christianizing and evangelizing the Indians; the second *Charter* of 1609 included a religious test (Oath of Supremacy)⁴ to be admitted into

the colony. The third *Charter* of 1611 maintained the Oath of Supremacy, even though Catholics were exempted from taking it. Eventually, the Declaration of Rights (art. 16), proclaimed Freedom of conscience; b) among the precepts regarding religion, it is necessary to highlight the *Death Penalty for Blasphemy* of 1610; the *Sunday Law* of 1610; the *Law requiring religious attendance* of 1623; the *Law about Sunday travel and church attendance* of 1661; the *Law requiring the christening of children* of 1662; the *Law against Quakers* of 1663, the *Law in order to make expedite the elimination of blasphemy, the Oath (in vain), substance abuse and no compliance with Sabbath (dominical rest)* of 1699⁵; the *Law of Lashes for working, travel or non-attendance of Church on Sunday* of 1705; etc.

- *North Carolina*: a) Amongst fundamental Laws⁶, in the *Charters* of 1663 and 1665, it is recognized as an Anglican colony (with the maintenance of the confessional religion), though no such official denomination is adopted until 1711; etc.; at last, the Declaration of Rights of 1776, including Freedom of Conscience; b) among the above precepts regarding religion, the most salient is the *Law of the observance of the Lord's sacred names, commonly known as Sunday* of 174, which started a crusade against vice.

- *South Carolina*: a) Among its Fundamental Laws⁷, once independent of the other Carolina (1729), after the *Border Agreement* of 1735, the Anglican Church is formally established, etc.; in the end, the *Constitution* of 1778 declared that the Christian religion was the official one; b) In the *interim* of the segregation of the Carolinas, already enjoying a certain amount of autonomy, its assembly passed the *Sunday Laws* of 1692 and 1712.

- *Georgia*: a) Among its fundamental Laws⁸, the *Charter* of 1732 declared the Anglican Church to be the official one; in the *Constitution* of 1777, it is disestablished; b) among its mandates on religion, the most outstanding is the *Law to punish vice, profanations, immorality and to observe the Sacred Name of the Lord, commonly known as Sunday* of 1762, in the line of North Carolina.

b) *New England and traces of Puritanism (The Covenant of Grace)*: it is the regional group, which consists of four main territorial divisions, the *Province of Massachusetts Bay* (afterwards Massachusetts), the *Province of New Hampshire* (New Hampshire, plus Maine and Vermont), the *Colony of Connecticut* (Connecticut), and the *Colony of Rhode Island and Providence Plantations* (Rhode Island). In this environment, a Congregationalist Theonomic model of puritan confessions was originally predominant, until its total incorporation into the British Crown, when it then became a semi-institutional model. Although the first migrations are motivated by the search for recognition and tolerance, the genomic excesses (e.g. witch hunts, strict moralism) generated a decline in the settlements due to explicit or tacit ostracism, which created the urgent necessity to found new settlements that were more flexible and permeable for local minorities (e.g. Baptists, Quakers)⁹. Massachusetts is the great colonial

reference for the region, since it is the place where the first settlements were established (the *Pilgrims in New Plymouth* in 1620 and the Puritans in *Massachusetts Bay* in 1629-30 –later combining in 1691). In addition, this colony came up with the subsequent foundational initiatives –as a consequence of the *purging of Winthrop*¹⁰– allowing the formation of Connecticut (Rev. T. Hooker in 1635-36), Rhode Island (Rev. R. Williams on 1636); New Hampshire (North-Irish Presbyterians –as permanent settlers– in 1630's); Maine (*Nova Scotia*, between 1696-1713).

- *Massachusetts*¹¹: in New Plymouth, the *Charter* of 1620 established a Theonomic model, the mandate including the conversion of the Indians, and the requirement of the Oath of Supremacy in order to be admitted into the Colony; among its religious regulations, it is necessary to highlight severe punishment for *deseccration of the Lord's Day* of 1650 and 1699, *The Lack of attendance to Church* of 1651, *the Death Penalty for idolatry, Marital Infidelity and Witchcraft* of 1671, *The Death Penalty for presumption of deseccrating the Lord's Day* of 1671, *The requirement of orthodoxy for the free man* of 1672, and *The punishment for travelling on the Lord's Day* of 1682. In Massachusetts Bay, the *Charter* of 1629 recognized natural rights, but was subject to the Oath of Supremacy; the *Charter* of 1691 recognized as a general principle that people were free from the Oath of Supremacy, except for the holding of public office. However, there are Christians who are still discriminated against, those labeled as Papists; in religious regulation, it is important to note that *The regulation of Sabbath* of 1629, *The prosecution on religious grounds* of 1630 (Baker was punished), *The exclusive right to vote for members of the Church* of 1631, *Court Orders to attend Church on Sunday* of 1635, *the Declaration of the Civil administration subject to the Divine Administration* of 1636, *the Death Penalty on religious grounds* of 1641, *the Decree of Church Attendance* in 1646, *the Edict of exile for heresy* of 1646, *the Edict of exile or Death Penalty for Catholic Priests* of 1647, *Edict of exile or Death Penalty for disowning the Bible* of 1651, *Edict of exile or Death Penalty for the Homeless Quakers* of 1658, *Mandate recognizing the right to vote to the members of the Church* of 1660, *Edict of death against Quakers, only as a last resort*, of 1661, etc.

- *Connecticut*: a) Among its constitutional acts¹², such as the *Fundamental Orders of Connecticut* of 1638-39 and the *Government Act of the Colony of New Haven* of 1643, the Oath of Supremacy is imposed (for political representatives and free owners, respectively); b) The most significant mandates about religion are, the *Law to prevent and punish the profanation of the Sabbath or the Lord's day* of 1721, and the *Law for the implementation of the due observance of the Sabbath or Lord's day* of 1750.

- *New Hampshire*: a) among its foundational laws¹³, such as the *Concessions* of 1629 and 1635, it is not uncommon to observe the requirement of the Oath of Supremacy and Sunday Laws-even though more flexible than Massachusetts laws in those days; b) among the rules regarding religion, it is possible to identify the *Law for the better*

implementation and enforcement of the Lord's day of 1700, apart from the Prohibition of blasphemy of 1718.

c) *Middle Provinces and the influence of reformism (social communitarianism)*: this is the regional bloc which consists of five original territories, Province of New York (previously New Netherlands and, afterward, New York and Vermont), Province of New Jersey (New Jersey), Province of Pennsylvania (Pennsylvania), Delaware Colony (originally, *The Lower Counties on the Delaware River*, today being Delaware), Province of Maryland (Maryland). Among those mentioned colonies, the prevailing model of reciprocity deist, open to various denominations like Anglican and its derivatives, the continental European Reformed and Catholic, who without being persecuted, they are minorities in their home countries and seek in America both recognition and enrichment. The cardinal colonies in the area are, on one side, Maryland (1634-36), and the other, New York (founded as New Netherlands, by the Dutch Reformed Church, from 1614 to 1664, becoming Anglican by annexation after the Wars Dutch-British mid-century), in this last colony, then broke off New Jersey (West New Jersey in 1676 and East New Jersey in 1683, united and autonomous in 1702) and Delaware (founded by the Swedes in 1665, being assimilated by the Dutch and later the British, and autonomy in 1701).

- *New York*: a) among its fundamental laws¹⁴, the *Real Concessions* of 1664 and 1674, established the Anglican Church as the official religion, until it was abolished in the Constitution of 1777; b) among its mandates about religion, the most outstanding are *Laws against the desecration of the Sabbath and other immoralities* of 1673 and 1695.

- *New Jersey*: a) its fundamental laws¹⁵ from the very beginning follow a model characterized by tolerance, although with certain preferences (e.g. requirement of the Oath of Supremacy to the public officials)¹⁶, as is reflected by the *Concession and Agreement* of 1664, the *Fundamental Constitution for the province of East New Jersey* of 1683; b) the regulation about religion included the *Sunday Laws or Against the desecration of the Lord's day* of 1683 and 1693, *The law for the suppression of the immorality* of 170, etc.

- *Delaware*: a) Its primordial laws¹⁷ are very similar to those of New Jersey, with a tolerant approach and certain preferences (although the Oath of Supremacy is compulsory for every citizen), which may be inferred from the *Charter of Delaware* of 1701 and the *Law on the organization of the testimony of government employees and ministers for church affairs* of 1701; b) among its most relevant articles, it is possible to highlight the *Decree against Blasphemy* of 1739 and the *Law to prevent the breach of the Lord's day*, commonly known as *Sunday* of 1739 –the clarification is owed to the boom in religious awakening and the controversial issue of Sabbatarianism.

d) *Social Laboratories and the emergence of deism (the vox populi/publicist)*: what differs from the previous cases is that these colonies do not have a

clear physical convergence¹⁸, but are in harmony with a certain state of mind, given that there are milestones in the emersion of the modern conception of Tolerance, and together with this, in the subsequent goal of freedom. In the first place, Maryland is a colony founded through a real commitment¹⁹, circa 1629-34, in the east of Virginia, by an Irish Catholic aristocrat, C. Calvert (*Lord Baltimore*) in order to give room to the persecuted Christian. Secondly, Rhode Island, is a colony set up between 1634 and 1636, south of Massachusetts, by the Congregationalist reverend-allegedly, Baptist²⁰, R. Williams, in his escape from the Winthrop “purges”. Thirdly, Pennsylvania, as a consequence of a noble debt²¹, is founded in the west of Delaware, by Quaker leader, W. Penn, who wanted to house all Quakers on the run. All in all, the three aforementioned groups have the same firm will of their founders to house those people persecuted for the dictates of their conscience. This started a process of emancipation for the individual (the people on the run) with respect to the majority groups), and of Civil law with respect to religious law (the above mentioned major religions no longer hold these public positions). Nevertheless, it is necessary to specify that in the case of Maryland, this step is the consolidation of the idea of modern tolerance—predominating the negative burden of resignation— subsequent situations in Rhode Island and Pennsylvania, are an example of a trial and error method of transit to modern tolerance, in its positive sense and more respectfully—close to the modern concept of freedom.

- *Maryland*: a) Among the basic rules²², clearly passed to fix a system of coexistence and assure social tolerance, what stands out is the *Charter of Maryland* in 1632 and the *Instructions to settlers by Lord Baltimore* in 1633 (in which Lord Baltimore suggests to Catholic they should not cause offence to their Protestant neighbors); b) Among the most popular mandates, projecting the Law on religion, there is the Act of Tolerance (1649), it could be highlighted (which only takes into account tolerance among Christians and that include severe punishments for blasphemy and the lack of compliance with religious holidays), the *Law for the observance and sanctification of the Lord's Day, also known as Sunday* in 1696, and *Law to punish blaspheming, perjury, alcoholics and those not observant of the Sabbath* in 1723, etc.²³.

- *Rhode Island*: a) Its fundamental laws²⁴ are oriented toward social tolerance and the protection of freedom of conscious (The oath of Supremacy is not required of the citizens), as can be observed in the *Covenant of Providence* in 1636, the *Agreement of the Plantation of Providence* in 1640, *Agreement of government of Rhode Island* in 1641, and *Charter of Rhode Island and Plantations of Providence* de 1663.

- *Pennsylvania*: a) Among its fundamental laws²⁵, such as the *Charter of Pennsylvania* in 1681 and the *Agreement of government of Pennsylvania* in 1682, despite philosophical tolerance similar to that of Rhode Island, it is more strict regarding formalities and religion, demanding the conversion

of all Indians, the oath of supremacy to hold public office and for citizens and the observance of the Sabbath-probably as a consequence of trying to avoid external controls and trying to guarantee free development for the persecuted Quakers; b) among its more outstanding precepts, we must note two that are especially representative of the model, the *Great Law* or the *Charter of Penn and the Laws of Pennsylvania* in 1682 (where freedom of conscience is allowed, although an oath of supremacy and the consecration of the Sunday are obligatory), and the *Law of restriction of work the first day of the week* in 1705- taking into consideration the First Awakening and the problematic *Sabbatarianism* for most Protestants, making the week starts on Sunday.

To sum up, the three cases are examples of the trial and error method in the long evolution toward modern religious tolerance, with the special feature that, in the case of Maryland, the emphasis lies in the achievement of coexistence, while on the other hand, in Rhode Island and Pennsylvania, what is of primary importance is the freedom of conscience. In any case, the three cases have been very useful to push forward in the emancipating political process of the individual against the group, and the political and civil community against a religious and cultural one.

Current Legal System: Constitutional level

In what sense is the US model peculiar? How could we explain it? In Continental Europe religion was used as an instrument by the public powers to create national identities while expecting dissidents. In contrast, in the new-born USA, it is very clear from the very beginning that it is not a question of preserving the State of the religion -as has been argued lately by socialism. To the contrary, religion is popular patrimony and because of this, religious declaration cannot be obligatory to hold public office. Thus, art. VI of the U.S. Constitution breaks with the colonial tradition of demanding the Oath of Supremacy²⁶. What is more, to make things even clearer, one year after the Constitution was passed, and its writers started to work on a Declaration of Rights with the form of ten constitutional amendments (drafted in 1789, and passed in 1791). The First Amendment starts with the recognition, protection and promotion of the freedom and Autonomy of religion. This point is so important that it is endowed with a double clause in its regulation: a) the establishment clause, which promotes non-religious “officialisation”, thus guaranteeing the autonomy, the plurality and popularity of religion; b) free exercise clause, by which the public powers agree to protect the observance and promotion of religious practice as a way of strengthening interpersonal relations which insure social integration. In a nutshell, they are a wide range of acts, in which the lowest limit is the disestablishment process and the highest the guarantee of freedom of worship, thus giving each State great discretion in the regulation of this issue (e.g. if some favor is

conceded to any religious confession, it is compulsory to extend it to the rest of the confessions to maintain the condition of Legal equality.) In order to consolidate this model and avoid excessive dispersion, in 1866 The Fourteenth Amendment was passed (entering into effect in 1868), which put an end to ecclesiastic preferentialism. In addition, it establishes federal supervision of the issue, as a guarantee that all citizens in the USA enjoy the same rights and freedoms in the fifty States of the Union.

Thus, at the federal level, The Supreme Court of the USA becomes the great supervisor, not only because it has to ensure a proper interpretation of the Constitution (arts. 3 and 6), but because apart from that, it has to clarify significant numbers of judgments about this matter (according to the First and the Fourteen Amendments), there being already over three hundred consolidated judgments-although with a mercurial *ratio decidendi*. Nonetheless, this is not the only federal organism with competence, as we will see below, to deal with the development of legislative and regulatory framework in this area.

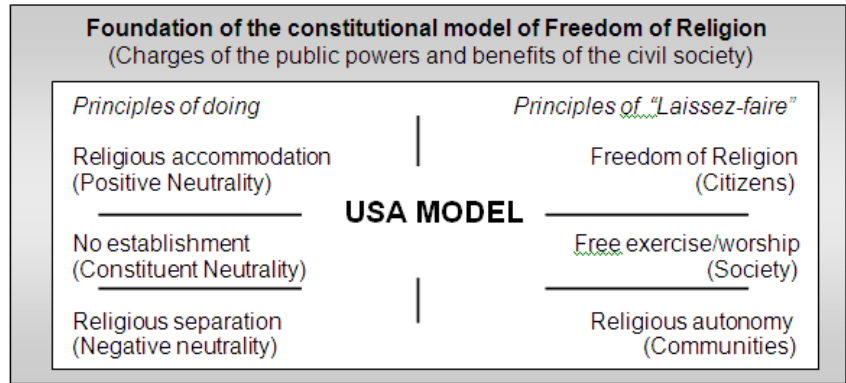
Constitutional rules

Explicit Rules: we have to consider two precepts that expressly and substantially regulate religion, such as art. VI (*religious test & oath*) and the First Amendment (*free exercise clause & establishment clause*), plus the procedural rules, which are set out in the Fourteenth Amendment (*equal clause*).

Implicit Rules: they could be defined as those rules that use formulas and figures of sacred western traditions (under the filter of secularization), making room for valuable transfers of legitimacy to the institutions of the civil government (e.g. the Constitution becomes the sacred book of the American people). Other rules come from imitations of religious inspiration (e.g. Eighteenth Amendment). The Mentioned precepts that may be interpreted in a neofetishist way are: The preamble (*People, Union -secular covenant- & blessings' of liberty*). Art. I (*impeachment-oath, Sundays excepted, Law of Nation & contracts*). Art. II (*oath, pardon, faithfully clause & impeachment*). Art. III (*good behavior, witnesses & corruption of blood*). Art. IV (*faithfully clause*). Art. VII (*unanimous consent & year of our Lord*). Fourth Amendment (*oath*). Fifth Amendment (*limb, witness against himself, property*). Eighteenth Amendment (*intoxicating liquors prohibited*).

Tacit Rules: they are the inspirational rules of the system as a whole (*vid. infra*).

Governing Principles of the USA relational model



Statutory and Executive Law development

In summary, any legislative or regulatory development of the abovementioned constitutional precepts has to be in accordance with the following rules:

- a) *Substantially*: a1) Establishment clause: it is the formulation of the disestablishment process, thus the existence of any official religion is forbidden. Even after the Fourteenth amendment was passed, the existence of a group of official religions was not possible, as was typical in Preferentialism. a2) Free exercise clause: the public powers are obliged to remove any obstacles that prevent freedom of worship, as well as having the duty of looking for formulas which accommodate a sustainable separation. a3) Equal clause: It is essential to guarantee the freedom, equality and autonomy of religion in the whole country, which is a task of Federal powers. Nonetheless, in their supervision, they will have to respect the rest of principles, thus they may not develop a legislative and regulatory framework that defines religion, the internal operating rules of any confessions and/or try to equate religious organizations with other types of associations, given that this decision can only be made by the American people. a4) Ecclesiastical corporation sole: It recognizes the right of the American People to decide whether they want to inscribe their group as a religious entity or not, and simply regarding the Labor and Taxation Law; in the same way, public powers are compelled to evaluate civil efficacy with regard to the internal rules of confessions, except in the case of fraud, arbitrariness or attack against public order. a5) Checks & balances policy: It consists of a system of limitation of power through the mutual vigilance of the public institutions and the requirement of accountability to the citizenship. This way, Federal powers have to supervise the policies of the rest of powers (both State and Municipal), but, at the same time, Federal powers have to be vigilant of each other.

b) *Procedurally*: b1) Outdated regulation: These are precepts of a limited temporal nature, given their relation to the underway public policies. They really depend on the holder of office and his/her institutional agenda, as well as the duration of the legislature and/or administration in office. b2) Dependent regulation: These are precepts that require the support of other bodies. In the case of the Acts and Bills, they only enter into force completely when they are quoted in a judicial proceeding. On the other hand, the Proclamations and Regulations are administrative acts and have no regulatory nature completely until the Congress²⁷ endorses them; once this occurs; specific precepts become general rules and are applicable in similar cases. In the same way, the intention of the Courts is possible b3) Regulation of welfare: The great majority of the rules passed regarding religions is a consequence of the Social Gospel, thus it is pragmatically conceived in a secularized way as a Public and health welfare issue (42nd Title of U.S. Code), and is subject to tax control (26th Title, regarding Internal Revenue Code).

So far, governing principles and common features of legislative and regulatory development have been mentioned, but there are also differences. Regardless, they are evident regarding the sources, formalities and goals. These differences are clearly affected by the diverse areas of activity that guide the regulation:

a) *Domestic management*: It has been a rich source of legislative output regarding the religious factor in the last years, Church Arson Prevention Act of 1996²⁸; The Defense of Marriage of 1996²⁹; Bankruptcy-Religious Liberty and Charitable Donation Protection Act of 1998³⁰; Religious Land Use and Institutionalized Persons Act of 2000³¹; Religious Workers Act of 2000³², though among all these Acts, the most outstanding, without any doubt, is the Religious Freedom Restoration Act of 1993. It was passed by the Clinton Administration and many among its articles were derogated by the Supreme Court in 1997.

b) *Foreign management*: The same as domestic one is generous in the normative production, Extension of Immigration Deadlines for Religious Workers, Charitable Service Workers, and Paperwork Changes in Employer Sanctions of 1997³³; International Religious Freedom Act of 1998³⁴; International Religious Freedom Act Amendments of 1999³⁵; Global Anti-Semitism Review Act of 2004³⁶, what is surprising, above all, taking into account that the Clinton Administration was its driver, when at the same time, it was promoting a greater participation of the USA in International Organizations. How is it possible to ratify the *International Covenant on Civil and Political Rights* (ICCPR), with its report mechanism (e.g. Report of freedom of Religion), and at the same time, to constitute your own service, as the one erected with the International Religious Freedom Act of 1998, which justify International interventions?

The key to understand this atypical situation- and the apparent infringement of the abovementioned governing principles and common features- lies in the 90's and the public policies of the Clinton Administration, which were absolutely dichotomous -paradoxical speeches and garbage can policy- which can be distinguished before and after the sexual scandal. The culmination of the confusion comes with the subsequent interpretation of the previous policies of the W. Bush Administration, which reformulated it according to its neoconservative approach and his own interests. Again, "rules of the game" are not respected.

Jurisprudence: between Case Law and Legal Theory

It is a common error to identify the *American Common Law* with Case Law, but the latter is only one source and branch of Law: There are others equally important, such as *Executive Law* (with its regulations) or *Statutory Law* (and its laws). Such exaltation comes from the Langdell method and the casebooks (*vid. supra*). Nevertheless, it is a very deep relation between these concepts, it is commonly noted that in order to get the perfection/conclusion of the Executive law, for example, it needs to be summoned in several judicial proceeding, thus the Case Law is used to foster and spread a great part of Executive Law (*vid. infra*).

In honor of the aforementioned American pragmatism, it can be observed below a synthesized and systematic list of the most outstanding cases, which has created the interpretative tendency of the issues relating to the religious factor in the USA, such as: the implementation of the freedom of religion and the religious autonomy (of natural and juridical persons, as the confessions), the same as the tutelage of the non-discrimination on religious grounds (*idem*), and more related issues. Everything is in relation with the legal grounds and the comparative analysis carried out while studying the next judgments (nearly three hundred cases studies of Case Law, systematized by date and issue)³⁷. The main leading cases are included in *Appendix 1*.

It has been cut the headings of the cases of 2005 (after the reelection of W. BUSH), since there are currently more than three hundred and fifty cases above this issue, since the new topics and tendencies explanations are developed below, with the case study (next).

Case Study: An overview

Even though the USA is a county framed into the categories of the New World or New Regime, as it is specified in one of its national mottos ("novus ordo seclorum"), this does not mean that there is a lack of knowledge of the western tradition, both the sacred (Judean-Christian) and the profane (Greek-Roman)-as it has been become evident in the

quotation of its national motto, they were passed in Latin. The Framers knew deeply the Greco-Roman culture, as well as the importance of the art of asking questions, through different methods, such as: the *epoché* or the *maieutic*. This way, the Socratic Method got into the universities studies, whose standardization began nearly one century after, using as a reference the native adaptation of the Dean Langdell, as it is explained below.

The foregoing *Socratic method* consists in the combination of the *epoché* or suspension of judgment-it means taking nothing for granted-and the *maieutic* or questioning of why-In order to analysis it in more depth, until reaching the primary reason. Nonetheless, we could wonder: how did this method become universally accepted in the USA Schools of Law? It was in the late 1870s, when in Europe there was an implementation of public universities (e.g. Spain and the background of the Gamazo Plan), and it also came the standardization of the studies. All these changes provoked the transformation of the traditional faculties, as the School of Cannons and Laws, which afterward were called Jurisprudence Schools, into Faculties of Law, where all the efforts of professor were concentrated on teaching the new Public Law, the main characteristic of which was its codified nature. So, thought the USA Law match up to the Common Law, in its foundation, it is something extraordinary, as the USA Law is the most open to the influences of the Civil or Continental Law. So much so, that amongst the flourishing universities of New England -foundation of the Ivy League (or club of universities which imitate the European style) – Harvard University begins to stand out in its attempt to become a reference in the standardization of the Law studies-it is important to take into account that by influence of the English Law, the prevailing method is the Inn Court, also known by learning a mere rudiments and afterwards learn everything by working as articulated clerk in Law firms or with judge., On the other hand, the Dean of the Faculty of Law, Prof. Langdell, started to put into practice a method of Socratic inspiration, even though very formalist (in relation with the exegetical and analytical studies which had been previously undertaken in referential works as Blackstone's *Commentaries* or Austin's *Jurisprudence*). It was a study in three prongs: a) *read the cases* b) *distill the rule*; c) *apply the rule to future cases*. It is curious that the method did not achieve its goals, not because its own quality, but because of the publicity generated by the personal competition between the two greatest jurists of their time: Langdell v. Holmes- a comparable rivalry to which had existed one century before between Hamilton and Jefferson. If Langdell was the Dean of the Harvard Law School, Holmes also attempted it, but he only became Professor, for this reason, he opted for the legal practice, reaching the category of Justice of the Supreme Court. If Langdell promoted the legal formalism, Holmes sponsored the appearance of the Legal Realism (it will be necessary to wait after the I World War); etc. The fact is that Holmes

provoked the contrary effect that he was pretending through the Law Review he edited (*American Law Review*) and its well-known work *The Common Law* (1881). He got to give undue attention to Langdell-Holmes criticized him so harshly, that Langdell become famous thanks to Holmes. From this great rivalry, also started the competition between Schools of Law, such as Harvard (which will go on during several years bowing down to Langdell) and Yale (who's incontrovertible reference was Holmes). The fact is that, in the same way that the new legal operators are trained, so Law is transformed, in its theory and practice. Regardless to say, the influence that this two universities have had, and continue to have in USA today, among its students it can be distinguished a great number of senior government officials (e.g. Presidents, Supreme Court Judges, Secretaries of State, Senators, Congressmen), apart from extremely important business men.

Although the law and its study have changed, the Langdell mark has survived to the present, since he was the first who offered a native version of the Socratic Method, being an example to improve, change, criticize and propose alternatives to his method. Other proposals and materials have emerged from the foregoing method, such as the casebook (it is a type of textbook used mainly by students. Rather than simply laying out the legal doctrine, a casebook contains excerpts from legal cases in which the law is applied). The latest successful version of this method was the *Problem method*, as a consequence of the voices against the Langdell method and the casebooks, which were said to be a mere excuse for trivializing Classes. Courses became competitions where students had to learn by heart the prefixed answers; Afterward, in order to revitalize the study of Law; it was chosen the Problem method, in which a fictitious or real case is framed, with several legal implications that student will have to resolve, usually in group, and simulating a judicial proceeding supervised by professors.

Therefore, although the Langdell method and casebooks have been useful to standardize the USA Law, they are also the origin of a reductionist method that attempt to teach the law through the Case Law or judgments, when there are other sources and branches of the Legal System as we will clarify below.

The topics chosen, network of network of interlaced questions, have an interdisciplinary character and also a great complexity, this is the reason to use the holistic way of studying cases. It consists in combining the *epoché* and *maieutic*, together with the political analysis and the critical culture, until it reaches the problem method, without taking our attention off the legal priority approach (according to the legal grounds that guide the rest of the argumentation of a specific case).

As last considerations, it asks attention about the role of religion in the USA -as a consequence of its more secular conception- it is the key to achieve salvation in world, what definitely contribute to boost a Welfare

State of particular basement or *social gospel* –where the social assistant is mainly provided by religious local associations. This is the reason by which a very large part of information is collected in the Title 42 of the *U.S. Code*, which heading is the Public Health and Welfare. This way it is possible to understand the list of more than one hundred activities that are being developed by the clergy, religious organizations and the churches and its agencies. Among these activities, it would be necessary to highlight: a) activities and services (adoption services, orphans, children's shelters, assistance to single mothers, programs to support retired people, youth recreation centers, senior recreation centers, spiritual retreat centers, health clinics, services to assist immigrants, charitable funds, sanctuaries, programs of rehabilitation, programs of psychological support, programs of feeling homeless); b) organizations and sponsored activities (nursery schools, elementary schools, high schools, Bible schools, theological seminaries, universities, educational foundations, convention centers, home study courses, public seminars, meditation centers, book stores, archives, libraries, publishing companies (religious and educative books); c) goods and products offered by the churches (books, magazines, documentaries, radio shows, TV shows); d) leisure and social activities (theatre groups, men clubs, women clubs, youth centers, senior centers, summer camps, picnic areas, playgrounds, bazaars, social clubs, single clubs); e) affiliated organization (farms, religious stores, convents, monasteries, cemetery, inspection services and food stamp certification (*kosher*), programs of mutual societies); etc.

Thus, as a consequence of the great weight of the confessions in the local implementation of social policies, it will be understood that it has been chosen the next two examples, though both come from the Federal Executive. They seem to carry out a reverse interpretation of the classic clauses of the first Amendment regarding the Freedom of religion (free exercise & non-establishment)-provoking with this some degree of discrimination, apart from a growing gap in the much-publicized “wall of separation”.

Single cases: Faith-based & Community Organizations and The First Freedom Project

Faith-based & Community Organizations

a) *Preliminary considerations*: The social policy of the W. BUSH Administration– as it will be explained below– is heir of the federal interventionist boost of the programs designed by CLINTON Administration (e.g. *Charitable choice*, *International Religious Freedom Monitoring*, *No child left behind*, etc.)³⁸, with the distinctiveness of a neoconservative bias. More specifically, this fact explains the clear *paradoxology* in relation with the public policies of W. Bush, being a Republican and converse evangelist, his federal programs of

communitarian intervention, in fact, are ways of financing *Faith-based & Community Organizations /Initiatives* (FBOs). With this euphemistic denomination, we are referring to organizations and religious initiatives, specifically, those types developed under the Last Great Awakening (before *well-established*)³⁹, and whose devotees made up a great part of the electoral base of W. Bush. Having framed some relevant clarifications, now we will continue to describe summarily the FBOs, focusing mainly into two questions: a) what are and what relations do they have with the White House? b) Which is its regulation? c) Controversial Issues and *aporeias*.

b) *Meaning and scope*: FBOs constitute a group of programs of social intervention, described by the President as “one of my most important initiatives (...) to extol the great American compassion, through USA with heart, soul, and conscious at the same time”⁴⁰. Starting with the reform of the Welfare State, initiated by Clinton with the group of programs called *charitable choice*, W. Bush redirected the planned aids, incrementing the funds, and donating to local organizations based on the faith and the municipal service -under the excuse of approaching the Administration to the citizenship, without intermediary stages, avoiding an excessive “red tape”, and the lack of immediate financing. In order to organize the system, president W. Bush, in 2001, designated as Director of White House office for FBOs to J. TOWEY -substituted in 2006 by J.F. Hein, who, in addition, hold the charge of Deputy Secretary of the President- acting as link with one hundred and fifty programs in other departments (e.g. Agriculture, Trade, Education, Health and Social Services, Housing and Land development, Justice, Work, Veterans affairs, Small business management, etc.), and managing the awarding of more than one thousand program of grants and scholarships (with a one hundred million dollars budget). All these aids are open to any organization carrying out activities of social promotion and general welfare (e.g. charity, education, health, and help for handicapped people). There are no exclusive funds for the organizations based on the faith- with the exception of small and specific programs, such as *Compassion Capital Fund*- all the aids are open to any organization and/or initiatives with calling for helping others and which serve the common good. The monitoring of all the granted aids is carried out through a five-step process: (1) Step 1: Financial records: it is required the competition of the *Standard Form 269*, which assures that these organizations are updated in its tax payments and have an appropriate financial situation. (2) Step 2, Co-sponsorship: it is not a mandatory requirement for all the aids, but is it pretty common. It consists in asking for the information of the rest of organizations that are contributing to the project. (3) Step 3, Storage of documents: the recipient of the aid is asked to keep the documents submitted, as well as the receipts and bills of expenses, during an approximate period of three years (e.g. if it the help is granted in 2003 to 2006, it will be necessary to keep all the documentation until 2009) (4) Step 4, Periodic notification: while the

organization is enjoying the grant, it exist an information duty in the prescribed periods for each notification, giving detail of the project evolution, with its expenses, outcomes, etc. (5) Step 5, Audit: because of the reception of public funds, the Administration reserve the right to audit. Usually, in case of funds lower than USD 500,000, it is possible a system of self-auditing of the organization that receive the aid, in case of funds greater than USD 500,000, organizations are usually required to hire an external auditor, in case of greater amounts, the own administration will audit the organization.

c) *Regulation*: this is a regulation at various levels, since it is compounded of Executive Orders passed by the President, Public Acts/Bills enacted by Parliament and Final Rules passed by the Departments, and even Orders of autonomous agencies: (1) *Executive Orders* (E.O.): E.O. 13397, to create a new center for FBOs in US department homeland Security (March 7th 2006); E.O. 13280, to require equal protections to FBOs (December 12th 2002); E.O. 13199, to create the White House office for FBOs (January 29th 2001); E.O. 13198, to create five centers for FBOs (January 29th 2001) ; etc. (2) *Public Acts/Bills*: *Charity Aid, Recovery, and Empowerment Act of 2002*, *Savings for Working Families Act of 2002*; etc. (3) *Final Rules* (F.R.): a) F.R. of Department of Education: *Participation in Education Department Programs by Religious Organizations; Providing for Equal Treatment of All Education Program Participants* (June 4th 2004); b) F.R. Department of Veteran Affairs: *Homeless Providers Grant and Per Diem Program; religious organizations* (June 8th 2004); c) F.R. Department of Agriculture: *Equal opportunity for religious organizations* (July 9th 2004); etc.

d) *Controversial Issues*: it could be call into question the constitutionality of the use of the granted funds, when it has sometimes favored: activities close to the proselytism (e.g. campaigns for salvation of souls and sexual abstention); and religious establishment (e.g. worship by the general welfare); etc. Even, these funds have been used to finance the contracting of civil liability insurances for worship ministers and churches. How do these things affect the interpretation of the aforementioned clauses of the First Amendment about Freedom of Religion? Does a conflict exist with the study of the second case?

The First Freedom Project

a) *Preliminary considerations*: In February 20th, 2007, the US Attorney General, A. R. Gonzales, made known to the means of communication one of his key initiatives in his term of office, *The First Freedom Project*. In his own words, he says: “an initiative to preserve the freedom of religion, what requires a great commitment in order to protect the most basic freedom for people of all types of faith”.

b) *Meaning and scope*: among the initials measures to take in the frame of this project, the Attorney General drew the attention about the

followings: a) submitting a report above the boost to favor the compliance of the Acts protecting the freedom of religion (activity of the public prosecutor, between 2001 and 2006), in which it is established that, in spite of the strong commitment demonstrated, it is necessary to provide with more resources; b) it is proposed the setting-up of a dependent Department, whose director would be the assistant of the Attorney General for the Division on Civil Rights; c) Several initial complementary actions of consciousness are formulated, such as: regional seminars, establishment of a consult service above religious discrimination, etc.; d) the goals: the main topics to enhance the freedom of religion and fight against discrimination through synergies are: a) educative discrimination; b) labor discrimination, c) intra-household discrimination; d) credit discrimination; e) public assistance discrimination; e) religious discrimination in the educative sector: into the Division on Civil rights, the Educational Opportunities section, pursuant to Tittles IV and IX of the Civil Rights Act of 1964, is in charge of filling court cases in order to avoid discriminations in public classes on the grounds of race, color, religion, sex or national origin. The most typical disputes, and its more recent examples-there are no notes of registry yet as in the rest of collected cases-, are: (1) *Harassment*: cases of religious harassments are supervised, specially, harassment by professors to students (e.g. In *Delaware School District*, in March 2005, it was necessary to protect Muslim students of fourth grade). (2) *Student Religion Expressions*: The discrimination as a consequence of the initiative of own students is also supervised (a group of student in the High School in Massachusetts were suspended by giving caramels with religious messages), and those discriminatory acts sponsorships by the own educative centers (e.g. in a competition of young musical talents in a School in New Jersey, one song was censored for being Christian). (3) *Religious dress*: it is forbidden to engage in any discrimination, for example, by the use of a Muslim headscarf (e.g. *Muskogee Public School District*, was sued because it did not allow a Muslim student to attend classes with headscarf). (4) *Equal access*: Public centers must allow the religious groups to develop extracurricular activities with equal-opportunities (e.g. *Good News Clubs* are student associations that develop charitable activities to improve society, but because of its religious complexion, its labor is not reckoned and they have no spaces to held their meetings, and enjoy no financing help, etc.). (5) *Exclusion from Higher Educational Opportunities Based on Belief*: idem (e.g. *Texas Tech University*, a biology professor refused to write of letters of recommendation for medical schools if students did not promise previously that they firmly believed in the evolution theory) (6) *Religious Holidays*: holidays must be observed, specially, in case of parental authorization (e.g. in Indiana, a boy was suspended of classes because he did not attend to class several times, as consequence of religious celebrations, and her mother was sued for negligence by the local

authorities); f) Religious discrimination in the employment: Equally, into de Civil Rights Division, there is a Commission promoting equal employment opportunities, which pursuant to the title VII of the Civil Rights Act of 1964, is in charge of filling court cases to avoid discriminations of the employees in public institutions or in religious centers. Among the most recent disputes in which commission has intertwined (financial year 2005-06 –lots of them are already in courts), we could point out two cases: a) *U.S. v. Los Angeles County Metropolitan Transit Authority*, because the Transit Authority was demanding in the employment form full time readiness, without having into account the Sabbath rest of Jewish People and the Sunday rest of Christians, etc.; b) *U.S. v. State of Ohio*, where the agency of environmental protection refused to recruit workers, who based on a religious motivation, alleged conscientious objection to not to pay the mandatory fees to the trade unions. (Since the trade unions were in favor of the abortion, the homosexual marriage, etc.); g) Religious discrimination in housing: another entity into the Civil Rights Division, the Housing and Civil Promotion Section, in compliance with the *Fair Housing Act*—competence shared with the Housing and Urban development Department – is in charge of filling court cases to avoid religious discrimination in getting a house. In the same way, among the most recent disputes, in which this section has worked on, we could highlight three cases, where the affected people did not get to buy their houses, or their houses were attacked because of their faith, or race: a) *U.S. v. Hillman Housing Corporation*, in New York; b) *U.S. v. Altmayer*, in Chicago; c) *U.S. v. San Francisco Housing Authority*, in San Francisco; h) Religious discrimination in granting credits: the Housing and Civil Promotion section is also in charge of enforcing the *Equal Credit Opportunity Act*—shared competence with other agencies, such as the *Internal Revenue Service*— having to fill court cases in order to avoid religious discriminations in the granting or return of credits (e.g. usual circumstances in practice are: the denial of credits, incorporation of unfair terms, etc.) - After the mortgage crisis, this measure has become somewhat blurred; h) Religious discrimination in Public services: again, it is a duty of the Housing and Civil Promotion Section, pursuant to Title II of the Civil Rights Act of 1964, its main task is enforcing the observance of the religious respect in public services, as restaurants, cinemas, etc. One of the latter cases in which the section worked, was the discrimination suffered by an *Sikh* in a restaurant in Virginia, where they required the removal of the turban to get into the restaurant; i) Religious discrimination in public assistance: without an specific unit, the Civil Rights Division, pursuant to Title III of the Civil Rights Act of 1964, may deal with all the cases related to the lack of equality in accessing government benefits. An illustrative case in this matter is *Blanch Springs* (Texas), where a municipal ordinance prohibited all religious activities in Senior Leisure

Centers, what meant that the elderly could no longer bless the symbols, hymns, etc. c) *Regulation*: *vid.* Legal grounds summoned in paragraph b).

d) *Controversial Issues*: It is true that the Public Authority has the duty of promoting the free exercise, but not having a proselytizing attitude in the religious issue. Are there evidences of discretion and/or judicial activism?

Conclusions

In the USA, freedom of religion is widely appreciated, not only as a foundational milestone, but as a colonial freedom of those who were persecuted for their religion, and also during the great wars and exterminations of XX century (e.g. Jewish People, Armenian, Baha'is). So much so, that it is the very first of the recognized liberties, and in addition, in a double way (with two protective clauses). What is more, a great part of the USA doctrine considers that it is the key piece, through which has been constructed the building of the rest of Civil freedoms -as it has been observed in the cases studied. As a consequence, Freedom of religion enjoys a deep acknowledgement, protection and promotion in the USA, and in its relations with other countries⁴¹. Nonetheless, in the last Administrations (Clinton and W.Bush), there has been a crisis in deep, in a Postmodern way. There has been a manipulation of the meanings and traditional scope of words, making political and selfish use of language in order to legitimate public policies-*ergo*, what has happened with the much-publicized "wall of separation"?

It is crucial to draw a clear separation between Church and State: Church is an institution of the religious sphere, and State is of political sphere; so each one has own competences, but both impact in the society – so distinction without exclusion. It is so important to make clear this notion, because in other case the result could be: a) identification, like in Middle East regimes (confessionalism), b) exclusion, like continental European countries (secularism/*laicite*). Politics and religion have their own social spheres, but they are in contact in areas as social assistance. That is the reason because it is so urgently in the West to recover the accommodative separation system: to use a rational check and balances model.

Landing the final assessment in the U.S. legal system and its treatment of the religious factor, such regulation ranges from basic rules (Constitution and jurisprudence), until that assistant (Executive Law, Statutory and International Treaties, especially in human rights). Traditionally, the first third of the s. XX, the weight of the organization was in the hands of the law, but from the interwar period begins to have greater importance as statutory law, has been the preferred instrument for implementing the welfare state. However, with the onset of globalization, has become particularly relevant Executive Law, except that

it has a serious problem expiration (short) and rather discursive load. The question is now how it articulates the Ordinance, that is, what is the current prime piece to regulate the matter.

The religious factor in the U.S. is crucial, because as mentioned before, it has been considered a cornerstone of identity, cultural background, social power, and solidarity. And the U.S. model continues to be a reference point for other Western countries.

APPENDIX 1: CASES.

1.- *Terrett v. Taylor* (13 U.S. 43, 1815), Ecclesiastical property; 2.- *Town of Pawlet v. Clark* (13 U.S. 292, 1815), Ecclesiastical property; 3.- *Trs. of Dartmouth Coll v. Woodward* (17 U.S. 518, 1819), Educational religious centers; 4.- *Trs. of Philadelphia Baptist Assoc. v. Hart's Ex.* (17 U.S. 1, 1819), Legacies for charity; 5.- *Society for Propagation of the Gospel v. Town of New Haven* (21 U.S. 464, 1823), Ecclesiastical property; 6.- *Beatty v. Kurtz* (27 U.S. 566, 1829), Ecclesiastical property; 7.- *Worcester v. Georgia* (31 U.S. 515, 1832), Missionaries and Indians; 8.- *Vidal v. Mayor of Philadelphia* (43 U.S. 127, 1844), Legacies for charity; 9.- *Permoli v. Municipality n°1* (44 U.S. 589, 1845), Freedom of religion (FR) and Federalism; 10.- *Hallett v. Collins* (51 U.S. 174, 1850), FR and Family Law; 11.- *Gaines v. Relf* (53 U.S. 472, 1852), FR and Family Law; 12.- *Goesele v. Bimeler* (55 U.S. 589, 1852), Ecclesiastical property; 13.- *Smith v. Swormstedt* (57 U.S. 288, 1853), Ecclesiastical property; 14.- *Baker v. Nachtrieb* (60 U.S. 126, 1856), Ecclesiastical property; 15.- *Philadelphia, Wilmington and Baltimore R.R. Co. v. Philadelphia & Havre de Grace Steam Towboat Co.* (64 U.S. 209, 1859), Sunday Laws; 16.- *Richardson v. Goodard* (64 U.S. 28, 1859), Sunday Laws; 17.- *Christ Church Hospital v. Philadelphia* (65 U.S. 300, 1861), Tax derogations; 18.- *Gaines v. Hennen* (65 U.S. 553, 1861), FR and Family Law; 19.- *Attorney Gral. v. Federal Street Meeting-House* (66 U.S. 262, 1862), Ecclesiastical property; 20.- *Cummings v. Missouri* (71 U.S. 277, 1866), Oaths and religious tests; 21.- *Insurance Co. v. Chase* (72 U.S. 509, 1867), Religious autonomy; 22.- *Watson v. Jones* (80 U.S. 679, 1871), Religious autonomy; 23.- *Bouldin v. Alexander* (82 U.S. 131, 1872), Religious autonomy; 24.- *Young v. Godbe* (82 U.S. 562, 1873), Ecclesiastical Liability; 25.- *Reynolds v. U.S.* (98 U.S. 145, 1878), Polygamy; 26.- *Christian Union v. Yount* (101 U.S. 352, 1879), Ecclesiastical property; 27.- *Kain v. Gibboney* (101 U.S. 362, 1879), Legacies for charity; 28.- *Miles v. U.S.* (103 U.S. 304, 1880), Polygamy; 29.- *Missionary Society of M.E. Church v. Dallas City* (107 U.S. 336, 1883), Ecclesiastical property; 30.- *Cannon v. U.S.* (116 U.S. 55, 1885), Polygamy and Canon Law; 31.- *Soon Hing v. Crowley* (113 U.S. 703, 1885), Sunday Laws; 32.- *Murphy v. Ramsey* (114 U.S. 15, 1885), Polygamy; 33.- *Clawson v. U.S.* (114 U.S. 477, 1885), Polygamy and religious test; 34.- *Cannon v. U.S.* (118 U.S. 355, 1886), Polygamy and Canon Law; 35.- *Gibbons v. District of Columbia* (116 U.S. 404, 1886), Tax derogations; 36.-

Snow v. U.S. (118 U.S. 346, 1886), Polygamy; 37.- Gilmer v. Stone (120 U.S. 586, 1887), Ecclesiastical property; 38.- In re Snow (120 U.S. 274, 1887) *vid. 37, Polygamy; 39.- Speidel v. Henrici (120 U.S. 377, 1887), Ecclesiastical property; 40.- Bucher v. Cheshire RR. Co. (125 U.S. 555, 1888), Sunday Laws; 41.- Ex Parte Hans Nielsen (131 U.S. 176, 1889), Polygamy and adultery; 42.- Bassett v. U.S. (137 U.S. 496, 1890), Polygamy and testimony; 43.- Davis v. Beason (133 U.S. 333, 1890), Polygamy and oath; 44.- Late Corp. of the Church of Jesus Christ of Latter-day Saints v. U.S. (136 U.S. 1, 1890), Ecclesiastical property and Polygamy; 45.- Ball v. U.S. (140 U.S. 118, 1891), Sunday Laws; 46.- Late Corp. of the Church of Jesus Christ of Latter-day Saints v. U.S. (140 U.S. 665, 1891) *vid. 45, Ecclesiastical property and Polygamy; 47.- Rector of Holy Trinity Church v. U.S. (143 U.S. 457, 1892), Clerical exceptions and work; 48.- Catholic Bishop of Nesqually v. Gibbon (158 U.S. 155, 1895), Ecclesiastical property; 49.- Hennington v. Georgia (163 U.S. 299, 1896), Sunday Laws; 50.- Stone v. U.S. (167 U.S. 178, 1897), Sunday Laws; 51.- Bradfield v. Roberts (175 U.S. 291, 1899), Benefits to Religious Organizations and hospitals; 52.- Petit v. Minnesota (177 U.S. 164, 1900), Sunday Laws; 53.- Schwartz v. Duss (187 U.S. 8, 1902), Ecclesiastical property; 54.- Chicago Theological Seminary v. Illinois (188 U.S. 662, 1903), Tax derogations; 55.- Bd. of Educ. of Methodist Episcopal Church v. Tax derogations Illinois (203 U.S. 553, 1906); 56.- Montana Catholic Missions Taxes v. Missoula County (200 U.S. 118, 1906), Jesuits and Indians; 57.- Speer v. Colbert (200 U.S. 130, 1906), Legacies for charity; 58.- Lowrey v. Hawaii (206 U.S. 206, 1907), Ecclesiastical property; 59.- Berea College v. Kentucky (211 U.S. 45, 1908), Educational religious centres; 60.- Ponce v. Roman Catholic Apostolic Church (210 U.S. 296, 1908), Ecclesiastical property; 61.- Quick Bear v. Leupp (210 U.S. 50, 1908), Legacies for charity, Indians, Catholics; 62.- Santos v. Holy Roman Catholic and Apostolic Church (212 U.S. 463, 1909), Ecclesiastical property; 63.- Lowrey v. Hawaii (215 U.S. 554, 1910), Ecclesiastical property; 64.- Helm v. Zarecor (222 U.S. 32, 1911), Ecclesiastical property; 65.- Sharpe v. Bonham (224 U.S. 241, 1912), Ecclesiastical property; 66.- Order of St. Benedict v. Steinhäuser (234 U.S. 640, 1914), Religious committees and public contracts; 67.- Crane v. Johnson (242 U.S. 339, 1917), Legal exceptions for religious organizations and people; 68.- Arver v. U.S. (245 U.S. 366, 1918), FR and military service; 69.- Shepard v. Barkley (247 U.S. 1, 1918), Religious autonomy and Ecclesiastical property; 70.- Bartels v. Iowa (262 U.S. 404, 1923), Educational religious centers; 71.- Meyer v. Nebraska (262 U.S. 390, 1923), Educational religious centers, father rights, languages; 72.- Hygrade Provision Co. v. Sherman (266 U.S. 497, 1925), Religious fraud; 73.- Pierce v. Society of Sisters of the Holy Names of Jesus & Mary (268 U.S. 510, 1925), Educational religious centres parent rights; 74.- Farrington v. Tokushige (273 U.S. 284, 1927), Educational religious centres; 75.- González v. Roman Catholic Archbishop (280 U.S. 1, 1929), Legacies for charity and Religious autonomy; 76.- U.S. v. Schwimmer (279 U.S. 644, 1929), FR, pacifism and

granting of citizenship; 77.- *Cochran v. Louisiana State Bd. of Educ.* (281 U.S. 370, 1930), Benefits to religious organizations and Educational religious centers; 78.- *U.S. v. Macintosh* (283 U.S. 605, 1931), FR, oath and granting of citizenship; 79.- *U.S. v. Bland* (283 U.S. 636, 1931), FR and guns; 80.- *Hamilton v. Regents of Univ. of California* (293 U.S. 245, 1934), FR and military service; 81.- *Coleman v. City of Griffin* (302 U.S. 636, 1937), Distribution of religious literature and Jehovah's Witnesses; 82.- *Lovell v. City of Griffin* (303 U.S. 444, 1938), Distribution of religious literature and press; 83.- *Schneider v. State of New Jersey, Town of Irvington* (308 U.S. 147, 1939), Distribution of religious literature; 84.- *Cantwell v. Connecticut* (310 U.S. 296, 1940), FR, Religious communications and Fourteenth Amendment; 85.- *Minersville Sch. Dist. v. Gobitis* (310 U.S. 586, 1940), FR, Religious communications and salute to the flag; 86.- *Cox v. New Hampshire* (312 U.S. 569, 1941), FR, Religious communications y Public gatherings; 87.- *Chaplinsky v. New Hampshire* (315 U.S. 568, 1942), FR, Religious communication; 88.- *Jones v. Opelika* (316 U.S. 584, 1942), Distribution of Religious literature, commercial activity; 89.- *Busey v. Dist. of Columbia* (319 U.S. 579, 1943), Distribution of Religious literature; 90.- *Douglas v. City of Jeannette* (319 U.S. 157, 1943), Distribution of Religious literature, Taxes; 91.- *Jamison v. Texas* (318 U.S. 413, 1943), Distribution of Religious literature; 92.- *Jones v. Opelika* (319 U.S. 103, 1943) * *vid.* 87, Distribution of Religious literature; 93.- *Largent v. Texas* (318 U.S. 418, 1943), Distribution of Religious literature; 94.- *Murdock v. Pennsylvania* (319 U.S. 105, 1943), Distribution of Religious literature; 95.- *Martin v. City of Struthers* (319 U.S. 141, 1943), Distribution of Religious literature; 96.- *Taylor v. Mississippi* (319 U.S. 583, 1943), FR, salute to the flag; 97.- *West Virginia State Bd. of Educ. v. Barnette* (319 U.S. 624, 1943), FR, salute to the flag, Religious communication; 98.- *Falbo v. U.S.* (320 U.S. 549, 1944), FR, military service; 99.- *Prince v. Massachusetts* (321 U.S. 158, 1944), Distribution of Religious literature, parental rights; 100.- *Follett v. Town of McCormick* (321 U.S. 573, 1944), Distribution of Religious literature, Taxes; 101.- *U.S. v. Ballard* (322 U.S. 78, 1944), Religious autonomy, jury, Religious communication, fraud; 102.- *In re Summers* (325 U.S. 561, 1945), FR, oath, military service; 103.- *Chatwin v. U.S.* (326 U.S. 455, 1946); Polygamy, kidnapping; 104.- *Marsh v. Alabama* (326 U.S. 501, 1946), Distribution of Religious literature; 105.- *Tucker v. Texas* (326 U.S. 517, 1946), Distribution of Religious literature; 106.- *Estep v. U.S.* (327 U.S. 114, 1946), FR, military service; 107.- *Girouard v. U.S.* (328 U.S. 61, 1946), FR, granting of citizenship; 108.- *Gibson v. U.S.* (329 U.S. 338, 1946), FR, military service; 109.- *Cleveland v. U.S.* (329 U.S. 14, 1946), Polygamy, kidnapping; 110.- *Everson v. Bd. of Educ.* (330 U.S. 1, 1947), Benefits to a religious organization and Educational religious centers; 111.- *Cox v. U.S.* (332 U.S. 442, 1947), FR, military service; 112.- *Musser v. Utah* (333 U.S. 95, 1948), Polygamy, Religious communication; 113.- *McCullum v. Bd. of Educ.* (333 U.S. 203, 1948), Worship in public schools; 114.- *Sata v. New*

York (334 U.S. 558, 1948); FR, Religious communication; 115.- *Bunn v. North Carolina* (336 U.S. 942, 1949), FR, discriminations; 116.- *Corp. of Presiding Bishop of Church of Latter-Day Saints v. City of Poterville* (338 U.S. 805, 1949) ; Regulation of the soil use and religious specialty; 117.- *Cohnstaedt v. INS* (339 U.S. 901) * vid. 10, FR, granting of citizenship; 118.- *Niemotko v. Maryland* (340 U.S. 268, 1951), FR, Use of public spaces and licenses; 119.- *Kunz v. New York* (340 U.S. 290, 1951), FR, Use of public spaces and licenses; 120.- *Gara v. U.S.* (340 U.S. 857, 1950), FR, military service; 121.- *Friedman v. New York* (341 U.S. 907, 1951), Sunday Laws; 122.- *Donner v. New York* (342 U.S. 884, 1951), Educational religious centres; 124.- *McKnight v. Bd. of Pub. Educ.* (341 U.S. 913, 1951), FR, discrimination; 125.- *Doremus v. Bd. of Educ.* (342 U.S. 429, 1952), FR, Taxes, Biblical Reading, schools; 126.- *Zorach v. Clauson* (343 U.S. 306, 1952), Worship in public Schools; 127.- *Joseph Burstyn, Inc. v. Wilson* (343 U.S. 495, 1952), FR, censorship; 128.- *Heisler v. Bd. of Review* (343 U.S. 939, 1952), FR, Sunday Laws and work; 129.- *Kedroff v. St. Nicholas Cathedral* (344 U.S. 94, 1952), Religious autonomy and ecclesiastical disputes; 130.- *Fowler v. Rhode Island* (345 U.S. 67, 1953), FR, discrimination, Religious communication; 131.- *Poulos v. New Hampshire* (345 U.S. 395, 1953), FR, Use of public spaces and licenses; 132.- *U.S. v. Nugent* (346 U.S. 1, 1953), FR, military service; 133.- *Witmer v. U.S.* (348 U.S. 375, 1955), FR, military service; 134.- *Sicurella v. U.S.* (348 U.S. 385, 1955), FR, military service; 135.- *Dickinson v. U.S.* (346 U.S. 389, 1953), FR, military service; 136.- *Simmons v. U.S.* (348 U.S. 397, 1955), FR, military service; 137.- *Gonzales v. U.S.* (348 U.S. 407, 1955), FR, military service; 138.- *Heisey v. County of Alameda* (352 U.S. 921, 1956), FR, Tax derogations; 139.- *First Unitarian Church v. County of L.A.* (357 U.S. 545, 1958), FR, oaths, Tax derogations; 140.- *Kreshik v. St. Nicholas of Russian of Orthodox Church North America* (363 U.S. 190, 1960), Religious autonomy, of internal ecclesiastical disputes; 150.- *McGowan v. Maryland* (366 U.S. 420, 1961), Sunday Laws; 151.- *Torcaso v. Watkins* (367 U.S. 488, 1961), FR, oaths, religious test for public office; 152.- *Two Guy from Harrison-Allentown, Inc. v. McGinley* (366 U.S. 582, 1961) * vid. 150, Sunday Laws; 153.- *Broaunfeld v. Brown* (366 U.S. 599, 1961); Sunday Laws, FR and Jewish; 154.- *Gallagher v. Crown Kosher Super Mkt.* (366 U.S. 617, 1961), Sunday Laws, FR and Jewish; 155.- *Gen. Fin. Corp. v. Archetto* (369 U.S. 423, 1962), FR, religious tax derogations; 156.- *Engel v. Vitale* (370 U.S. 421, 1962), Worship in public schools; 157.- *Arlan's Dep. Store of Louisville v. Kentucky* (371 U.S. 218, 1962), Sunday Laws; 158.- *Sch. Dist. of Abington Township v. Schempp* (374 U.S. 203, 1963), Worship in public schools; 159.- *Sherbert v. Verner* (374 U.S. 398, 1963), FR, no compensation for job; 160.- *Chamberlin v. Bd. of Pub. Instruction* (377 U.S. 40, 1964), Worship in public schools; 161.- *Cooper v. Pate* (378 U.S. 546, 1964), FR, prisoners, Muslims; 162.- *U.S. v. Seeger* (380 U.S. 163, 1965), FR, military service; 163.- *Bd. of Educ. v. Allen* (392 U.S. 236, 1968), Benefits to religious organizations

and Educational religious centers; 164.- Jehovah's Witnesses v. King County Hosp. (390 U.S. 59, 1968) FR, Medical care. 165.- Flast v. Cohen (392 U.S. 83, 1968), FR, Taxes, religious schools, judicial activism. 166.- Epperson v. Arkansas (393 U.S. 97, 1968), FR, evolution, public schools. 167.- Oestereich v. Selective Service System (393 U.S. 233, 1968), FR, military service. 168.- Presbyterian Church in the U.S. v. Mary Elizabeth Blue Hull Memorial Presbyterian Church (393 U.S. 440, 1969), Religious autonomy, internal religious disputes. 169.- Maryland & Virginia Eldership of Churches of God v. Church of God at Sharpsburg (396 U.S. 367, 1970), Religious autonomy, internal religious disputes. 170.- Walz v. Tax Comm. (397 U.S. 664, 1970), FR, Tax derogations. 171.- Welsh v. U.S. (398 U.S. 333, 1970), FR, military service. 172.- Mulloy v. U.S. (398 U.S. 410, 1970), FR, military service. 171.- U.S. v. Sisson (399 U.S. 267, 1970), FR, military service. 172.- Gillette v. U.S. (401 U.S. 437, 1971), FR, military service. 173.- Dewey v. Reynolds (402 U.S. 689, 1971), Sunday Laws and work. 174.- Clay v. U.S. (403 U.S. 698, 1971), FR, military service. 175.- Lemon v. Kurtzman (403 U.S. 602, 1971), Benefits to religious organizations., Private Schools., wages. 176.- Tilton v. Richardson (403 U.S. 672, 1971), Benefits to religious organizations, Educational religious centers. 177.- Coit v. Green (404 U.S. 997, 1971), FR, Tax derogations, race. 178.- Diffenderfer v. Central Baptist Church (404 U.S. 41, 1972), FR, Tax derogations. 177.- U.S. v. Christian Echoes National Ministry, Inc. (404 U.S. 561, 1972), FR, Tax derogations. 178.- Cruz v. Beto (405 U.S. 319, 1972), FR and jails. 179.- Brusca v. Bd. of Educ. (405 U.S. 1050, 1972), Religious autonomy, benefits to religious organizations. 180.- Wisconsin v. Yoder (406 U.S. 205, 1972), FR, compulsory education, parent rights. 181.- Essex v. Colman (409 U.S. 808, 1972), Benefits to religious organizations., Educational religious centers. 182.- McClure v. Salvation Army (460 U.S. 896, 1972), Religious autonomy, clerical exceptions. 183.- Lemon v. Kurtzman (411 U.S. 192, 1973) * vid. 175, Benefits to religious organizations. Educational religious centers. 184.- Norwood v. Harrison (413 U.S. 455, 1973), Benefits to religious organizations, Educational religious centers, race. 185.- Levitt v. Committee for Pub. Educ. (413 U.S. 472, 1973), Benefits to religious organizations. Educational religious centers. 186.- Hunt v. McNair (413 U.S. 734, 1973), Benefits to religious organizations., Educational religious centers, Tax derogations. 187.- Committee for Pub. Educ. v. Nyquist (413 U.S. 756, 1973), Benefits to religious organizations. Educational religious centers, tax deductions. 188.- Sloan v. Lemon (413 U.S. 825, 1973), Benefits to religious organizations., Educational religious centers. 189.- Grit v. Colman (413 U.S. 901, 1973), Educational religious centers, tax deductions. 190.- Durhan v. McLeod (413 U.S. 902, 1973), FR, universities. 191.- Johnson v. Robison (415 U.S. 361, 1974), Religious discrimination, military service. 192.- Hernandez v. Veterans' Administration (415 U.S. 391, 1974), Religious discrimination, military service. 193.- Wheeler v. Barrera (417 U.S. 7, 1974), Benefits to religious organizations, Educational

religious centers. 194.- *Griggs v. Pub. Funds for Pub. Schs.* (417 U.S. 961, 1974), Benefits to religious organizations. Educational religious centers. 195.- *U.S. v. American Friends Serv. Comm.* (419 U.S. 7, 1974), Taxes, pacifism, conscientious objection. 196.- *Lutkemeyer v. Kaufmann* (419 U.S. 888, 1974), Benefits to religious organizations, Educational religious centers. 197.- *Franchise Tax Bd. v. Americans for Pub. Schs.* (419 U.S. 890, 1974), Benefits to religious United organizations. Educational religious centres. 198.- *Meek v. Pittenger* (421 U.S. 349, 1975), Benefits to religious organizations. 199.- *Serbian Eastern Orthodox Diocese for the U.S. & Canada Milivojevich* (426 U.S. 696, 1976), Religious autonomy, internal religious disputes. 200.- *Roemer v. Bd. of Pub. Works* (426 U.S. 736, 1976), Benefits to religious organizations, Educational religious centres. 201.- *Parker Seal Co. v. Cummings* (429 U.S. 65, 1976), Sunday rest and work. 202.- *United Jewish Orgs. of Willamsburgh, Inc. v. Carey* (430 U.S. 144, 1977), Religious committee and votes. 203.- *Wooley v. Maynard* (430 U.S. 705, 1977), FR and national symbols. 204.- *Trans World Airlines, Inc. v. Hardison* (432 U.S. 63, 1977), Sunday rest and work. 205.- *Wolman v. Walter* (433 U.S. 229, 1977), Benefits to religious organizations., Educational religious centers. 206.- *Parker Seal Co. v. Cummings* (433 U.S. 903, 1977) * *vid.* 201, Sunday rest and work. 207.- *New York v. Cathedral Academy* (434 U.S. 125, 1977) Benefits to religious organizations., Educational religious centers. 208.- *Americans United for Sep. of Church & State v. Blanton* (434 U.S. 803, 1977), Benefits to religious organizations, Educational religious centers. 209.- *Pacific Union Conf. of Seventh-day Adventist v. Marshall* (434 U.S. 1305, 1977), FR and wages. 210.- *McDaniel v. Paty* (435 U.S. 618, 1978), Clergy and public officials. 211.- *Gen. Council on Fin. & Admin. of United Methodist Church v. Superior Court* (439 U.S. 1369, 1978), Religious autonomy. 212.- *National Labour Relations Bd. v. Catholic Bishop* (440 U.S. 490, 1979), Religious schools and workers. 213.- *Byrne v. Pub. Funds for Pub. Schs.* (442 U.S. 907, 1979), Benefits to religious organizations. Educational religious centers, Taxes. 214.- *Sch. Dist. v. Pennsylvania Dept. of Educ.* (443 U.S. 90, 1979), Benefits to religious organizations., Educational religious centers. 215.- *Jones v. Wolf* (443 U.S. 595, 1979), Religious autonomy, ecclesiastical internal disputes. 216.- *Committee for Pub. Educ. & Religious Liberty v. Reagan* (444 U.S. 646, 1980), Benefits to religious organizations, Educational religious centers. 217.- *Trammel v. U.S.* (445 U.S. 40, 1980), clergy privileges. 218.- *Harris v. McRae* (448 U.S. 297, 1980), Abortion and Judicial activism. 219.- *Stone v. Graham* (449 U.S. 39, 1980), Worship in public schools. 220.- *Thomas v. Review Bd.* (450 U.S. 707, 1981), Conscientious objection, weapons, wages. 221.- *St. Martin Evangelical Lutheran Church v. South Dakota* (451 U.S. 772, 1981), Educational religious centers, workers. 222.- *Heffron v. International Soc. for Krishna Consciousness, Inc.* (452 U.S. 640, 1981), Distribution of religious literature. 223.- *Widmar v. Vincent* (454 U.S. 263, 1981), Meetings in religious groups and public universities. 224.- Valley

Forge Christian College v. Americans United (454 U.S. 464, 1982), FR, Taxes & Judicial activism. 225.- U.S. v. Lee (455 U.S. 252, 1982), FR, Social Security, Amish. 226.- Treen v. Karen B. (455 U.S. 913, 1982), Worship in public schools. 227.- Rusk v. Espinosa (456 U.S. 951, 1982), Religious autonomy, religious discrimination. 228.- Larkin v. Gredentl. Den., Inc. (459 U.S. 116, 1982), Ecclesiastical Privileges. 229.- Bob Jones Univ. v. U.S. (461 U.S. 574, 1983), Religious university Religious discrimination and racism. 230.- Mueller v. Allen (463 U.S. 388, 1983), Benefits to religious organizations., Educational religious centers. 231.- Marsh v. Chambers (463 U.S. 783, 1983), Chapels and worship in the state parliament. 232.- Grove City Coll. v. Bell (465 U.S. 555, 1984), Religious Universities and federal aids. 233.- Lynch v. Donnelly (465 U.S. 668, 1984), Religious symbols and public spaces. 234.- Board of T.V. of Scarsdale v. McCreary (471 U.S. 83, 1985), Religious symbols and public spaces. 235.- Tony & Susan Alamo Foundation v. Secretary of Labour (471 U.S. 290, 1985), Fair Labour Standards and religious foundations. 236.- Wallace v. Jaffree (472 U.S. 38, 1985), Worship and Public schools. 237.- Jensen v. Quaring (472 U.S. 478, 1985), FR and driving license. 238.- Estate of Thornton v. Caldor, Inc. (472 U.S. 703, 1985), Work and religious rest. 239.- Grand Rapids School District v. Ball (473 U.S. 373, 1985), Benefits to religious organizations, Educational religious centres. 240.- Aguilar v. Felton (473 U.S. 402, 1985), Benefits to religious organizations., Educational religious centers. 241.- Witters v. Washington Department of Servs. for the Blind (474 U.S. 481, 1986), Benefits to religious organizations. Educational religious centers. 242.- Goldman v. Weinberger (475 U.S. 503, 1986), FR and military service

243.- Bender v. Williamsport School District (475 U.S. 534, 1986), FR, education and judicial activism. 244.- Bowen v. Roy (476 U.S. 693, 1986), FR and Social Security. 245.- U.S. v. Dion (476 U.S. 734, 1986), FR and Indians. 246.- Ohio Civil Rights Comm. v. Dayton Christian Schools (477 U.S. 619, 1986), FR, Administration and refraining from jurisdiction. 247.- Hobbie v. Unemployment Appeals Comm. (480 U.S. 136, 1987), Work and religious rest. 248.- Cooper v. Eugene School District (480 U.S. 942, 1987) Religious symbols, work, public schools. 249.- Shaare Tefila Congregation v. Cobb. (481 U.S. 615, 1987), Religious discrimination. Jewish's. 250.- O'Lone v. Estate of Shabazz (482 U.S. 342, 1987), FR, Jails

251.- Board of Airport Comm. v. Jews for Jesus, Inc (482 U.S. 569, 1987), Religious communication public spaces. 252.- Edwards v. Aguillard (482 U.S. 578, 1987), Creationism v. Evolutionism. 253.- Corporation of Presiding Bishop of the Church of Jesus Christ of Latter-day Saints v. Amos (483 U.S. 327, 1987), Religious discrimination. 254.- Karcher v. May (484 U.S. 72, 1987), FR and judicial constructionism. 255.- Lyng.v. Northwest Indian Cemetery Protective (485 U.S. 439, 1988), FR and Indians. 256.- Employment Div. v. Smith (485 U.S. 660, 1988), FR, work, Indians. 257.- U.S. Catholic Conference v. Mobilization, Inc. (487 U.S. 72, 1988), FR, Catholics and Abortion Rights, judicial activism/constructionism. 258.- Bowen v.

Kendrick (487 U.S. 589, 1988), Benefits to religious organizations, religious and judicial constructionism. 259.- Texas Monthly, Inc. v. Bullock (489 U.S. 1, 1989), Religious publications, Tax derogations. 260.- Frazee v. Illinois Department of Empl. Security (489 U.S. 829, 1989), Religious work and rest. 261.- Hernández v. Commissioner of Internal Revenue (490 U.S. 680, 1989), FR, donations, Tax derogations. 262.- County of Allegheny v. ACLU (492 U.S. 573, 1989), Religious symbols. Public spaces. 263.- Jimmy Swaggart Ministries v. Bd. of Equalization (493 U.S. 378, 1990), Religious Organizations, Tax derogations. 264.- Employment Div. v. Smith (494 U.S. 872, 1990), FR and Indians. 265.- Davis. V. U.S. (495 U.S. 472, 1990), FR, donations, Taxes. 266.- Westside Bd. of Educ. v. Mergens (496 U.S. 226, 1990), Worship, Public Schools. 267.- EEOC v. Arabian American Oil Co. (499 U.S. 244, 1991), Religious Discrimination, work. 268.- Lee v. Weisman (505 U.S. 577, 1992), Worship, Public Schools. 269.- International Soc. for Krishna Consciousness, Inc. v. Lee (505 U.S. 672, 1992), Religious literature in public spaces. 270.- Church of Scientology v. U.S. (506 U.S. 9, 1992), FR, Judicial activism. 271.- Lamb. Chapel v. Ctr. Moriches Union Free School Dist. (508 U.S. 384, 1993), FR, religious discrimination & Schools. 272.- Church of Lukumi Babalu Aye, Inc. v. City of Hialeah (508 U.S. 520, 1993), FR, witchcraft, sacrifices. 273.- Zobrest v. Catalina Foothills School Dist. (509 U.S. 1, 1993), Benefits to religious organizations., Educational religious centers. 274.- Bd. of Educ. v. Grumet (512 U.S. 687, 1994), FR, Public schools, religious organizations. 275.- Hurley v. Irish-American Gay, Lesbian & Bisexual Group (515 U.S. 557, 1995), Freedom of conscience, sexuality and public order and public morals. 276.- Capitol Sq. Review 6 Advisory Bd. v. Pinette (515 U.S. 753, 1995), Religious Symbols, Public schools. 277.- Rosenberger v. Rector & Visitors (515 U.S. 819, 1995), Religious discrimination. Public schools. 278.- Agostini v. Felton (521 U.S. 203, 1997), Benefits to religious organizations, Public schools. 279.- City of Boeme v. Flores (521 U.S. 507, 1997), FR, RFRA. 280.- Boy Scouts of America v. Dale (530 U.S. 640, 2000), Freedom of conscience and moral. 281.- Troxel v. Granville (530 U.S. 57, 2000), FR, parent rights. 282.- Santa Fe Ind. School Dist. v. Doe (530 U.S. 290, 2000), Worship, Religious educative centers. 283.- Mitchell v. Helms (530 U.S. 1296, 2000), Benefits to religious organizations, Religious educative centers. 284.- Good News Club v. Milford Cent. School (533 U.S. 98, 2001), Religious discrimination, Religious educative centres. 285.- Zelman v. Simmons-Harris (536 U.S. 639, 2002), Benefits to religious organizations, Religious educative centers. 286.- Watchtower Bible and Tract Society of New York, Inc. v. Village of Stratton (536 U.S. 150, 2002), Religious literature, proselytism. 287.- Elk Grove Unified School Dist. v. Newdow (542 U.S. 1, 2004), Worship, public schools, salute to the flag. 288.- Hibbs v. Winn. (542 U.S. 88, 2004), NGOs, Taxes. 289.- Locke v. Davey (540 U.S. 712, 2004), Religious Discrimination, Education, aids. 290.- Brown v. Payton (544 U.S. 133, 2005), FR, rights of The detainees. 291.- Cutre v. Wilkinson (544 U.S. 709, 2005), FR, interned persons.

Notes

¹ *Pragmatism* is the most relevant native philosophical current in the USA. It is transferred from the theory of natural selection to the world of ideas, since only those experiences that can be applied are considered valid and may be reaffirmed by a favorable experience. Its precursor was Emerson, on the East Coast (Harvard University) and its focus moved to the Mid-Western (The University of Chicago), with figures such as James, Peirce, Dewey, Mead, etc.; see Antonio Sánchez-Bayón, *Manual de Sociología Jurídica Estadounidense* (Madrid: Delta Publicaciones, 2009).

² In the development of this area of study, not only Ivy League Universities stand out (like *Harvard*, *Yale* or *Stanford*, which go on innovating in this respect), but also Universities with a confessional stamp, which aided in the research into this issue, such as the Baptist Baylor University (*J.M. Dawson Institute of the Church-State Studies*), the Catholic DePaul University (*Center for the Church-State Studies*), the Mormon Brigham Young University (*International Center for Law and Religion Studies*), and even *think tanks* have been relevant as opinion-makers and interest groups.

³ See *The First Charter of Virginia* (April 10, 1606), *The Second Charter of Virginia* (May 23, 1609), *The Third Charter of Virginia* (March 12, 1611), *Ordinances for Virginia* (July 24, 1621), *Virginia Declaration of Rights* (June 12, 1776), *The Constitution of Virginia* (June 29, 1776).

⁴ The *Oath of Supremacy* is the requirement to pledge Anglican Church, recognizing the British Monarch as its visible head.

⁵ The *Sabbath* is the day of rest established by the Bible and it must be dedicated to the praise of God. The problem is the controversy generated with the *First Great Awakening* (1740's). Even though it had been come from ancient times a long time ago, as we will observe-, protestant confessions-as a consequence of the *American paradoxology*-, suffered a certain grade of *Jewishism* in its pursuit to the Orthodoxy, what make them to translate the traditional rest to Saturday. For the purposes of this article, *Sunday & Sabbath Laws* will be considered as a whole, since the really important fact is that eventually for fundamentalist reasons a greater secularization was promoted, given that the calendar was divided into working days and holidays. See Antonio Sánchez-Bayón, *La Modernidad sin prejuicios* (vols. 1-3, Madrid: Delta, 2008-13).

⁶ See *Charter of Carolina* (March 24, 1663), *A Declaration and Proposals of the Lord Proprietor of Carolina* (Aug. 25, 1663), *Concessions and Agreements of the Lords Proprietors of the Province of Carolina* (1665), *Charter of Carolina* (June 30, 1665), *The Fundamental Constitutions of Carolina* (March 1, 1669), *The Mecklenburgh Resolutions* (May 20, 1775), *Constitution of North Carolina* (Dec. 18, 1776).

⁷ See *State Boundery Agreement* (April 1, 1735), *Constitution of South Carolina* (March 26, 1776), *Constitution of South Carolina* (March 19, 1778).

⁸ See *Royal Charter of Georgia* (Jun 9, 1732), *Constitution of Georgia* (Feb. 5, 1777), *Constitution of the State of Georgia* (May 6, 1789).

⁹ In New England, severe punishment was inflicted on Catholics, Baptists, Jews and Quakers (e.g. seizing assets, imprisonments, forced labours, hidings, and hangings). In the Boston area, after the prescriptive remainders (up to three), several families were exiled, and four Quakers that did not comply with exile were

eventually hanged. Cfr. James Wood, et al, *Church and State in Scripture History and Constitutional Law* (Waco: Baylor University Press, 1958), 80 ss. Leo Pfeffer, *Church, State and Freedom* (Boston: Beacon Press, 1953), 65 ss.

¹⁰ He was elected governor up to twelve consecutive times, between 1631 and 1648, dying several months after his last election. His strict policy was a consequence of the social demands at that moment, since the population was terrified by previous experiences in other less integrated settlements that did not survive. His zeal, however, was so great that his own son had to move to New Hampshire, where he became Governor

¹¹ See *Massachusetts Constitution* (March 2, 1780).

¹² See *Fundamental Orders* (Jan. 14, 1639), *Fundamental Agreement, or Original Constitution of the Colony of New Haven* (June 4, 1639), *Government of New Haven Colony* (1643), *Charter of Connecticut* (1662), *Constitution of Connecticut* (Oct. 5, 1818).

¹³ See *Grant of Hampshire to Capt. John Mason* (Nov. 7, 1629), *Grant of Laconia to Sir Ferdinand Gorges and Captain John Mason by the Council for New England* (Nov. 17, 1629), *Grant of the Province of New Hampshire to John Wollaston Esq.* (1635), *Grant of the Province of New Hampshire to Mr. Mason* (April 22, 1635), *Grant of his interest in New Hampshire by Sir Ferdinand Gorges to Captain John Mason* (Sept. 17, 1635), *Agreement of the Settlers at Exeter in New Hampshire* (1639), *The Combinations of the Inhabitants upon the Piscataqua River for Government* (1641), *Commission of John Cott* (1680), *Constitution of New Hampshire* (Jan 5, 1776; June 13, 1784).

¹⁴ See *Notification of the Purchase of Manhattan by the Dutch* (Nov. 5, 1626), *The Constitution of New York* (April 20, 1777).

¹⁵ See *The Duke of York's Release to John Ford Berkeley, and Sir George Carteret* (June 24, 1664), *The Concession and Agreement of the Lords Proprietors of the Province of New Caesarea, or New Jersey, to and with all and every the Adventurers and such as shall settle or plant there* (1664), *A Declaration of the True Intent and Meaning of us the Lords Proprietors, and Explanation of these concessions made to the Adventurers and Planters of New Caesarea or New Jersey* (1672), *His Royal Highness' Grant to the Lords Proprietors, Sir George Carteret* (July 29, 1674), *The Charter of Fundamental Laws, of West New Jersey, Agreed upon* (1676), *Quintipartite deed of revision, between E. and W. Jersey* (July 1, 1676), *Duke of York's Second Grant to William Penn, Gawn Lawry, Nicholas Lucas, John Eldridge, Edmund Warner, and Edward Byllynge, for the soil and Government of West New Jersey* (Aug. 6, 1680), *Duke of York's Confirmation to the twenty four proprietors* (March 14, 1682), *The Fundamental Constitutions for the Province of East New Jersey in America* (1683), *The King's Letter recognizing the Proprietors' Rights to the soil and Government* (1683), *Surrender from the Proprietors of East and West New Jersey, of their pretended right of Government to her Majesty* (1702), *The Queen's acceptance of the surrender of Government* (April 17, 1709), *Constitution of New Jersey* (July 2, 1776).

¹⁶ There are hundreds of examples of incipient tolerance, but the most meaningful is the Yale apostasy, movement headed by the Presbyterian Reverend and a senior Academic at Yale, T.B. Chadler; see References.

¹⁷ See *Charter of Delaware* (1701). *Constitution of Delaware* (Aug. 22, 1776). *Constitution of Delaware* (1792).

¹⁸ It is true that there is latitude convergence, but geographically, Rhode Island is considered to be situated in the Northeast, Pennsylvania in the center and Maryland in the South.

¹⁹ Charles I, being Secretary of State (in 1625), grants to G. Calvert, *Irish House of Lords*, the exploitation of lands in America. But, his son will be the one who

receives the *Charter* in 1632, which consolidate the first settlement in 1634.

²⁰ Williams and Jefferson (one, as a former Congregationalist, and the other, as later Episcopalian), the introduced the metaphor of the *wall of separation* as part of their separatist Church-State speech, which becomes the bases of the current Baptists 'doctrine –actually, it seems a confusion of interests to legitimize their positions.

²¹As a consequence of the Duque of York's debts to Admiral/Commander Penn, Charles II grants a *Charter* to W. Penn (the Admiral's son and one of the most relevant Quaker leaders) in 1681.

²² See *Charter of Maryland* (1632). *An Act Concerning Religion/Maryland Tolerance Act* (1649). *Constitution of Maryland* (Nov. 11, 1776). *Amendments to the Maryland Constitution* (1776).

²³ It is also important to underline the special status attributed to the Jesuits – Maryland being the operating center of their subsequent work in the USA, above all in the academic world-, thanks to the letters between the Jesuit Priest T. Copley and Lord Baltimore; see References.

²⁴ See *Constitution of Rhode Island* (Nov. 5, 1843).

²⁵ See *Constitution of Pennsylvania* (Sept. 28, 1776).

²⁶ It is a gesture to demonstrate the overturning of the discriminatory British vestiges of submissiveness in the colonies, due to the Act of Supremacy of Henry VIII (1534) and Isabella I (1559), with their colonial versions of the Blue Laws.

²⁷ Remember that "Act" come from the saying "act before the monarch", what in the USA means "act before the Congress", being this way, the adequate one to introduce the Institutional agenda, giving to it legal force, and to turn it into Statutory Law.

²⁸ See PL [Public Law] 104-155, July 3, 1996, 110 Stat. 1392 United States Public Laws 104th Congress - Second Session Convening January 3, 1996 PL 104-155 (HR 3525) Church Arson Prevention Act of 1996.

²⁹ See PL 104-199, Sept. 21, 1996, 100 Stat. 2419 United States Public Laws 104th Congress - Second Session Convening January 3, 1996 PL 104-199 (HR 3396) The Defense of Marriage Act of 1996.

³⁰ See PL 105-183, June 19, 1998, 112 Stat 517 United States Public Laws 105th Congress - Second Session Convening January 27, 1998 PL 105-183 (S 1244) Bankruptcy-Religious Liberty and Charitable Donation Protection Act of 1998.

³¹ PL 106-274, September 22, 2000, 114 Stat 803 United States Public Laws 106th Congress - Second Session Convening January 24, 2000 PL 106-274 (S 2869) Religious Land Use and Institutionalized Persons Act of 2000.

³² PL 106-409, November 1, 2000, 114 Stat 1787 United States Public Laws 106th Congress - Second Session Convening January 24, 2000 PL 106-409 (HR 4068) Religious Workers Act of 2000).

³³ PL 105-54, October 6, 1997, 111 Stat 1175 United States Public Laws 105th Congress - First Session Convening January 7, 1997 PL 105-54 (S 1198) Extension of Immigration Deadlines for Religious Workers, Charitable Service Workers, and Paperwork Changes in Employer Sanctions of 1997.

³⁴ PL 105-292, October 27, 1998, 112 Stat 2787 United States Public Laws 105th Congress - Second Session Convening January 27, 1998 PL 105-292 (HR 2431) International Religious Freedom Act of 1998.

³⁵ PL 106-55, August 17, 1999, 113 Stat 401 United States Public Laws 106th Congress - First Session Convening January 27, 1999 PL 106-55 (S 1546)

International Religious Freedom Act Amendments, 1999.

³⁶ PL 108-332, October 16, 118 Stat 1282 United States Public Laws 108th Congress – Second Session Convening January 20 (S 2292) PL Global Anti-Semitism Review Act of 2004.

³⁷ Purportedly, the first regional cases were *Van Hornes Lessee v. Dorranze* (2 Dallas 304, 1795) and *Calder v. Bull* (2 Dallas 386, 1798); and, specially, *People v. Phillips* (New York City of General Sessions, 1813), where it was judged the religious autonomy and the religious communications, when giving instruction to the jury above the Seal of Confession of a catholic priest; see References.

³⁸ As it has been mentioned previously, the programs of *faith-based organizations* of W. Bush lies in the *Welfare Reform* of the Clinton Administration, through the *Charitable Choice* (introduced by Acts as *The Personal Responsibility and Work Opportunity Reconciliation Act of 1996* and programs, such as, *Temporary Assistance to Needy Families*, *Community Services Block Grant*, etc.) The difference is that the initial goal of the first stage of public policies of Clinton was to give public funds to NGOs-in exclusive competition with the churches-, whereas W. Bush removes the traditional restrictions to faith-based organizations that carry out community promotion activities, allowing them to have access to public funds. See References.

³⁹ *Faith groups* are those most recent and informal religious varieties, which emerged in the Last Great Awakening during 1960's. The aforementioned terminology is adopted as opposed to the *well-established religious denominations*, the rest of religious organizations.

⁴⁰ Cfr. VV.AA., *Guidance to Faith-based and Community Organizations on Partnering with the Federal Government*, (Washington: White House, 2001), 2.

⁴¹ For the deep implications of religion in the American political discourse, see for instance the articles of Liliana Mihut, "Two faces of American Pluralism: political and religious", *Journal for the Study of Religion and Ideologies* vol. 11, issue 33 (2012): 39-61 and respectively Mihaela Paraschivescu, "We the People' and God. Religion and the Political Discourse in the United States of America", *Journal for the Study of Religion and Ideologies* vol. 11, issue 33 (2012): 21-38.

References

Coll, Alberto R.; Antonio Sánchez-Bayón S. "The Federal Legal Framework for Religion: freedom of religion and church-state relations in the United States". *Revista de Derecho y Religión* VIII (2013): 253-280.

Curry, Thomas J. *The First Freedoms. Church and State in America to the passage of the First Amendment*. New York: Oxford University Press, 1986.

Davis, Derek; B. Hankins (Eds.), *Welfare reform & Faith-based organizations*. Baylor University Press, Waco, 1999.

Edwards, George C. *Governing by campaigning. The politics of the Bush Presidency*. New York: Pearson, 2007.

González, Marcos, Antonio Sánchez-Bayón. *RIDE*. Madrid: Delta, 2011.

González, Marcos, Antonio Sánchez-Bayón. *Derecho Eclesiástico del Estado*. Madrid: Delta, 2009.

Mihut, Liliana. "Two faces of American Pluralism: political and religious". *Journal for the Study of Religion and Ideologies* vol. 11, issue 33 (2012): 39-61.

Paraschivescu, Mihaela. "'We the People' and God. Religion and the Political Discourse in the United States of America". *Journal for the Study of Religion and Ideologies* vol. 11, issue 33 (2012): 21-38.

Pfeffer, Leo. *Church, State and Freedom*. Boston: Beacon Press, 1953.

Sánchez-Bayón, Antonio. *Estado y religión de acuerdo con los Estados Unidos de América*. Saarbrücken: EAE, 2012.

Sánchez-Bayón, Antonio. *Manual de Sociología Jurídica Estadounidense*. Madrid: Delta, 2008.

Sánchez-Bayón, Antonio. *La Modernidad sin prejuicios. La religión en la vida pública estadounidense*. vol. 1-3. Madrid: Delta, 2008-12.

VV.AA. *Guidance to Faith-based and Community Organizations on Partnering with the Federal Government*. Washington: White House, 2001.

Wood, J.E., et al. *Church and State in Scripture History and Constitutional Law*. Waco: Baylor University Press, 1958.

Primary sources & statutory law

The First Charter of Virginia (April 10, 1606).

The Second Charter of Virginia (May 23, 1609).

The Third Charter of Virginia (March 12, 1611).

Ordinances for Virginia (July 24, 1621).

Virginia Declaration of Rights (June 12, 1776).

The Constitution of Virginia (June 29, 1776).

Charter of Carolina (March 24, 1663).

A Declaration and Proposals of the Lord Proprietor of Carolina (Aug. 25, 1663).

Concessions and Agreements of the Lords Proprietors of the Province of Carolina (1665).

Charter of Carolina (June 30, 1665).

- The Fundamental Constitutions of Carolina* (March 1, 1669).
The Mecklenburgh Resolutions (May 20, 1775).
Constitution of North Carolina (Dec. 18, 1776).
State Boundery Agreement (April 1, 1735).
Constitution of South Carolina (March 26, 1776).
Constitution of South Carolina (March 19, 1778).
Royal Charter of Georgia (Jun 9, 1732).
Constitution of Georgia (Feb. 5, 1777).
Constitution of the State of Georgia (May 6, 1789).
Massachusetts Constitution (March 2, 1780).
Fundamental Orders (Jan. 14, 1639).
Fundamental Agreement, or Original Constitution of the Colony of New Haven (June 4, 1639).
Government of New Haven Colony (1643).
Charter of Connecticut (1662).
Constitution of Connecticut (Oct. 5, 1818).
Grant of Hampshire to Capt. John Mason (Nov. 7, 1629).
Grant of Laconia to Sir Ferdinand Gorges and Captain John Mason by the Council for New England (Nov. 17, 1629).
Grant of the Province of New Hampshire to John Wollaston Esq. (1635).
Grant of the Province of New Hampshire to Mr. Mason (April 22, 1635).
Grant of his interest in New Hampshire by Sir Ferdinand Gorges to Captain John Mason (Sept. 17, 1635).
Agreement of the Settlers at Exeter in New Hampshire (1639).
The Combinations of the Inhabitants upon the Piscataqua River for Government (1641),
Commission of John Cott (1680).
Constitution of New Hampshire (Jan 5, 1776; June 13, 1784).
Notification of the Purchase of Manhattan by the Dutch (Nov. 5, 1626).
The Constitution of New York (April 20, 1777).
The Duke of York's Release to John Ford Berkeley, and Sir George Carteret (June 24, 1664).
The Concession and Agreement of the Lords Proprietors of the Province of New Caesarea, or New Jersey, to and with all and every the Adventurers and such as shall settle or plant there (1664).
A Declaration of the True Intent and Meaning of us the Lords Proprietors, and Explanation of these concessions made to the Adventurers and Planters of New Caesarea or New Jersey (1672).
His Royal Highness' Grant to the Lords Proprietors, Sir George Carteret (July 29, 1674).
The Charter of Fundamental Laws, of West New Jersey, Agreed upon (1676).
Quintipartite deed of revision, between E. and W. Jersey (July 1, 1676).

Duke of York's Second Grant to William Penn, Gawn Lawry, Nicholas Lucas, John Eldridge, Edmund Warner, and Edward Byllynge, for the soil and Government of West New Jersey (Aug. 6, 1680).

Duke of York's Confirmation to the twenty four proprietors (March 14, 1682).

The Fundamental Constitutions for the Province of East New Jersey in America (1683).

The King's Letter recognizing the Proprietors' Rights to the soil and Government (1683),

Surrender from the Proprietors of East and West New Jersey, of their pretended right of Government to her Majesty (1702).

The Queen's acceptance of the surrender of Government (April 17, 1709).

Constitution of New Jersey (July 2, 1776).

Charter of Delaware (1701).

Constitution of Delaware (Aug. 22, 1776).

Constitution of Delaware (1792).

Charter of Maryland (1632).

An Act Concerning Religion/Maryland Tolerance Act (1649).

Constitution of Maryland (Nov. 11, 1776).

Amendments to the Maryland Constitution (1776).

Constitution of Rhode Island (Nov. 5, 1843).

Constitution of Pennsylvania (Sept. 28, 1776).

PL [Public Law] 104-155, July 3, 1996, 110 Stat. 1392 United States Public Laws 104th Congress - Second Session Convening January 3, 1996.

PL 104-155 (HR 3525) Church Arson Prevention Act of 1996.

PL 104-199, Sept. 21, 1996, 100 Stat. 2419 United States Public Laws 104th Congress - Second Session Convening January 3, 1996.

PL 104-199 (HR 3396) The Defense of Marriage Act of 1996.

PL 105-183, June 19, 1998, 112 Stat 517 United States Public Laws 105th Congress - Second Session Convening January 27, 1998.

PL 105-183 (S 1244) Bankruptcy-Religious Liberty and Charitable Donation Protection Act of 1998.

PL 106-274, September 22, 2000, 114 Stat 803 United States Public Laws 106th Congress - Second Session Convening January 24, 2000.

PL 106-274 (S 2869) Religious Land Use and Institutionalized Persons Act of 2000.

PL 106-409, November 1, 2000, 114 Stat 1787 United States Public Laws 106th Congress - Second Session Convening January 24, 2000.

PL 106-409 (HR 4068) Religious Workers Act of 2000).

PL 105-54, October 6, 1997, 111 Stat 1175 United States Public Laws 105th Congress - First Session Convening January 7, 1997.

PL 105-54 (S 1198) Extension of Immigration Deadlines for Religious Workers, Charitable Service Workers, and Paperwork Changes in Employer Sanctions of 1997.

PL 105-292, October 27, 1998, 112 Stat 2787 United States Public Laws 105th Congress - Second Session Convening January 27, 1998.

PL 105-292 (HR 2431) International Religious Freedom Act of 1998.

PL 106-55, August 17, 1999, 113 Stat 401 United States Public Laws 106th Congress - First Session Convening January 27, 1999.

PL 106-55 (S 1546) International Religious Freedom Act Amendments, 1999.

PL 108-332, October 16, 118 Stat 1282 United States Public Laws 108th Congress – Second Session Convening January 20 (S 2292)

PL Global Anti-Semitism Review Act of 2004.