

STUDENT HANDOUT 6

Case Study: *Wallace v. Jaffree* (1985)

Ishmael Jaffree challenged Alabama's "moment of silence" law. The Supreme Court overturned the law, because that state's legislative history indicated that Alabama intended "to characterize prayer as a favored practice." The justices differed as to whether the Establishment Clause applies to believers and nonbelievers alike.

JUSTICE STEVENS delivered the opinion of the Court.

As is plain from its text, the First Amendment was adopted to curtail the power of Congress to interfere with the individual's freedom to believe, to worship, and to express himself in accordance with the dictates of his own conscience. . . .

. . . At one time it was thought that this right merely proscribed the preference of one Christian sect over another, but would not require equal respect for the conscience of the infidel, the atheist, or the adherent of a non-Christian faith such as [Islam] or Judaism. But . . . the Court has unambiguously concluded that the individual freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all. This conclusion derives support not only from the interest in respecting the individual's freedom of conscience, but also from the conviction that religious beliefs worthy of respect are the product of free and voluntary choice by the faithful, and from recognition of the fact that the political interest in [stopping] intolerance extends beyond intolerance only of Christian sects—or even intolerance among "religions"—to encompass intolerance of the disbeliever and the uncertain. . . .

JUSTICE REHNQUIST, dissenting.

The true meaning of the Establishment Clause can only be seen in its history. . . . As drafters of our Bill of Rights, the framers inscribed the principles that control today. Any deviation from their intentions frustrates the permanence of that charter and will only lead to the type of unprincipled decisionmaking that has plagued our Establishment Clause cases since *Everson*. . . .

The Court strikes down the Alabama statute . . . because the state wished to "endorse prayer as a favored practice." . . . It would come as much of a shock to those who drafted the Bill of Rights as it will to a large number of thoughtful Americans today to learn that the Constitution, as construed by the majority, prohibits the Alabama legislature from "endorsing prayer." George Washington himself, at the request of the very Congress which passed the Bill of Rights, proclaimed a day of "public thanksgiving and prayer, to be observed by acknowledging with grateful hearts the many and signal favors of Almighty God." History must judge whether it was the father of his country in 1789, or a majority of the Court today, which has strayed from the meaning of the Establishment Clause.

Using the information in the case you have just read, answer the following questions.

1. What did Justice Stevens say the Court has "unambiguously concluded"?
2. Where does Justice Stevens say that "religious beliefs worthy of respect" come from?
3. Did the Court believe that the Alabama law was intolerant of people who do not believe in religion or are uncertain about religious beliefs?
4. What did Chief Justice Rehnquist say was the Court's reason for striking down the Alabama statute? Did Rehnquist agree with that reason?
5. How does Rehnquist think that even President George Washington endorsed prayer? Does Rehnquist think that Washington violated the Establishment Clause by his action?
6. How did the Court rule in this case? Do you agree with the Court's decision? Why or why not?
7. Speculate why there is so much controversy about prayer in public schools today.