

# **How to Love Your Neighbor in the Public Square**

Jane Cho  
Stanford Law 2017

# What is Christian love as expressed through our politics?

Bigotry?

“Progressive”  
Christian?

Avoidance?

# Separation of Church & State

1. What is it and why do we care?
2. Are we going in a good direction?
3. What is the ideal balance between church and state?
4. What does that mean for me?

# **Separation of Church & State**

1. What is it and why do we care?
2. Are we going in a good direction?
3. What is the ideal balance between church and state?
4. What does that mean for me?

# 1644 Roger Williams

Baptist theologian & Separatist

Persecuted by Puritans

Founded Rhode Island colony,

Haven for religious dissidents

*The Bloody Tenent of Persecution*

“wall of separation, between the garden  
of the church and the wilderness of the world”

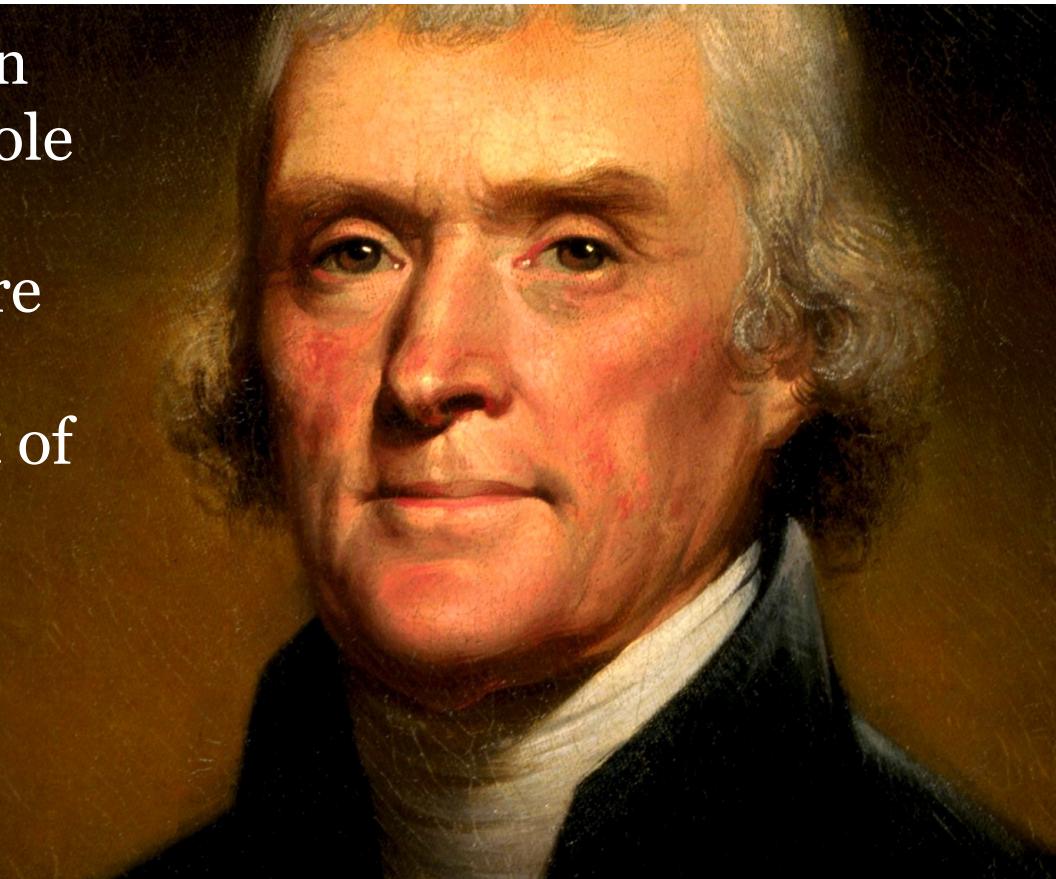


# **First Amendment**

government shall not make law  
respecting a religious group  
or prohibiting the free exercise thereof

# 1802 Thomas Jefferson

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**



# Supreme Court Outlaws Polygamy

1878 *Reynolds v. U.S.* was the first Supreme Court application of Jefferson's "separation of church and state"

"Congress was deprived of all legislative power over mere opinion, but was left free to reach actions which were in violation of social duties or subversive of good order"

# **First Amendment**

government shall not make law

respecting a religious group

or prohibiting the free exercise thereof

# Establishment Clause Applied to the States

## 14th Amendment

“no state shall ... deprive any person of life, liberty or property without due process of law...”

## 1947 *Everson v. Board of Education*

the Supreme Court held that the establishment clause is one of the “liberties” protected by the 14th Am

# Skirmishes with the States

*Engel v. Vitale*, 370 U.S. 421 (1962)

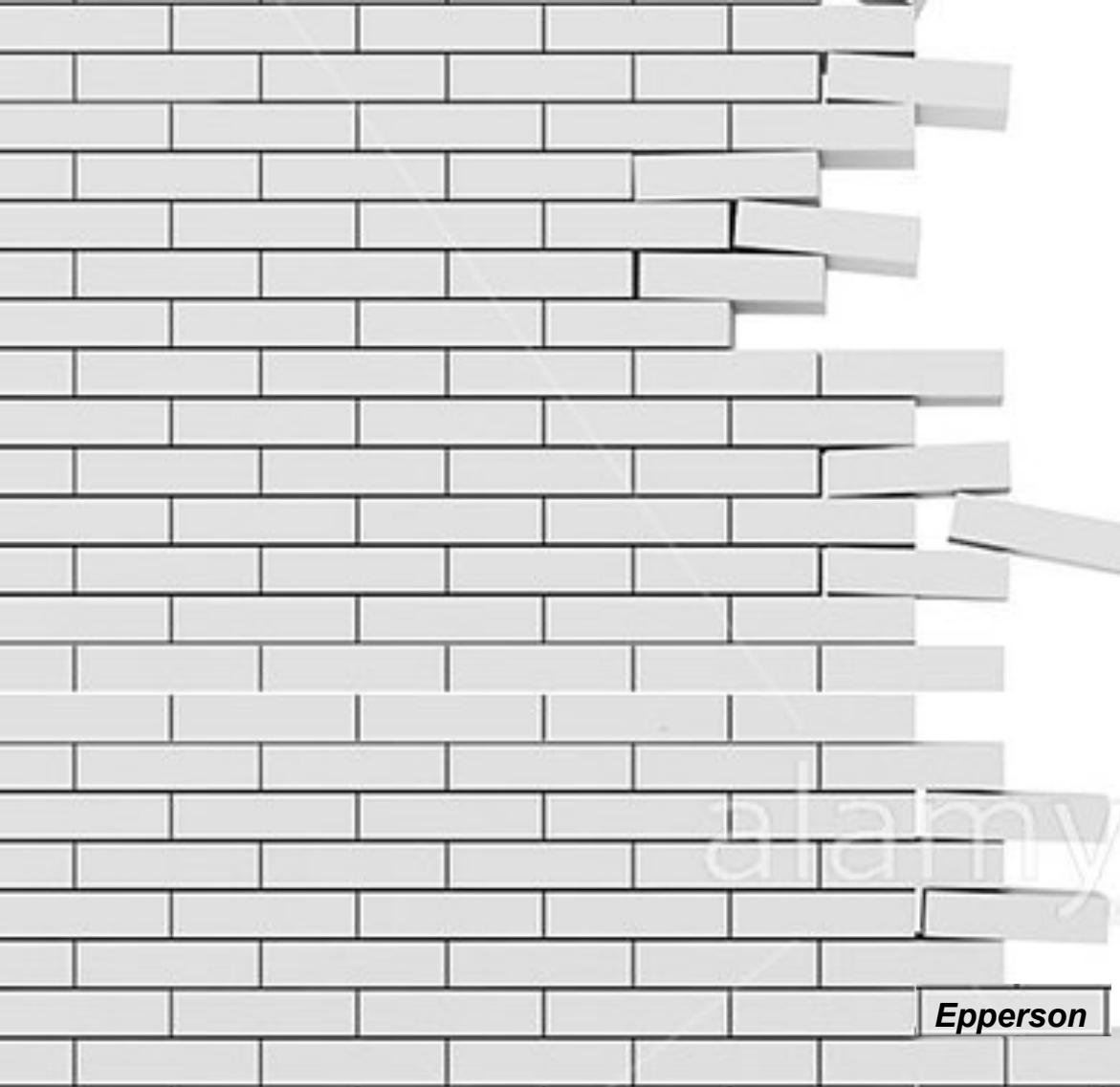
unconstitutional to require school prayer in NY, even when students could excuse themselves

*Epperson v. Arkansas*, 393 U.S. 97 (1968)

unconstitutional to criminalize the teaching of evolution in schools receiving public funds

# Separation of Church & State

1. What is it and why do we care?
2. Are we going in a good direction?
3. What is the ideal balance between church and state?
4. What does that mean for me?



# Lemon Test

The statute must...

1. ...have a secular legislative purpose
2. ...neither advance nor inhibit religion
3. ...not result in “excessive government entanglement with religion”

*Lemon v. Kurtzman*, 403 U.S. 602 (1971)

unconstitutional for PA state to reimburse salaries of  
secular-subject teachers in private religious schools



# **First Amendment**

government shall not make law  
respecting a religious group  
or prohibiting the free exercise thereof

...The separation goes both ways



# *Newland v Sebelius (2012)*

Court granted preliminary injunction for Newland family to not need to comply with the ACA



# Separation of Church & State

1. What is it and why do we care?
2. Are we going in a good direction?
3. What is the ideal balance between church  
and state?
4. What does that mean for me?

## **1 Timothy 2 (ESV)**

1 First of all, then, I urge that supplications, prayers, intercessions, and thanksgivings be made for all people,  
2 for kings and all who are in high positions, that we may lead a peaceful and quiet life, godly and dignified in every way.

3 This is good, and it is pleasing in the sight of God our Savior,

4 who desires all people to be saved and to come to the knowledge of the truth.

# Separation of Church & State

1. What is it and why do we care?
2. Are we going in a good direction?
3. What is the ideal balance between church and state?
4. What does that mean for me?