



LANDMARK SUPREME COURT CASES AND THE CONSTITUTION

REYNOLDS V. UNITED STATES (1878) MONDAY, JANUARY 2, 2006

OVERVIEW

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This month we spotlight the landmark freedom of religion case *Reynolds v. United States*, in which the Supreme Court unanimously upheld a federal law banning polygamy. The Court ruled that the First Amendment does not give people the right to break laws because they claim religious obligation to do so.

RESOURCES

- <http://caselaw.lp.findlaw.com/cgi-bin/getcase.pl?court=us&vol=98&invol=145>
- <http://www.law.umkc.edu/faculty/projects/ftrials/conlaw/freeexercise.htm>
- http://www.firstamendmentcenter.org/rel_liberty/free_exercise/index.aspx

ACTIVITY

George Reynolds was a member of the Church of Jesus Christ of Latter Day Saints. At that time, the church taught that men must practice polygamy (be “married” to multiple women at the same time) or they would face eternal damnation. Reynolds, claiming it was necessary for his salvation, married two women. He was convicted of breaking the federal law outlawing polygamy. Reynolds argued that his conviction should be overturned because of the First Amendment’s guarantee of religious freedom. The First Amendment says in part that Congress cannot prohibit “the free exercise” of religion. Reynolds said he was following his religious duty by marrying two women. Therefore, he argued, the law and his criminal conviction were unconstitutional.

The Court ruled unanimously that the First Amendment does not mean people can use their religious faith as a reason to break laws. The Court explained that the free exercise clause protects the individual’s right to believe, but does not prevent the government from passing laws restricting actions. “Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order.” The Court noted that polygamy had been considered an offense against society “from the earliest history of England.”

In its opinion, the Court referenced a letter from Thomas Jefferson. Jefferson explained that the First Amendment assures citizens that religion is a matter that “lies solely between man and his God” and that “the legislative powers of the government reach actions only, and not opinions.” The government cannot legislate belief. On the other hand, while government cannot regulate religious *belief*, it may regulate *actions* such as marriage. The Court concluded that allowing people to put their religious beliefs above the law would “permit every citizen to become a law unto himself” and allow government to exist in name only.

QUESTIONS

1. What law did George Reynolds break, and why did he break it?
2. Why did Reynolds claim his conviction was unconstitutional?
3. Why did the Supreme Court uphold his conviction and the federal law?
4. In later years, the Supreme Court decided the following cases. How do these rulings differ from *Reynolds v. United States*?
 - West Virginia could not force Jehovah’s Witnesses to salute the American flag (*West Virginia State Board of Education v. Barnette*, 1943)
 - Amish adolescents could be exempt from a state law requiring school attendance for



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all 14- to 16-year-olds, since their religion required living apart from the world and worldly influence. (*Wisconsin v. Yoder*, 1972)

- Florida cities could not pass laws banning animal sacrifice, because those laws specifically targeted the Santeria religion (*Church of the Lukumi Babalu Aye v. City of Hialeah*, 1993).
5. Do you agree that the First Amendment’s protection of “free exercise” of religion extends only to beliefs? Why or why not?



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ANSWERS

1. Reynolds was convicted of breaking a federal law banning polygamy when he married two women.
2. Reynolds claimed his conviction was unconstitutional because the First Amendment protects free exercise of religion. He asserted that marrying multiple women was his religious duty.
3. The Supreme Court held that the First Amendment protects freedom of belief, but that the government retains the power to regulate action. Reynolds was free to believe that polygamy was necessary for salvation, but he was not free to break the federal law banning it by taking the action of marrying multiple women.
4. *West Virginia v. Barnette*: Students may say that in this case, the Court appeared to accept the argument that free exercise of religion can include action (or, specifically non-action) as well as belief. Students may say that the conduct being regulated was expressive (i.e. saluting the flag) and therefore the students' right not to salute was protected by the free speech clause of the First Amendment. Others may say that the government forcing people to take positive action (saluting the flag) was different from banning certain action (polygamy, as in *Reynolds*) and therefore the law requiring flag salutation was ruled unconstitutional.

Wisconsin v. Yoder: Students may say that in this case, the Court appeared to accept the argument that free exercise of religion can include action as well as belief. Students may also say, however, that refusing to attend school after age 14 does not represent the "offense to society" that polygamy has been regarded as through history.

Church of the Lukumi Babalu Aye v. City of Hialeah: Students may say that in *Reynolds*, the Court noted that polygamy had been seen as an offense to society since the "earliest history" of England. Therefore, a law banning it was in the general interest of society. A law targeting one particular religion, as the Court held was the case in the *Santeria* case, would be unconstitutional.

5. Answers will vary.