

Supreme Court Case Study 34



Constitutionality of Prayer in Public Schools

Engel v. Vitale, 1962

***** Background of the Case *****

In the early years of the country, prayers in schools had been considered a legitimate, even essential, part of education. Since most of the students were of the same religion, there was no question about the appropriateness of prayer in the schools. However, as the population became more diversified, questions began to be raised as to the legality of this practice. Civil libertarians were prominent in the move to abolish prayer in the schools.

In 1951 the New York State Board of Regents, which supervises the state's public school system, approved a brief prayer at the start of each day. The prayer read: "Almighty God, we acknowledge our dependence upon Thee, and we beg Thy blessings upon us, our parents, our teachers, and our Country." School districts were not required to use the prayer, and students were not required to recite it. In 1958 the New Hyde Park school board adopted the prayer and directed that it be recited each day in every class, although students could be excused from reciting it.

Steven Engel, the parent of two children in the New Hyde Park schools, objected to this practice and asked a state court to order the prayer dropped. Engel directed his suit against the head of the school board, William J. Vitale, Jr. The state court and the New York Court of Appeals refused to enjoin—prohibit—recitation of the prayer. Engel then appealed to the United States Supreme Court. The question before the Court was whether the daily prayer, although noncompulsory, violated the First Amendment.

Constitutional Issue *****

The First Amendment, applied to the states through the due process clause of the Fourteenth Amendment, prohibits laws respecting the establishment of religion. Did the daily prayer of New York State schools, although noncompulsory, violate the establishment clause?

***** The Supreme Court's Decision *****

The Court ruled in Engel's favor 6 to 1. (Two justices did not participate in the decision.) Justice Hugo Black wrote the majority opinion.

No one had contested the fact that the prayer was essentially religious. The school board had argued, however, that it was permissible because it was "nondenominational"—that is, that it did not relate to any particular religious group. Furthermore, Vitale had noted that no student was compelled either to say the prayer or to remain in the classroom while it was being recited.

The Court disagreed, calling the practice "wholly inconsistent with the establishment clause." It held that a prayer "composed by government officials as part of a governmental program to further religious beliefs . . . breaches the constitutional wall of separation between Church and State." Neither the nondenominational nature of the prayer nor the fact that it was not compulsory could save it from unconstitutionality under the establishment clause.

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Black pointed out, "It is a matter of history that 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." He went on, "Under that [First] Amendment's prohibition . . . government in this country . . . is without power to prescribe any particular form of prayer which is to be used as an official prayer in carrying on any program of governmentally sponsored religious activity."

Black specified several purposes of the establishment clause. Among them, the clause sought (a) to prevent the "union of government and religion [which] tends to destroy government and to degrade religion"; (b) to express the principle "that religion is too personal, too sacred, too holy, to permit its 'unhallowed perversion' by a civil magistrate"; and (c) to prevent religious persecutions which have historically arisen from governmentally established religions.

The nation, the Constitution, and the Bill of Rights were all established in order to avoid these sorts of problems, Black concluded. Therefore, "the New York laws officially prescribing the Regents' prayer are inconsistent both with the purposes of the establishment clause and with the establishment clause itself."

***** Dissenting Opinion *****

Justice Potter Stewart challenged the Court's reasoning in the case. He wrote, "The Court does not hold, nor could it, that New York has interfered with the free exercise of anybody's religion. For the state courts have made it clear that those who object to reciting the prayer may be entirely free of any compulsion to do so, including any 'embarrassments and pressures.' . . . But the Court says that in permitting schoolchildren to say this simple prayer, the New York authorities have established 'an official religion.' With all respect, I think the Court has misapplied a great constitutional principle. I cannot see how an official religion is established by letting those who want to say a prayer say it." He went on, "On the contrary, I think that to deny the wish of these schoolchildren to join in reciting this prayer is to deny them the opportunity of sharing in the spiritual heritage of our Nation."

The Court's decision provoked widespread controversy. Civil libertarians hailed it as a victory. Conservatives attacked it vigorously. One member of Congress from Alabama asserted, "They put the Negroes in the schools [in the *Brown* case]. Now they have driven God out."



Questions

DIRECTIONS: Answer the following questions on a separate sheet of paper.

1. On what basis did the majority of Court justices find school prayer unconstitutional?
2. Do you agree with Justice Black's opinion or with Justice Stewart's? Give reasons for your answer.
3. What was the New Hyde Park school district required to do after the Court's decision?
4. United States coins and paper money carry the phrase "In God We Trust." Does this inscription violate the principle of separation of Church and State? Explain your answer.
5. Almost all public schools are closed during certain religious holidays, such as Christmas and Easter. Do you think the *Engel* decision should apply to this custom?