

GROWTH AND REFORM**Issues Connector: Church and State**

In the 1820s and 1830s, the Second Great Awakening brought a new religious fervor to the United States. People around the country developed stronger religious ideals and values, and many called for the U.S. government to support religion directly. Many laws were influenced by religious belief, including laws that prevented or limited commerce on Sundays. Today, the debate continues over the role of religion at all levels of government, especially with regards to public education, to funding, and to a variety of social issues.

Bill of Rights

The U.S. Constitution, as ratified in 1788, did not include the Bill of Rights, but several of the states had agreed to ratify the Constitution only if the first Congress would add one, which it did in 1791. The Bill of Rights consists of the first ten amendments to the Constitution. The First Amendment addresses the government and religion. It prohibits Congress from establishing any religion and guarantees the right of citizens to practice any religion they wish.

Everson v. Board of Education

In 1947, a local citizen challenged a New Jersey law that reimbursed parents who paid for their children to ride public buses to school. The plaintiff in *Everson v. Board of Education* asserted that the law violated the First Amendment because it gave tax dollars to parents of children who attended Catholic schools. The Supreme Court ruled in favor of the state law. The majority opinion affirmed that the First Amendment prohibited the use of state funds to support religious institutions, but it stated that the New Jersey law did not violate this provision because the money reimbursed parents for public transportation, not for religious activity. The case established the precedent that federal monies could be contributed to religious institutions so long as the activities being funded were secular.

Epperson v. Arkansas

In 1925, the landmark case *State of Tennessee v. John Scopes*, known as the Scopes Monkey Trial, upheld a state law prohibiting the teaching of evolution, a scientific theory, in schools because it conflicted with the religious belief in divine creation. *Epperson v. Arkansas* overturned the ruling in the *Scopes* case by establishing a policy of government neutrality in matters of religious belief. The Supreme Court ruled that an Arkansas law, as well as the earlier Tennessee law, violated the First Amendment because the laws attempted to promote specific religious beliefs in publicly funded classrooms.

GROWTH AND REFORM**Issues Connector: Church and State***Lemon v. Kurtzman*

This case challenged two state laws that used government funds to pay teachers and to purchase supplies for private religious schools. The majority opinion in this case set out a three-part "Lemon Test" for determining breeches of the First Amendment: First, the program being funded must be secular. Second, the program must not intend to advance or inhibit religion. Third, the program must not create an "excessive entanglement," or too much involvement, between church and state. The Supreme Court ruled that the state laws violated the third condition because the states would have to monitor how teachers taught and how schools used funds and supplies.

Federal Equal Access Act

Congress passed the Federal Equal Access Act, which guaranteed the right of students at public high schools to form non-curricular clubs, which may or may not be religious in nature, and to meet on school grounds. It sets up a number of criteria for the meetings of these groups. They must be voluntary and initiated by students. The school or the government may not sponsor the meeting. School staff members are not required to attend the meeting. The meeting may not interfere with the school's normal educational activities. Finally, nonschool persons may not direct or regularly attend activities of student groups.

Mitchell v. Helms

The *Mitchell* case challenged the use of state monies for the purchasing of educational materials for a large number of Catholic schools in Jefferson Parish, Louisiana. In its ruling, the Supreme Court stated that the laws were constitutional because the government funds went toward secular purposes and because the funds were distributed based on need. The ruling in this case did not have a majority opinion. Four of the justices, a plurality, supported the ruling opinion entirely. Two of the justices supported the ruling in favor of the state laws but did not agree with the plurality's opinion and wrote a separate opinion. The dissenting justices argued that the ruling established new precedent in its use of the term "neutrality." These justices argued that the precedent had been for government to neither support nor oppose any particular religion but that this ruling set a new precedent in which government should support all religions equally.

GROWTH AND REFORM

Issues Connector: Church and State

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . .”

—*First Amendment, U.S. Constitution, 1791*

“No tax in any amount, large or small, can be levied to support any religious activities or institutions, whatever they may be called, or whatever form they may adopt to teach or practice religion. . . . On the other hand, [the state] cannot exclude [members of any faith], because of their faith, or lack of it, from receiving the benefits of public welfare legislation.”

—*Majority Opinion, Everson v. Board of Education, 1947*

“Government in our democracy, state and national, must be neutral in matters of religious theory, doctrine, . . . and practice. It may not be hostile to any religion or to the advocacy of no-religion; and it may not aid, foster, or promote one religion or religious theory against another or even against the militant opposite.”

—*Majority Opinion, Epperson v. Arkansas, 1968*

“[S]tate inspection and evaluation of the religious content of a religious organization is fraught with the sort of entanglement that the Constitution forbids. It is a relationship pregnant with dangers of excessive government direction of church schools and hence of churches.”

—*Majority Opinion, Lemon v. Kurtzman, 1971*

“It shall be unlawful for any public secondary school which receives

Federal financial assistance and which has a limited open forum to deny equal access or a

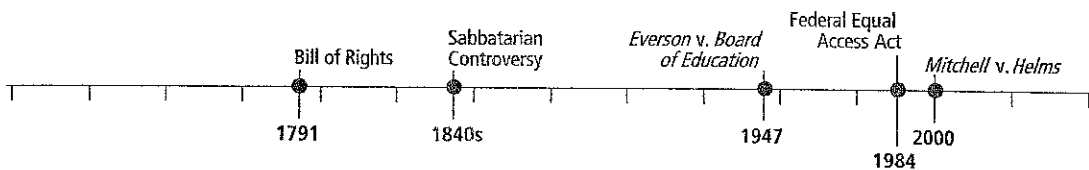
fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.”

—*Federal Equal Access Act, 1984*

Church and State

“[W]hether governmental aid to religious schools results in religious indoctrination ultimately depends on whether any indoctrination that occurs could reasonably be attributed to governmental action.”

—*Plurality Opinion, Mitchell v. Helms, 2000*



GROWTH AND REFORM

Issues Connector: Church and State

Directions: Read the excerpts from the First Amendment and major court cases examining its application. Then, complete the chart below by summarizing the main point of each opinion and answer the questions that follow on a separate sheet of paper.

Opinion	Main idea
<i>Everson v. Board of Education</i>	
<i>Epperson v. Arkansas</i>	
<i>Lemon v. Kurtzman</i>	
<i>Mitchell v. Helms</i> (plurality)	
<i>Mitchell v. Helms</i> (dissenting)	

1. What does the First Amendment protect? What does it prohibit?
2. In what ways does *Everson v. Board of Education* limit the use of public funds?
3. How does *Epperson v. Arkansas* define government neutrality in matters of religion?
4. According to *Lemon v. Kurtzman*, what does the Constitution forbid?
5. **Analyze** Select one of the opinions above, and explain how it reflects the protections in the First Amendment.
6. **Apply Information** Legal precedent changes over time in the United States as the Supreme Court examines new cases and issues new rulings. The Supreme Court generally examines past rulings when considering new cases. Choose one of the following scenarios involving the separation of church and state. Based on the rulings you have read, explain whether you believe that the scenario is constitutional with regards to the First Amendment and why.
 - a. A state law bans divorce, refuses to recognize divorces obtained in other states, and makes it illegal to remarry except in the case of a spouse's death.
 - b. A state law requires public high school students to take a world religions class, which covers Buddhism, Christianity, Hinduism, Islam, and Judaism, to graduate.
 - c. A state law prohibits the use of living wills, requiring medical personnel to take all measures necessary to keep a person alive. A living will is a document that instructs a patient's doctors not to use artificial means to keep the patient alive if the person will be disabled beyond reasonable expectation of recovery.