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Review of Judicial Doctrines of Religious Rights in America by William George Torpey

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This one volume compendium of court decisions in matters relating to religious belief will be a valuable asset to any library. The fact that the author is not a lawyer does not decrease its value to members of the legal profession, but it does emphasize the possibility and desirability for the extension of wide and exact knowledge on this important subject to all intelligent people. Dr. Torpey's treatment is objective. His purpose, as he states it, is "to examine concrete situations in which the question of religious liberty has been posed for judicial determination and to delineate a significant series of legal principles which have arisen therefrom." (36)¹ This examination is extended through subjects ranging from the power of our state and federal governments to limit certain religious practices in the interest of peace and order, to the right of a testator to leave his property in trust for religious purposes. The acute question of releasing public school students during school hours to permit them to attend religious instruction is traced up to and including the most recent decision of the United States Supreme Court on the subject. The author says: "Prior to 1948 it was held * * * that church and state were still separated, even though a co-operative sectarian — secular plan of religious instruction existed. (264) * * * the legality of co-operative sectarian — secular plans for religious instruction is now open to question in view of a significant decision of the United States Supreme Court in which the Court nullified as unconstitutional an arrangement of a local board of education which permitted religious teachers employed by private religious groups to come weekly into the school buildings during regular school hours and substitute their religious teaching for secular education." (267)²

The average reader will be surprised to learn that there have been more than two thousand cases decided in American courts on a wide variety of religious questions. Must a Moslem send his child to school on Friday? Is a testamentary gift to religion a gift to charity? Can the testimony of an Atheist be admitted in evidence? May the state punish all acts that tend to bring religion into contempt? Dr. Torpey has collected all of the answers.

¹. References in parenthesis are to pages of Torpey's text.
When one has finished reading this useful and interesting volume one conviction is inescapable: Religion is and has always been an important basic consideration in American life. The author's forty page historical analysis shows that the founders of the American legal and constitutional system acted on the assumption that religion and morality are, as Washington said they were, "indispensable supports" of an orderly society. The Founding Fathers consequently insisted upon religion and freedom for religion and for religious belief and practices. The modern trend toward the construction of "Religious Freedom" as a right to be free from religion would have been abhorrent to them. At the time of the formation of our government, the men most interested in the separation of church and state were likewise most interested in the maintenance of religion as an integral part of American society. Dr. Torpey thus quotes a resolution of the Virginia Ratifying Convention which attempted to amend the Constitution of the United States to include the following language:

"That religion, or the duty which we owe to our Creator, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men have an equal, natural, and unalienable right to the free exercise of religion, according to the dictates of conscience, and that no particular religious sect or society ought to be favored or established, by law, in preference to others." (22)

This is substantially the language of the Sixteenth Article of Virginia's famous Declaration of Rights adopted by the legislature of that state in 1776.

Now, when the heat of the Church-State controversy grows more and more intense, the legal light that Dr. Torpey has thrown across the subject is certainly most welcome. Here is a digest of what all of our courts have held, annotated with footnotes and citations for those who wish to pursue the important topic to its ultimate lair.

Clarence Manion*


This book represents a well integrated treatment of the modern theory of money and fiscal policy together with valuable summaries and interpretations of the development of important aspects of monetary theory over the last 150 years. Many recent developments of modern theory are presented in accurate but readily understandable form for the non-mathematical student. While only three short

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