**Engel v. Vitale**

*(1962)*

In 1962, the Supreme Court struck down a state-sponsored prayer in New York public schools in *Engel v. Vitale*, 370 U.S. 421, 82 S. Ct. 1261, 8 L. Ed. 2d 601, the first in a line of decisions banning school prayer. In finding a 22-word voluntary prayer unconstitutional, the Court opened a Pandora's box. For the next four decades, public anger brought many calls for a constitutional amendment to restore what *Engel* took away. On the other hand, the ruling was a landmark victory for church-state separationists who marked it as the beginning of a new era in [First Amendment](http://legal-dictionary.thefreedictionary.com/First+Amendment) doctrine.

The origins of the case lay in a controversial education project in the early 1950s, started by the New York [Board of Regents](http://legal-dictionary.thefreedictionary.com/Board+of+Regents), a bipartisan citizen commission appointed by the New York State Legislature to oversee state schools. The regents set out to recommend a plan for "moral education," the most controversial part of which included prayer. Religious leaders naturally differed over the wording of a proposed prayer intended to be recited by students each morning, but in 1951, a compromise resulted in what they hoped would be an inoffensive solution. Included as part of the regents' *Statement on Moral and Spiritual Training in the Schools*, the prayer went: "Almighty God, we acknowledge our dependence upon Thee, and we Beg Thy blessings upon us, our parents, our teachers and our country."

Going out of their way to avoid trouble, the regents made the prayer entirely optional. Both local school boards and parents could decide if it would be used. Nevertheless, its authors had not written it only to try their hand at prayer making. "We believe," they wrote, "that this Statement will be subscribed to by all men and women of good will, and we call upon all of them to aid in giving life to our program." But fearing religious and legal controversy, New York school districts shunned the prayer. They had good reason: not only was the state quite ethnically and religiously diverse, but also religious instruction in public schools had been declared unconstitutional by the U.S. Supreme Court in 1948 (*McCollum v. Board of Education*, 333 U.S. 203, 68 S. Ct. 461, 92 L. Ed. 549). Most school districts followed the lead of New York City, deciding against adopting the prayer. Only about 10 percent of them were using it by the late 1950s.

In 1958, the prayer provoked a lawsuit (*Engel*). Five parents of students in the small suburb of New Hyde Park, Long Island, brought suit to stop its use in their schools. Two parents were Jewish, the third was Unitarian, the fourth was a member of the Ethical Culture Society, and the fifth was a self-professed atheist. They believed that the school system was coercing their children into saying the regents' prayer, even though individually, their children could be excused from participating. The difficulty of granting children the permission to step out of the room during recitation of the prayer had, they argued, made the prayer effectively compulsory. Furthermore, voluntary or not, they said, the prayer violated the Establishment Clause of the First Amendment ("Congress shall make no law respecting an establishment of religion"). The parents received substantial help in their suit from the [American Civil Liberties Union](http://legal-dictionary.thefreedictionary.com/American+Civil+Liberties+Union) (ACLU), which had been advocating strict separation of church and state for many years.

At first, the lawsuit failed. The plaintiffs asked the New York State Supreme Court—acting as a trial court—to stop use of the prayer. It refused. Justice Bernard S. Meyer found the prayer clearly religious, but not a violation of the First Amendment. Instead, he ordered school districts to set up safeguards against "embarrassments and pressures" upon children who did not wish to participate. The New York Appellate Division upheld the decision. So did the state's Court of Appeals, by a vote of 5–2. It said the nation's founders had designed the Establishment Clause to prohibit adopting an official religion or favoring a particular religion. "They could not have meant to prohibit mere professions of belief in God," the court held, "for if that were so, they themselves in many ways were violating the rule when and after they adopted it."

After agreeing to review the case, the U.S. Supreme Court heard oral arguments on April 3, 1962. Attorney William J. Butler made the following case for the plaintiffs: all state support to religion violates the First Amendment, and the prayer constituted the "teaching of religion in a public institution" and should therefore be banned. Several powerful groups joined the plaintiffs by filing friend-of-the-court briefs. These included the ACLU; the American Jewish Committee, joined by the [Anti-Defamation League](http://legal-dictionary.thefreedictionary.com/Anti-Defamation+League) of B'nai B'rith; the Synagogue Council of America, joined by the National Community Relations Advisory Council; and the American Ethical Union. These organizations took different positions. The American Ethical Union saw the prayer as "governmental preference for theism in violation of the First and Fourteenth Amendments." The Synagogue Council argued that any school prayer was unconstitutional—even if voluntary—because it constituted "state aid to religion."

The school board defended the prayer on several grounds. It cited the second part of the First Amendment's religious guarantees, the Free Exercise Clause ("or prohibiting the free exercise thereof"). The prayer was an example of free exercise, Attorney Bertram B. Daiker argued, that fell far short of establishing a religion because it was optional, not compulsory. Daiker also found authority in the nation's traditions, calling the prayer "fully in accord with the tradition and heritage that has been handed down to us." Like the plaintiffs, the school board had powerful friends in court. Briefs supporting the prayer came from 19 state attorneys general who also saw religious and national tradition under attack. The attorneys general said the nation's founders "would be profoundly shocked" by the lawsuit.

On June 25, 1962, the groundbreaking decision was delivered. By a 7–1 majority, the Supreme Court found the prayer unconstitutional (the ninth justice, byron r. white, did not participate because he did not assume his seat on the court until two weeks after the case had been argued). Justice hugo l. black's majority opinion called the prayer "wholly inconsistent" with the Establishment Clause. A considerable series of precedents existed from 1940 on for the ruling, but Black did not cite them. Instead, he recalled the bitter history of church-state conflict in England and colonial America, noting that by the time the Constitution was written, "there was a widespread awareness among many Americans of the dangers of a union of church and state." The First Amendment was added to prevent that union, which "tends to destroy government and to degrade religion." Black scorned the school board's claim that the regents' prayer was harmless. Neither its brevity nor its voluntary nature nor its nondenominational status could protect it from the Constitution. "One of the greatest dangers to the freedom of the individual to worship in his own way lies in the government's placing its official stamp of approval upon one particular kind of prayer or one particular form of religious services," wrote Black.

Critics immediately blasted the *Engel* decision. In a move that seemed to anticipate this response, Black wrote,

It has been argued that to apply the Constitution in such a way as to prohibit state laws respecting an establishment of religious services in public schools is to indicate a hostility toward religion or toward prayer. Nothing, of course, could be more wrong…. It is neither sacrilegious nor antireligious to say that each separate government in this country should stay out of the business of writing or sanctioning official prayers and leave that purely religious function to the people themselves and to those the people choose to look to for religious guidance. The Court's message to government was simple: stay out of the prayer business, and leave it to religious leaders.

In a sole dissent, Justice [Potter Stewart](http://legal-dictionary.thefreedictionary.com/Potter+Stewart) argued that the majority had overstated the meaning of the Establishment Clause: it prevented only the creation of official religions. "I cannot see how an 'official religion' is established by letting those who want to say a prayer say it," he wrote, and his view was prophetic. For the next 30 years, advocates of school prayer could not see how, either. By 1985, when the school prayer ban reached a new level in wallace v. jaffree, 472 U.S. 38, 105 S. Ct. 2479, 86 L. Ed. 2d 29, Justice william h. rehnquist argued similarly in his dissent to the majority ruling banning a so-called moment of silence in the classroom.

*Engel* was only the first ban against prayer in public schools; a year later, the Court returned to the issue in abington school district v. schempp, 374 U.S. 203, 83 S. Ct. 1560, 10 L. Ed. 2d 844, with even more far-reaching results—the banning of the Lord's Prayer and Bible reading in public schools.

Despite these rulings many school boards continued to offer prayers at school events, such as graduation ceremonies and athletic events. As a result, the Supreme Court revisited the issue of school prayer a number of times since *Engel*. In 1992, the Supreme Court in [Lee v. Weisman](http://legal-dictionary.thefreedictionary.com/Lee+v.+Weisman), 505 U.S. 577, 112 S.Ct. 2649, 120 L.Ed.2d 467, held that a high school principal, acting in accord with school board policy, violated the Establishment Clause by inviting a local clergyman to deliver a nonsectarian prayer at graduation. In response to this ruling, school boards around the United States reconsidered their policies but others remained adamant about permitting prayers at school events.

In a Texas case, the school board allowed the student council chaplain to lead prayers over the public-address system before each high school football game. After former students filed a lawsuit challenging this practice, the school modified its policy. The school board allowed elected student representatives, no longer called chaplains, to give a "message or invocation" before the games. The students were free to say whatever they chose, as long as it promoted good sportsmanship. The policy did not require that the invocations be nonsectarian.

The Supreme Court rejected this approach in *Santa Fe Independent School District v. Doe*, 530 U.S. 290, 120 S.Ct. 2266, 147 L.Ed.2d 295 (2000). The Court ruled that the school had sponsored a religious message that was impermissible under the First Amendment. The facts of the case indicated that the prayer had been sanctioned by school policy, delivered over a school microphone by a student, and supervised by a school faculty member. These facts led to the conclusion that the prayer was public speech and subject to the Establishment Clause.

The Santa Fe decision made it clear that the *Engel* reasoning applied to school events. The school district had argued that students were not compelled to attend the football games and therefore there was no coercion. The Court found otherwise, pointing out that some students, such as cheerleaders, football players, and members of the band had to attend. The Court concluded that the "Constitution demands that schools not force on students the difficult choice between whether to attend these games or to risk facing a personally offensive religious ritual."

**BRIEF SUMMARY**

***Engel v. Vitale***, 370 U.S. 421 (1962), was a [landmark](http://en.wikipedia.org/wiki/Landmark_decision) [United States Supreme Court](http://en.wikipedia.org/wiki/Supreme_Court_of_the_United_States) case that determined that it is unconstitutional for state officials to compose an official [school prayer](http://en.wikipedia.org/wiki/School_prayer) and encourage its recitation in [public schools](http://en.wikipedia.org/wiki/Public_school_(government_funded)).

The plaintiffs argued that opening the school day with such a prayer violates the [Establishment Clause](http://en.wikipedia.org/wiki/Establishment_Clause) of the [First Amendment to the United States Constitution](http://en.wikipedia.org/wiki/First_Amendment_to_the_United_States_Constitution) ([as applied to the states](http://en.wikipedia.org/wiki/Incorporation_(Bill_of_Rights)) through the [Fourteenth](http://en.wikipedia.org/wiki/Fourteenth_Amendment_to_the_United_States_Constitution)), which says in part, "Congress shall make no law respecting an establishment of religion".

The Court ruled that government-written prayers were not to be recited in public schools and were an unconstitutional violation of the Establishment Clause.

The Court rejected the defendant's arguments that people are not asked to respect any specific established religion; and that the prayer is voluntary. The Court held that the mere promotion of a religion is sufficient to establish a violation, even if that promotion is not coercive. The Court further held that the fact that the prayer is vaguely worded enough not to promote any particular religion is not a sufficient defense, as it still promotes a family of religions (those that recognize "Almighty God"), which still violates the Establishment Clause.