

Freedom of Religion and School Prayer: Defining America

A much-debated topic in the court system is freedom of religion and school prayer. The first amendment of the United States Constitution states "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof." (Cary 2) Over the years, there have been many Supreme Court cases in response to this amendment. The courts decisions in these cases reflect the two main points of the first amendment which are that the government cannot tell anyone to worship or how to worship and the government cannot show favor to a particular religion over another. Each public school Supreme Court cases can be placed into one of the following categories: religious teaching in public schools, practice of religion in public schools, student involvement in religious practices on school property.

The first court cases being discussed fall into the category of religious teaching in public schools. In the case of *McCollum v. Board of Education*, a school in Champaign, Illinois blocked a 45-minute time frame each week so that religious officials could visit the school and give religious instruction on school grounds. This was given the name of released time. Setting aside time during school hours for in school instruction of religion was ruled to be unconstitutional in this case. Released time is allowed off school grounds for the needs of religious students, but it is prohibited on school grounds. The court decided that religious instruction on school grounds shows support for that particular religion and therefore is unconstitutional.¹ *Zurich v. Clausen* is another

¹ "Justice Felix Frankfurter declared Separation means separation, not something less... separation should be a wall not a fine line easily over stepped." (Gaustad 86)

religious teaching court case that involved the New York City school district. A New York public school dismissed students early only one day per week to go to a religious institution. The students that chose not to participate had to remain in their regular classes. The case had certain similarities to *McCullum v. Board of Education* except for one key difference. Students were dismissed to go to a religious institution instead of religious officials teaching on school property. The only involvement the school had was to collect attendance records to insure that the students participating showed up to their destinations. The Supreme Court found releasing students from school to participate in religious practices constitutional. Lastly, the case of *Grand Rapids School District v. Ball* also fell under the category of religious teaching in school. This case involved a co-teaching relationship between public teachers and teachers from private schools that engage in religious education (Parochial teachers). Parochial teachers would teach subjects that might involve moral questions. The court decided that this shared teaching between public and parochial teachers was unconstitutional. "Justice Brennan declared that public school teachers instructing in parochial schools might give the impression that the state endorsed the schools religion." (Gaustad 88). Brennan was also concerned that state paid teachers teaching at parochial schools might suggest that the religious schools could receive some form of government funding, which would definitely cross the line between the separation of church and state. Religious teaching on the grounds of the school in each case was found unconstitutional based on the first amendment and a violation of separation between church and state. Religious teaching was found constitutional as long as it was off school ground and voluntary for the students. In 1968, *Epperson v. Arkansas* an

Arkansas law prohibited the teaching of evolution in the classroom or to use and textbook that teaches the theory of evolution. When this case was brought before the Supreme Court, the law was found unconstitutional under the first amendment because it prohibited “free exercise” of religion. The court determined this because evolution conflicted with biblical doctrine and therefore the law was created to tailor education towards a specific religious group. Religion cannot be used as a basis for any law. This action would imply governmental support for religious beliefs. States could not forbid the teaching of evolution because it is a scientific theory and doesn't have a religious base. Another case involving a bigger issue of religious teaching in school is *Edwards v. Aguillard*. Louisiana passes an act called the “Creationism Act”. This act allowed the teaching of evolution only if equal time was set aside to teach creationism. The point of this act was to reduce a narrow-minded view by only teaching on theory about the origins of life on Earth. The court decided that the Creationism Act violated the first amendment of the Constitution and therefore was unconstitutional. The Creationism Act failed the Lemon Test because the law was created for the purpose of making sure creationism was taught. The court decided that the law did not have a non-religious purpose, it did not promote academic freedom, and it restricted the teachers' ability to on teaching what they felt was appropriate. Another reason for the decision is that instructional packets were created to aid in the instruction of creationism but not to aid in the instruction of evolution. This implied state approval for creationism over evolution and that alone is strictly unconstitutional.

The second category of cases is practice of religion in public schools. The case of *Engel v. Vital* in 1962 was a very defining and controversial case. In 1958, The New

York State Board of Regents required public classrooms to recite a prayer² at the beginning of the school day. A member of the board of regents, Mary Harte, had attempted to require the prayer as part of the curriculum since 1951. Reciting the prayer was not required, but those not saying the prayer were directed to leave the room. Mandatory prayer in the public schools was declared unconstitutional. The district argued that the prayer was not mandatory, however, the court decided that it singled out those who chose not to participate in the prayer.

The First Amendment does not allow the state to erect a policy that only respects a religious view that is popular because the largest majority cannot be licensed to impose its religious preferences upon the smallest minority. (Ravitch 61).

Debate sparked over the decision even in Congress. Congress was determining to propose a plan to amend the Constitution in order to include school prayer and nullify the decision in *Engel v. Vital*. Since then, many presidents, including Ronald Regan³ in 1982, proposed amendments on the behalf of school prayer. However, the creators of the constitution made it difficult to amend the constitution by requiring a two-thirds vote in both Senate and House to be successful. To this day, the decision still stands.

Engel v. Vital cause such controversy that the Supreme Court chose cases that would reinforce and define their original decision. *Dekalab School District v. DeSpain* was about an Illinois kindergarten teacher had her students recite the "Cookie Prayer"⁴

² "The prayer read, "Almighty God, we acknowledge our dependence upon Thee, and beg Thy blessings upon us, our participants, our teachers and Our Country." (Dudley 14)

³ For more on Ronald Regan's religious views read *Hand of Providence: The Strong and Quiet Faith of Ronald Reagan* by Mary Beth Brown

⁴ The "Cookie Prayer" read "We thank you for the flowers so sweet, we thank you for the food we eat, we thank you for the birds we sing, we thank you for everything." (Dudley 82).

(a short prayer of thanks before a meal) before the morning snack. The teacher left out the mention of God because she did not want any trouble. The court ruled that any prayer, even a prayer of thanksgiving, was unconstitutional whether there is a mention of God or not within the text of the prayer. *Abington v. Schemp* discussed the issues of daily bible readings and the reciting of the Lord's Prayer in public schools. In this case, the state suggested that the bible readings and prayers in the classes had non-religious purposes. These purposes "included the promotion of moral values, the contradiction to materialistic trends, and the teaching of literature." (Dudley 80) The court decided that bible readings and prayer reciting had religious purposes and therefore was deemed unconstitutional. In 1971, the Supreme Court devised a test to determine the constitutionality of church v. state matters. This test was called the Lemon Test and has three parts. First the court decides if the case has a non-religious (secular) purpose. Next, the court determines if the action would advance or inhibit religion. Lastly, the court would determine if government and religion would become entangled. The public opposition to the Courts recent decisions triggered states to pass laws permitting a moment of silence in public classrooms in place of school prayer. In 1985, *Wallace v. Jaffree* questioned the constitutionality of the recent laws for a moment of silence set aside for the purpose prayer. A moment of silence alone would not have been a problem under the first amendment, however the state of Alabama specifically allowed the moment of silence for "meditation and voluntary prayer." (Gaustad 93). For this purpose alone, the court decided that a moment of silence specifically for prayer was unconstitutional. In a 1992 court case, the Supreme Court made a decision about prayer at graduation services. *Lee v. Weisman* was a Rhode Island case involving a

14-year-old girl graduating from middle school. At that time, it was tradition to offer prayer at graduation services. The parents of the 14-year-old girl objected to the "tradition". The court determined that the case failed the Lemon Test and therefore violated the first amendment. It is unconstitutional to offer prayer at graduation ceremonies because it gives the impression that the school (a government institution) is promoting religion. The last case being discussed under the category of the practice of religion in public schools is the case of Santa Fe Independent School District v. Doe in 2000. This recent case involved a student, who was elected as a student council chaplain, delivering a prayer over the intercom before varsity football games played at home. The court decided that prayer led by students at public high school football games to be unconstitutional.

The final category is student involvement in religious practices on school property. Stone v. Graham was a case heard by the Supreme Court in 1990. Kentucky state law required that the Ten Commandments be posted in every classroom. The court ran the case through the Lemon Test and decided that posing the Ten Commandments violated the first amendment because they have a religious purpose. The school should not post materials that promote a religious purpose. In 1990, Board of Education of the Westside Community Schools v. Mergens in Nebraska questioned the constitutionality of the Equal Access Act. The Equal Access Act allows groups the ability to form clubs in order to express messages of religion and other content. The school felt that the club could not be formed because a faculty sponsor would cross the line between separation of church and state. The court used the Lemon Test to decide if the Equal Access Act was constitutional. The court decide that the Equal Access Act

passed the Lemon Test because the Act was neutral, it did not endorse religion because it was meant to protect all forming clubs, and church and state does not get entangled. The Equal Access Act was therefore voted to be constitutional and religious clubs are allowed to be formed and meet on school property. In a related 1993 case called Lamb's Chapel et al. v. Center Moriches School District, a New York law allowed time for the use of school property after hours for meetings not including those of a religious purpose. The court decided that a school district must allow after hour access to religious groups if other groups are allowed access to the school ground.

The Supreme Court rulings have made academic institutions regarding religion and prayer what they are today. Under the first amendment, school personnel are not allowed to sponsor religious activities, students cannot be prohibited from engaging in religious activities of their choosing, and the school must be secular in its actions and decisions. Students cannot be required to recite prayers or participate in a moment of silence instead of prayer, school personnel cannot conduct prayer at athletic events or graduation ceremonies, schools cannot prohibit curriculum based on religious reasons, and schools cannot display religious material. However, students can say private prayers at school, have religious clubs that can meet on school property, and distribute religious material under the same restrictions that are placed on all material distributed in the school. These first amendment religious rights were designed to protect students from being force to practice a religion against their choice and keep the establishment of church and state separate as defined by the Constitution. These decisions allow people of all faiths or those of no religious background to practice their beliefs freely.

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