THY WILL BE DONE: THE EFFECT OF VOWS OF POVERTY ON THE INHERITANCE RIGHTS OF MEMBERS OF RELIGIOUS GROUPS

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I. INTRODUCTION

Amy works as a lawyer, although few would realize it.[1] After all, she is a far cry from the traditional "lawyer" image.[2] That is because Amy Hereford, now known as Sister Amy, is also a nun sworn to a life of poverty.[3] Nearly forty years ago, Sister Amy took her vow of poverty and joined the Sisters of St. Joseph in St. Louis, Missouri.[4] In doing so, she sought the peace and quiet of a life of simplicity with her religious Sisters.[5] Sister Amy lives off of $100 a month and helps to grow food for her religious community in addition to her work as an attorney.[6] This life of simplicity has caused her to see the unnecessary worries that arise out of a materialistic culture.[7] Sister Amy believes that this unnecessary stress will cause the number of people taking vows of poverty to increase, saying, "I sense more and more interest from laypeople in our way of life."[8] But if the frequency of the vow of poverty does increase, how will this affect the estate planning of individuals who wish to leave property to family and friends who have sworn to live this lifestyle?[9]

II. TEACH ME, O LORD, THE WAY OF YOUR STATUTES—AN INTRODUCTION TO THE RELATIONSHIP BETWEEN RELIGION AND LAW

A. A Brief History of the Relationship Between Law and Religion

This Comment will explore how religious vows of poverty affect an individual's inheritance rights.[10] It will begin by exploring how courts have come to address legal issues involving religion and the limits placed on them by the Free Exercise Clause of the First Amendment.[11] This Comment will then address how courts have handled religious vows in other aspects of the law, such as contracts, taxes, and property ownership.[12] Next, it will discuss how lower courts have decided inheritance rights issues with those who have taken vows of poverty.[13] And finally, this Comment will analyze the main

1. Libby Kane, *A Nun Who Took a Vow of Poverty Nearly 40 Years Ago Says Many People Misunderstand What it Means*, BUS. INSIDER (July 23, 2017, 10:05 AM), https://www.businessinsider.com/nun-explains-vow-of-poverty-2017-7 [perma.cc/ZNG8-DWRT].
2. *Id.*
3. *Id.*
4. *Id.*
5. *Id.*
6. *Id.*
7. *Id.*
8. *Id.*
9. The foregoing hypothetical question was written by the author.
10. *See infra* Parts I–IV.
11. *See infra* Sections II.B–C.
12. *See infra* Part III.
13. *See infra* Part IV.

problems vows of poverty can cause to inheritance rights and address ways to simplify these issues.[14]

The legal principles discussed in this Comment are not limited to Christianity.[15] Rather, these concepts are examined through the lens of Christianity due to its current status as the largest religious group in Texas at seventy-seven percent of the state's population.[16] Similarly, the issues arising from vows of poverty explored in this Comment are based on Catholic vows because Catholicism is the largest denomination of Christianity in Texas.[17] The relevancy of this Comment is evidenced by the rapid growth of Catholicism in Texas (the number of Catholics doubled between the years 1960 and 1993), which could result in the increase of testamentary gifts to a religious order generally, or to an order's individual members.[18] In addition, all systems of law that originated from Europe can trace their roots back to the codification of the law of the Catholic Church.[19] This codification took place in the eleventh and twelfth centuries and came to be known as canon law.[20] Prior to the Protestant Reformation, canon law controlled many aspects of law for both the Church and civil society.[21] For example, disputes over civil contracts were settled in the ecclesiastical courts run by Church officials.[22] All legal disputes that dealt with clergy, or the Church in general, would be settled in these ecclesiastical courts rather than the civil courts, including torts, criminal law, issues of inheritance, and property law.[23]

B. The Expansion of European Law and Religion into the New World

The Supreme Court first interpreted the lingering effect of this religious law in the 1850 case *Hallett v. Collins*.[24] That case considered whether a marriage was valid under Spanish law, which granted ecclesiastical courts the authority to govern marriages.[25] The Supreme Court examined a ruling in the Council of Trent, which determined that marriages would not be valid unless witnessed by a priest or before multiple other non-priest witnesses with written permission of the bishop.[26] However, the Supreme Court

14. *See infra* Part V.

15. *See infra* Part V.

16. *Religious Landscape Study*, PEW RESEARCH CTR., http://www.pewforum.org/religious-landscape-study/state/texas/ [perma.cc/7YX7-EWP7] (last visited Apr. 24, 2019).

17. *Id.*

18. Robert E. Wright, *Catholic Church*, TEX. ST. HIST. ASSOC. (June 12, 2010), https://tshaonline.org/handbook/online/articles/icc01 [perma.cc/6G93-KPKQ].

19. Marianne Perciaccante, *Courts and Canon Law*, 6 CORNELL J.L. & PUB. POL'Y 171, 179 (1996).

20. *Id.*

21. *Id.*

22. *Id.*

23. *Id.* at 180.

24. *Id.* at 181.

25. *Id.*

26. *Id.*

determined that because the King of Spain never extended this requirement to the American colonies, interpretation of religious law was unnecessary to decide the issue.[27]

The Supreme Court next heard a religious law case, *Gaines v. Hennen*, in 1860.[28] There, the Court considered whether a child was the illegitimate offspring of a bigamist marriage.[29] An ecclesiastical court in New Orleans had previously determined that the child's father was in fact a bigamist, but the Supreme Court refused to recognize this ruling due to Spain having previously restricted ecclesiastical courts from determining the status of alleged marriages to multiple spouses.[30] Once again, the Court was able to avoid the interpretation of religious law, instead relying upon previous Spanish decrees.[31]

The Supreme Court heard its third case involving the application of religious law, *Beard v. Federy*, in 1865.[32] In that case, the Court faced the issue of whether the church owned a parcel of land under the law of the Mexican government, prior to that territory being conquered in the Mexican-American War.[33] There, the Supreme Court acknowledged that religious law was the decisive law on the issue, but still refused to actually interpret this religious law.[34] The Court instead relied on the church's timely request for recognition of ownership to decide the case.[35]

These three cases demonstrate the Supreme Court's initial unwillingness to interpret religious law to decide legal issues.[36] However, the Court was willing to utilize the applicability of religious law as evidence.[37] The key distinction is that the Supreme Court is willing to use interpretations of religious law as evidence so long as those interpretations come from an authority within the religious institution itself.[38] This is similar to the methodology advocated for in Justice Powell's dissent in the 1979 case *Jones v. Wolf*.[39] However, the majority in that case endorsed the practice of judicial interpretation in governing church documents.[40]

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27. *Id.*
28. *Id.*
29. *Id.* (A bigamist marriage is when one is married to two spouses at the same time; the second marriage would be null and void under the law).
30. *Id.* at 181–82.
31. Perciaccante, *supra* note 19, at 181–82.
32. *Id.* at 182.
33. *Id.*
34. *Id.*
35. *Id.*
36. *Id.* at 183.
37. *Id.*
38. *Id.*
39. *Id.* at 180.
40. *Id.* at 174.

C. The Supreme Court and the First and Fourteenth Amendments

The difference between the majority opinion and Justice Powell's dissent regarding how a court should interpret church law could have a profound impact on religious issues, including the inheritance rights of individuals who took vows of poverty.[41] The following cases describe how the courts have addressed property disputes within a single church and provide guidance as to how the courts will decide disputes between members of one religion (or religious order) and nonmembers.[42]

In 1871, the Supreme Court first described its methodology to decide religious issues.[43] *Watson v. Jones* involved a Presbyterian church that separated into two factions, each claiming ownership of the church's land.[44] In that case, the General Assembly of the Presbyterian Church mandated that anyone who, during the Civil War, proclaimed that slavery was a divine institution would have to repent of this sin prior to becoming a member.[45] This caused the Walnut Street Church congregation to split, with one faction joining the General Assembly of the Confederate States and the other faction joining the General Assembly of the United States.[46] In its decision, the Supreme Court distinguished hierarchical churches from congregational churches.[47] It held that hierarchical churches, such as Catholicism or Presbyterianism, are bound by the decisions of the highest church body with authority over the issue.[48] Meanwhile, congregational churches—without any such higher authority—are bound by the majority decision of the members of the church.[49] Examples of this kind of church entity include Baptist or Pentecostal churches.[50] Therefore, due to the Presbyterian Church's hierarchical nature, the faction separating from the decree of the higher authority became a new, separate organization that had no claim to the land owned by the original Assembly.[51] Furthermore, the Court emphasized that courts should not substitute their own judgments for the judgments of the relevant religious authority.[52]

However, the Supreme Court would not apply this deference to the authority of religious groups to the states until 1952 when the Supreme Court reversed a New York resolution in *Kedroff v. St. Nicolas Cathedral*.[53] In that

41. *Id.* at 184.
42. *Id.*
43. *Id.*
44. *Id.*
45. *Id.*
46. *Id.*
47. *Id.*
48. *Id.*
49. *Id.*
50. *Id.*
51. Watson v. Jones, 80 U.S. 679, 734 (1871).
52. Perciaccante, *supra* note 19, at 185.
53. *Id.*; Kedroff v. St. Nicolas Cathedral, 344 U.S. 94, 121 (1952).

case, the New York legislature granted control of the Russian Orthodox Cathedral to an archbishop elected by American Russian Orthodox.[54] In doing so, the legislature reasoned that the Soviet Union was influencing the Moscow Patriarch.[55] However, even in the midst of the Cold War, the Supreme Court still held that courts must adhere to the ecclesiastical law of the church involved in the dispute.[56] This was the first time the Supreme Court incorporated the Free Exercise Clause of the First Amendment to the states.[57]

In 1969, the Supreme Court again struck down a state law for violating the Free Exercise Clause.[58] The Georgia law allowed a church to keep its property so long as the church maintained the same beliefs and practices that it had when the church acquired the land.[59] In *Presbyterian Church in the United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*, a minority faction in a splintered church adhered to the teachings of the original hierarchy.[60] The minority faction used this law to sue the majority faction, which had separated from the General Assembly, to retain ownership of the church property.[61] But the Supreme Court held that this law was "an impermissible intrusion into a church's determination of its own doctrine."[62]

The Supreme Court continued to enforce the Free Exercise Clause in cases involving state law in 1976 in *Serbian Eastern Orthodox Diocese v. Milivojevich*.[63] In that case, the hierarchy of the Eastern Orthodox Church removed Dionisije Milivojevich from his position as bishop, appointed Firmilian Ocokoljich as his replacement, and split his former diocese into three new dioceses.[64] The Supreme Court of Illinois held the proceedings were invalid due to their defective nature.[65] However, the Supreme Court of the United States reversed these conclusions on the basis that the state supreme court substituted its own legal interpretations for that of the ecclesiastical court's interpretation of their own governing documents.[66]

In 1979, *Jones v. Wolf* opened the door for courts to examine ecclesiastical documents, so long as the examination does not result in determining religious controversies.[67] Once again, a Presbyterian church had

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54. *Id.* at 95–96.
55. *Id.* at 102–03.
56. *Id.* at 122.
57. *Id.* at 107.
58. Presbyterian Church in U.S. v. Mary Elizabeth Blue Hull Mem'l Presbyterian Church, 393 U.S. 440, 449 (1969).
59. *Id.* at 442.
60. *Id.*
61. *Id.* at 443.
62. Perciaccante, *supra* note 19, at 186.
63. Serbian E. Orthodox Diocese v. Milivojevich, 426 U.S. 696, 698–99 (1976).
64. *Id.* at 696.
65. Serbian E. Orthodox Diocese v. Milivojevich, 328 N.E. 2d 268, 284 (Ill. 1975).
66. *Milivojevich*, 426 U.S. at 708.
67. Jones v. Wolf, 443 U.S. 595, 604 (1979).

fractured over doctrinal issues and the two factions were fighting over the ownership of church property.[68] Justice Blackmun, writing for the majority, allowed courts to look at religious documents to determine whether the General Assembly or the local congregation owned the property.[69] If the General Assembly owned the property prior to the schism, ownership of church property would remain with them.[70] However, if the local church owned the property prior to the schism, then the majority of the congregation would retain ownership.[71]

III. REPAY TO CAESAR WHAT BELONGS TO CAESAR, AND TO GOD WHAT BELONGS TO GOD—THE EFFECT OF VOWS AND PROMISES ON CONTRACTS, TAXES, AND PROPERTY OWNERSHIP

The previous section detailed the way courts decide questions of control over church property.[72] But the application of religious law is not limited merely to members of churches fighting among themselves for control of property and authority.[73] Religious law can also have an impact on issues between the members of religious sects and non-members who entered into a private contract prior to marriage.[74] It can even affect the legal status of members of religious orders regarding taxation and control of income.[75] Because religious law often controls the vow of poverty, these issues can give insight into potential conflicts that may arise as to the inheritance rights of those who take these vows.[76]

A. Private Contracts

In the 1942 case *Ramon v. Ramon*, the New York State Domestic Relations Court ruled on whether a promise by a non-Catholic wife to allow her Catholic husband to raise their child in the Catholic faith was a legally binding contract.[77] In answering this question, the court looked to numerous religious documents including scripture and a 1930 encyclical written by Pope Pius XI.[78] The court found that it is of sound public policy for the pre-marital agreement to be legally enforceable, placing significance on the deep importance for a Catholic parent to raise their children within that

68. *Id.* at 597.
69. *Id.* at 604.
70. *Id.* at 603–04.
71. *Id.*
72. *See supra* Section II.C; Perciaccante, *supra* note 19, at 184.
73. Perciaccante, *supra* note 19, at 193.
74. *Id.* at 206.
75. *See* Fogarty v. U.S., 780 F.2d 1005, 1010 (Fed. Cir. 1986).
76. *See* Ord. of St. Benedict v. Steinhauser, 234 U.S. 640, 641–42 (1914).
77. Ramon v. Ramon, 34 N.Y.S.2d 100, 102 (1942).
78. *Id.* at 109–10.

faith.[79] The court stressed that a Catholic parent failing to raise their children Catholic would be excommunicated from the Church entirely.[80] Furthermore, due to Catholic teachings that a marriage recognized as valid by the Catholic Church is indissoluble, the pre-marital agreement is binding for life at the moment the marriage is complete.[81]

B. Taxation of Income

In terms of the impact on taxation, *Fogarty v. United States* saw the Federal Circuit Court of Appeals decide whether a priest, having taken a vow of poverty, was an agent for his religious order or whether he acted as an individual with taxable income.[82] The University of Virginia hired a priest, Father Fogarty, to teach theology.[83] He earned a monthly salary, but never received this money.[84] Instead, the Society of Jesus—the religious order to which Fogarty belonged—directly received all of his earnings.[85] The Society of Jesus argued that priests who take a vow of poverty should be viewed as an agent of the Society.[86] In doing so, the Society relied on a 1930 Supreme Court decision, *Poe v. Seaborn*, which extended the agency principle to marriages in community property states for taxation purposes.[87]

In its decision, the Federal Circuit Court recognized that marriages in community property states—where the income of one spouse is owned equally with the other—are similar to religious orders in which all members share property in common.[88] However, the court did not extend the agency principle to religious orders because "the agency relationship of the wage-earning spouse depended on the *operation of state community property laws*."[89] Because there were no state laws granting a similar status to religious orders living under a vow of poverty and in common with other members, the agency principle does not apply.[90] Instead, the court listed six factors relevant in determining whether members of a religious order are acting as agents of their religious order.[91] These factors are 1) the degree in which the order has control over its members; 2) the members' ownership rights as part of that order; 3) the mission of the order; 4) the type of work the members are performing; 5) the "[d]ealings between the member[s] and

79. *Id.* at 111.
80. *Id.* at 113.
81. *Id.* at 110.
82. Fogarty v. U.S., 780 F.2d 1005, 1007 (Fed. Cir. 1986).
83. *Id.* at 1006–07.
84. *Id.* at 1007.
85. *Id.*; *see* Poe v. Seaborn, 282 U.S. 101, 113 (1930).
86. *Fogarty*, 780 F.2d at 1009.
87. *Id.*
88. *Id.*
89. *Id.*
90. *Id.*
91. *Id.* at 1012.

the third-party employer"; and 6) the "dealing between the employer and the order."[92] The court itself indicated that Father Fogarty was very close to being considered an agent for tax purposes, but still held that the income he earned as a professor was his personal income rather than the order's income.[93]

A similar case involving the agency relationship between a member and the order is seen in the Seventh Circuit case of *Schuster v. Commissioner*.[94] In that case, a nun worked in a medical clinic under instructions from her religious order.[95] Much like in *Fogarty*, the nun's salary went directly to her order due to her vow of poverty.[96] The *Schuster* majority utilized the *Fogarty* factors to determine that the nun also was not acting as an agent of her order for tax purposes.[97] But Judge Cudahy, in dissent, offered a much more workable way to determine an agency relationship.[98] Cudahy would require three factors to be examined: 1) the extent to which the order controls the member; 2) whether the order can take possession of the member's earnings "without question and without the possibility of any effective adverse claim"; and 3) whether the member's work is within the purpose of the order.[99]

Both the *Fogarty* and *Schuster* cases arose after the IRS tightened the definition of an agent as it applies to religious orders.[100] The IRS limited the previous definition because tax protestors and evaders were attempting to use the vow of poverty as a means of not paying taxes.[101] *Baldwin v. Commissioner* exemplifies this kind of tax avoidance attempt.[102] Baldwin, in 1977, became an ordained minister of the Basic Bible Church of America.[103] His ordination included Basic Bible Church recognizing Baldwin, as an individual, as an official church known as The Order of Almighty God, Chapter 7909, despite not having any followers in his congregation.[104] As such, he had the authority to use the money and property of the chapter as he wished.[105] In exercising this authority, he set up a bank account in his new church's name, but used it as a personal account, depositing his paychecks into it and using those funds to pay for living expenses such as personal debts

92. *Id.*
93. *Id.* at 1013.
94. Schuster v. Comm'r, 800 F.2d 672, 675 (7th Cir. 1986).
95. *Id.* at 674.
96. *Id.*
97. *Id.* at 677 (citing Fogarty v. U.S. 780 F.2d 1005, 1012 (Fed. Cir. 1986)).
98. *Id.* at 682–83.
99. *Id.* at 680–83.
100. Perciaccante, *supra* note 19, at 197.
101. *Id.*
102. *See generally* Baldwin v. Comm'r, 309 N.W.2d 750 (Minn. 1981) (illustrating an example of a failed tax avoidance).
103. *Id.* at 751.
104. *Id.* at 751–52.
105. *Id.* at 752.

and mortgage payments.[106] He believed this qualified him for tax exemption because of his vow of poverty pursuant to Chapter 7909.[107] The court rejected this, saying the "relator's stated position that he personally is the church to which he assigned his income destroys the basis of his claimed agency since he could not have earned his income as an agent for himself."[108]

C. Taxation of Estates

Furthermore, the vow of poverty can create troublesome misconceptions in tax deductions for estates, especially because there are two levels of the vow of poverty—simple vows and solemn vows.[109] There are important differences between solemn and simple vows in regards to the ownership of property and the ability to receive inheritance.[110] When one takes a solemn vow of poverty, she forfeits all rights of ownership to anything she previously owned in life, as well as anything she may come to acquire.[111] But the simple vow of poverty is not as strict.[112] Under a simple vow of poverty, she maintains ownership of all property she owned prior to joining the order.[113] Furthermore, she is entitled to keep all gifts and inheritance given to her in an individual capacity.[114]

For example, the Tax Court of the United States decided *Estate of Callaghan v. Commissioner* in 1960, which involved a bequest to members of religious organizations and their estate tax deductibility.[115] The testatrix, Margaret E. Callaghan, executed a will in 1942.[116] In her will, Callaghan left her house to both her son and daughter, Joseph and Teresa.[117] Teresa also received all of her mother's personal effects.[118] The remainder of her estate was to be divided equally between all four of her children.[119] Her other two daughters, Margaret Mary and Rose, had taken vows of poverty as members of the Sisters of the Carmelite Convent and the Sisters of St. Joseph, respectively.[120] Margaret Mary took her simple vow of poverty in 1911, and

106. *Id.*
107. *Id.*
108. *Id.*
109. *See generally* Estate of Callaghan v. Comm'r, 33 T.C. 870, 871 (1960); *see generally* Cox v. Comm'r, 297 F.2d 36, 37 (2nd Cir. 1961); *see generally* Estate of Barry v. Comm'r, 311 F.2d 681, 681 (9th Cir. 1962); *see generally* Lamson's Estate v. U.S., 338 F.2d 376, 376 (Ct. Cl. 1964) (case examples demonstrating the vows and tax implications).
110. *Estate of Callaghan*, 33 T.C. at 872.
111. *Id.*
112. *See id.*
113. *Id.*
114. *Id.*
115. *See id.* at 875.
116. *Id.* at 871.
117. *Id.*
118. *Id.*
119. *Id.*
120. *Id.*

her solemn vow of poverty in 1952.[121] Rose never took a solemn vow of poverty, but rather only took simple vows.[122] The reasoning for the disparity in solemn and simple vows is because the Catholic Church forbade many convents in the United States from issuing solemn vows until 1952.[123] The Carmelite Convent that Margaret Mary joined was one of the convents that became eligible to give solemn vows.[124] Because Rose only took simple vows, she could give any property she owned to anyone she wished as an inter vivos gift or by will after her death.[125] The only requirement is that any earnings she made after joining the order would be property of the order.[126] Their mother was unaware of the difference between the two types of vows.[127] She mistakenly believed that anything she gave to a daughter who had taken a simple vow would go directly to the convent.[128] However, the court decided that presuming that the property given to her two daughters would belong to their convents is not sufficient to become a charitable donation for an estate tax deduction.[129] To gain the deduction, one must make a testamentary gift directly to a religious order.[130]

Another example can be seen in *Cox v. Commissioner*, a 1961 Second Circuit case that considered whether a bequest to the testatrix's son, a priest in the Society of Jesus, constituted a charitable donation to his religious order.[131] Her will left her son, Lewis, 17.25% of her residual estate.[132] The testatrix, May Cox, drafted her will prior to Lewis taking his final vows—including a vow of poverty—and becoming a member of the Society of Jesus.[133] After he took his final vows, May Cox wrote to her attorney expressing the belief that Lewis would pass all the property she left him to the Society.[134] When she died, a check for the amount that Lewis would have received was deposited into the Society of Jesus's general fund.[135] But the court held that because Lewis was explicitly named in the will, the amount was not deductible for estate tax purposes.[136] The Second Circuit maintained that Lewis had a contractual obligation under the vow of poverty that required the payment to the Society.[137] The testatrix intended to leave property to her

121. *Id.*
122. *Id.* at 873.
123. *Id.* at 872.
124. *Id.*
125. *Id.*
126. *Id.*
127. *Id.* at 873.
128. *Id.*
129. *Id.* at 875.
130. *Id.*
131. Cox v. Comm'r, 297 F.2d 36, 37 (2nd Cir. 1961).
132. *Id.*
133. *Id.*
134. *Id.*
135. *Id.*
136. *Id.* at 38.
137. *Id.*

son, not to donate part of her estate to a religious organization; as such, it was not tax deductible.[138]

A similar situation arose a year later in the Ninth Circuit case *Estate of Barry v. Commissioner*.[139] The decedent's son, Joseph, took a vow of poverty in 1952 for the Society of Jesus.[140] Unlike in *Cox*, Joseph had already taken his vow of poverty prior to his father drafting his will.[141] In fact, the decedent gave numerous inter vivos gifts of stock shares to Joseph, who donated them to various institutions operated by the Society of Jesus.[142] When he died, the decedent divided his estate into equal shares for his seven children—four of which, including Joseph, had taken vows of poverty in religious organizations.[143] Joseph surrendered his share of the inheritance to the Society of Jesus, but yet again, the decedent did not give anything to the religious order directly.[144] The Ninth Circuit, following the Second Circuit's lead, rejected the argument that Joseph was acting as a trustee for the Society of Jesus.[145] The Ninth Circuit held that, due to the explicit naming of Joseph as an individual in the will, Joseph's share was not deductible as a charitable donation.[146]

The court in *Lamson's Estate v. U.S.* relied on both of these previous cases in its ruling.[147] There, the testator's son took a vow of poverty as part of becoming a Capuchin monk.[148] Much like in *Estate of Barry*, the testator knew of his son's vow and that its effect would mean that any property given to him would be transferred to the Order.[149] The court also held that the testator must directly give the property to the religious organization to merit an estate tax deduction.[150] Furthermore, the obligation of a legatee caused by a contract does not impact this necessary requirement for an estate tax deduction.[151]

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138. *Id.*
139. *See* Estate of Barry v. Comm'r, 311 F.2d 681, 682 (9th Cir. 1962) (comparing with *Cox v. Comm'r*, 297 F.2d 36, 37 (2nd Cir. 1961)).
140. *Id.*
141. *Id.*
142. *Id.*
143. *Id.*
144. *Id.* at 683.
145. *Id.* at 684.
146. *Id.* at 685.
147. Lamson's Estate v. U.S., 338 F.2d 376, 378 (Ct. Cl. 1964).
148. *Id.* at 377.
149. *Id.*
150. *Id.*
151. *Id.* at 378.

IV. FOR AS YOU JUDGE, SO WILL YOU BE JUDGED—THE WAY COURTS DECIDE ISSUES OF INHERITANCE FOR THOSE UNDER VOWS OF POVERTY

In 1914, the Supreme Court decided the case *Order of St. Benedict v. Steinhauser*, which dealt with the issue of whether a monk, having taken a vow of poverty, can devise that property to a nonmember at his death.[152] The 2015 New York case, *In re Estate of Attea*, also addressed the issue of an individual under a vow of poverty bequeathing her property to others outside the order.[153] In the more recent decision of *McCarthy v. Fuller*, the Seventh Circuit discussed the lingering effect of a vow of poverty after the death of a nun.[154] *Kelly v. Commissioner* addresses how individuals can be released from their vows of poverty.[155]

A. Order of St. Benedict v. Steinhauser

This case involved a monk who had taken traditional vows—including the vow of poverty—as part of his admission into the Order of St. Benedict.[156] The monk, Father Wirth, wrote numerous books about religion that were published by a publishing company.[157] Upon his death, the royalties that he had personally accepted began accruing to the publishing company.[158] The Court found that while the Order gave Father Wirth permission to keep these royalties as personal money, it required the money to be used "for charitable purposes with the permission of his superiors."[159] The Court further stated that this permission did not alter his relationship to the religious order as a member.[160] It continued by referring to the Rule of St. Benedict (the governing document of the order), which allowed for member monks to retain possession of whatever his superior allows him to retain, so long as the member does not accumulate possessions or wealth.[161] The Court then turned to the argument that because a monk cannot be excused from his vows unless given permission from the Pope, the monk is forcefully deprived of his liberty and his right to acquire property is infringed upon.[162] But the Court rejects this argument, relying on the Rule of St. Benedict, which allows for voluntary withdrawal of the order for any reason.[163] Thus, the Court maintained that

152. *See* Ord. of St. Benedict v. Steinhauser, 234 U.S. 640, 641–42 (1914).
153. *See In re* Estate of Attea, 12 N.Y.S.3d 522, 523 (2015).
154. *See* McCarthy v. Fuller, 714 F.3d 971, 974 (7th Cir. 2013).
155. *See* Kelly v. Comm'r, 62 T.C. 131, 137 (1974).
156. *Steinhauser*, 234 U.S. at 641–42 (1914).
157. *Id.* at 644.
158. *Id.*
159. *Id.* at 646.
160. *Id.*
161. *Id.* at 646–47.
162. *Id.* at 648–49.
163. *Id.*

the Order of St. Benedict was to receive the royalties from Father Wirth's publications because they were, at all times after his joining the order, entitled to those earnings.[164]

B. In re Estate of Attea

The State of New York also dealt with the validity of wills made by individuals who took vows of poverty.[165] Sister George Marie, a nun of the Congregation of the Sisters of St. Joseph, died with an estate worth about two million dollars.[166] She took a vow of poverty and executed a will in 1979 that left all of her property to the Congregation of the Sisters of St. Joseph.[167] But in 1994, she drafted a new will that left various shares of her estate to her siblings.[168] However, Sister George Marie only executed this new will after she was in a severe car wreck that resulted in brain damage.[169] The Congregation of the Sisters of St. Joseph alleged that this 1994 will should not be probated because, among other things, it is a breach of contract with regard to her vow of poverty.[170] However, the court held that this contract theory does not affect whether the will is valid for probate purposes.[171] The decision still allowed for the Congregation of the Sisters of St. Joseph to make this contractual argument in later proceedings regarding the equity of the will.[172]

C. McCarthy v. Fuller

The Seventh Circuit case, *McCarthy v. Fuller*, is a relatively recent case addressing the issues of inheritance rights for individuals under vows of poverty.[173] The case arises out of an alleged miraculous apparition of the Blessed Virgin Mary.[174] In 1956, Sister Ephrem claimed to see a vision of the Blessed Virgin Mary as a member of the Congregation of the Sisters of the Most Precious Blood of Jesus.[175] This apparition told Sister Ephrem, "I am Our Lady of America" and began teaching her a devotion to be practiced by American Catholics in the United States.[176] These visions took place

164. *Id.* at 651.
165. *See In re* Estate of Attea, 12 N.Y.S.3d 522, 523 (2015).
166. *Id.*
167. *Id.*
168. *Id.* at 523–24.
169. *Id.* at 526.
170. *Id.*
171. *Id.*
172. *Id.*
173. McCarthy v. Fuller, 714 F.3d 971, 974 (7th Cir. 2013).
174. *See id.* at 9722–73; *see also* OUR LADY OF AMERICA, https://www.ourladyofamerica.com [perma.cc/X2Q8-SDKS] (last visited Apr. 4, 2019).
175. *McCarthy*, 714 F.3d at 972.
176. *Id.* at 972–73.

within the borders of the Archdiocese of Cincinnati, and the Archbishop approved their authenticity and supported a program to promote the devotion to the faithful.[177] In 1977, Sister Ephrem and two other members of the Congregation of the Sisters of the Most Precious Blood of Jesus requested to separate themselves to form a new religious order.[178] It was to be called the Contemplative Sisters of the Indwelling Trinity, and its purpose was to promote the devotions taught by the Blessed Virgin Mary to Sister Ephrem.[179] When Sister Ephrem died in 2000, she willed all of her property to Patricia Ann Fuller—also known as Sister Therese—who was one of the women who wished to form the Contemplative Sisters of the Indwelling Trinity with Sister Ephrem.[180] The property given to Patricia Ann Fuller included Sister Ephrem's diary detailing the apparitions, a song written about the apparitions, and a statue and painting depicting Sister Ephrem's visions of the Blessed Virgin Mary during the apparitions, all of which were subject to copyrights.[181] In 2005, Albert H. Langsenkamp and Kevin McCarthy offered to help Sister Therese promote the devotion to other Catholics.[182] But, in 2007, they had a falling out, which resulted in Langsenkamp and McCarthy suing for possession of Sister Ephrem's artifacts.[183]

McCarthy argued that the property belonged to the Congregation of the Sisters of the Most Precious Blood of Jesus.[184] He also asserted that Sister Therese was no longer a nun or religious sister as evidenced by the Vatican issuing a ruling that ended her membership in the order.[185] The Seventh Circuit held that it has authority to decide whether a church body has already ruled on an issue, but if it finds that a ruling has already been made, then it must accept that ruling.[186] Vatican officials filed an amicus brief explaining the status of the former Sister Therese.[187] It explained that she became a sister of the Congregation of the Sisters of the Most Precious Blood of Jesus in 1965—which included the vow of poverty—but in 1977 was asked to take a leave of absence.[188] Four days after the Congregation asked Sister Therese to leave, she, Sister Ephrem, and another sister requested to establish the Contemplative Sisters of the Indwelling Trinity.[189] However, the Vatican denied this request, and on August 11, 1982, Sister Therese was released of her vows and dismissed from the Congregation of the Sisters of the Most

177. *Id.* at 973.
178. *Id.*
179. *Id.*
180. *Id.*
181. *Id.*
182. *Id.* at 973–74.
183. *Id.* at 974.
184. *Id.*
185. *Id.*
186. *Id.* at 976.
187. *Id.*
188. *Id.* at 976–77.
189. *Id.* at 977.

Precious Blood of Jesus.[190] The Archbishop of Cincinnati reaffirmed this dismissal in 2008.[191] And, in 2012, the Vatican requested that the American courts treat the former Sister Therese—now Patricia Ann Fuller—as any normal citizen.[192] Fuller contended that in 1979 she took private vows, which would retain her status as a religious sister, but the Vatican rejected this assertion that private vows give a person special status in the Church.[193] The Seventh Circuit ultimately concluded that neither a jury, nor a district judge, nor the Seventh Circuit itself had the authority to question the Vatican's ruling.[194] This case shows that even if individuals believe they are bound by vows of poverty, their church's authoritative body can dismiss them, even involuntarily, or deny that they had ever been taken.[195]

D. Kelly v. Commissioner

The case of *Kelly v. Commissioner*, while ultimately addressing the issue of the agency of a priest's labor for income tax purposes, is included here rather than in Part II because the main point of contention is when the priest left his religious order.[196] Francis E. Kelley became a novice member of the Order of Preachers in 1951.[197] By 1955, he had taken his solemn vows, including a vow of poverty.[198] As part of this vow, he assigned his inheritance rights to his sister.[199] After being ordained a priest in 1958, he worked as a professor until 1967.[200] During this time he received no monetary payment for his work and his wages were paid directly to the Order of Preachers.[201] In 1966, he began to question whether he wanted to continue living as a priest under his vows.[202] He requested permission from his superior to live outside the Order as a normal layman, but his superior refused.[203] But the next year, after renewing his request to live outside the Order, his superior granted permission.[204] He began collecting his own wages to support himself and eventually decided to leave the Order of Preachers.[205] In addition to leaving the Order, he also requested permission

190. *Id.*
191. *Id.*
192. *Id.*
193. *Id.* at 978.
194. *Id.*
195. *Id.*
196. *See* Kelly v. Comm'r, 62 T.C. 131, 137 (1974).
197. *Id.* at 132.
198. *Id.*
199. *Id.*
200. *Id.* at 132–33.
201. *Id.*
202. *Id.* at 133.
203. *Id.*
204. *Id.* at 134.
205. *Id.* at 134–35.

to marry.[206] This process took longer than Kelly anticipated, as it required special permission from the Pope in Rome.[207] So, rather than waiting for permission to be married in a religious ceremony, he was married by a Justice of the Peace in 1969.[208] This completely severed his relationship with the Order of Preachers and effectively released him from his vows.[209] Eventually, he did receive this permission from the Pope and he had a second ceremony performed in the Catholic Church.[210] But, when filing his income taxes for 1969, he attempted to subtract $5,445 from his gross income due to his agency relationship with the Order.[211] The court rejected this agency argument because he could be released from his vows at anytime, either with permission from the Pope or by violating his vows and subsequently removing himself from the Order's jurisdiction.[212] This case shows that the vow of poverty acts as a contract between an individual and a religious organization that can be terminated at any time by the member removing himself from the order's jurisdiction.[213]

V. FOR WHATEVER WAS WRITTEN IN EARLIER TIMES WAS WRITTEN FOR OUR INSTRUCTION—ANALYSIS

A vow of poverty essentially acts as a contract between a specific religious group and an individual.[214] But problems arise when the drafters of a will are unaware of the intricacies of these vows.[215] For example, the differences in ability to acquire property in simple vows and solemn vows are not well known, even by those who actively practice their faith with children who have taken these vows.[216] The only way to learn of these difficulties is to examine the relevant governing documents of religious institutions.[217]

A. Proposed Statute

The Supreme Court has placed limitations on how these documents can be interpreted.[218] It is permissible to use the interpretations of religious law

206. *Id.* at 135.
207. *Id.*
208. *Id.* at 135–36.
209. *Id.*
210. *Id.* at 136.
211. *Id.*
212. *Id.* at 137.
213. *Id.*
214. *See id.*
215. *See* Estate of Callaghan v. Comm'r, 33 T.C. 870, 871 (1960).
216. *See id.* at 872–73.
217. *See* Ord. of St. Benedict v. Steinhauser, 234 U.S. 640, 646–47 (1914).
218. *See* Perciaccante, *supra* note 19, at 183.

from the relevant legal authority, such as a bishop or General Assembly.[219] But it is a violation of the Free Exercise Clause for a court to superimpose its own interpretation over that of the religious group.[220] This applies to the states as well.[221] The inability for any court to alter an official interpretation of religious law results in that interpretation being completely binding on every court.[222] For example, an official of a religious order can involuntarily dismiss a member from their vows, much like in *McCarthy v. Fuller*.[223] But the individual can also leave their vows at any time and not be bound by them, as seen in *Kelly v. Commissioner*.[224] The authorities that can make those interpretations vary between hierarchical and congregational churches, but they are all binding nonetheless.[225] It does seem, however, that a court may interpret religious documents if its interpretation does not involve a religious determination, such as a contract between two individuals.[226] New York made such an interpretation in determining whether a contract between a believer and non-believer is binding in *Ramon v. Ramon*.[227]

Additionally, the legal effect of a vow of poverty is not evident to the average person or even the average lawyer.[228] First, contractual obligations between the individual under a vow of poverty and the religious order are binding under contract law, but a violation of these obligations cannot be used to invalidate a will in probate proceedings, such as in *In re Estate of Attea*.[229] Second, like in *Fogarty v. United States*, the Tax Courts have determined that members of religious orders are nothing more than individuals giving to charity, rather than agents acting for a principal.[230] Therefore, bequeathing property to children in religious orders would not qualify as a charitable donation for an estate tax deduction.[231] This estate tax policy indicates that these beneficiaries legally inherit and own the property before willfully donating it to their religious orders.[232] In this sense, a member of a religious order is not too different than the attempted tax evader in *Baldwin v. Commissioner*.[233] The vow of poverty for both a member of a legitimate religious order and an attempted tax evader is a personal matter

219. *See id.*
220. *See id.* at 185.
221. *See id.* at 185–88.
222. *See* McCarthy v. Fuller, 714 F.3d 971, 976 (7th Cir. 2013).
223. *See id.* at 977.
224. *See* Kelly v. Comm'r, 62 T.C. 131, 137 (1974).
225. *See supra* notes 47–49 and accompanying text.
226. *See* Perciaccante, *supra* note 19, at 207.
227. *See supra* Section II.A.
228. *See supra* Parts II–III.
229. *See supra* notes 170–71 and accompanying text.
230. *See* Fogarty v. U.S., 780 F.2d 1005, 1013 (Fed. Cir. 1986).
231. *See supra* Section II.C.
232. *See supra* Section II.C.
233. *Compare supra* Section II.C, *with* Baldwin v. Comm'r, 309 N.W.2d 750, 752 (Minn. 1981) (pointing out that while some courts defer to religious authorities, some courts will reject efforts at tax avoidance).

not controlled by the law.[234] The only real difference between the two, as far as the law is concerned, is that one actually donates his property to a charitable entity.[235]

The best way to clarify the confusion arising from the relationship between religious vows of poverty and estate planning would be to pass a statute outlining how disputes are resolved and clarifying obscure tax laws.[236] A potential statute would be:

(a) When disputes arise as to the property rights of those having taken religious vows of poverty in hierarchical religious organizations, the interpretation of the applicable governing documents of their institution by the relevant authority shall be evidence of who has ownership.

(b) When disputes arise as to the property rights of those having taken religious vows of poverty in congregational religious organizations, the interpretation of the applicable governing documents of their institution by the majority of the congregation shall be evidence of who has ownership.

(c) Regarding subsections (a) and (b), if no previous interpretations of governing documents exist then the court shall request such an interpretation from the relevant authority. If no such governing documents exist, then the court shall request the relevant authority or majority of the congregation to detail their practices.

(d) Rulings by a relevant authority as to the membership status of individuals claiming to be within their organization shall be taken as fact.

(e) The interpretation of religious documents by a relevant authority that a contract between those having taken a religious vow of poverty and their religious order has been made shall be admissible evidence in determining the validity of a will in probate proceedings. This shall not allow any other impermissible contract evidence to be used to determine the validity of a will in probate proceedings.

(f) "Relevant authority" may include an individual, such as a bishop, a select group of individuals such as a General Assembly, or a majority vote of the congregation depending on the religious group's classification as hierarchical or congregational.

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234. *See supra* Section II.C; *see also Baldwin*, 309 N.W.2d at 752.

235. *See supra* Section II.C; *see also supra* note 107 and accompanying text.

236. Paul Beneke, *Start with Enacted Law, Not Common Law*, 10 NO. 2 PERSP.: TEACHING LEGAL RES. & WRITING 76 (Winter 2002).

(g) All testamentary gifts and earnings of individuals having taken a vow of poverty, either before or after the drafting of the will, shall be treated as a gift to the individual rather than the religious organization to which they belong, and such gifts will not be considered tax-deductible charity.[237]

B. Explanation and Application

Sections (a) through (d) of the proposed statute would ensure that courts do not violate the Free Exercise Clause of the First Amendment by imposing their own interpretations on religious teachings.[238] Section (d) ensures that religious authorities are able to authoritatively inform the court of who is a member of their organization.[239] These sections would also indicate to lawyers that they should examine governing documents of religious orders and their official interpretations before drafting the wills of those who are either members of a religious order or those who will bequeath property to a member of a religious order.[240] Section (e) would allow the use of religious evidence to invalidate a will in probate court when that will violates the individual's vow of poverty, which would overturn the ruling in *In re Estate of Attea*.[241] Section (f) also codifies the Supreme Court's ruling in *Watson v. Jones*, which defined who the relevant interpretative authority would be in various kinds of religious organizations.[242] Additionally, Section (g) codifies how courts have viewed individuals under vows of poverty in agency and tax law—as an individual that charitably donates his property to the religious order.[243]

For example, in *Fogarty v. United States*, the Federal Circuit Court declared that a Jesuit priest was not an agent of the Society of Jesus.[244] Under Section (g) of the proposed statute, the outcome would remain the same without having to analyze six separate factors.[245] Instead, he would be classified as an individual donating his earnings to the Society of Jesus.[246] *Schuster v. Commissioner* would also reach the same outcome, and likely without a dissenting opinion from Judge Cudahy.[247] The proposed statute would preempt Judge Cudahy's three-factor analysis by classifying all

237. The foregoing proposed statute was written by the author.
238. Perciaccante, *supra* note 19, at 185.
239. *See* McCarthy v. Fuller, 714 F.3d 971, 978 (7th Cir. 2013).
240. *See supra* Sections II.C, III.A–C.
241. *See In re* Estate of Attea, 12 N.Y.S.3d 522, 526 (2015).
242. *See* Perciaccante, *supra* note 19, at 184.
243. *See supra* Sections II.B–C.
244. *See* Fogarty v. U.S., 780 F.2d 1005, 1013 (Fed. Cir. 1986).
245. *See id.* at 1012.
246. *See id.* at 1013.
247. *See* Perciaccante, *supra* note 19, at 199–200.

individuals who have taken a vow of poverty as individual charitable contributors rather than as agents.[248]

Section (g) would also codify the tax law surrounding estate tax deductions from bequests to individuals under a vow of poverty.[249] Both Margaret Mary and Rose in *Estate of Callaghan v. Commissioner* would inherit the property as individuals before willfully transferring the property to their religious orders.[250] The proposed statute would also leave open the possibility of those who have taken simple vows, such as Rose, to retain the property that she inherited or give it to someone outside the order.[251] The rulings in *Cox v. Commissioner*, *Estate of Barry v. Commissioner*, and *Lamson's Estate v. United States* would remain unchanged as well, as each of these decisions held that bequests must be made to religious orders specifically, rather than to individual members, to gain an estate tax deduction.[252] Furthermore, the proposed statute would continue to prevent would-be-tax-dodgers from hiding their income in personal churches like in *Baldwin v. Commissioner*.[253] Because Baldwin did not donate to a separate religious entity, but rather "donated" all of his own earnings into a personal bank account, his attempt to create a personal charity for himself would still fail.[254]

Additionally, Sections (a)–(c) of the proposed statute would signal to lawyers that they should examine applicable religious documents and seek out interpretations from the relevant religious authorities, like in *Order of St. Benedict v. Steinhauser*.[255] This would protect the original contractual meaning of the vow of poverty against adverse claims by a third party to the member's earnings and property.[256] Section (d) would maintain the right for a religious institution to decide whether an individual claiming to be a member of their organization is in fact a member.[257] Sections (a)–(d) would serve the collective purpose of ensuring the Free Exercise Clause is not violated by inappropriate judicial determinations.[258]

Section (e) would also allow evidence of contractual obligations arising out of a vow of poverty to invalidate a will in probate proceedings.[259] This is the only change to the common law that this Comment recommends.[260]

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248. *See id.*
249. *See supra* Section II.C.
250. *See* Estate of Callaghan v. Comm'r, 33 T.C. 870, 875 (1960).
251. *See id.* at 872.
252. *See* Cox v. Comm'r, 297 F.2d 36, 38 (2nd Cir. 1961); Estate of Barry v. Comm'r, 311 F.2d 681, 685 (9th Cir. 1962); Lamson's Estate v. U.S., 338 F.2d 376, 378 (Ct. Cl. 1964).
253. *See supra* note 102–07 and accompanying text.
254. *See* Baldwin v. Comm'r, 309 N.W.2d 750, 752 (Minn. 1981).
255. *See* Ord. of St. Benedict v. Steinhauser, 234 U.S. 640, 648–49 (1914).
256. *See id.* at 651.
257. *See* McCarthy v. Fuller, 714 F.3d 971, 977 (7th Cir. 2013).
258. *See id.* at 978.
259. Perciaccante, *supra* note 19, at 185.
260. *See supra* Section III.B.

This change would increase the efficiency of the court system generally, as a religious organization would not have to challenge the validity of the will in a separate proceeding.[261] Furthermore, as the frequency of religious organizations challenging the validity of a member's will would be low, the probate courts would not suffer from unnecessary backlog.[262]

To further clarify the proposed statute, suppose two brothers, Andy and Bob, each take vows of poverty. Andy joins the Church of the Nazarene Without Borders, a community without a recognized leader, no ties to any other religious community, and no written rules. Bob, however, takes his simple vows and becomes a monk in the Order of Pope Alexander, an international organization backed by the Catholic Church. Their third brother, Charlie, does not take a vow of poverty. When their mother dies, her estate is divided into three shares. Charlie sues, claiming that because Andy and Bob took vows of poverty, they surrendered their rights to their shares of the estate.[263]

Because Andy belongs to a congregational organization, section (b) would apply if they had any documents to interpret.[264] However, because they do not have written rules, section (c) would allow a relevant authority to decide religious questions, such as whether they can accept bequests from a family member's will.[265] Because they are congregational in nature, section (f) allows a majority decision to serve as a relevant authority.[266] If the majority votes to allow Andy to accept his mother's bequest, conditioned on it being donated to the organization, then this vote would be the legally binding interpretation of their religious teaching.[267] Additionally, because the bequest went to Andy rather than his religious organization, section (g) would not allow that share of the inheritance to be deducted from the estate tax.[268] However, Bob, being part of a hierarchical organization, would rely on section (a) and would only need the determination of a relevant authority in the Catholic Church.[269] Because simple vows allow members of religious orders to accept inheritance, Bob would be entitled to keep his share in his mother's estate as personal property.[270]

Continuing with the hypothetical, assume Bob dies after taking his solemn vows, which forbid him to bequeath any property to someone outside the Order, but bequests half of his personal property to Charlie and the other

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261. *See supra* Section III.B.

262. *See generally* Sections III.A–C. (These three cases are the only ones found that deal with someone challenging the will of a testator who took a vow of poverty.).

263. The foregoing hypothetical was created by the author for the purpose of this Comment.

264. *See* Ord. of St. Benedict v. Steinhauser, 234 U.S. 640, 648–49 (1914).

265. *See* Perciaccante, *supra* note 19, at 185.

266. *See id.*

267. *See id.*

268. *See supra* Section V.A.

269. *See* Perciaccante, *supra* note 19, at 185.

270. *See* Estate of Callaghan v. Comm'r, 33 T.C. 870, 873 (1960).

half to Andy's religious organization in violation of these vows. The Order of Pope Alexander sues claiming that Bob violated the contract arising out of his solemn vow of poverty.[271]

Here, under the current law, the Order of Pope Alexander would be unable to challenge the validity of the will in probate proceedings.[272] But under the proposed statute, they would be able to challenge it in probate court under section (e).[273] Furthermore, the Order of Pope Alexander's suit would likely succeed due to Bob's solemn vows.[274]

VI. CONCLUSION

As with any area of law that is protected by the Constitution, there are many important issues to consider.[275] This is especially true when it comes to issues regarding religious freedom.[276] Courts and legislatures must be careful not to violate the Free Exercise Clause, while still trying to ensure justice.[277] The methodology utilized by the Supreme Court—allowing the relevant authority to definitively speak to religious questions—effectively reaches the balance of protecting religious freedom and ensuring justice.[278] The proposed statute captures this methodology and applies it to the inheritance rights of individuals sworn to vows of poverty.[279] The statute was also written to codify the majority of common law rulings.[280] It is important to codify these common law rulings because the majority of the cases that address the issues of the inheritance rights of those who have taken vows of poverty are only binding authority in their specific jurisdiction, leaving the rest of the country with no binding precedent.[281] The codification of this collection of common law precedent will give judges across the United States a clear and unified framework to pursue justice.[282]

The proposed statute will also provide to lawyers who take on vow of poverty cases with the tools to competently advocate for their clients.[283] The statute gives clear guidelines for who is considered relevant religious authority, when religious interpretations should be used, and the financial consequences of interpretations.[284] This codification would also assist the

271. The foregoing hypothetical was written by the author.
272. *See supra* Section II.B.
273. *See In re* Estate of Attea, 12 N.Y.S.3d 522, 526 (2015).
274. *See Estate of Callaghan*, 33 T.C. at 872.
275. *See* Perciaccante, *supra* note 19, at 183.
276. *See id.*
277. *See id.*
278. *See id.*
279. *See id.*
280. *See supra* Parts II–III.
281. *See supra* Parts II–III.
282. *See* Beneke*, supra* note 236.
283. *See* Ord. of St. Benedict v. Steinhauser, 234 U.S. 640, 648–49 (1914).
284. *See* Perciaccante, *supra* note 19, at 183–84; *see also* Part II and accompanying text.

drafter of the will to ensure his or her clients make the appropriate bequests for their heirs.[285]

This Comment began by recounting the story of Sister Amy, the lawyer-nun.[286] In that story, she suggested that interest is rising in the life of simplicity found through the vow of poverty.[287] This posed the question of what the legal consequences of such vows would be on inheritance rights.[288] This proposed codification of common law would answer that question and provide adequate legal guidance to a relatively unknown legal issue.[289]

285. *See supra* Section II.C.
286. *See* Kane, *supra* note 1.
287. *See id.*
288. *See supra* note 9 and accompanying text.
289. *See supra* Part IV.