

First Amendment: Religion and Public Schools

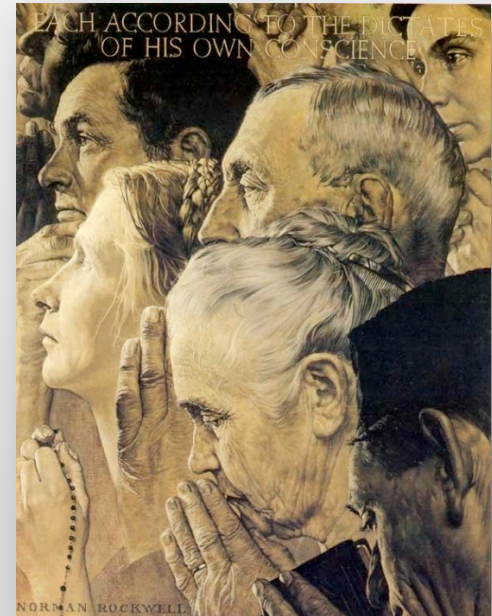
Information taken from
[Finding Common Ground](#), written and edited by Charles C. Haynes and Oliver Thomas
Published by the First Amendment Center in 2007
www.firstamendmentcenter.org

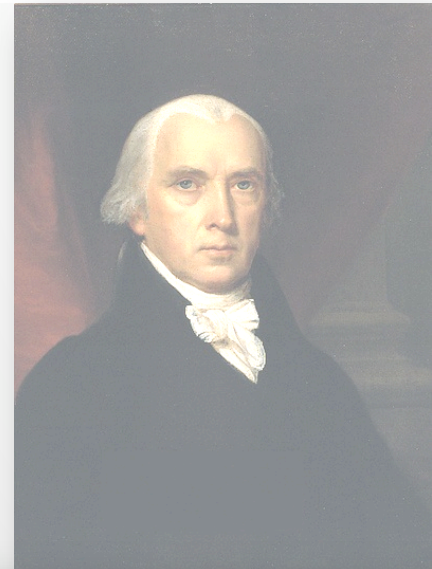
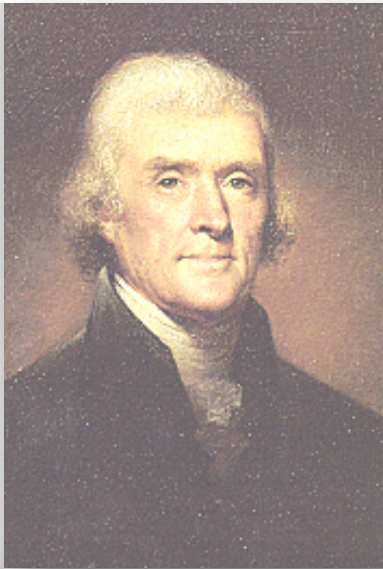
Created by Robyn Lee, for the Religion in American History TAH Project

Challenge

In a time of growing ideological and religious diversity how can we...

- ▶ expand the principles of religious liberty fairly and justly to all citizens?
- ▶ assist Americans to live with our deepest differences?



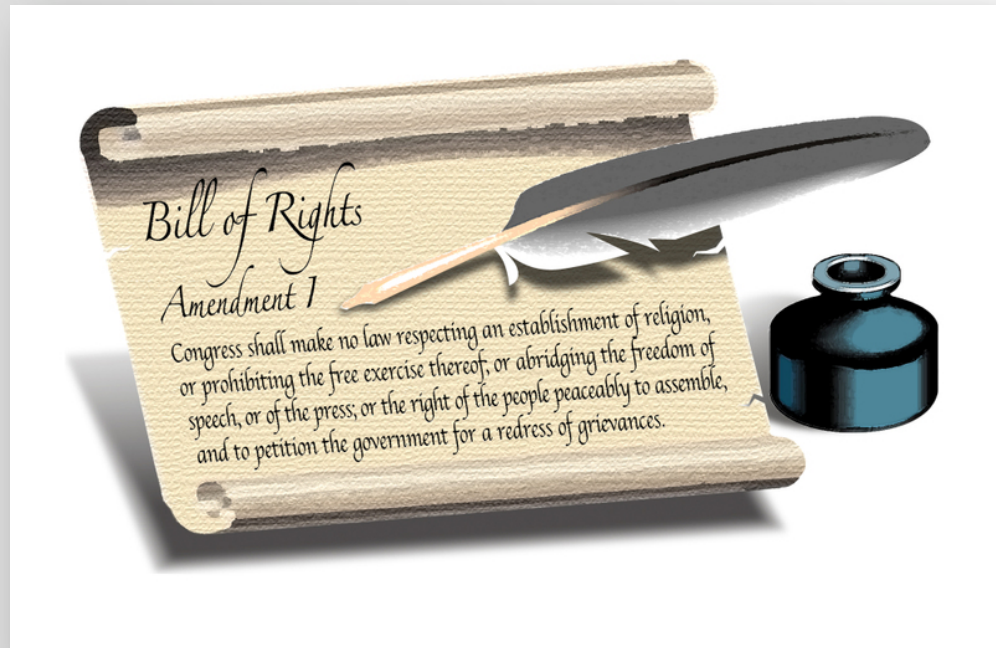


States, in conformity to the Constitution of the United States, all
Constitution, viz^d
to, and Amendment of the
Constitution

WE THE PEOPLE of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquillity, provide for the common defence and safety, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

Article I.
Section 1.
All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

- ▶ Study about religion in public schools is constitutional.
- ▶ It is important for students to be properly educated about religion in terms of history and culture.
- ▶ Religion must be taught objectively and neutrally.



- ▶ Religious pluralism in the US has soared, resulting in increased conflict/litigation.
- ▶ The Supreme Court has developed legal tests to resolve this conflict and to provide guidance to government.
- ▶ Example: While it is important for students to be educated about religion in terms of history and culture, religion must be taught objectively and neutrally.



Misunderstanding

- ▶ Many hold mistaken views about the Supreme Court decisions in the 1960s. The court did *not* eliminate prayer or the Bible from schools; it barred only *state-sponsored* religious practices.
- ▶ The study of the Bible *in* literature and *as* literature are fine. The Bible also sheds light on the history and beliefs of Jews and Christians.

How to teach about religion

Do this	Not this
Academic	Devotional
Awareness	Acceptance
About religion	Practice of religion
Expose	Impose
Educate	Promote or denigrate
Inform	Conform

Seeking Consensus

Public schools should

- ▶ ... not instill or inhibit religion
- ▶ ...treat religious convictions with fairness and respect
- ▶ ...include study *about* religion



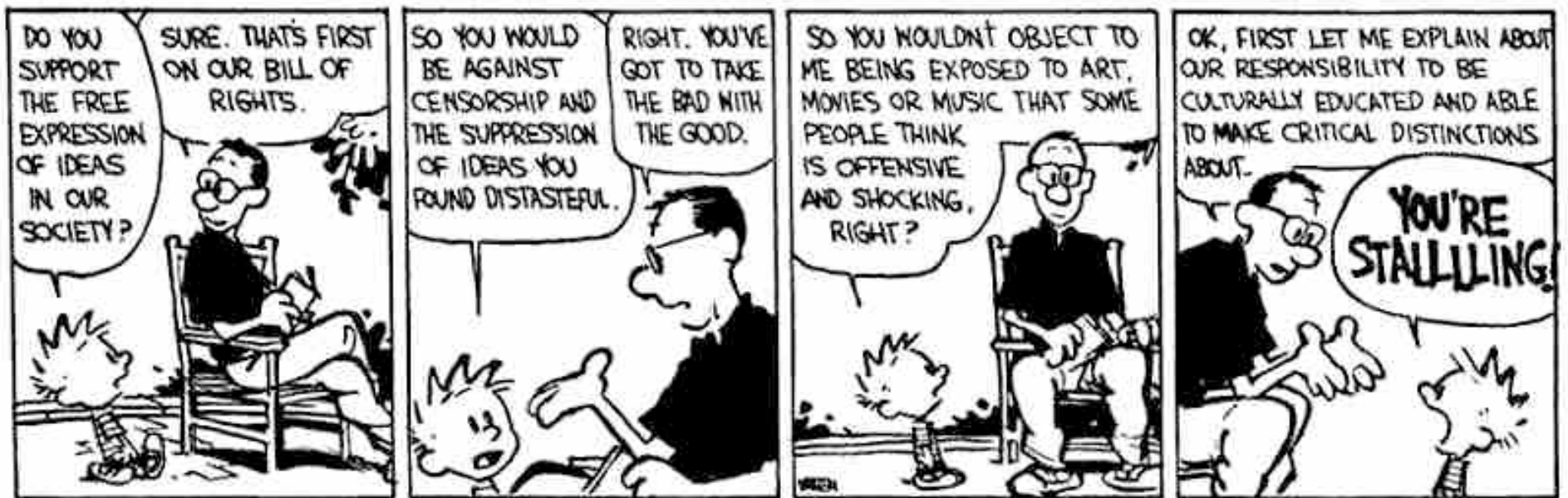
Principles

- ▶ Religious liberty is an inalienable right for all
- ▶ Citizenship in a diverse society = a need for policies in the best interests of all
- ▶ Model democratic process when developing policy and curriculum
- ▶ Practice civil debate in any dispute

I  **THE FIRST
AMENDMENT**

Principles, con't.

- ▶ Parents are recognized as having the primary responsibility for their children



The 3Rs for civic consensus

- ▶ **Rights:** religious liberty or freedom of conscience
- ▶ **Responsibilities:** religious liberty is a universal right joined with a universal duty to guard the rights of others
- ▶ **Respect:** not only *what* we debate, but *how* we debate, is critical



Strategies to Resolve Conflict

- ▶ Include all stakeholders
- ▶ Listen to all sides www.bridge-builders.org
- ▶ Work for comprehensive policies
- ▶ Be pro-active
- ▶ Practice civil debate
- ▶ Follow through-inform the entire community



The Establishment Clause

“Congress will make no law respecting the establishment of religion...”

Supreme Court interpretations of the last century...

- ▶ Neither a state nor the federal government may set up a church.
- ▶ Neither can pass laws that aid any or all religions, or show preference for one religion over another.

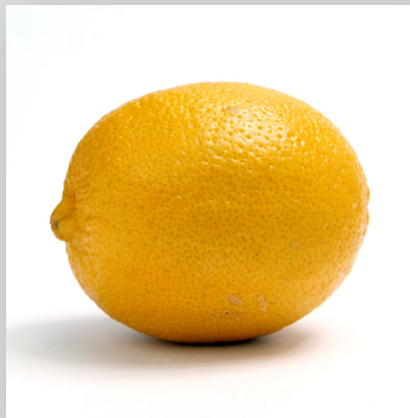


How does the Court Decide?

It has developed tests to evaluate laws and practices.

Lemon v. Kurtzman, 1971

The Supreme court struck down a state program that provided aid to religious elementary and secondary schools.

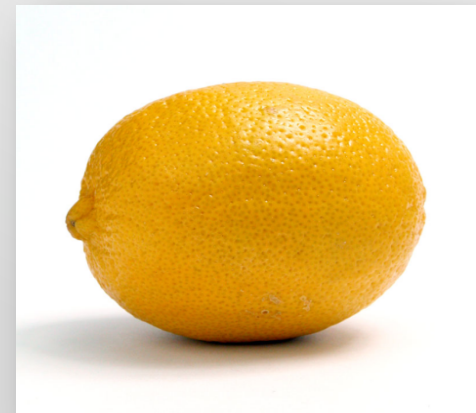


The Lemon Test

The lemon test was designed to develop consistent rules, country-wide, for deciding if the First Amendment was upheld by a particular government action.

3 questions:

1. Does the law, or government action, have a genuine secular or civic purpose?
2. Is it neutral? Does the primary effect neither advance nor inhibit religion?



The Lemon Test

3. Does the law avoid excessive governmental entanglement with religion?



If the answer is “yes” to each question, then the government action or law upholds the First Amendment.

Sandra Day O'Connor's alternative

Does a particular government action amount to an endorsement of religion?



The Free Exercise Clause

“Congress shall make no Law... prohibiting the free exercise [of Religion].”

The freedom to believe is absolute; however, the freedom to act on those beliefs is not. (human sacrifice?!)



Sherbert v. Verner, 1963

The Supreme Court ruled Mrs. Sherbert could not be compelled to work on the Sabbath. She could not be forced to choose between her government benefits and her religious convictions.



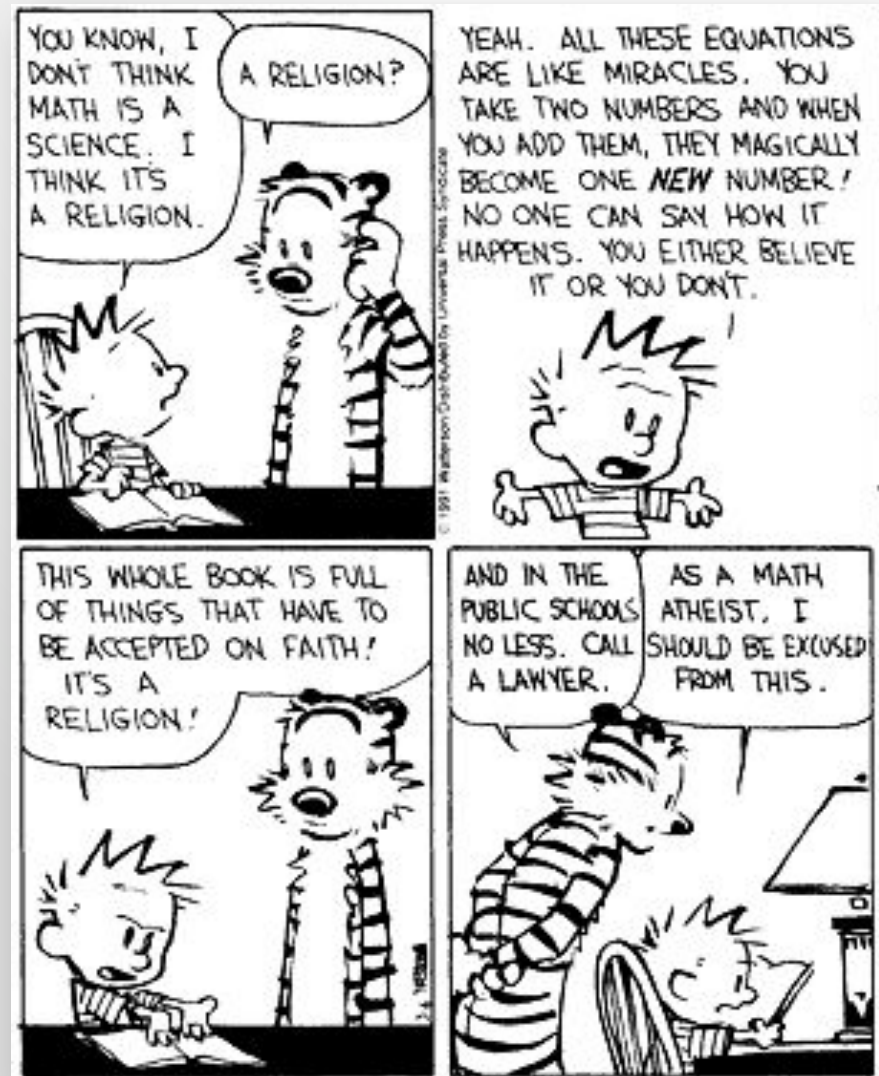
The Sherbert Test

1. The religious belief must be *sincere* – not necessarily logical, rational, or sensible. It may even be non-theistic.
2. The person's religion must have been substantially burdened by the government.



Caveat

- ▶ Merely exposing students to ideas that may offend their religion does not amount to a substantial burden.



Government prevails if...

- ▶ There is a *compelling state interest* involved – usually involving public health and safety
- ▶ It has pursued the matter in the *least restrictive manner*, or least burdensome, to religion



Common Concerns & Examples

In history classes, some faith communities may be given more time than others because of their predominant influence on the development of the nation/culture. www.freedomforum.org





- ▶ In world history, a variety of faiths are studied to understand civilizations and cultures.

<http://asiasociety.org/countries-history/religions-philosophies>

http://www.aarweb.org/About_AAR/default.asp

www.rsiss.net

www.interfaithcalendar.org

- ▶ Role-playing and simulations should *not* take place in the classroom.

Role-play

- ▶ Careful: Role-playing and simulations should *not* take place in the classroom. The following are examples of role play.
 - ✓ A class acts out the Jewish Seder.
 - ✓ A class *makes* prayer rugs to learn about Muslim art design.
 - ✓ A teacher or guest demonstrates Muslim prayer postures and leads the students in the prayer positions using the rugs.

In the Classroom



- ▶ Guest speakers should have the academic background to be objective and scholarly
- ▶ Teachers and guest speakers should not proselytize or inject personal beliefs

- ▶ Teachers should teach character education, but without invoking religion.
- ▶ The First Amendment does *not* require that equal time be given to all religions. The academic standards should dictate what is covered.



Relevant web sites

www.pluralism.org

www.academicinfo.net/religindex.html

<http://www.nhc.rtp.nc.us/tserve/tserve.htm>

<http://www.freedomforum.org/templates/document.aspddocumentID=13588>

Personal beliefs of teachers



- ▶ Do not pray with or in the presence of students during the school day.
- ▶ Teachers may meet for prayer or Bible study with other teachers during non-instructional time.

Teachers represent the government during class time; therefore, *students'* rights are the focus.

Teachers may wear non-obtrusive jewelry, such as a cross or a Star of David.



Teachers should not wear clothing with a proselytizing message.

If asked about personal beliefs, teachers may answer "straightforwardly and succinctly."

Students' beliefs

- ▶ Students may be accommodated if they have special religious needs, but teachers are not responsible for monitoring compliance.
- ▶ If we step over the line in trying to accommodate student religious practices, we risk government entanglement in religion— one area of concern now is Friday prayers for Muslim students.



- ▶ Students may pray or discuss their views as long as they are not disruptive, or if they do so during non-instructional time.
- ▶ Students may express their beliefs in the form of homework, artwork, and oral assignments.



Clubs

- ▶ Students may form religious clubs.
- ▶ Teachers may supervise, but not participate.
- ▶ Adult guest speakers may not attend regularly or conduct or lead meetings.

Note: The *Equal Access Act* applies to secondary schools. The ed code definition for “secondary” differs by state and district, so it may or may not apply to intermediate schools. Rulings for after school religious clubs in elementary schools have been mixed.



Handouts

- ▶ Students may distribute religious materials, but schools may impose reasonable time, place, and manner restrictions.
- ▶ Outsiders may distribute materials after school, but the school can add time, place, and manner restrictions. Caution is recommended.
- ▶ Students *cannot* be compelled to *take* the materials in either case.

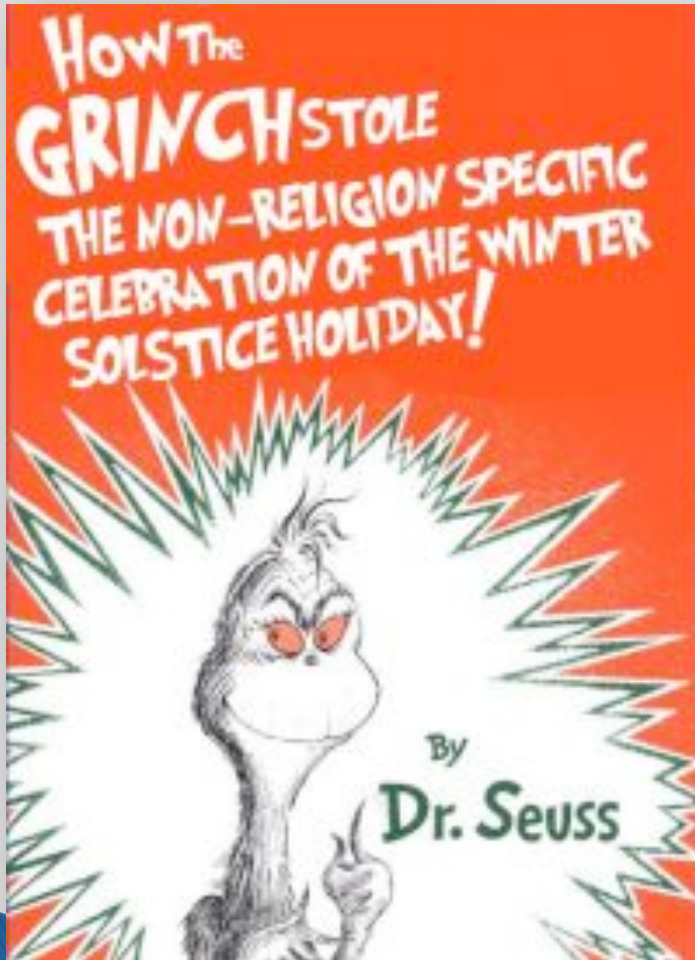


Visitors and guests

- ▶ Schools may call on qualified counselors or religious leaders in times of crisis.
- ▶ Tutoring or mentoring provided by religious institutions is permitted, but students *cannot* be compelled to attend.



Holidays



- ▶ Teach *about* religious holidays, but do not *celebrate* them.
- ▶ Holiday concerts and programs may include music or themes related to religious traditions, but the religious selections should not dominate.



I SAID THE "S-H" WORD.

I SAID THE "F" WORD.

I SAID "CHRISTMAS."

Lesson ideas

- ▶ Statute for religious freedom

<http://www.billofrights institute.org/instructional/resources/Lessons/>

Marcus Whitman and Narcissa Whitman
American Indian Missionaries

http://www.pbs.org/weta/thewest/people/s_z/whitman.htm

Lesson on Manifest Destiny:
Religion and America's Destiny. The lesson includes quotations from John Winthrop, George Washington, and others with discussion questions on these and John Cast's painting.



Lesson from Peg Hill:
Nativism in 19th Century: An Anti-Catholic
Petition from New York Nativists, 1837, and
Anti-Catholic Political Cartoons from 1871
and 1885



- ▶ Did Religious Ideas Support or Hinder Women's Rights? How did Church Doctrines and Structures Influence Women's Rights in American Society? Also by Peg Hill
- ▶ The lesson includes 5 primary source documents, a timeline, and document based questions.



- ▶ Debating the Documents: Separation of Church and State
- ▶ The lesson includes four primary source documents, questions and a writing assignment.

Note: the lesson was designed for high school students, but could be adapted for middle school.

<http://www.archives.gov/education/lessons/worksheets/document.html?templ>.

- ▶ Champions of Freedom
- ▶ First Amendment lesson with several activities, primary source documents, and graphic organizers.

George Mason



Supreme Court Cases

- ▶ Moot court activity and other simulations are available at:

www.crf-usa.org

Teachers may sign up for *The Bill of Rights in Action* from the Constitutional Rights Foundation for other excellent articles and lessons.

Mind Sparks

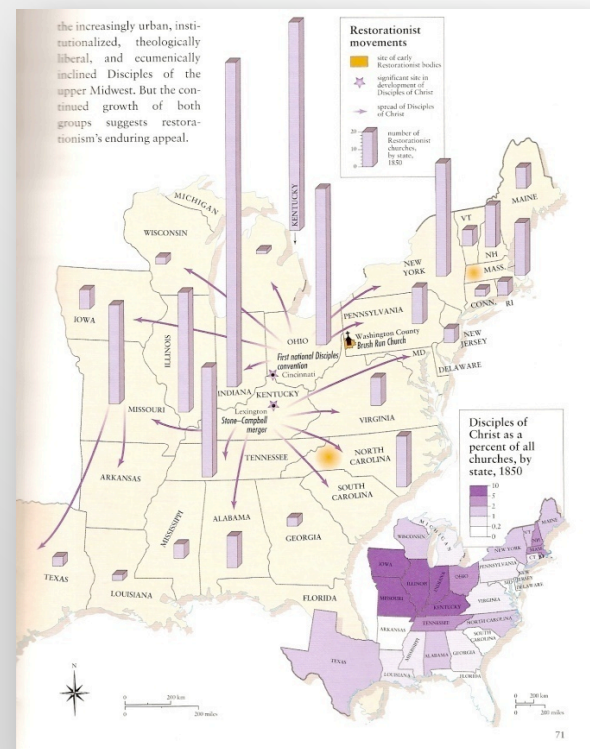
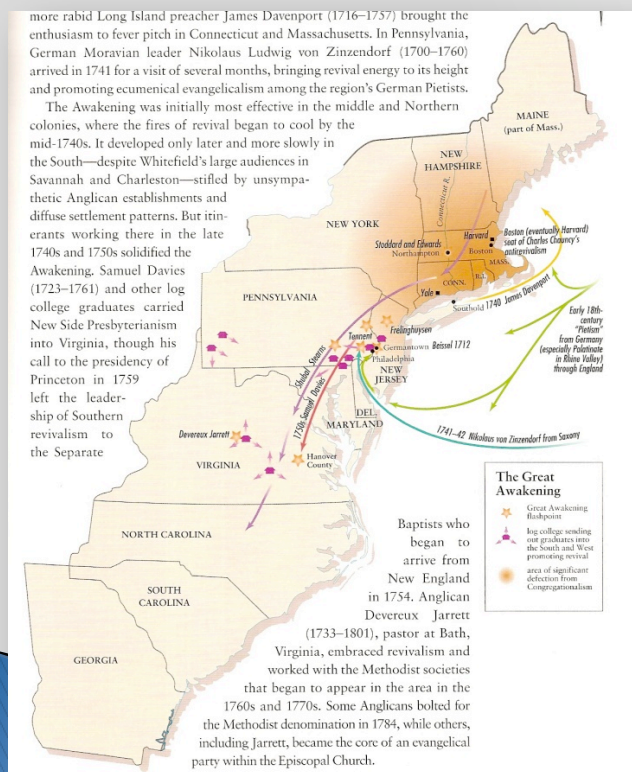
- ▶ Debating the documents activities that work well include
 - *Revivalists and Utopians: Reform in Antebellum America*
 - *The Second Great Awakening*
 - *We Hold These Truths; The Meaning of the Declaration*

From EDUPRESS
and Highsmith, Inc.



Maps & Charts

- ▶ *The Routledge Historical Atlas of Religion in America*, written by Bret E. Carroll and published by Routledge in 2000



First Amendment Rights

General Order No. 12:

General Grant, in order to halt black market trading in 1862, expelled all Jews from the region of the South under his control.

The primary source document is included as well as the response from Lincoln's general in chief.

Taken from *First Freedoms: A Documentary History of First Amendment Rights in America*

by Charles C. Haynes, Sam Chaltrain & Susan M. Glisson; published by Oxford University Press in 2006

Case Study #1

- ▶ In response to an assignment on current events, a student brings in a political cartoon to share with class that is critical of Muslim beliefs.
- ▶ A parent has complained about the content.
- ▶ On a personal level, how would you react if the cartoon ridiculed your own or your own child's beliefs? What are our responsibilities as teachers? Review slide #8 and then ask teachers how they would handle this issue.

Case Study #2

- ▶ A student wears a t-shirt to school that states, “I found Jesus...he was behind the couch.” or “Bad Religion”
- ▶ A group of students complains that this is offensive to them and violates the dress code, which does not allow “offensive or inflammatory messages”.
- ▶ Is the student expressing “sincere beliefs” by wearing the shirt? Is the shirt disruptive to instruction time? Can the dress code be interpreted to exclude this shirt? What if the complaining students want to wear pro-Christian t-shirts? Could they be interpreted as offensive to the non-Christian students?

Case Study #3

- ▶ A student is selected to give a speech at the promotion ceremony at her intermediate school. In her speech she quotes a well-known pastor's lines: "We are all born for a purpose."
- ▶ The assistant principal makes the student cut the lines because she feels they promote religious right to life views.
- ▶ Is this an example of a "state sponsored endorsement" of religious beliefs? Review slides 14 and 15 and ask teachers how they apply to this case. Go to the next slide to see the findings.

▶ From *Finding Common Ground*:

Where student speakers are selected on the basis of genuinely neutral, evenhanded criteria and retain primary control of their expression, that expression is not attributable to the school and therefore may not be restricted because of its religious (or anti-religious) content.

Case Study #4

- ▶ In order to learn about world religions, a teacher invites several parents to share their religious beliefs with the class. A Muslim parent leads the students in the prayer positions and a Jewish parent leads the students in the traditions of the Passover feast.

A parent complains that this is practicing religion in the classroom.

Do the speakers have academic backgrounds? Is this role-playing or learning? Are the speakers proselytizing instead of informing? How else could this be taught?