

## Classifying Arguments Activity

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

After reading the **background, facts, issues, constitutional amendment, and Supreme Court precedents**, read each of the arguments below. These arguments come from the briefs submitted by the parties in this case. If the argument supports the petitioner, Engel (one of the families challenging the prayer), write **E** on the line after the argument. If the argument supports the respondent, Vitale (the school board president in favor of the prayer), write **V** on the line after the argument. Work in your groups. When you have finished, determine which argument for each side is the most persuasive and be ready to give your reasons.

#### **Arguments**

1. 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. \_\_\_\_\_
2. 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. \_\_\_\_\_
3. The New York schools’ prayer is a recognition of this broad religious tradition. It is non-denominational and does not imply preference of any one religion over others. \_\_\_\_\_
4. 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. \_\_\_\_\_
5. 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.” \_\_\_\_\_

- 6. This school-sponsored prayer 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 even if the prayer conflicts with their beliefs. \_\_\_\_\_
  
- 7. The New York Regents' prayer is voluntary, not mandatory. Any child could remain silent or be excused by parental request with the principal's approval. \_\_\_\_\_
  
- 8. 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. \_\_\_\_\_
  
- 9. 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 down references to God as violations of the First Amendment. \_\_\_\_\_
  
- 10. 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. \_\_\_\_\_

## ***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 it 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 religious acts 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, witnesses typically pledge an oath to God that they will tell the truth. Traditionally, presidents are sworn in by placing a 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 bedrock institutions of 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 promoting those values 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 State Board of 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 Steven 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 government-composed 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 *West Virginia State Board of Education v. 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.