Part I  
(approximately 10 minutes, approximately 10 points)

**On your scansheet**, please indicate the **best** answer to each of the following questions. There is no penalty for wrong answers. No credit will be given for explanations.
The State of Cineplex imposes a tax of 5% on the sale of newspapers and magazines. If Cineplex exempted religious publications from this tax, which of the following facts, if true, and if assessed in isolation from the others, would contribute most to the constitutionality of this exemption?

A. Religious publications account for only 10% of the market for newspapers and magazines in Cineplex.

B. Many people who purchase religious newspapers and magazines are model citizens.

C. The State also exempts educational, scientific, and artistic publications from the tax.

D. The State legislature’s paid chaplain edits one of the magazines exempted from the tax.
2. When religious institutions break into rival groups and litigation ensues, some courts attempt to resolve disputes according to so-called “neutral principles of law,” that is, principles that a court would apply to allocate the assets of any voluntary association that splits apart. This approach reflects:

I. Discomfort with establishing a special set of rules for religious institutions.

II. A willingness to make special rules for religious institutions, in order to protect the rights of religious associations as such.

III. Discomfort with automatically deferring to the decision of the highest body in a hierarchical church as to which portion of a congregation represents the “true church.”

IV. A desire to avoid resolving theological disputes.

A. I only.

B. II only.

C. I, III, and IV.

D. I and IV.
3. Congress prohibits the importation of casper leaves. These leaves, when infused in boiling water, produce a mildly hallucinogenic tea that serves a sacramental purpose for a religious group known as the “Union of Divine Vegetarians” (“UDV”). Congress justifies the prohibition on the ground that casper leaves share the chemical structure of the hallucinogenic drug LSD, although in a much weaker form. In May 2002, federal officials seize a box of casper leaves destined for use by a congregation of the UDV in the United States. The intended recipients bring suit against the appropriate defendants to recover possession. To what standard will the court subject the seizure of the leaves?

A. Strict scrutiny, provided the Religious Freedom Restoration Act is constitutional as applied to federal legislation.

B. Strict scrutiny, unless the court concludes that the UDV’s sacraments are unwise.

C. Minimum rationality, unless the UDV is the only religious group that uses casper leaves for sacramental purposes.

D. Minimum rationality, provided the government’s interest in suppressing the traffic in casper leaves is legitimate.
4. “Madison’s three pence” refers to:

A. The value James Madison assigned to Patrick Henry’s argument that Virginia needed a religious establishment.

B. The maximum amount of money Madison was willing to require taxpayers to contribute to a religious establishment.

C. The minimum amount of money Madison was willing to require taxpayers to contribute to a religious establishment.

D. The extent of a small mandatory tithe in favor of religion in general that Madison argued was conceptually indistinguishable from a large mandatory tithe in favor of a specific religion.
5. Consider the theory that “The Constitution should not permit the government to use religion as a term of exclusion or inclusion in any item of legislation or policy.” Which of the following laws would most clearly run afoul of this theory?

A. A law that provides “educational vouchers” to children in economically disadvantaged families, where such vouchers may be redeemed at any school, public or private, sectarian or non-sectarian.

B. A law that forbade any tax-exempt charitable organization, including religious organizations, to attempt to influence Congress through lobbying.

C. A law that banned the possession or consumption of alcoholic beverages, except for purposes of religious sacraments.

D. A law that required all owners of real property, including owners with a religious affiliation, to keep public sidewalks adjacent to their property in good repair.
Answers

1. C  These additional exemptions would make the exemption for religious publications part of a larger category, comprehended in secular terms.

2. C  Adherence to so-called “neutral principles of law” saves courts from having to make special rules for religious disputes, from having to defer to decisions of religious tribunals in hierarchical churches where no rule of civil law would otherwise require them to do so, and from becoming embroiled in disputes over religious doctrine.

3. A  The standard under RFRA is strict scrutiny.

4. D  Madison saw Henry’s bill as resting on a principle that would also permit a specific religious establishment.

5. C  The other rules treat religious and non-religious entities the same way.