Religion and the State in American Law provides a comprehensive and up-to-date overview of religion and government in the United States, from historical origins to modern laws and rulings. In addition to extensive coverage of the religion clauses of the First Amendment, it addresses many statutory, regulatory, and common-law developments at both the federal and state levels. Topics include the history of church-state relations and religious liberty, religion in the classroom, and expressions of religion in government. This book also covers the role of religion in specific areas of law such as contracts, taxation, employment, land-use regulation, torts, criminal law, and domestic relations, as well as in specialized contexts such as prisons and the military. Accessible to the general as well as the professional reader, it will be of use to scholars, judges, practicing lawyers, and the media.

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Religion and the State in American Law

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In memory of Boris I. Bittker, whose towering intellect, remarkable industry, generous spirit, and inimitable sense of humor continue to inspire those of us who try, however imperfectly, to follow in his extraordinary footsteps.

— S.C.I. and F.S.R.

To Elizabeth, my wife and dearest friend; to Sue, my mother and lifelong inspiration; and to Katherine and Peter, my wonderful children, without whom my life would be unfulfilled.

— S.C.I.

To Chika, my remarkably smart and caring wife and companion; to Elysha and Ariana, my daughters, whose intelligence and creativity add perspective to all my work; and to my parents, Arline and Carl, whose love and support are inspiring.

— F.S.R.
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Preface

Religion and the State in American Law provides a comprehensive view of law and religion in the United States. It addresses the traditional First Amendment questions but goes well beyond to cover every area where questions of law and religion intersect. It is designed to be a comprehensive treatise that will enable readers to explore any topic in law and religion from school prayer to tax issues. The book was written over several years with the generous support of the Lilly Endowment.

Law and religion intersect in every area of law in the United States. Sometimes this simply results in the application of a given legal doctrine to religious entities or individuals. In many cases, however, the religious nature of a party affects what courts will consider and enforce. This can be seen in cases involving, for example, property disputes, employment, family law, and criminal law. Moreover, some fields, such as tax law, have complex systems in place to address claims involving religious entities. Exploring these cases from within a given field of law, whether criminal law, torts, or taxation, allows readers to use this book as a research tool for any area of law to see if, and how, the law is applied to cases involving religious entities and individuals.

Religion and the State in American Law was conceived by Boris Bittker, who wrote several chapters but unfortunately passed away before the project was completed. Boris’ idea was to have a comprehensive treatise covering every topic in law and religion. There has never been anyone better qualified to undertake such a task than Boris, and the co-authors Boris brought onto the project, Scott Idleman and Frank S. Ravitch, were humbled to be part of the project and hope that the end result is one with which Boris would have been pleased.

Acknowledgments

First and foremost, we want to thank Boris Bittker for his vision in conceiving this project and his kindness in bringing us in to help write this book.

Scott Idleman wishes to thank his wife, Elizabeth, for her guidance and understanding throughout the duration of this project. I am grateful for the encouragement of my children, Katherine and Peter, as well as that of my mother and father, the latter of whom unfortunately was able to see only the earliest phase of this work. For financial and institutional support, I would like to express my gratitude to the Lilly Endowment, Marquette University Law School, and Yale Law School, particularly Yale’s John Simon, who was instrumental in securing funding for the project, and the many Yale administrators.
involved in its management. For his cooperative spirit and seemingly endless patience, I am indebted to my superb co-author, Frank Ravitch. I also wish to thank the numerous research assistants whose efforts contributed to this book. Finally, I am deeply appreciative of the opportunity to publish with Cambridge University Press and to work with its excellent editorial staff.

Frank S. Ravitch would like to thank many people for their support and advice during the writing and production of this book. I thank my wife, Chika, and my daughters, Elysha and Ariana, whose smiles and love make life brighter and add balance to everything I do. I also thank my parents, Carl and Arline Ravitch, who are a source of constant support and love and who are an inspiration for all three of their children. Thanks go to my late Bubby and Pop Pop, who are always close to my heart and who embodied all that is best in religion and in law without being lawyers or overtly religious. I thank my sisters, Sharon and Elizabeth, and their families, my Uncle Gary and Aunt Mindy, and my Aunt Jackie and Uncle Ken, who have been exceptionally supportive of all my work and who each in their own way have an interest in law and/or religion.

I am grateful to the Lilly Endowment, which supported this project; John Simon, who was instrumental in obtaining the grant through Yale Law School; the Yale Law School Grants Department for serving as an excellent resource on the grant; and the Michigan State University College of Law, which provides an excellent environment for research productivity. My deepest gratitude also goes to my wonderful research assistants who worked on this project under the grant over the years (listed from earliest to most recent): Colin Boes, Adrienne Whitehead, Holly Shannon, Andrew Davis, Michael Epstein, Zachary Risk, Heather Snider, Jim Zeimer, Philip Berens, Caitlin Keene, Cheyna Roczkowski, Erin Dombros, Calvin Boyd, and David Louden. Thank you for your excellent research. I also thank Jacklyn Beard for her wonderful secretarial support. This project would have never come to print without the support of Cambridge University Press, John Berger, Jim Madru, and Ramesh Karunakaran. I am also grateful to my co-author, Scott Idleman, who is a wonderful co-author with whom to work.