

## Interdisciplinary Teaching Grant Proposal

### “Religious Freedoms and American Politics”

#### Core Faculty

John Inazu, Associate Professor Law and Associate Professor of Political Science

Mark Valeri, Rev. Priscilla Wood Neaves Distinguished Professor of Religion and Politics, John C. Danforth Center on Religion and Politics, and Professor of History (Courtesy)

#### Course Overview

The intersection of religion, liberty, and law in American culture has sparked some of the fiercest cultural engagements in recent memory: Should a for-profit corporation have a religious right not to fund birth control for its employees? Can a public college expel campus religious groups whose membership is not open to all students? May a Muslim grow a beard for religious reasons in prison? Should a cake baker or a florist be permitted to refuse services for a gay wedding? Can a church hire and fire its ministers for any reason?

The architects of the American political order experienced and anticipated some of the challenges arising out of religion, liberty, and law. They wrote about the differences between “mere belief” and religious “conduct.” They debated the elusive “wall of separation” between church and state. They struggled to define the proper boundaries for the exercise of minority religious beliefs.

These struggles are interwoven with the American story, in its quest for expansion and “manifest destiny,” in contested narratives over America as a “Christian” nation, in the intersection of religion and patriotism, and in the cries and protests of Mormons, Jehovah’s Witnesses, Catholics, atheists, Muslims, and evangelicals. The story of religious liberty in American history sheds light on the very meaning of America as a political experiment in democratic pluralism.

This interdisciplinary course introduces students to the major texts and historical arguments concerning religious liberty in the United States. John Inazu, a First Amendment scholar, has written on the legal and philosophical dimensions of religious liberty and related rights like speech and assembly. Mark Valeri, a specialist in early American religious history, has written on the relationships among religious thought, politics, and economics in colonial America and the American Revolution. This course will draw from their respective expertise, exposing students to a variety of scholarly methods related to the issue: legal history and case law, intellectual history and canonical texts, social history and narrative accounts, and political philosophy and contemporary analyses.

We will integrate our major disciplinary approaches—law, political theory, and religious history—by placing key constitutional texts and cases into a historical framework. Basic political narrative, discussion of religious history, and legal reason will be combined in chronological periods. The course covers European precedents to English settlement, the colonial period, nation-making and the Constitution, the early national period of religious revival and expansion, the Civil War and Fourteenth Amendment, Mormonism, fundamentalism and secularism in the Progressive Era, the Second World War and religious pacifism, The Cold War, the 1960s and school prayer, the rise of the religious Right, and recent cases involving free exercise and religious freedom.

### Student Audience

We envision this course to appeal to students who have an interest in a deeper understanding of contested public policy at the intersection of law and culture. The topics covered certainly hold an intrinsic interest to those who track the news. Yet we also imagine that this course would attract students interested in law or pre-law studies, politics and political theory, American history, and religion. The course will assume no prior college-level exposure to the texts and issues. It is an introductory, interdisciplinary course but may well appeal to second and third-year undergraduates.

### Course Attributes

We assume that this course would be given the Humanities attribute. In addition, we would suggest that this course be considered for the Social Differentiation attribute. The SD qualities as described include issues such as race and class, that is, inherited social identities. We think that religion is another SD category. It often is an inherited social identity that shapes people--and particularly college students--as they engage with others in the public sphere. This course deals with social difference in such terms, including many historical incidents and legal cases that deal with religious diversity, pluralism, and public encounters among people of different identities. Indeed, in today's world, where religious, racial, gendered, and political identities are often intermixed, we think that this course deals with a particularly salient aspect of SD.

### Crosslisting

For its foundational numbering, we assume that this would be offered as a Religion and Politics course. In addition, however, we think that this course would qualify to be cross-listed in the following departments/programs: Religious Studies, Political Science, American Culture Studies, and Legal Studies.

### Organization of the Course

We have designed the course to meet as a regular offering in the Fall 2016 (and, given success, Fall 2018) semester. Each week will have three one-hour meetings. During the first two meetings, either Inazu or Valeri will lecture (interactive, question-fielding, discussion prompting presentations), leaving ten minutes for the other professor to respond. We trust that this will model critical engagement and open, respectful conversation about sometimes freighted issues. During the third class meeting, students will meet in discussion groups of no more than fifteen, directed by a Teaching Assistant.

We hope, then, to have one TA position for each fifteen students enrolled, who will direct discussions and grade papers. Professors Inazu and Valeri, however, will participate in discussion sections, attending as many of them as schedule permits to gain a close reading of students' responses.

### Assignments and Grading

Each week the instructors will provide topics/questions for weeks 2 through 14. These ought to guide students' reading and preparation for discussion sections/recitations. Students will choose to write brief (2 page) analysis papers in response to these topics/questions five times during the course. These are to be turned in the day of the pertinent discussion. In addition, there will be a take-home, five-page essay mid-term assignment and a take-home, seven page essay for a final exam. Grades will be based on discussion participation, analysis papers, mid-term essay, and final essay. Grades will be based on the according distribution: 40% for the final exam; 30% for analysis papers; 25% for the mid-term exam; and 5% for class participation.

### Assessment Plan

Before teaching this course, we will submit our syllabus to on-campus colleagues for review and suggestion. During the course, we will solicit feedback in the form of a customized course survey administered mid-term. We will also ask students to complete the standard course survey at the end of the semester. After we have received these surveys, we will meet to discuss ways to improve the course and consult with colleagues about further suggestions.

### The Syllabus:

(In the following notes, "Witte reading" refers to John Witte, Jr., and Joel A. Nichols, eds., Religion and the American Constitutional Experiment, third edn. (2011).)

#### Week 1: Introduction<sup>1</sup>

- Class 1: Culture Wars (Inazu)<sup>2</sup>
- Class 2: Shooting Wars (Valeri)<sup>3</sup>
- Class 3: Recitation (TAs)

#### Week 2: Early Influences on American Religious Liberty<sup>4</sup>

- Class 4: The Religious Argument for Religious Liberty (Valeri & Inazu)<sup>5</sup>

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<sup>1</sup> Witte reading for the week: 1-17

<sup>2</sup> Emphasize Hunter's assertion that shooting wars start with culture wars.

<sup>3</sup> Westphalia and Beyond.

<sup>4</sup> Witte reading for the week: 21-70

Class 5: The Political Argument for Religious Liberty (Valeri & Inazu)<sup>6</sup>  
 Class 6: Recitation (TAs)

Week 3: The Framing of the First Amendment<sup>7</sup>

Class 7: The People (Valeri)<sup>8</sup>  
 Class 8: The Text (Inazu)<sup>9</sup>  
 Class 9: Recitation (TAs)

Week 4: The Second Great Awakening (1790 – 1830)

Class 10: Religion and Nationalism (Valeri)<sup>10</sup>  
 Class 11: Nationalism and Religion (Valeri)<sup>11</sup>  
 Class 12: Recitation (TAs)

Week 5: Civil War and the Fourteenth Amendment

Class 13: Schism around Abolition, Sectionalism, and Slavery (Valeri)  
 Class 14: Church Property Cases (Inazu)<sup>12</sup>  
 Class 15: The First Amendment Comes to the States (Inazu)<sup>13</sup>

Week 6: The Mormon Cases<sup>14</sup>

Class 16: Who Were the Mormons? (Valeri)<sup>15</sup>  
 Class 17: Killing Mormonism (Inazu)<sup>16</sup>  
 Class 18: Recitation (TAs)<sup>17</sup>

Week 7: The Progressive Era

<sup>5</sup> Valeri lectures 30 minutes on Roger Williams (read *Bloudy Tenant*); Inazu lectures 20 minutes on contemporary challenges (e.g., political lobbying restrictions on churches; *Branch Ministries*)

<sup>6</sup> Valeri lectures 30 minutes on John Locke (read Letter Concerning Toleration); Inazu lectures 20 minutes on contemporary challenges (e.g., theocratic or establishment concerns; *Grendel's Den*)

<sup>7</sup> Witte reading for the week: 71-108

<sup>8</sup> Reading from Curry/Buckley

<sup>9</sup> Madison, Jefferson, also: Detached Memorandum.

<sup>10</sup> Lyman Beecher.

<sup>11</sup> Sehat & Noll; possibly Porterfield

<sup>12</sup> No recitation this week. Preview Hosanna Tabor.

<sup>13</sup> Incorporation; include federalism discussion (e.g., *Rajneeshpuram*).

<sup>14</sup> Witte reading for the week: 141-167

<sup>15</sup> Gordon.

<sup>16</sup> *Reynolds* and *Late Corporation*; think also about Hauerwas and Gedicks exchange.

<sup>17</sup> Possible discussion: contemporary Mormonism; contemporary polygamy.

Class 19: Scopes, Secularism, and Fundamentalism (Valeri)<sup>18</sup>  
 Class 20: Religion in Public Education Today (Inazu)<sup>19</sup>  
 Class 21: Recitation (TAs)

Week 8: World War II and Patriotism

Class 22: Public Religion and Anti-Facism (Valeri)<sup>20</sup>  
 Class 23: The Jehovah's Witnesses Reshape the First Amendment (Inazu)<sup>21</sup>  
 Class 24: Recitation (TAs)

Week 9: The Cold War and Civic Religion

Class 25: Civic Religion and Godless Communists (Valeri)<sup>22</sup>  
 Class 26: Public Displays of Religion (Inazu)<sup>23</sup>  
 Class 27: Recitation (TAs)

Week 10: The 1960s and the "Fracture of Good Order"<sup>24</sup>

Class 28: Social Protest, Vietnam, and Sexual Revolution (Valeri)<sup>25</sup>  
 Class 29: School Prayer (Inazu)<sup>26</sup>  
 Class 30: Recitation (TAs)

Week 11: The 1980s and the Religious Right

Class 31: Evangelicals and Political Engagement (Valeri)  
 Class 32: Race and Tax Exemptions (Inazu)<sup>27</sup>  
 Class 33: Recitation (TAs)

Week 12: Free Exercise Disruptions

Class 34: The Welfare State, Regulation, and Religion (Valeri)  
 Class 35: The Supreme Court and Congress at War (Inazu)<sup>28</sup>

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<sup>18</sup> Longfield/Rauschenbusch

<sup>19</sup> E.g., *Mozert v. Hawkins*.

<sup>20</sup> Niebuhr

<sup>21</sup> E.g., Barnette. Importance of Covington; Four Freedoms.

<sup>22</sup> Placeholder Title

<sup>23</sup> Monuments cases to present day; Establishment Clause tensions; ceremonial prayer

<sup>24</sup> Witte reading for the week: 191-222

<sup>25</sup> Cox.

<sup>26</sup> classic cases and current tensions (overview).

<sup>27</sup> Bob Jones; Also *CLS v. Martinez* and current debates.

<sup>28</sup> *Employment Division v. Smith*, RFRA, RLUIPA.

Class 36: Recitation (TAs)

Week 13: Statutory Free Exercise

Class 37: RFRA: The Culture Wars Revisited (Inazu)<sup>29</sup>

Class 38: RLUIPA: A Sleeping Giant? (Inazu)<sup>30</sup>

Class 39: Recitation (TAs)

Week 14: The Freedom of the Church

Class 40: The Clash of Sovereigns? (Valeri)

Class 41: The Ministerial Exception (Inazu)<sup>31</sup>

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<sup>29</sup> *Hobby Lobby*

<sup>30</sup> *Holt v. Hobbs*

<sup>31</sup> *Hosanna Tabor*