

Religion & the Const-Fall, 1997 - Raw Score _____ Exam Grade _____

Question I (child's gravesite) (40 points)

free exercise- sincerely held - no evidence to the contrary----- (2) _____
religious beliefs - as opposed to lifestyle or philosophy----- (2) _____
ultimate questions, comprehensiveness, formal signs----- (3) _____
relig beliefs need not be shared by other members of the religion----- (2) _____
burden-lose religiously significant site they own or risk jail----- (3) _____
no burden-like Lyng-no attempt to coerce private behavior & site moved- (3) _____
can gov't argue internal policies exception like in Bowen v. Roy----- (2) _____
Smith reasonableness test-law of gen'l applicability?-public safety?--- (4) _____
provision for individ assessmt?;must value prop in eminent domain----- (2) _____
seeking exemption-don't take Anderson land, just other land,floodgates? (3) _____
control gov't behavior as to all(Lyng)- no highway improvement project- (4) _____
Sherbert test-compelling int? public safety? safety or convenience?---- (3) _____
least restric alt-achieve obj if grant exemp?apply to facts,move median (4) _____
miscellaneous _____ (3) _____

Question II (city seal with cross) (40 points)

standing-municipal taxpayers?,public \$ spent on stationary,uniforms etc (3) _____
brought into contact with offensive seal on a daily basis----- (2) _____
to avoid would have to alter behavior drastically----- (2) _____
but not alleged in facts, poor pleading? can court assume on facts----- (2) _____
sec purp-no facts, but might be ID of city, civic pride in its history- (3) _____
effect-promotion of catholicism, estab as catholic city, symbolic union (3) _____
cross not used as relig symbol but bec signif in city history (Marsh?)- (3) _____
cross in proximity to nonreligious symbols like covered wagon-Lynch---- (3) _____
cross has lost relig sign in context like In God We Trust on money---- (3) _____
effect of endorsement to objective observer-what does observer know---- (3) _____
entanglemnt-no involvement with religious organization in choosing seal- (2) _____
divisiveness-but not spending program and not used much now in general- (1) _____
favoritism toward one religion-discrim among religions-stricter test--- (3) _____
free ex-forced assoc w/religious symbol they do not support----- (2) _____
but no allegation violates their religion to be in contact with cross-- (2) _____
miscellaneous _____ (3) _____

Question III (voluntary ban on climbing Devil's Tower) (40 points)

standing-eco. interests of climbing guide in the form of lost income--- (3) _____
no taxpayer standing under Flast since not a gov't spending program---- (3) _____
recreational climber who is discouraged from climbing Devil's Tower---- (3) _____
hasn't climbed before, but standing to camper who hadn't camped in park (3) _____
purpose-accommodate religious practices of tribes, sec. purpose?-Amos-- (4) _____
effect-relig ceremonies are undisturbed-but would hold cermonies anyway (3) _____
endorsement or preference for Native American religion----- (3) _____
statement to climbers in support of voluntary ban----- (4) _____
Kennedy 3 part test - lift a burden, not shift and no discrim.----- (3) _____
apply test-lift burden(yes), shifting to climbers?, no evid. of discrim (4) _____
voluntary ban so no coercion of behavior,but threat of mandatory ban--- (4) _____
miscellaneous _____ (3) _____