

## First Amendment Free Response:

Monthly town board meetings in Greece, New York, opened with a prayer given by clergy selected from the congregations listed in a local directory, but nearly all the local churches were Christian, so nearly all of the participating prayer givers were, too. A lawsuit was filed alleging that the town violated the Constitution by preferring Christians over other religious groups and by sponsoring sectarian prayers. Petitioners sought to limit the town to “inclusive and ecumenical” prayers that referred only to a “generic God.” In the ensuing case,

- Identify the constitutional clause that is common to both *Greece v. Galloway* (2014) and *Engel v. Vitale* (1962).
- Based on the constitutional clause identified in part A, explain why the facts of *Engel v. Vitale* led to a different holding than the holding in *Greece v. Galloway*.
- Describe an action that members of the public who disagree with the holding in *Greece v. Galloway* could take to limit its impact.

A. Both *Greece v. Galloway* and *Engel v. Vitale* dealt with the Establishment Clause of the First Amendment of the United States Constitution, which forms a part of the right to freedom of religion in the United States. Under the Establishment Clause, Congress is not allowed to make any law respecting an establishment of religion. In both cases, a government institution (public school in the case of *Engel v. Vitale*, and a legislature in the case of *Greece v. Galloway*) was involved in regards to the Establishment Clause, questioning whether prayers violate the Establishment Clause. *Engel v. Vitale* found that they would if a public school instituted an official prayer, but *Greece v. Galloway* found that the legislature’s beginning prayers are not in violation of the Establishment Clause.

B. The key difference between the *Engel v. Vitale* case and the *Greece v. Galloway* case is how the Establishment Clause relates to the situation. In the case of *Engel v. Vitale*, New York public schools actively encouraged mornings to begin with a prayer. This implied that nonadherents were actively being coerced to practice a religion they were not a part of, and that in prescribing the activity as a public school, saw the Establishment Clause violated by seeing a government institution promote a religious activity, thus establishing a religion. The decision was not narrow, being 6-1, ruling that school sponsored prayer was unconstitutional. *Greece v. Galloway*’s ruling was 5-4, the majority contending that the legislature’s opening prayer did not coerce participation by nonadherents and therefore did not violate the Establishment Clause, existing not as government recognition or establishment of religion, but as a longstanding tradition of

the legislature. Therein lay the difference, being that coercion of the practice resulted in establishment of a religion, and being that Greece's legislature was not considered to be actively coercing participation, no religion was established.

C. Citizens dissatisfied with the Greece v. Galloway ruling have many tools at their disposal to mitigate the ruling's impact. For one, they could encourage those representing them in government to work to eliminate the opening prayer through a passage of a law. Failing that, public protest is and always will remain a viable option so long as freedom of speech under the First Amendment is respected and the protest is performed peacefully and lawfully.

*Scoring the SCOTUS Comparison Question:*

*A good response should:*

- *Identify a similarity or difference between the two Supreme Court cases, as specified in the question (0–1 point) (Disciplinary Practice 2.c)*
- *Provide prompted factual information from the specified required Supreme Court case (0-1 point) (Disciplinary Practice 2.a),*
- *and explain how or why that information from the specified required Supreme Court case is relevant to the non-required Supreme Court case described in the question (0–1 point) (Disciplinary Practice 2.c)*
- *Describe or explain an interaction between the holding in the non-required Supreme Court case and a relevant political institution, behavior, or process (0–1 point) (Disciplinary Practice 2.d)*