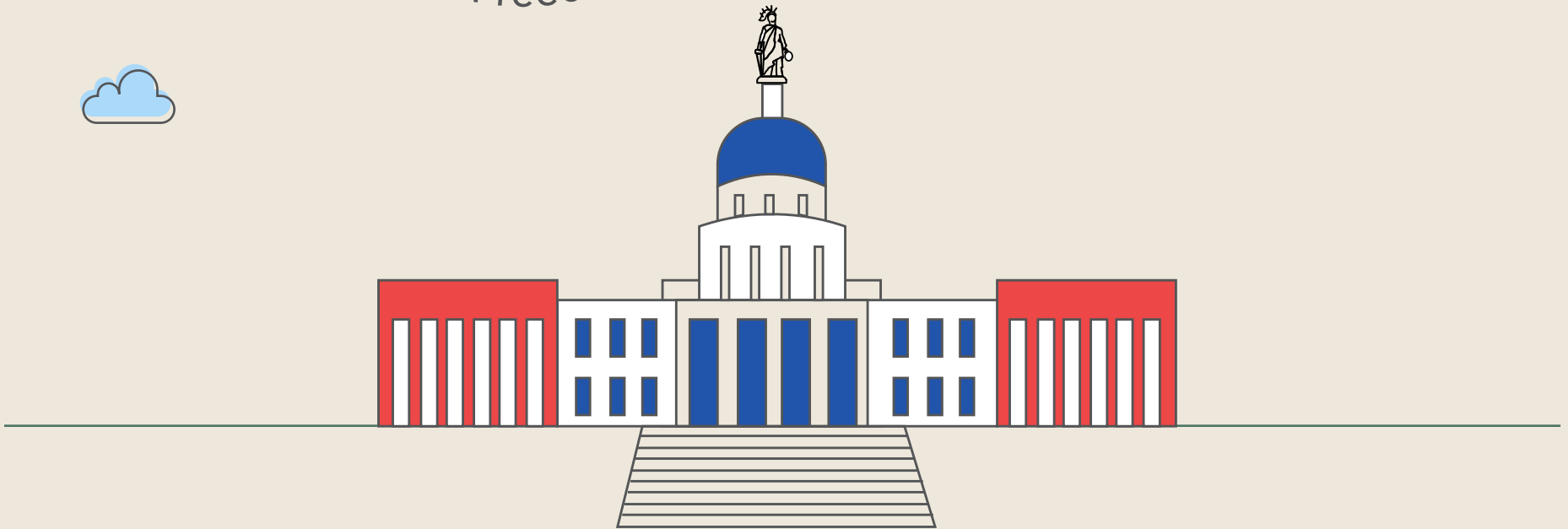


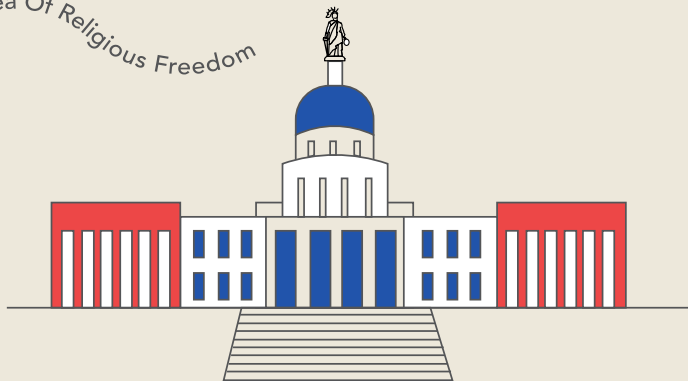
The Idea Of Religious Freedom



A Brief History of Religious Freedom in the United States

The
National
Museum
of American
Religion

The Idea Of Religious Freedom



The idea of religious freedom, having the right to believe and worship according to one's conscience, has been a core value since America's founding, even as it has been contested by some over time and hard to live out perfectly.

Below is a brief history of religious freedom in the United States.

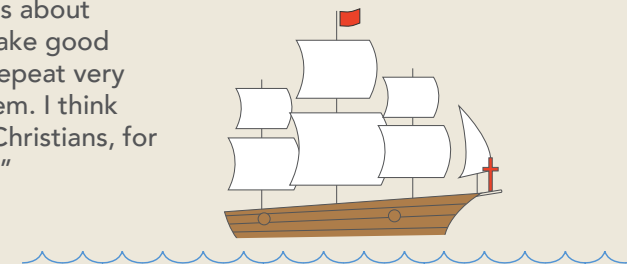
○ Pre-European Settlement

Although Native American nations vary greatly in their religious practices prior to contact with Europeans, most are fluid and interwoven with cultural practices. Because these practices tended to be non-exclusionary, they often incorporate new ideas if they seem effective. Although the idea of "religious freedom" does not quite apply (as a European construct), Natives are functionally free from the apparatus of state coercion and ideas of orthodoxy in regards to religious beliefs and practices.



○ 1492

Christopher Columbus sails under the Catholic Monarchs and upon arriving at San Salvador in October, writes about the natives: "They ought to make good and skilled servants, for they repeat very quickly whatever we say to them. I think they can very easily be made Christians, for they seem to have no religion."



○ 1607

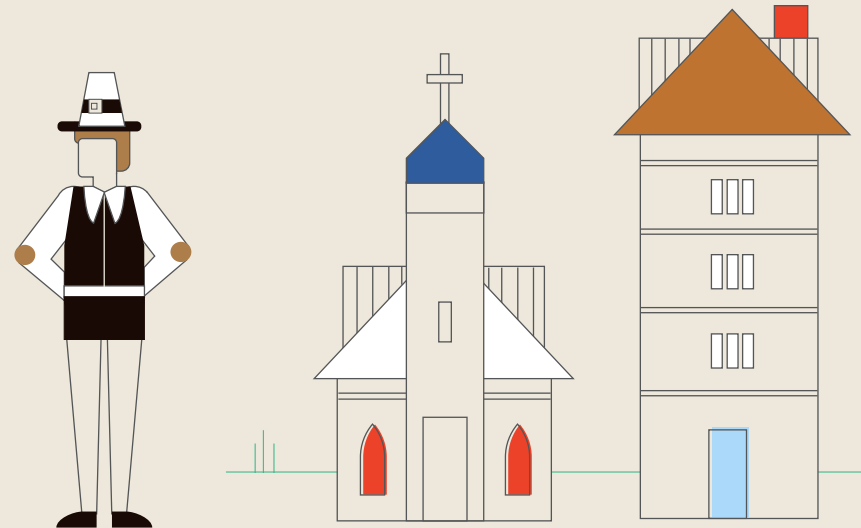
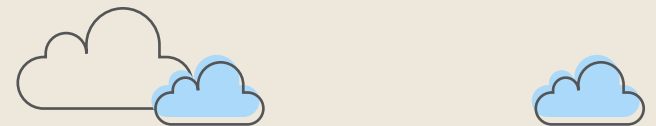
Before sailing for Jamestown, an oath is taken declaring that the Pope has no authority over the emigrants.

○ 1610

Jamestown is put under Martial Law by Lord de la Warr, and church attendance is required, with fourteen services held each week. The Captain of the Watch is to round up all persons, except those sick or injured, and bring them to the Church at the appropriate times. The laws prescribe a range of punishments for those who fail to attend services, as well as for the minister if he fails to conduct a service. Missing one will cost the settler his ration of food for the day. Additional absences receive increasingly severe punishments and can result in death.

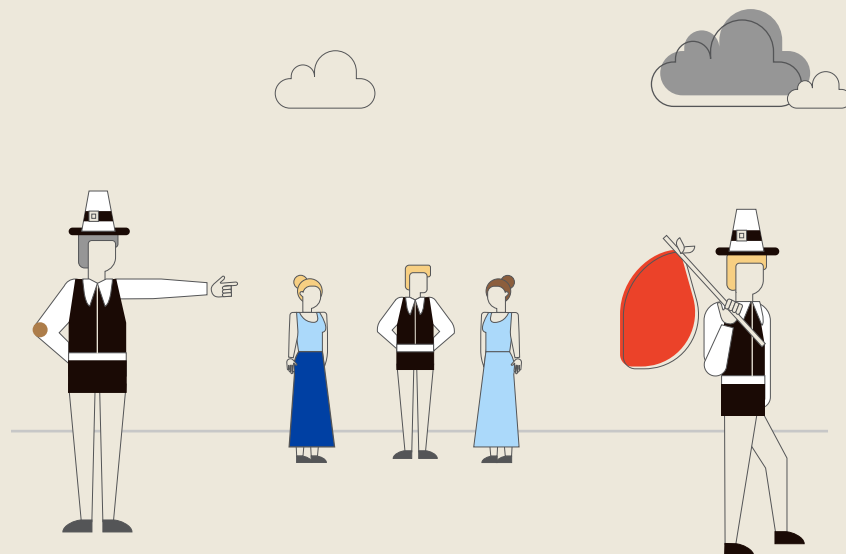
○ 1630

Puritan John Winthrop abandons England seeking freedom to worship, establishes Massachusetts Bay Colony, and allows virtually no religious dissent.



○ 1636

Roger Williams is banished from Puritan Massachusetts colony in part because he challenges the idea that the state may coerce people into particular beliefs and practices. He establishes Providence Colony, Rhode Island where no one will be coerced or persecuted for their beliefs. This protection, rather radically, extends even to Catholics, Jews, Muslims, and atheists. He comes to believe the state has no authority to regulate the first four of the ten commandments, as they relate to the relationship between God and man (such as observing the Sabbath); and that the state does retain authority to regulate the last six (such as not committing murder), as they relate to relationships between people.



○ 1638

Ann Hutchinson is excommunicated from her church in Boston because her beliefs are in conflict with Puritan clergy; she is tried, convicted and banished by colony leaders and flees to Rhode Island where she establishes Portsmouth.

○ 1649

Anti-Catholicism is imbedded in young America as many come to escape excesses of Catholic church's influence. As the only Catholic English colony, Maryland is intended as a place of refuge for Catholics. When Protestants take over, they pass the Maryland Toleration Act, which declares that "No person or persons...shall from henceforth be in any ways troubled, molested or discountenanced for or in respect of his or her religion nor in the free exercise thereof." However, settlers who blaspheme by denying either the Trinity or the divinity of Jesus Christ can be punished by execution or the seizure of their lands. This guaranteed protection for Catholics will not last long, however, as the Toleration Act will be repealed in 1692.

○ 1656

Director-General of New Netherland (present day Flushing, New York) Peter Stuyvesant writes an ordinance against illegal religious meetings, formally banning the practice of all religions outside of the Dutch Reformed Church.

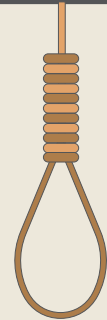
○ 1657

The Flushing Remonstrance is signed by a group of English citizens who were affronted by persecution of Quakers and the religious policies of Governor Stuyvesant. None of them are Quakers. The Remonstrance ends with:

The law of love, peace and liberty in the states extending to Jews, Turks and Egyptians, as they are considered sonnes of Adam, ... our desire is not to offend one of his little ones, ... whether Presbyterian, Independent, Baptist or Quaker, but shall be glad to see anything of God in any of them, ... Therefore if any of these said persons come in love unto us, we cannot in conscience lay violent hands upon them, but give them free egress and regress unto our Town, and houses, as God shall persuade our consciences.

○ 1660

Mary Dyer is hanged in Boston for preaching as a Quaker.

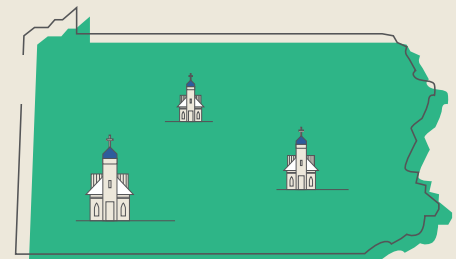


○ 1669

The Fundamental Constitutions of Carolina (extending from present-day North Carolina to Florida) protects the rights of religious dissenters and those seeking refuge for religious reasons.

○ 1682

William Penn establishes Pennsylvania, his "holy experiment"; where most can freely worship.

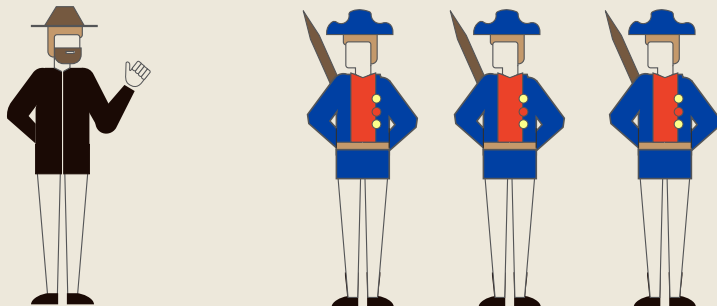


○ 1730s -1740s

A series of revivals known later as the “First Great Awakening” challenges the authority of ministers, enhances the power of the laity, and places emphasis on an individual’s religious experience. New denominations are founded, and young ones, like the Baptists, experience great growth. Native Americans and Africans (many of whom are enslaved) participate in the revivals.

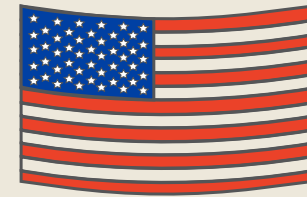
○ 1775

Baptist leaders petition the third Virginia Revolutionary Convention requesting permission for Baptist ministers to preach to soldiers who did not wish to attend religious services conducted by chaplains from the Church of England.



○ 1776

American Independence

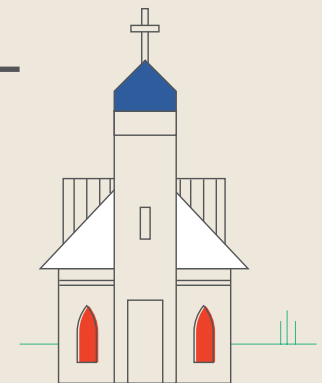


○ 1779

Baptists successfully petition the Virginia state government for an end to taxation supporting the Anglican Church.

○ 1785

James Madison, in his “Memorial and Remonstrance Against Religious Assessments”, sets the philosophical framework for religious freedom and against taxation to support the established church in Virginia.



○ 1786

The Virginia Assembly adopts the Virginia Statute for Religious Freedom, which disestablishes the Church of England in Virginia and establishes freedom of religion, as follows:

Be it enacted by General Assembly that no man shall be compelled to frequent or support any religious worship, place, or ministry whatsoever, nor shall be enforced, restrained, molested, or burthened in his body or goods, nor shall otherwise suffer on account of his religious opinions or belief, but that all men shall be free to profess, and by argument to maintain, their opinions in matters of Religion, and that the same shall in no wise diminish, enlarge or affect their civil capacities.

○ 1789

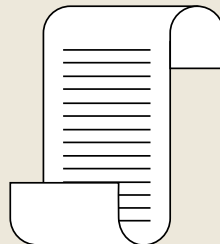
Chaplains established in the House and Senate, which have served continuously from this point to the current day.

○ 1790

George Washington writes the Touro Synagogue in Newport Rhode Island, explaining that the new government will “give[s] to bigotry no sanction, to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens”, and thus lays out his hopes regarding religious liberty in this new country.

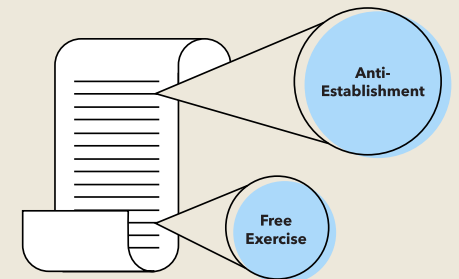
○ 1788

The United States Constitution is ratified, which prohibits any religious test for public office, and permits the president to “affirm” rather than “swear” in the Oath of Office, allowing a religious exemption for those who take literally Jesus’ admonition not to swear (such as the Quakers).



○ 1791

The Bill of Rights is ratified, which includes as part of the First Amendment these very important clauses: *Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.*



○ 1797

The Treaty of Tripoli is ratified by the Senate and signed by President John Adams. Article 11 reads: *As the Government of the United States of America is not, in any sense, founded on the Christian religion; as it has in itself no character of enmity against the laws, religion, or tranquility, of Mussulmen (Muslims); and as the said States never entered into any war or act of hostility against any Mahometan (Mohammedan) nation, it is declared by the parties that no pretext arising from religious opinions shall ever produce an interruption of the harmony existing between the two countries.*

○ 1800

The Presidential campaign is seen as electing either Thomas Jefferson with atheism and chaos, or John Adams with religion and social order. Thomas Jefferson wins, perhaps because voters become wary that John Adams would establish the Presbyterian church as “the national church.”

○ 1802

Thomas Jefferson responds to the Danbury, CT, Baptist Association, stating that there is a “wall of separation” between church and state, and that he has no intention of hindering their religious beliefs and practices.

○ 1833

Alabama passes a law making it illegal to educate enslaved Africans; the same law also makes it illegal for African-Americans (slave or free) to meet together for worship unless five slave owners are present or a duly licensed black preacher from a denomination leads the service.



○ 1838

Abner Kneeland, an advocate for pantheism, is the last person to be jailed under blasphemy laws common in the early United States. In *Commonwealth v. Kneeland*, the court upholds his jailing and blasphemy laws generally.



○ 1838

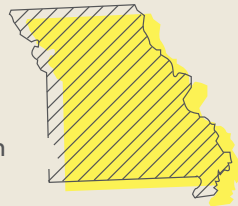
The Governor of Missouri issues Executive Order 44, which includes these instructions to state militia and other state authorities:

hasten your operation with all possible speed. The Mormons must be treated as enemies, and must be exterminated or driven from the state if necessary for the public peace--their outrages are beyond all description.

President Van Buren declares that Missouri was within the constitutional rights of federalism to do so.

○ 1840s -1850s

Driven in part by Irish immigration, the anti-Catholic "nativist" movement is at its peak, which includes mob violence, destruction of Catholic property, and Catholic loss of life. Many American Protestants feel that Catholics threaten American norms of democracy and liberty.

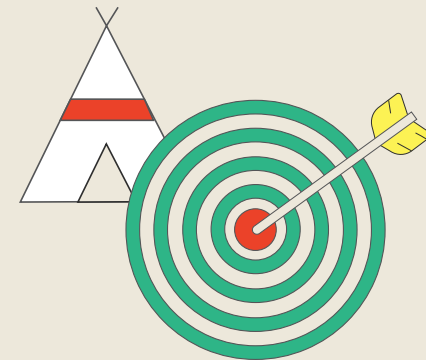


○ 1878

In *Reynolds vs. United States*, a Supreme Court case that found polygamy not protected by the Free Exercise clause, Thomas Jefferson's "wall of separation between church and state" metaphor is cited for the first time in a legal opinion.

○ 1883

The Bureau of Indian Affairs passes the "Religious Crimes Code" that targets specific Native American religious practices, including the sun dance.



○ 1864

The National Reform Association begins decades-long, unsuccessful campaign to insert notion of America as a Christian Nation into the Constitution, by attempting to place the following words in the Constitution's preamble:

"We, the People of the United States [recognizing the being and attributes of Almighty God, the Divine Authority of the Holy Scriptures, the law of God as the paramount rule, and Jesus, the Messiah, the Savior and Lord of all], in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the general welfare, and secure the blessings of liberty to ourselves and to our posterity, do ordain and establish this Constitution for the United States of America."

○ 1887

The Edmunds–Tucker Act of 1887 disincorporates the Church of Jesus Christ of Latter-day Saints on the grounds that it fosters polygamy.

○ 1894

The Wilson Tariff Act formally exempts religious organizations from federal taxes.

○ 1916

Louis Brandeis becomes first Jewish Supreme Court justice, and faces anti-Semitism not only in confirmation hearings, but also from fellow members of the court (Justice McReynolds refuses to speak to Brandeis and often leaves the room when Brandeis speaks).

○ 1918

Four young Hutterites, a Christian protestant sect that live according to the Acts of the Apostles and 2nd Corinthians in the Bible and who are pacifists, are drafted into the U.S. Army, refuse to wear uniforms or comply with orders for religious reasons. They are court-martialed and sentenced to twenty years' hard labor at Alcatraz. They are mistreated and abused, and two die after being transferred to Fort Leavenworth.

○ 1921

The Bureau of Indian Affairs issues order prohibiting Pueblo Indians from performing certain sacred dances

○ 1935

Two Jehovah's Witness children, Lillian and William Gobitis, ages ten and twelve, are expelled from the Minersville, Pennsylvania, public schools in 1935 for failing to salute the flag and recite the Pledge of Allegiance. When *Gobitis v. Minersville School District* makes its way to the Supreme Court five years later their argument is framed in religious terms, claiming that any statute contrary to God's law as given to Moses must be void. The Court rejects the Witnesses' claim, holding that the secular interests of the school district in fostering patriotism are paramount. Violence against Jehovah's Witnesses follow. In Litchfield, Ill., an angry crowd spreads an American flag on the hood of a car and watch while a man repeatedly smashes the head of a Witness upon it.



Freedom Of Speech
Freedom Of Worship
Freedom From Want
Freedom From Fear



○ 1940 _____

The National Council for Religious Conscientious Objectors is created by the three historic peace churches: Church of the Brethren; Religious Society of Friends (Quakers); and Mennonite, in response to the Selective Training and Service Act of 1940, which introduced the first peacetime draft in the United States.

In *Cantwell v. Connecticut* the Supreme Court applies the free exercise clause of the First Amendment for the first time to the states, and protects Jehovah's Witnesses going door to door in a predominately Catholic neighborhood without having to obtain a certificate from the neighborhood "secretary of the public welfare council."

The first of 151 Civilian Public Service Camps for conscientious objectors is established.

○ 1941 _____

In his annual address to Congress, President Franklin D. Roosevelt announces the four essential freedoms, one of which is freedom of worship, as part of a campaign to achieve a secure world in the face of increasing aggression by Germany, Japan and other belligerent nations.

○ 1943 _____

The Jehovah's Witnesses sues West Virginia State Board of Education, and the Supreme Court rules that school children cannot be forced to pledge allegiance to or salute the U.S. flag, citing religious freedom. This overturns the earlier 1940 Supreme Court decision.

In all, Jehovah's Witnesses bring 23 separate First Amendment actions before the U.S. Supreme Court between 1938 and 1946.

I think the Jehovah's Witnesses ought to have an endowment in view of the aid which they give in solving the legal problems of civil liberties.

-Supreme Court Justice Harlan Fiske Stone

○ 1947 _____

In *Everson v. Board of Education* the Supreme Court applies the establishment clause of the First Amendment for the first time to the states in a case regarding whether taxpayer money may be used to reimburse parents of children going to religious schools.

○ 1954 _____

The phrase “under God” is incorporated into the Pledge of Allegiance on June 14, 1954, by a Joint Resolution of Congress.

The “Johnson Amendment” is passed as part of the IRS Code of 1954, which prohibits organizations operated exclusively for religious purposes from participating in political campaigns on behalf, of or in opposition to, any candidate for public office.

○ 1956 _____

President Eisenhower mandates that “In God We Trust” be added to all US currency.

○ 1957 _____

The United States Government issues a “Religious Freedom in America” postage stamp commemorating the 300th anniversary of the Flushing Remonstrance.

○ 1960 _____

Concerns about Catholic presidential candidate John F. Kennedy arise as many worry that he may have higher allegiance to the Pope than to the Constitution. In response, he declares: “I am not the Catholic candidate for President. I am the Democratic Party’s candidate for President who also happens to be a Catholic. I do not speak for my Church on public matters — and the Church does not speak for me.”



○ 1961 _____

Several state Constitutions still require a belief in God or a Supreme Being in order to be on a jury or hold political office. A unanimous 1961 U.S. Supreme Court decision in *Torcaso v. Watkins* holds that the First and Fourteenth Amendments override them, so these are not enforced though they remain on the books.

○ 1962

In *Engel v. Vitale* the Court rules that government-imposed nondenominational prayer in public school violates the religious liberty clauses and is thus unconstitutional.

○ 1964

The Civil Rights Act, Section 7 includes prohibitions against discrimination on the basis of religion.

○ 1965

The Hart–Celler Act (Immigration and Nationality Act) changes immigration policies, to allow increased immigration from Asia and Africa, which introduces increasing numbers of those practicing Eastern religions.

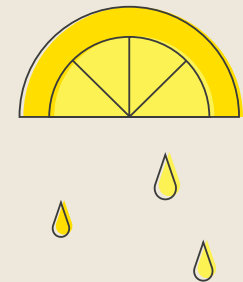


○ 1968

In *Epperson v Arkansas* the Supreme Court invalidates Arkansas law prohibiting the teaching of evolution in public schools, reasoning that the First Amendment to the United States Constitution prohibits a state from requiring, in the words of the majority opinion, “that teaching and learning must be tailored to the principles or prohibitions of any religious sect or dogma.”

○ 1971

In the case of *Lemon v. Kurtzman*, the Supreme Court creates a three-part test for laws dealing with religious establishment. A law is constitutional if it: (1) Has a secular purpose; (2) Neither advances nor inhibits religion; (3) Does not foster an excessive government entanglement with religion.



○ 1978 _____

Passage of American Indian Religious Freedom Act:

In the past, Government agencies and departments have on occasion denied Native Americans access to particular sites and interfered with religious practices and customs where such use conflicted with Federal regulations. In many instances, the Federal officials responsible for the enforcement of these regulations were unaware of the nature of traditional native religious practices and, consequently, of the degree to which their agencies interfered with such practices. This legislation seeks to remedy this situation.

-President Jimmy Carter

○ 1990 _____

In *Employment Division v. Smith* the Supreme Court upholds the state of Oregon's refusal to give unemployment benefits to two Native Americans fired from their jobs at a rehab clinic after testing positive for mescaline, the main psychoactive compound in the peyote cactus, which has been used in a religious ceremonies of Native American tribes for centuries.

○ 1992 _____

In *Lee v. Weisman* the Supreme Court invalidates clergy-led, non-denominational prayer at public school graduation as a breach of the religious liberty clauses.

○ 1993 _____

The IRS revokes the tax-exempt status of the Church at Pierce Creek in Binghamton, NY, for violating the Johnson Amendment when it posted ads in newspapers rebuking Bill Clinton four days before the 1992 election. This had never happened before, and it has not happened since.

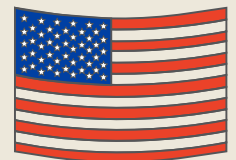
○ 1993 _____

Bill Clinton signs the Religious Freedom Restoration Act, which had been introduced in Congress by Chuck Schumer and Ted Kennedy, supported by the ACLU and the Traditional Values Coalition, and pass unanimously in the House and by a vote of 57-3 in the Senate.



○ 2002 _____

Ruling by the United States Court of Appeals for the Ninth Circuit declares that the words "under God" in the Pledge of Allegiance are an endorsement of religion and therefore violate the Establishment Clause. The Supreme Court reverses the Ninth Circuit's decision as a matter of procedural law; the justices do not consider the constitutional question raised by the case.



○ 2002

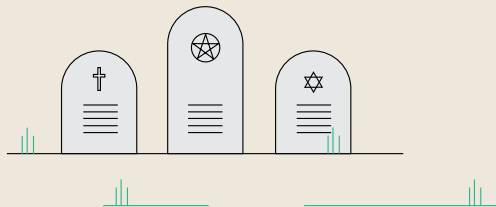
In *Watchtower Society v. Village of Stratton* the Supreme Court holds that a town ordinance's provision making it a misdemeanor to engage in door-to-door advocacy without first registering with town officials and receiving a permit violates the First Amendment as it applies to religious proselytizing.

○ 2005

The Supreme Court upholds one Ten Commandments display in Texas (*Van Orden v. Perry*) and strikes down others in Kentucky (*McCreary County v. ACLU*) on the same day.

○ 2007

In order to settle a lawsuit alleging religious discrimination, the Department of Veterans Affairs agrees to add the Wiccan pentacle to a list of approved religious symbols that it will engrave on veterans' headstones.



○ 2011

The United States Conference of Catholic Bishops argues that the Obama Administration is placing an undue burden upon Catholics and forced them to violate their right to freedom of religion as part of the Patient Protection and Affordable Care Act.

○ 2012

Masterpiece Cake Shop owner Jack Phillips turns away a gay couple who came in for a wedding cake, citing his religious beliefs. When he was sued for denying the couple service based on their sexual orientation, an administrative law judge found Phillips in violation of the Colorado Anti-Discrimination Act. That decision is upheld on appeal. The Supreme Court will hear the case in the fall of 2017.

○ 2014

In *Burwell v. Hobby Lobby*, the Supreme Court rules that closely held for-profit corporations are exempt from a regulation its owners religiously object to, if there is a less restrictive means of furthering the law's interest.

○ 2015

The Utah legislature bans discrimination towards the LGBT population in housing and employment, while also protecting religious freedom.

○ 2016

Zubik v. Burwell is a case before the United States Supreme Court about whether religious institutions other than churches (churches are already exempt) should be exempt from the contraceptive mandate, a regulation adopted by the US Department of Health and Human Services (HHS) under the Affordable Care Act (ACA) that requires non-church employers to cover certain contraceptives for their female employees.

We see that the idea of religious freedom has been a persistent and influential thread in the American tapestry, and the codification, assessment and re-examination of this idea is one of the United States' greatest innovations.