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978-1-107-01650-7 - The Distinctiveness of Religion in American Law: Rethinking Religion Clause Jurisprudence

Kathleen A. Brady

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THE DISTINCTIVENESS OF RELIGION IN AMERICAN LAW

Rethinking Religion Clause Jurisprudence

In recent decades, religion's traditional distinctiveness under the First Amendment has been challenged by courts and scholars. As America grows more secular and as religious and nonreligious convictions are increasingly seen as interchangeable, many have questioned whether special treatment is still fair. In its recent decisions, the Supreme Court has made clear that religion will continue to be treated differently, but we lack a persuasive account of religion's uniqueness that can justify this difference. This book aims to develop such an account. Drawing on founding era thought illuminated by theology, philosophy of religion, and comparative religion, it describes what is at stake in our tradition of religious freedom in a way that can be appreciated by the religious and nonreligious alike. The new framework for religion clause decision making advanced here will be essential reading for anyone interested in current controversies regarding protections for religious conscience.

Kathleen A. Brady is a Senior Fellow at the Center for the Study of Law and Religion at Emory University. Her scholarship focuses on the intersection of law and religion including the First Amendment religion clauses, religion in public life, law and theology, and Catholic social thought.

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John Witte, Jr., is Director of the Center for the Study of Law and Religion at Emory University. A world authority on law and religion in Western history, he has directed a score of international projects on democracy, human rights, religious liberty, marriage, family, and children. He has lectured widely on all continents, and his many books, articles, and journal symposia have appeared in fifteen languages.

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RETHINKING RELIGION CLAUSE
JURISPRUDENCE

KATHLEEN A. BRADY

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It furthers the University’s mission by disseminating knowledge in the pursuit of education, learning,
and research at the highest international levels of excellence.

www.cambridge.org
Information on this title: www.cambridge.org/9781107016507

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First published 2015

A catalog record for this publication is available from the British Library.

Library of Congress Cataloging in Publication Data

Brady, Kathleen A., author.

The distinctiveness of religion in American law : rethinking religious clause jurisprudence / Kathleen
A. Brady, Emory University.

pages cm. – (Law and christianity)

Includes bibliographical references and index.

1. Religion and law – United States. 2. Freedom of religion – United States. 3. Church and state –
United States. I. Title.

KF4783.B73 2015

342.7308’52–dc23 2015021257

ISBN 978-1-107-01650-7 Hardback

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For my mother, Kathleen S. Brady, and in memory of my father, Richard Alan Brady, whose wisdom, kindness, humility, perseverance, optimism, and commitment to excellence will always be my guide

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Acknowledgments

This project was supported by a generous grant from the McDonald Agape Foundation to the Center for the Study of Law and Religion at Emory University. I would like to thank Ambassador Alonzo L. McDonald and Mr. Peter McDonald, as well as John Witte, Frank Alexander, Linda King, Anita Mann, and Amy Wheeler for their support and encouragement. The opinions in this publication are my own and do not necessarily reflect the views of the Foundation or the Center. Special thanks go to John Witte, Robert W. Woodruff Professor of Law, McDonald Distinguished Professor, and Director of the Center. John provided me with the opportunity to pursue this project, and he has generously given invaluable support and guidance over the years. I am very grateful to complete this book as a Senior Fellow of the Center.

I am also grateful for the support that I received from the James Madison Program in American Ideals and Institutions at Princeton University. I spent a wonderful sabbatical year at the James Madison Program in 2011–12 as the William E. Simon Visiting Fellow in Religion and Public Life, and I owe many thanks to Robby George, Brad Wilson, and their support team. I also benefited from my exchanges with the Program's other Fellows and from their valuable feedback regarding my project.

My book also benefited greatly from opportunities to present chapters at Princeton in 2012, at the 2011 Annual Law and Religion Roundtable held at Northwestern University School of Law, and at workshops at West Virginia University College of Law in 2013 and at Villanova University School of Law in 2014.

I also owe much to Villanova Law School, where I was on the faculty from 2003 to 2012. During these years, I spent a great deal of time traveling back and forth between Villanova and Fairfax, Virginia, where my husband works. When our daughter Amelia was born in 2006, Dean Mark Sargent, and later Acting Dean Doris Brogan, did much to make it possible for me to pursue this project while balancing a two-city lifestyle with parenting a young child. My colleagues at Villanova helped make all these years enjoyable, engaging, and productive. While at Villanova, I received

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excellent administrative support from Michelle Floyd, who was always a joy to work with.

There are also many others whose flexibility in caring for Amelia as we traveled together between Villanova and Fairfax helped provide indispensable support for this project. Special mention goes to Maura Buri, whose friendship and whose love for Amelia during our years in Villanova were irreplaceable; Alison Lee Flacks, Danielle Olsen, and Sarah Sanders, who provided superb babysitting while pursuing their own studies at George Mason University in Fairfax; Mary Kurek and Christine Humble at St. Thomas of Villanova Preschool; and Tricia Tabb, Cheryl Hammond, and Debbie Newell at Truro Preschool in Fairfax. They all heard about the book, and I owe so much to them.

I also owe much to many friends who provided guidance and encouragement along the way. Jennifer Bryson, Becky Garrison, Mary Habeck, Hester Peirce, and Katie Wang offered valuable advice, including guidance based on their own book-writing experiences, past and present. Alphonse Vinh provided a valuable review of my material on Asian religions. Starr Kopper, Amelia's godmother, provided encouragement for us both and wise counsel as always.

Finally, the greatest thanks goes to my family for their patience and support during the preparation of this book. My husband, Richard Taylor, persevered valiantly for many years as he watched a scholar's deliberation with a businessman's eye for efficiency. It was not always easy! My father-in-law and mother-in-law, Doug and Carol Taylor, greeted every one of our family trips to Alabama with a smile and gracious hospitality even as a new set of boxes emerged from the car and space was made each time for more work on the book.

My mother provided her matchless love and support as she always has, and she picked up the flag when my father passed away too soon in the autumn of 2013. It is not possible to describe in a few words all that I owe to my father. To have met him is to understand. He was a man of prodigious intellect, unfailing commitment to excellence, humility, generosity, gentleness, kindness, patience, wisdom, balance, humor, and joy. My father's was a practical faith, and in freedom, he and my mother raised four children to blossom into four very different kinds of Catholics, a witness to the complexity of the American Catholic Church in the late twentieth and early twenty-first centuries. Mine has always been at once a more intellectual and experiential faith, and my father always respected it even if he could not always fully understand every aspect of it. What he could fully understand was the commitment to religious freedom, and he shared it, and he looked forward to the completion of this book with eagerness and pride. Indeed, it is his book as much as my own. Carefully and subtly, with great patience and perseverance, without pressure or coercion, and with faith and optimism, my father passed on his character to his children, and he taught me to be more understanding, more charitable, more balanced in my views, and more aware of complexity and nuance. I have fallen short of all of these ideals in this book, but whatever is here, I owe to my father. I am sure, as well,

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that no book in the field has been shaped as much by the training of a brilliant tax lawyer, for my father was that too during his long career at Covington & Burling in Washington, DC.

And thanks, of course, to Amelia, whose grandparents would not let me fail to give her the final word. All of her years Amelia has known nothing but life with the book, and it has grown as she has grown and as I have grown with her. What my father described as Amelia's "exuberance" has introduced a new element into the Bradys' world as discipline, order, and predictability have made way for playfulness, excitement, dance, song, daydreams, and meanderings. Everything takes much longer now, the paths between two points are rarely straight, and my mother admits with a smile that Amelia is certainly more work than her four Bradys were. But Amelia's joy has entertained us all and her love has brightened even the hardest times, and which one of us could imagine life without her smile and her sparkle?