

TENETS OF SEPARATION OF CHURCH AND STATE

THE FIRST AMENDMENT

The first amendment to the Constitution reads, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." The two parts, known as the "establishment clause" and the "free exercise clause" respectively, form the textual basis for the Supreme Court's interpretations of the "separation of church and state" doctrine.

Three central concepts were derived from the 1st Amendment which became America's doctrine for church-state separation: no coercion in religious matters, no expectation to support a religion against one's will, and religious liberty encompasses all religions. In sum, citizens are free to embrace or reject a faith, and support for religion—financial or physical—must be voluntary, and all religions are equal in the eyes of the law with no special preference or favoritism.

There are numerous Supreme Court cases and law review and other writings on the First Amendment Establishment Clause, as applied to a wide range of situations. A partial list can be located under https://en.wikipedia.org/wiki/Lemon_v._Kurtzman, External Links.

THOMAS JEFFERSON'S VIEWS:

The principle is paraphrased from Jefferson's "separation between Church & State". It has been used to express the understanding of the intent and function of this amendment, which allows [freedom of religion](#). It is generally traced to a [January 1, 1802, letter](#) by Jefferson, addressed to the [Danbury Baptist Association](#) in [Connecticut](#), and published in a Massachusetts newspaper.

Jefferson wrote:

Believing with you that religion is a matter which lies solely between Man & his God, that he owes account to none other for his faith or his worship, that the legitimate powers of government reach actions only, & not opinions, I contemplate with sovereign reverence that act of the whole American people which declared that their legislature should "make no law respecting an establishment of religion, or prohibiting the free exercise thereof," thus building a wall of separation between Church & State. Adhering to this expression of the supreme will of the nation in behalf of the rights of conscience, I shall see with sincere satisfaction the progress of those sentiments which tend to restore to man all his natural rights, convinced he has no natural right in opposition to his social duties."

Relevant Arizona Issues

For up-to-date information, resources and more on these issues in Arizona, please see www.SecularAZ.org, Arizona's Voice for the Separation of Religion & Government, a 501©3.

On the site, the following Arizona issues are addressed:

- Reproductive Rights & Justice
- Civil Rights
- Education
- Discrimination
- Healthcare
- Tax Policy

SUPPORTING SOURCES

Paschal, George (1868) [1868]. [*The Constitution of the United States Defined and Carefully Annotated*](#). W.H.& O.H. Morrison Law Booksellers. p. [254](#)

Boston, Rob (2012). "A Delicate Balance". *Conscience*. **33** (2): 12–16. [ProQuest 1039541028](#)

Jefferson, Thomas. [Jefferson's Letter to the Danbury Baptists: The Final Letter, as Sent](#). The Library of Congress Information Bulletin: June 1998. Lib. of Cong., June 1998. Web. Aug 7, 2010.

A FEW OF THE SIGNIFICANT SUPREME COURT CASES REGARDING THE SEPARATION OF CHURCH AND STATE:

- **Reynolds v. United States**, 98 U.S. 145 (1878) – Held that religious duty was not a defense to a criminal indictment. The case addressed the First Amendment's protection of religious liberties, impartial juries and the Confrontation Clauses of the Sixth Amendment. This was a test case of the Morrill Anti-Bigamy Act challenged by the LDS Church, claiming that the Act infringed on their members' right to practice their religion as bigamy was a part of the LDS religion, so therefore he had no criminal intent, he was following his religious duty, as well as other legal issues. His conviction and the Act were both upheld.
- **Everson v. Board of Education**, 330 U.S. 1 (1947) – Applied the Establishment Clause of the First Amendment to state law – a NJ law slowed government funds to pay for transportation of students to both public and Catholic schools, and the

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Court recognized Jefferson's language regarding the wall of separation between church and state.

- ***Cantwell v. Connecticut***, 310 U.S. 296 (1940) – Held that the First Amendment's federal protection of religious free exercise incorporates via the Due Process Clause of the Fourteenth Amendment and so applies to state governments too.
- ***Engel v. Vitale***, 370 U.S. 421 (1962) – the Court ruled that it is unconstitutional for state officials to compose an official school prayer and to encourage its recitation in public schools, due to violation of the First Amendment.
- ***Epperson v. Arkansas***, 393 U.S. 97 (1968) – the Court invalidated an Arkansas statute prohibiting the teaching of human evolution in the public schools because it violated the Establishment Clause of the First Amendment because it required 'that teaching and learning must be tailored to the principles or prohibitions of any religious sect or dogma.'
- ***Edwards v. Aguillard***, 482 U.S. 578 (1987) – The Court ruled that the Louisiana law requiring the teaching of creationism when evolution was taught was unconstitutional because it was specifically intended to advance a particular religion.
- ***Lemon v. Kurtzman***, 403 U.S. 602 (1971) – The Court overruled statutes in Pennsylvania and Rhode Island that permitted the reimbursement to private schools for the salaries of teachers who taught in the private elementary schools from public textbooks and with public instructional materials. In setting up a three prong Lemon test and citing it in ***Wallace v. Jaffree***, 472 U.S. 38 (1985) (silent school prayer not ok but moment of silence ok) and ***Corporation of Presiding Bishop v. Amos***, 483 U.S. 327 (1987) (the court decided that the exemption of religious organizations from the prohibition of religious discrimination in employment in [Title VII](#) of the [Civil Rights Act](#) is constitutional)
- **HOWEVER – the Court has moved away from the Lemon test, not yet explicitly overturning it** but instructed lower courts to disregard it in favor of a new standard for evaluating religious actions in a public school. See: Feldman, Noah (June 27, 2022). ["Supreme Court Is Eroding the Wall Between Church and State"](#). [The Washington Post](#) and Justice Alito (June 29, 2023) ["Groff v. DeJoy, 600 U.S. \(2023\), Opinion of the Court, slip opinion at page 7" \(PDF\)](#). [United States Supreme Court](#).