



FIRST FREEDOM

The Fight for Religious Liberty

Evolution of Religious Liberty in Post-Revolutionary America

Lesson Overview:

In this lesson, students will explore the extent of religious diversity in the United States during and after independence. They will analyze how the Founding Fathers protected all religions from discrimination by promoting tolerance and then extended protection by establishing a “wall of separation” between church and state. In the main activity, students will study contemporary case studies on the Establishment Clause in the First Amendment and determine the extent to which the wall between church and state protects religious liberty.

Grade Level: 7–12

Related Academic Subjects:

U.S. History, Civics/Government, Language Arts

Time Needed to Complete the Lesson:

- Opening Activity: Video viewing activity: one to one and a half class periods
- Main Activity: Case Studies: two to three class periods

Materials Needed to Complete the Lesson:

- computers with Internet access for research
- pens, pencils, and paper
- student handouts:
 - Video Viewing Questions 1, 2, and 3 (3 handouts)
 - Case Studies Examining the Establishment Cause of the First Amendment
 - Preparing the Case Graphic Organizer

Lesson Objectives:

The student will:

- Describe the influence of religion on principles of the Declaration of Independence
- Explain the nature of religious freedom after the Revolutionary War
- Analyze the fundamental freedoms of religion established in the Virginia Declaration of Rights

- Analyze the evolution of religious freedom that led from the Virginia Declaration of Rights to the First Amendment's Establishment Clause
- Conduct a contemporary case study surrounding the Establishment Clause in the Bill of Rights and analyze the extent of religious liberty afforded to individuals

List of Video Segments Used in the Lesson:

Video Segment 1: "Independence is Blasphemy"

The British perceived Americans' fight for independence as an act of blasphemy. How could a group of loyal subjects professing to follow the laws of God rebel against a king chosen by God? This conundrum was a defining difference between the way the British crown and Parliament related to subjects of the British Empire and how Americans saw themselves as citizens.

Video Segment 2: "Religious Liberty"

The Founding Fathers' thinking evolved from tolerating minority religions to embracing the right of religious liberty for all.

Video Segment 3: "Church and State"

Thomas Jefferson and James Madison fought efforts to impose a General Assessment in Virginia and, in the process, to establish the separation between church and state.

Lesson Procedure:

Opening Activity: Video Viewing Activity – The Fight for Religious Liberty

Tell students that these three video clips show how the Founding Fathers established protections for religious diversity by originally only promoting tolerance for different religions and eventually establishing a "wall of separation" between church and state.

1. Organize students into small groups. Distribute the three video viewing student handouts to each group.
2. Allow time for student groups to view each of the video clips from the film *First Freedom*. (This step can also be given as homework.)
3. Have students discuss the Small Group Questions first.
4. Have them meet as a full class and review the Small Group Questions with the class.
5. Divide the class into three large groups and assign each group the Large Group Discussion Questions from one of the video viewing handouts.
6. After each group has discussed the questions, have them present their findings to the class.

Main Lesson:

In this activity, students working in small groups will conduct a case study reviewing one of several past U.S. Supreme Court cases involving the Establishment Clause. After the case study is completed, they will debrief the case studies and discuss the extent of the separation between church and state. Students will then write an essay summarizing their thoughts.

Before you begin this activity, it is suggested that you review the featured cases (listed in the student handout) to determine if you want students to examine all or only some of them. You may also substitute any other Supreme Court case on the Establishment Clause from Oyez or the other sites in the Resources section.

1. Divide students into groups of five (larger classes can divide into groups of seven).
2. Assign or have student groups choose one of the cases listed on the case studies page.
3. Assign students to the following roles for each group:
 - One to three students role-play justices of the court.
 - Two students role-play attorneys for the petitioners.
 - Two students role-play attorneys for the respondents.If the class doesn't divide evenly, place extra students in the attorney groups.
4. Distribute the student handout "Preparing the Case Graphic Organizer" to all students and review the background and directions.
5. Review the directions for the attorneys and the judges. Tell students they are to prepare for the case in their respective groups. Have student attorneys decide whether they will role-play the plaintiffs or the respondents, or assign these roles. Provide students ample time to research the suggested links on their handout. These sources will help build the attorneys' case and help prepare the judges for the case study. Tell students that although the Supreme Court has ruled on the case, they are to approach it as if they were reviewing the case for the first time.
6. After students have finished their preparation, conduct the case study. The plaintiffs present their case first, then the respondents. The plaintiffs are the first name listed on the case title. Each side has five minutes to present its case. Judges can interrupt and ask relevant questions during and after oral arguments.
7. After the attorneys have presented their case, the judges have five minutes in "closed door" session to develop their decision. It might be best to have the judges conduct this session in a quiet part of the classroom. The session could also occur out of class as homework.
8. Have the different sets of justices present their decisions to the entire class. Provide an opportunity for students to ask the justices questions on their decision.

Case Study Debrief:

After all the decisions have been announced and explained, debrief the class with the following questions:

- What do you understand about the Establishment Clause of the First Amendment that you didn't know before you conducted the case study?
- Which ruling did you agree with most? Why?
- How did your case study differ from the Supreme Court's decision? Discuss the reasons for the difference (if any). (Point out to students that their opinions aren't necessarily wrong, but that the majority of the Supreme Court might have been influenced by different arguments than those presented in the case study.)
- From the different cases you heard, do you feel the Establishment Clause creates a clear separation between church and state? Explain.

Assessment:

- Cooperation and participation during group activities and case study preparation.
- Depth of discussion during the debriefing questions.
- Have students write a reflection essay on any of the following questions:
 - In your view, what is the importance of religious liberty in the United States? Should any limits be placed on religious liberty?
 - What are your thoughts on the Establishment Clause? Do you feel it is a fundamental right? Do you feel a clear separation between church and state is necessary? Explain why.
 - Compare and contrast any of these cases with the case of John Winthrop and Anne Hutchinson. What are the fundamental similarities and differences?

Use the suggested rubric provided at the end of this lesson or your own assessment tool to evaluate student work on the essays.

Resources:

- Legal Information Institute: <http://www.law.cornell.edu/>
- The Oyez Project: <http://www.oyez.org/>
- Find Law: <http://lp.findlaw.com/>
- The Supreme Court of the United States: <http://www.supremecourt.gov/>
- University of Missouri-Kansas City School of Law: <http://law2.umkc.edu/faculty/projects/ftrials/conlaw/estabinto.htm>
- National Paralegal College: http://nationalparalegal.edu/conlawcrimproc_public/FreedomOfExpression/FreedomOfReligion&EstCl.asp
- ACLU: <http://www.aclu.org/religion-belief/establishment-clause-and-schools-legal-bulletin>

Standards:

McREL: <http://www.mcrel.org/compendium/browse.asp>

U.S. History:

- **Standard 4:** Understands how political, religious, and social institutions emerged in the English colonies
- **Standard 6:** Understands the causes of the American Revolution, the ideas and interests involved in shaping the revolutionary movement, and reasons for the American victory
- **Standard 29:** Understands the struggle for racial and gender equality and for the extension of civil liberties
- **Standard 31:** Understands economic, social, and cultural developments in the contemporary United States

Civics:

- **Standard 9:** Understands the importance of Americans sharing and supporting certain values, beliefs, and principles of American constitutional democracy
- **Standard 13:** Understands the character of American political and social conflict and factors that tend to prevent or lower its intensity
- **Standard 25:** Understands issues regarding personal, political, and economic rights

Language Arts:**Writing**

Standard 1: Uses the general skills and strategies of the writing process

Standard 2: Uses grammatical and mechanical conventions in written compositions

Standard 3: Gathers and uses information for research purposes

Listening and Speaking

Standard 7: Uses listening and speaking strategies for different purposes

Thinking and Reasoning

Standard 1: Understands and applies the basic principles of presenting and making an argument

About the Author: Greg Timmons has been a social studies teacher for more than 30 years. He has written lessons for several PBS productions, including *THE NEWS HOUR*, *FRONTLINE*, and various Ken Burns productions, including *THE WAR*, *THE NATIONAL PARKS: AMERICA'S BEST IDEA*, *THE TENTH INNING*, *PROHIBITION* and *THE DUST BOWL*. He resides in Washington state and Montana.

Video Viewing Questions

Video Segment 1: “Independence is blasphemy”

The British perceived Americans’ fight for independence as an act of blasphemy. How could a group of loyal subjects professing to follow the laws of God rebel against a king chosen by God? This conundrum was a defining difference between the way the British crown and Parliament related to subjects of the British Empire and how Americans saw themselves as citizens.

Small Group Questions:

Review the video segment and discuss the following questions in your small group. Save the Large Group Discussion Questions for later.

1. Why was the American Revolution an act of blasphemy in the eyes of the king and Parliament?
2. Summarize John Locke’s view of natural rights. How did this differ from rights given by a king or government?
3. The idea of a supreme being is mentioned four times in the Declaration of Independence, twice in the first two sentences. Examine the excerpt below and answer the questions that follow:

When in the Course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume among the powers of the earth, the separate and equal station to which the Laws of Nature and of Nature’s God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

4. How is God referred to in the first two paragraphs of the Declaration of Independence?
5. According to the authors of the Declaration of Independence, who gave them their rights? Where did the right to rebel come from?
6. Is there reference to a particular religion in the Declaration of Independence? Why do you think this is important?

Large Group Discussion Questions:

After discussing these questions in the large group, prepare a brief presentation for the class. Select several students to present your findings.

1. How could the founding generation rationalize their rebellion against the British king?

2. Why do you think the Declaration of Independence doesn't make any reference to Christianity or any other religion?
3. How did the fact that the United States was composed of so many different religious groups help guarantee religious freedom?
4. Do you think the Declaration of Independence diminishes the importance of God? Explain your answers.

Video Viewing Questions

Video Segment 2: “Religious Liberty”

The Founding Fathers’ thinking evolved from tolerating minority religions to embracing the right of religious liberty for all.

Small Group Questions:

In May 1776, in anticipation of the colonies declaring their independence, Virginia held a convention in Williamsburg to draft Virginia’s declaration of rights and state constitution. The Virginia Declaration of Rights would deeply influence both the Declaration of Independence and the Bill of Rights. The first draft was written by George Mason, a Virginia judge, who was also a member of the Virginia House of Burgesses. This was not the work of Mason alone. Several other people, including James Madison and Thomas Jefferson, had a hand in the final form.

Review the video clip and trace the evolution of religious freedom in the statements and writings of George Mason, James Madison, and Thomas Jefferson. Save the Large Group Discussion Questions for later.

1. George Mason’s first draft of the Virginia Declaration of Rights read, “All men should enjoy the fullest toleration in the exercise of religion, unpunished and unrestrained.” Discuss what you think this means and how it defines religious liberty.
2. According to James Madison, why was the idea that the government could “tolerate” various beliefs insufficient?
3. How did James Madison help George Mason modify the language referencing the practice of religion in the Virginia Declaration of Rights? Why is this modification important?
4. Madison’s additions to the Virginia Declaration of Rights include the words “It is the mutual duty of all to practice Christian forbearance, love, and charity towards each other.” Why was this wording troublesome for Thomas Jefferson, and how was his view that “All men shall be free to profess and by argument to maintain their opinions in matters of religion” different from what Madison had written?

Large Group Discussion Questions:

After discussing these questions in the large group, prepare a brief presentation for the class. Select several students to present your findings.

1. Explain how the toleration of all religious faiths in the Virginia Declaration of Rights differed from Parliament’s 1689 Act of Toleration. Why is this difference significant?
2. Why did James Madison disagree with the concept of government “tolerating” a minority religion? What dangers to people’s freedom did he see in a toleration clause in the Virginia Declaration of Rights?

3. Review the text of the Virginia Declaration of Rights, section 16:

That religion, or the duty which we owe to our CREATOR, and the manner of discharging it, can be directed only by reason and conviction, not by force or violence; and therefore all men are equally entitled to the free exercise of religion, according to the dictates of conscience;

Describe the level of religious liberty this right guarantees Virginians. Who seems to be in control of how people worship?

4. The final phrase of section 16 reads as follows:

...and that it is the mutual duty of all to practice Christian forbearance, love, and charity, towards each other.

What does this phrase call all Virginians to do? Does it mean that all Virginians have to be Christian? Does it imply that Christianity was the dominant or preferred religion? Explain.

Video Viewing Questions

Video Segment 3: “Church and State”

Thomas Jefferson and James Madison fought efforts to impose a General Assessment in Virginia and, in the process, to establish the separation between church and state.

Small Group Questions:

Review the video clip and answer the following questions. Save the Large Group Discussion Questions for later.

1. How did the General Assessment provide funds for churches?
2. What was the rationale behind this action?
3. Why did Jefferson and Madison oppose any state support for religion?
4. Explain how Jefferson’s Act of Religious Freedom established the relationship between church and state.

Large Group Discussion Questions:

After discussing these questions in the large group, prepare a brief presentation for the class. Select several students to present your findings.

1. Compare and contrast the views of Patrick Henry, who supported the General Assessment, and Thomas Jefferson, who opposed it.
2. Discuss Madison’s assertion that true religious freedom didn’t mean that all churches were linked to the government, but that none of them were. How does separating religion from the government help ensure true religious freedom?
3. The heart of Jefferson’s Act of Religious Freedom is the second section, which states:

Act of Religious Freedom:

Be it enacted by the 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 [burdened] 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 opinion in matters of religion, and that the same shall in no wise diminish, enlarge, or affect their civil capacities.

Restate this section on your own words.

Case Studies Examining the Establishment Clause of the First Amendment

- *Lemon v. Krutzman*: Does government financial aid to church-related educational institutions violate the Establishment Clause of the First Amendment?
- *Zelman v. Simmons-Harris*: Does Ohio's school voucher program violate the Establishment Clause of the First Amendment?
- *Lynch v. Donnelly*: Did the inclusion of a nativity scene in the city's display violate the Establishment Clause of the First Amendment?
- *Engle v. Vitale*: Does the reading of a nondenominational prayer at the start of the school day violate the Establishment Clause of the First Amendment?
- *Epperson v. Arkansas*: Does a law forbidding the teaching of evolution violate either the free speech rights of teachers or the Establishment Clause of the First Amendment?
- *Wallace v. Jaffree*: An Alabama law authorized teachers to conduct regular prayer services and religious activities in classrooms during the school day. Three of Jaffree's children attended public schools in Mobile. Does this law violate the Establishment Clause of the First Amendment?
- *Stone v. Graham*: Parents challenged a Kentucky state law that required the posting of a copy of the Ten Commandments in each public school classroom. Does this law violate the Establishment Clause of the First Amendment?
- *County of Allegheny v. ACLU*: The county of Allegheny permitted a nativity scene on public grounds. Does this action violate the Establishment Clause of the First Amendment?
- *Lee v. Weisman*: Does the inclusion of clergy who offer prayers at official public school ceremonies violate the Establishment Clause of the First Amendment?
- *Abington School District v. Schempp*: Did the Pennsylvania law and Abington's policy, requiring public school students to participate in classroom religious exercises, violate the religious freedom of students as protected by the First and Fourteenth Amendments and the Establishment Clause of the First Amendment?

- *Westside Community Schools v. Mergens*: Was Westside's prohibition of the formation of a Christian club consistent with the Establishment Clause, thereby rendering the Equal Access Act unconstitutional?

Preparing the Case Graphic Organizer

Overview: You are role-playing either an attorney or a Supreme Court justice. You have a case to litigate that involves the Establishment Clause of the First Amendment, “Congress shall make no law respecting the establishment of religion...” Below are resources you can access to research your arguments for the case (or understand both sides of the case from a judge’s perspective). During your research, you will find the Supreme Court’s decision on the case. Although the Supreme Court has ruled on the case, approach it as if you are reviewing the case for the first time.

Resources:

- Justia.com: <http://supreme.justia.com/index.html>
- The Oyez Project: www.oyez.org (enter the case name in search engine)
- FindLaw: <http://www.findlaw.com/casecode/supreme.html>
- Legal Information Institute Historic Supreme Court Decisions: http://www.law.cornell.edu/supct/cases/topics/tog_establishment_of_religion.html

Directions for Attorneys: Review the case and record your notes in the appropriate space below. It’s a good idea to divide the work among team members during research to maximize your time. **Both attorneys and judges should fill out the facts of the case section below.** Use a separate sheet of paper if necessary. Each attorney group will have five minutes to present their case.

Facts of the Case	
What is the central issue of the case?	
Who are the parties involved?	
What are the provisions of the Establishment Clause of the First Amendment?	

Arguments of the Case for the Petitioner

What is your position on this right?	
What are the arguments that favor your side?	
What are the arguments that favor the other side? (Anticipating the opposition can strengthen your side.)	
What are the legal precedents of the case? (Look at previous Supreme Court rulings on the Establishment Clause.)	
How do the legal precedents affect your side? If positively, explain how, and if negatively, explain why you disagree.	
What's at stake for your side?	

Arguments of the Case for the Respondent

What is your position on this right?	
What are the arguments that favor your side?	

What are the arguments that favor the other side? (Anticipating the opposition can strengthen your side.)	
What are the legal precedents of the case? (Look at previous Supreme Court rulings on the Establishment Clause.)	
How do the legal precedents affect your side? If positively, explain how, and if negatively, explain why you disagree.	
What's at stake for your side?	

Directions for the Justices:

Before you review the facts of the case, elect one of your members to be the chief judge. His or her duties will be to facilitate the proceedings, keep the attorneys to their time limit for presenting their case, and conduct the question/answer sessions.

Preparing for the case:

- Review all the facts of the case. Be sure you understand who the parties are in this case.
- Develop 5–7 questions to ask the attorneys on
 - The facts of the case (who is involved, what is the main issue, what has generated this contest?)
 - The legal basis of their arguments (why does one side feel the law/Constitution was violated and why the does the other side feel it wasn't?)
 - How the precedent cases affect this case
 - The potential impact of the court's ruling (who else besides the plaintiffs and the respondents would be affected by a ruling either way?)

During the presentation of arguments:

- Listen carefully to the presentations by both attorneys. Write down their main points.
- Ask any questions from your lists for clarification or to obtain further information.
- The attorneys have five minutes to present their case. You can ask relevant questions any time during or after their presentations.

After both attorneys have presented their case, meet in a “closed door” session for five minutes to decide the case. During your deliberations, discuss the following:

- Which side had the most persuasive arguments and why?
- What are the legal precedents to this case and how important are they in helping you make a decision?
- Which side (plaintiff or respondent) will you decide for? If there is more than one justice, you don't all have to agree. The decision is based on majority vote, but there can be dissenting opinions.

Your ruling should contain the following:

1. A summary of the facts of the case.
2. Which arguments you felt were the most persuasive and why.
3. The legal precedents and how they influenced your decision, if at all.
4. The impact of your decision. How will it affect all parties considered? How will it improve the situation?
5. If any judge disagrees with the majority opinion, his or her reasoning should be included in the decision.

Facts of the Case and Deliberations	
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<p>Summarize the facts of the case. Who are the opposing parties and what is the central issue?</p>	
<p>What are the specific arguments of the plaintiff?</p>	
<p>What are the specific arguments of the respondent?</p>	
<p>What questions do you have for either side?</p>	
<p>Which side was the most persuasive and should win this case? Explain why.</p>	

<p>What were the legal precedents and how did they influence your decision, if at all?</p>	
<p>What is the impact of your decision? How will it affect all parties considered? How will it improve the situation?</p>	
<p>If any judge disagrees with the majority opinion, write down the reasoning and include it in the decision.</p>	

Essay Rubric – Evolution of Religious Liberty in Post-Revolutionary America

Student Name _____

CATEGORY	4	3	2	1
Content	Shows a full understanding of the topic.	Shows a good understanding of the topic.	Shows a good understanding of parts of the topic.	Does not seem to understand the topic very well.
Organization	Information is very organized with well-constructed paragraphs and subheadings.	Information is organized with well-constructed paragraphs.	Information is organized, but paragraphs are not well constructed.	Information appears to be disorganized.
Quality of Information	Information clearly relates to the main topic. It includes several supporting details and/or examples.	Information clearly relates to the main topic. It provides 1–2 supporting details and/or examples.	Information clearly relates to the main topic. No details and/or examples are given.	Information has little or nothing to do with the main topic.
SUBTOTAL _____ out of 12 pts.				
WRITING QUALITY				
Mechanics	No grammatical, spelling, or punctuation errors.	Almost no grammatical, spelling, or punctuation errors	A few grammatical, spelling, or punctuation errors.	Many grammatical, spelling, or punctuation errors.
Diagrams and Illustrations	Diagrams and illustrations are neat and accurate and add to the reader's understanding of the topic.	Diagrams and illustrations are accurate and add to the reader's understanding of the topic.	Diagrams and illustrations are neat and accurate and sometimes add to the reader's understanding of the topic.	Diagrams and illustrations are not accurate OR do not add to the reader's understanding of the topic.
SUBTOTAL _____ out of 8 pts.				
TOTAL _____ out of 20 pts.				

