

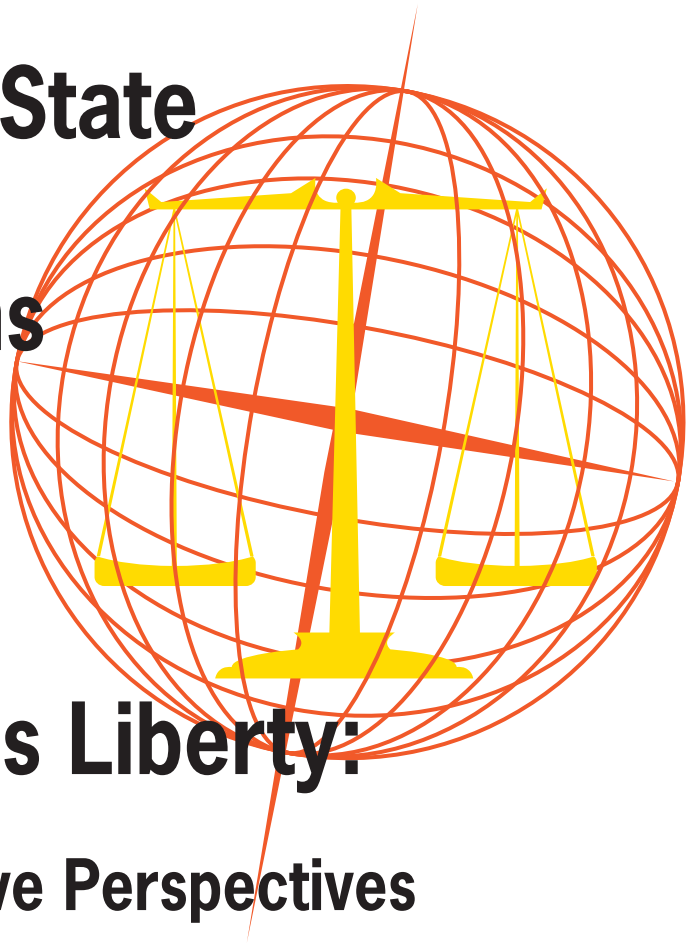
Church-State

Relations

and

Religious Liberty:

Comparative Perspectives



September 22-23, 2008



UNIVERSITY OF
NOTRE DAME

Sponsored by the
Nanovic Institute for European Studies
Notre Dame Law School
College of Arts and Letters
Institute for Scholarship in the Liberal Arts
Office of Research
Program in American Democracy

PANEL DESCRIPTIONS

Panel I: The New Calefragia Case “Church-State Relations”

Panel II: The New Hope Case “Equality and Religious Freedom: A Delicate Balance”

These panels are organized around hypothetical narratives featuring problems the discussants will seek to work out in the light of the constitutional traditions they are representing. The narratives pose problems of contemporary relevance to several advanced, liberal democracies. The constitutional democracies represented on the panels include Australia, Belgium, Canada, Germany, Italy, India, South Africa, and the United States. The first panel involves the nation of New Calefragia whose federal government provides funding to religiously affiliated healthcare institutions. The second panel focuses on whether an adoption agency located in the city of New Hope in the nation of Carolingia may be exempt from a new statute – enacted under the general equality clause of its constitution – that prohibits government contractors from refusing to provide services on the basis of sexual orientation. The constitutionality of both statutes has been challenged under constitutional provisions that guarantee religious liberty. The purpose of the panel discussions is not only to describe how each country would resolve the problem under its own constitution but also to explore the extent to which high courts of judicial review, in resolving the problem under review, should consider or be guided by the jurisprudence of other countries with which they share a common tradition of constitutional liberty.

The hypothetical narratives are available on the conference website, <http://nanovic.nd.edu>

Panel III: “Religious Liberty: Global Perspectives”

This panel will address global trends in the jurisprudence of religious liberty, including the decisions and rulings of international human rights tribunals such as the European Court of Human Rights. Among the questions under discussion are the following: Why is it more challenging to provide for the full protection of religious liberty rights than for some other rights protected by international law or domestic constitutional law? Should the law of religious freedom be abandoned altogether and brought under rights of association or freedom of speech? What should be the role of comparative law and the comparative method employed in the practice of a supranational court of constitutional review or in the general practice of a national court of constitutional review? How important is comparative judicial inquiry as a means of improving the law? How important is the goal of achieving convergence across national boundaries in the field of religious liberty?

For questions regarding the conference or registration, contact:

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IN HONOR OF DONALD KOMMERS

The Nanovic Institute for European Studies, in cooperation with several other units of the University of Notre Dame, has organized this conference as a tribute to Donald Kommers for his exceptional contributions to the field of comparative constitutional law and for his notable contributions as a teacher and scholar. Professor Kommers, who held the Joseph and Elizabeth Robbie Chair of Political Science until his recent retirement, had been a member of the Notre Dame Faculty since 1963 and a member of the Law Faculty since 1976. During the course of his career, he has spent many years abroad on major grants, senior fellowships, and visiting professorships, and in 1998 Germany's Heidelberg University awarded him an honorary doctor of laws degree in recognition of his scholarship in German constitutional law and the attention it has received in the English-speaking world. He continues to labor in the vineyard of comparative constitutional law and in 2009, having recently won the Berlin Prize, he will spend several months as a residential fellow in the American Academy of Berlin where he plans to finish a book on Germany's constitutional culture.

CONFERENCE SCHEDULE

All scheduled events will take place in McKenna Hall at the University of Notre Dame.

Monday, September 22, 2008

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| 8:45 - 10:00 a.m. | Welcome by James McAdams
Opening Address by Cole Durham
"Religious Freedom and the Relationship of State and Religious Institutions in Comparative Perspective" |
| 10:30 - 12:30 p.m. | Panel I: The New Calefragia Case
"Church-State Relations" |
| 2:30 - 4:30 p.m. | Panel II: The New Hope Case
"Equality and Religious Freedom: A Delicate Balance" |

Tuesday September 23, 2008

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| 9:30 - 11:30 a.m. | Panel III: "Religious Liberty: Global Perspectives" |
| 4:00 - 5:30 p.m. | Introduction by Donald Kommers
Address by Justice Dieter Grimm
"Protection of Religious Feelings in Liberal Democracies: Reflections on the Experience with the Danish Cartoons"
Response by Judge Kenneth Ripple |
| 6:30 - 9:00 p.m. | Dinner with remarks by Walter Murphy
Master of Ceremonies: A. James McAdams |

CONFERENCE PARTICIPANTS

Nicholas Aroney

TC Beirne School of Law
University of Queensland, Australia

Paolo Carozza

Chairman, Inter-American Commission on
Human Rights
Associate Professor of Law
University of Notre Dame

Douglass Cassel

Notre Dame Presidential Fellow
Director, Center for Civil and Human Rights
University of Notre Dame

Cole Durham

Susa Young Gates University Professor of Law
Brigham Young University

Dieter Grimm

Former Justice, German Federal
Constitutional Court
Professor of Public Law
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Cathleen Kaveny

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Donald P. Kommers

Joseph and Elizabeth Robbie Professor of Political
Science and Professor of Law
University of Notre Dame

A. James McAdams

Scholl Professor of International Affairs and
Director, Nanovic Institute for European Studies
University of Notre Dame

Walter Murphy

McCormick Professor of Jurisprudence, Emeritus
Princeton University

Kenneth Ripple

Judge, United States Court of Appeals
for the Seventh Circuit

Gerhard Robbers

Professor for Public Law, Ecclesiastical Law,
and Philosophy of Law
University of Trier, Germany

Herman Schwartz

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Catholic University of Leuven, Belgium

William Wagner

Professor and Director
Center for Law, Philosophy, and Culture
Catholic University of America