

## **Engel v. Vitale (1962)**

**Argued:** April 3, 1962

**Decided:** June 25, 1962

### **Background**

The First Amendment to the Constitution protects the right to religious worship yet also shields Americans from the establishment of state-sponsored religion. Courts are often asked to decide tough cases about the convergence of those two elements—the Free Exercise and Establishment Clauses of the First Amendment.

The United States has a long history of infusing religion into its political practices. For instance, “In God We Trust” is printed on currency. Congress opens each session with a prayer. Before testifying in court, citizens typically pledge an oath to God that they will tell the truth. Traditionally, presidents are sworn in by placing their hand on a bible. Congress employs a chaplain, and Supreme Court sessions are opened with the invocation “God save the United States and this Honorable Court.” Public schools are a bedrock of institution in U.S. democracy, where the teaching of citizenship, rights, and freedoms are common. This is a case about whether public schools may also play a role in teaching faith to God through the daily recitation of prayer.

### **Facts**

Each day, after the bell opened the school day, students in New York classrooms would salute the U.S. flag. After the salute, students and teachers voluntarily recited this school-provided prayer, which had been drafted by the state education agency, the New York Regents: “Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers and our country.” The prayer was said aloud in the presence of a teacher, who either led the recitation or selected a student to do so. Students were not required to say this prayer out loud; they could choose to remain silent. Two Jewish families (including Stephen Engel), a member of the American Ethical Union, a Unitarian, and a non-religious person sued the local school board, which required public schools in the district to have the prayer recited. The plaintiffs argued that reciting the daily prayer at the opening of the school day in a public school violated the First Amendment’s Establishment Clause. After the New York courts upheld the prayer, the objecting families asked the U.S. Supreme Court to review the case, and the Court agreed to hear it.

### **Issue**

Does the recitation of a prayer in public schools violate the Establishment Clause of the First Amendment?

## **Constitutional Amendment and Supreme Court Precedents**

- **First Amendment to the U.S. Constitution**

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

- ***West Virginia State Board of Education v. Barnette* (1943)**

The West Virginia Board of Education required that all public schools include a salute of the American flag as a part of their activities. Everyone, including teachers and pupils, was required to salute the flag. If they did not, they could be charged with “insubordination” and punished. Students who were members of a religious sect, the Jehovah’s Witnesses, cited a religious objection to saluting the flag, claiming that it was equivalent to “idolatry.” Their parents sued the state board of education asserting that the compulsory flag salute was a violation of the Establishment Clause. The Supreme Court ruled that the mandatory salute was unconstitutional. They said that a flag salute was a form of speech, because it was a way to communicate ideas. In *Barnette*, the Court ruled that in most cases the government cannot require people to express ideas that they disagree with, especially when the ideas conflict with their own religious beliefs.

- ***McCullum v. Board of Education* (1948)**

In *McCullum v. Board of Education*, the Court said a public school violated the Establishment Clause when it allowed the school to teach religious instruction during school hours on school property. The schools set aside time for religious instruction, organized selection of religious community members to teach the school children, and administered the instruction. The court ruled in an 8–1 decision this violated the Establishment Clause by establishing a government preference for certain religions.

## **Arguments for Engel (petitioner)**

- This school-sponsored prayer violates the Establishment Clause of the First Amendment as applied to the states. Public schools are part of the government, and the Establishment Clause says that the government cannot favor any one religion over another. The prayer includes the words “Almighty God” and thus favors monotheistic religions.
- It also violates the Free Exercise part of the First Amendment, because it has the effect of coercing children to participate in a religious proceeding. Children are required to attend school; they cannot choose to skip school if the prayer conflicts with their beliefs.
- A teacher leads the students in prayer and cooperates in carrying out the mandate requiring religious training in the public schools. This prayer is religious instruction and teachers are state officials; therefore, the government is forcing a belief in organized religion.

- Although the prayer is voluntary, few parents or students would choose not to participate because students would be singled out for their religious (or non-religious) beliefs.
- In earlier cases like *Barnette* and *McCullum*, the Supreme Court made it clear that public schools cannot promote specific religions over others and cannot force children to participate in activities that violate their religious beliefs.

## **Arguments for Vitale (respondent)**

- This prayer safeguards the religious heritage of the nation. Beginning with the Mayflower Compact, the country’s founders have publicly and repeatedly recognized the existence of a supreme being or God. In the Declaration of Independence, there are four references to the creator who endowed humans with “unalienable rights.” Congress opens its session with a prayer, and presidents often conclude speeches with “God bless the United States of America.”
- The New York schools’ prayer is a declaration of faith. It is non-denominational and does not imply preference of any one religion over others.
- Schools fulfill a function of character- and citizenship-education, supplementing the training that often occurs at home. A short, nondenominational prayer aligns with this character education function.
- The New York Regents prayer is voluntary, not mandatory. Any child could remain silent or be excused by parental request with principal approval.
- The Pledge of Allegiance includes the word “God” and is widely accepted and recited in schools. In previous cases the Supreme Court did not strike references to God down as violations of the First Amendment.

## **Decision**

The Supreme Court ruled, 6–1, in favor of the objecting parents. Justice Black wrote the majority opinion, and was joined by Chief Justice Warren and Justices Douglas, Clark, Harlan, and Brennan. Justices Frankfurter and White did not participate. Justice Stewart dissented.

## **Majority**

The Court ruled that the school-sponsored prayer was unconstitutional because it violated the Establishment Clause. The prayer was a religious activity composed by government officials (school administrators) and used as a part of a government program (school instruction) to advance religious beliefs. The Court rejected the claim that the prayer was nondenominational and voluntary. The Court’s opinion provided an example from history: “...this very practice of establishing governmentally composed prayers for religious services was one of the reasons which caused many of our early colonists to leave England and seek religious freedom in America.” The Court also

explained that, while the most obvious effect of the Establishment Clause was to prevent the government from setting up a particular religious sect of church as the “official” church, its underlying objective is broader:

“Its first and most immediate purpose rested on the belief that a union of government and religion tends to destroy government and to degrade religion. The history of governmentally established religion, both in England and in this country, showed that whenever government had allied itself with one particular form of religion, the inevitable result had been that it had incurred the hatred, disrespect and even contempt of those who held contrary beliefs. That same history showed that many people had lost their respect for any religion that had relied upon the support of government to spread its faith.”

The Court also said that preventing the government from sponsoring prayer does not indicate hostility toward religion.

### **Dissent**

Justice Stewart argued in his dissent that the majority opinion misapplied the Constitution in this case. He emphasized that the prayer was voluntary and that students were free to choose not to say it. “I cannot see how an ‘official religion’ is established by letting those who want to say a prayer say it. On the contrary, I think that to deny the wish of these school children to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation.” Stewart described the history of religious traditions reflected in American institutions and government, from the invocation that “God save the United States and this Honorable Court” at the opening of each Supreme Court session, to the references to God in the Star-Spangled Banner and the employment of a chaplain in the House of Representatives. None of these things established an “official religion,” and neither did New York’s school prayer. Stewart argued that the Establishment Clause was meant to keep the government from forming a state-sponsored church (like the Church of England), not prohibit all types of government involvement with religion.