

/* The Court's most recent opinion on Church v. State takes the form of a prayer at junior high school graduation being found to be unconstitutional. */

NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States v. Detroit Lumber Co.*, 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

Syllabus

LEE et al. v. WEISMAN, PERSONALLY AND AS
NEXT FRIEND OF WEISMAN

certiorari to the united states court of appeals for
the first circuit

No. 90-1014. Argued November 6, 1991-Decided June 24, 1992

/* A case which took the court a comparatively long time to rule upon. */

Principals of public middle and high schools in Providence, Rhode Island, are permitted to invite members of the clergy to give invocations and benedictions at their schools' graduation ceremonies. Petitioner Lee, a middle school principal, invited a rabbi to offer such prayers at the graduation ceremony for Deborah Weisman's class, gave the Rabbi a pamphlet containing guidelines for the composition of public prayers at civic ceremonies, and advised him that the prayers should be nonsectarian. Shortly before the ceremony, the District Court denied the motion of respondent Weisman, Deborah's father, for a temporary restraining order to prohibit school officials from including the prayers in the ceremony. Deborah and her family attended the ceremony, and the prayers were recited. Subsequently, Weisman sought a permanent injunction barring Lee and other petitioners, various Providence public school officials, from inviting clergy to deliver invocations and benedictions at future graduations. It appears likely that such prayers will be conducted at Deborah's high school graduation. The District Court enjoined petitioners from continuing the practice at issue on the ground that it violated the Establishment Clause of the First Amendment. The Court of Appeals affirmed.

Held: Including clergy who offer prayers as part of an official public school graduation ceremony is forbidden by the Establishment Clause. Pp.7-19.

(a) This Court need not revisit the questions of the definition and scope of the principles governing the extent of permitted accommodation by the State for its citizens' religious beliefs and practices, for the controlling precedents as they relate to prayer and religious exercise in primary and secondary public schools compel the holding here. Thus, the Court will not reconsider its decision in *Lemon v. Kurtzman*, 403 U.S. 602. The principle that government may accommodate the free exercise of religion does not supersede the fundamental limitations imposed by the Establishment Clause, which guarantees at a minimum that a government may

not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way which "establishes a [state] religion or religious faith, or tends to do so." *Lynch v. Donnelly*, 465 U.S. 668, 678. Pp.7-8.

(b) State officials here direct the performance of a formal religious exercise at secondary schools' promotional and graduation ceremonies. Lee's decision that prayers should be given and his selection of the religious participant are choices attributable to the State. Moreover, through the pamphlet and his advice that the prayers be nonsectarian, he directed and controlled the prayers' content. That the directions may have been given in a good faith attempt to make the prayers acceptable to most persons does not resolve the dilemma caused by the school's involvement, since the government may not establish an official or civic religion as a means of avoiding the establishment of a religion with more specific creeds. Pp.8-11.

(c) The Establishment Clause was inspired by the lesson that in the hands of government what might begin as a tolerant expression of religious views may end in a policy to indoctrinate and coerce. Prayer exercises in elementary and secondary schools carry a particular risk of indirect coercion. *Engel v. Vitale*, 370 U.S. 421; *Abington School District v. Schempp*, 374 U.S. 203. The school district's supervision and control of a high school graduation ceremony places subtle and indirect public and peer pressure on attending students to stand as a group or maintain respectful silence during the invocation and benediction. A reasonable dissenter of high school age could believe that standing or remaining silent signified her own participation in, or approval of, the group exercise, rather than her respect for it. And the State may not place the student dissenter in the dilemma of participating or protesting. Since adolescents are often susceptible to peer pressure, especially in matters of social convention, the State may no more use social pressure to enforce orthodoxy than it may use direct means. The embarrassment and intrusion of the religious exercise cannot be refuted by arguing that the prayers are of a de minimis character, since that is an affront to the Rabbi and those for whom the prayers have meaning, and since any intrusion was both real and a violation of the objectors' rights. Pp.11-15.

(d) Petitioners' argument that the option of not attending the ceremony excuses any inducement or coercion in the ceremony itself is rejected. In this society, high school graduation is one of life's most significant occasions, and a student is not free to absent herself from the exercise in any real sense of the term "voluntary." Also not dispositive is the contention that prayers are an essential part of these ceremonies because for many persons the occasion would lack meaning without the recognition that human achievements cannot be understood apart from their spiritual essence. This position fails to acknowledge that what for many was a spiritual imperative was for the Weismans religious conformance compelled by the State. It also gives insufficient recognition to the real conflict of conscience faced by a student who would have to choose whether to miss graduation or conform to the state-sponsored practice, in an environment where the risk of compulsion is especially high. Pp.15-17.

(e) Inherent differences between the public school system and a session of a state legislature distinguish this case from *Marsh v. Chambers*, 463 U.S. 783, which condoned a prayer exercise. The atmosphere at a state legislature's opening, where adults are free to enter and leave with little comment and for any number of reasons, cannot compare with the constraining potential of the one school event most important for the student to attend. Pp.17-18.
908 F.2d 1090, affirmed.

Kennedy, J., delivered the opinion of the Court, in which Blackmun, Stevens, O'Connor, and Souter, JJ., joined. Blackmun, J., and Souter, J., filed concurring opinions, in which Stevens and O'Connor, JJ., joined. Scalia, J., filed a dissenting opinion, in which Rehnquist, C.J., and White and Thomas, JJ., joined.

Justice Kennedy delivered the opinion of the Court.

School principals in the public school system of the city of Providence, Rhode Island, are permitted to invite members of the clergy to offer invocation and benediction prayers as part of the formal graduation ceremonies for middle schools and for high schools. The question before us is whether including clerical members who offer prayers as part of the official school graduation ceremony is consistent with the Religion Clauses of the First Amendment, provisions the Fourteenth Amendment makes applicable with full force to the States and their school districts.

I A

Deborah Weisman graduated from Nathan Bishop Middle School, a public school in Providence, at a formal ceremony in June 1989. She was about 14 years old. For many years it has been the policy of the Providence School Committee and the Superintendent of Schools to permit principals to invite members of the clergy to give invocations and benedictions at middle school and high school graduations. Many, but not all, of the principals elected to include prayers as part of the graduation ceremonies. Acting for himself and his daughter, Deborah's father, Daniel Weisman, objected to any prayers at Deborah's middle school graduation, but to no avail. The school principal, petitioner Robert E. Lee, invited a rabbi to deliver prayers at the graduation exercises for Deborah's class. Rabbi Leslie Gutterman, of the Temple Beth El in Providence, accepted.

It has been the custom of Providence school officials to provide invited clergy with a pamphlet entitled "Guidelines for Civic Occasions," prepared by the National Conference of Christians and Jews. The Guidelines recommend that public prayers at nonsectarian civic ceremonies be composed with "inclusiveness and sensitivity," though they acknowledge that "[p]rayer of any kind may be inappropriate on some civic occasions." App. 20-21. The principal gave Rabbi Gutterman the pamphlet before the graduation and advised him the invocation and benediction should be nonsectarian. Agreed Statement of Facts -17, id., at 13.

Rabbi Gutterman's prayers were as follows:

"INVOCATION

"God of the Free, Hope of the Brave:

"For the legacy of America where diversity is celebrated and the rights of minorities are protected, we thank You. May these young men and women grow up to enrich it.

"For the liberty of America, we thank You. May these new graduates grow up to guard it.

"For the political process of America in which all its citizens may participate, for its court system

where all may seek justice we thank You. May those we honor this morning always turn to it in trust.

"For the destiny of America we thank You. May the graduates of Nathan Bishop Middle School so live that they might help to share it.

"May our aspirations for our country and for these young people, who are our hope for the future, be richly fulfilled.

AMEN"

"BENEDICTION

"O God, we are grateful to You for having endowed us with the capacity for learning which we have celebrated on this joyous commencement.

"Happy families give thanks for seeing their children achieve an important milestone. Send Your blessings upon the teachers and administrators who helped prepare them.

"The graduates now need strength and guidance for the future, help them to understand that we are not complete with academic knowledge alone. We must each strive to fulfill what You require of us all: To do justly, to love mercy, to walk humbly.

"We give thanks to You, Lord, for keeping us alive, sustaining us and allowing us to reach this special, happy occasion.

AMEN"

Id., at 22-23.

The record in this case is sparse in many respects, and we are unfamiliar with any fixed custom or practice at middle school graduations, referred to by the school district as "promotional exercises." We are not so constrained with reference to high schools, however. High school graduations are such an integral part of American cultural life that we can with confidence describe their customary features, confirmed by aspects of the record and by the parties' representations at oral argument. In the Providence school system, most high school graduation ceremonies are conducted away from the school, while most middle school ceremonies are held on school premises. Classical High School, which Deborah now attends, has conducted its graduation ceremonies on school premises. Agreed Statement of Facts -37, id., at 17. The parties stipulate that attendance at graduation ceremonies is voluntary. Agreed Statement of Facts -41, id., at 18. The graduating students enter as a group in a processional, subject to the direction of teachers and school officials, and sit together, apart from their families. We assume the clergy's participation in any high school graduation exercise would be about what it was at Deborah's middle school ceremony. There the students stood for the Pledge of Allegiance and remained standing during the Rabbi's prayers. Tr. of Oral Arg. 38. Even on the assumption that there was a respectful moment of silence both before and after the prayers, the Rabbi's two presentations must not have extended much beyond a minute each, if that. We do not know whether he remained on stage during the whole ceremony, or whether the students received individual diplomas on stage, or if he helped to congratulate them.

The school board (and the United States, which supports it as *amicus curiae*) argued that these short prayers and others like them at graduation exercises are of profound meaning to many students and parents throughout this country who consider that due respect and acknowledgement for divine guidance and for the deepest spiritual aspirations of our people ought to be expressed at an event as important in life as a graduation. We assume this to be so in addressing the difficult case now before us, for the significance of the prayers lies also at the

heart of Daniel and Deborah Weisman's case.

B

Deborah's graduation was held on the premises of Nathan Bishop Middle School on June 29, 1989. Four days before the ceremony, Daniel Weisman, in his individual capacity as a Providence taxpayer and as next friend of Deborah, sought a temporary restraining order in the United States District Court for the District of Rhode Island to prohibit school officials from including an invocation or benediction in the graduation ceremony. The court denied the motion for lack of adequate time to consider it. Deborah and her family attended the graduation, where the prayers were recited. In July 1989, Daniel Weisman filed an amended complaint seeking a permanent injunction barring petitioners, various officials of the Providence public schools, from inviting the clergy to deliver invocations and benedictions at future graduations. We find it unnecessary to address Daniel Weisman's taxpayer standing, for a live and justiciable controversy is before us. Deborah Weisman is enrolled as a student at Classical High School in Providence and from the record it appears likely, if not certain, that an invocation and benediction will be conducted at her high school graduation. Agreed Statement of Facts -38, id., at 17.

/* This is not the soundest basis for the ruling. In fact, the best is that the issue is "capable of repetition yet evading review. For that matter, a post hoc declaration that the act was wrong is also a viable remedy. */

The case was submitted on stipulated facts. The District Court held that petitioners' practice of including invocations and benedictions in public school graduations violated the Establishment Clause of the First Amendment, and it enjoined petitioners from continuing the practice. 728 F. Supp. 68 (RI 1990). The court applied the three-part Establishment Clause test set forth in *Lemon v. Kurtzman*, 403 U. S. 602 (1971). Under that test as described in our past cases, to satisfy the Establishment Clause a governmental practice must (1) reflect a clearly secular purpose; (2) have a primary effect that neither advances nor inhibits religion; and (3) avoid excessive government entanglement with religion. *Committee for Public Education & Religious Liberty v. Nyquist*, 413 U. S. 756, 773 (1973). The District Court held that petitioners' actions violated the second part of the test, and so did not address either the first or the third. The court decided, based on its reading of our precedents, that the effects test of *Lemon* is violated whenever government action "creates an identification of the state with a religion, or with religion in general," 728 F. Supp., at 71, or when "the effect of the governmental action is to endorse one religion over another, or to endorse religion in general." *Id.*, at 72. The court determined that the practice of including invocations and benedictions, even so-called nonsectarian ones, in public school graduations creates an identification of governmental power with religious practice, endorses religion, and violates the Establishment Clause. In so holding the court expressed the determination not to follow *Stein v. Plainwell Community Schools*, 822 F.2d 1406 (1987), in which the Court of Appeals for the Sixth Circuit, relying on our decision in *Marsh v. Chambers*, 463 U. S. 783 (1983), held that benedictions and invocations at public school graduations are not always unconstitutional. In *Marsh* we upheld the constitutionality of the Nebraska State Legislature's practice of opening each of its sessions with a prayer offered by a chaplain paid out of public funds. The District Court in this case disagreed with the Sixth Circuit's reasoning because it believed that *Marsh* was

a narrow decision, "limited to the unique situation of legislative prayer," and did not have any relevance to school prayer cases. 728 F. Supp., at 74.

/* This is quite simply because adults, and state legislators at that can either safely ignore the prayer, or, walk out. That choice is unrealistic for a child. */

On appeal, the United States Court of Appeals for the First Circuit affirmed. The majority opinion by Judge Torruella adopted the opinion of the District Court. 908 F.2d 1090 (1990). Judge Bownes joined the majority, but wrote a separate concurring opinion in which he decided that the practices challenged here violated all three parts of the Lemon test. Judge Bownes went on to agree with the District Court that Marsh had no application to school prayer cases and that the Stein decision was flawed. He concluded by suggesting that under Establishment Clause rules no prayer, even one excluding any mention of the Deity, could be offered at a public school graduation ceremony. 908 F.2d, at 1090-1097. Judge Campbell dissented, on the basis of Marsh and Stein. He reasoned that if the prayers delivered were nonsectarian, and if school officials ensured that persons representing a variety of beliefs and ethical systems were invited to present invocations and benedictions, there was no violation of the Establishment Clause. 908 F. 2d, at 1099. We granted certiorari, 499 U. S. ___ (1991), and now affirm.

II

These dominant facts mark and control the confines of our decision: State officials direct the performance of a formal religious exercise at promotional and graduation ceremonies for secondary schools. Even for those students who object to the religious exercise, their attendance and participation in the state-sponsored religious activity are in a fair and real sense obligatory, though the school district does not require attendance as a condition for receipt of the diploma.

This case does not require us to revisit the difficult questions dividing us in recent cases, questions of the definition and full scope of the principles governing the extent of permitted accommodation by the State for the religious beliefs and practices of many of its citizens. See *Allegheny County v. Greater Pittsburgh ACLU*, 492 U. S. 573 (1989); *Wallace v. Jaffree*, 472 U. S. 38 (1985); *Lynch v. Donnelly*, 465 U. S. 668 (1984). For without reference to those principles in other contexts, the controlling precedents as they relate to prayer and religious exercise in primary and secondary public schools compel the holding here that the policy of the city of Providence is an unconstitutional one. We can decide the case without reconsidering the general constitutional framework by which public schools' efforts to accommodate religion are measured. Thus we do not accept the invitation of petitioners and amicus the United States to reconsider our decision in *Lemon v. Kurtzman*, *supra*. The government involvement with religious activity in this case is pervasive, to the point of creating a state-sponsored and state-directed religious exercise in a public school. Conducting this formal religious observance conflicts with settled rules pertaining to prayer exercises for students, and that suffices to determine the question before us.

The principle that government may accommodate the free exercise of religion does not supersede the fundamental limitations imposed by the Establishment Clause. It is beyond dispute that, at a minimum, the Constitution guarantees that government may not coerce anyone to support or participate in religion or its exercise, or otherwise act in a way which "establishes a [state]

religion or religious faith, or tends to do so." Lynch, *supra*, at 678; see also *Allegheny County, supra*, at 591 quoting *Everson v. Board of Education of Ewing*, 330 U. S. 1, 15-16 (1947). The State's involvement in the school prayers challenged today violates these central principles.

That involvement is as troubling as it is undenied. A school official, the principal, decided that an invocation and a benediction should be given; this is a choice attributable to the State, and from a constitutional perspective it is as if a state statute decreed that the prayers must occur. The principal chose the religious participant, here a rabbi, and that choice is also attributable to the State. The reason for the choice of a rabbi is not disclosed by the record, but the potential for divisiveness over the choice of a particular member of the clergy to conduct the ceremony is apparent.

Divisiveness, of course, can attend any state decision respecting religions, and neither its existence nor its potential necessarily invalidates the State's attempts to accommodate religion in all cases. The potential for divisiveness is of particular relevance here though, because it centers around an overt religious exercise in a secondary school environment where, as we discuss below, see *infra*, at ___, subtle coercive pressures exist and where the student had no real alternative which would have allowed her to avoid the fact or appearance of participation.

The State's role did not end with the decision to include a prayer and with the choice of clergyman. Principal Lee provided Rabbi Gutterman with a copy of the "Guidelines for Civic Occasions," and advised him that his prayers should be nonsectarian. Through these means the principal directed and controlled the content of the prayer. Even if the only sanction for ignoring the instructions were that the rabbi would not be invited back, we think no religious representative who valued his or her continued reputation and effectiveness in the community would incur the State's displeasure in this regard. It is a cornerstone principle of our Establishment Clause jurisprudence that "it is no part of the business of government to compose official prayers for any group of the American people to recite as a part of a religious program carried on by government," *Engel v. Vitale*, 370 U. S. 421, 425 (1962), and that is what the school officials attempted to do.

Petitioners argue, and we find nothing in the case to refute it, that the directions for the content of the prayers were a good-faith attempt by the school to ensure that the sectarianism which is so often the flashpoint for religious animosity be removed from the graduation ceremony. The concern is understandable, as a prayer which uses ideas or images identified with a particular religion may foster a different sort of sectarian rivalry than an invocation or benediction in terms more neutral. The school's explanation, however, does not resolve the dilemma caused by its participation. The question is not the good faith of the school in attempting to make the prayer acceptable to most persons, but the legitimacy of its undertaking that enterprise at all when the object is to produce a prayer to be used in a formal religious exercise which students, for all practical purposes, are obliged to attend.

We are asked to recognize the existence of a practice of nonsectarian prayer, prayer within the embrace of what is known as the Judeo-Christian tradition, prayer which is more acceptable than one which, for example, makes explicit references to the God of Israel, or to Jesus Christ, or to a patron saint. There may be some support, as an empirical observation, to the statement of the Court of Appeals for the Sixth Circuit, picked up by Judge Campbell's dissent in the Court of

Appeals in this case, that there has emerged in this country a civic religion, one which is tolerated when sectarian exercises are not. Stein, 822 F. 2d, at 1409; 908 F.2d 1090, 1098-1099 (CA1 1990) (Campbell, J., dissenting) (case below); see also Note, Civil Religion and the Establishment Clause, 95 Yale L.J. 1237 (1986). If common ground can be defined which permits once conflicting faiths to express the shared conviction that there is an ethic and a morality which transcend human invention, the sense of community and purpose sought by all decent societies might be advanced. But though the First Amendment does not allow the government to stifle prayers which aspire to these ends, neither does it permit the government to undertake that task for itself.

/* And what of those who are Muslim, Hindu or atheist? The first amendment protect the single individual against the "reasonable" dictates of the majority. */

The First Amendment's Religion Clauses mean that religious beliefs and religious expression are too precious to be either proscribed or prescribed by the State. The design of the Constitution is that preservation and transmission of religious beliefs and worship is a responsibility and a choice committed to the private sphere, which itself is promised freedom to pursue that mission. It must not be forgotten then, that while concern must be given to define the protection granted to an objector or a dissenting non-believer, these same Clauses exist to protect religion from government interference. James Madison, the principal author of the Bill of Rights, did not rest his opposition to a religious establishment on the sole ground of its effect on the minority. A principal ground for his view was: "[E]xperience witnesseth that ecclesiastical establishments, instead of maintaining the purity and efficacy of Religion, have had a contrary operation." Memorial and Remonstrance Against Religious Assessments (1785), in 8 Papers of James Madison 301 (W. Rachal, R. Rutland, B. Ripel, & F. Teute eds. 1973).

These concerns have particular application in the case of school officials, whose effort to monitor prayer will be perceived by the students as inducing a participation they might otherwise reject. Though the efforts of the school officials in this case to find common ground appear to have been a good-faith attempt to recognize the common aspects of religions and not the divisive ones, our precedents do not permit school officials to assist in composing prayers as an incident to a formal exercise for their students. *Engel v. Vitale*, supra, at 425. And these same precedents caution us to measure the idea of a civic religion against the central meaning of the Religion Clauses of the First Amendment, which is that all creeds must be tolerated and none favored. The suggestion that government may establish an official or civic religion as a means of avoiding the establishment of a religion with more specific creeds strikes us as a contradiction that cannot be accepted.

The degree of school involvement here made it clear that the graduation prayers bore the imprint of the State and thus put school-age children who objected in an untenable position. We turn our attention now to consider the position of the students, both those who desired the prayer and she who did not.

To endure the speech of false ideas or offensive content and then to counter it is part of learning how to live in a pluralistic society, a society which insists upon open discourse towards the end of a tolerant citizenry. And tolerance presupposes some mutuality of obligation. It is argued that

our constitutional vision of a free society requires confidence in our own ability to accept or reject ideas of which we do not approve, and that prayer at a high school graduation does nothing more than offer a choice. By the time they are seniors, high school students no doubt have been required to attend classes and assemblies and to complete assignments exposing them to ideas they find distasteful or immoral or absurd or all of these. Against this background, students may consider it an odd measure

of justice to be subjected during the course of their educations to ideas deemed offensive and irreligious, but to be denied a brief, formal prayer ceremony that the school offers in return. This argument cannot prevail, however. It overlooks a fundamental dynamic of the Constitution.

The First Amendment protects speech and religion by quite different mechanisms. Speech is protected by insuring its full expression even when the government participates, for the very object of some of our most important speech is to persuade the government to adopt an idea as its own. *Meese v. Keene*, 481 U. S. 465, 480-481 (1987); see also *Keller v. State Bar of California*, 496 U. S. 1, 10-11 (1990); *Aboud v. Detroit Board of Education*, 431 U. S. 209 (1977). The method for protecting freedom of worship and freedom of conscience in religious matters is quite the reverse. In religious debate or expression the government is not a prime participant, for the Framers deemed religious establishment antithetical to the freedom of all. The Free Exercise Clause embraces a freedom of conscience and worship that has close parallels in the speech provisions of the First Amendment, but the Establishment Clause is a specific prohibition on forms of state intervention in religious affairs with no precise counterpart in the speech provisions. *Buckley v. Valeo*, 424 U. S. 1, 92-93, and n. 127 (1976) (per curiam). The explanation lies in the lesson of history that was and is the inspiration for the Establishment Clause, the lesson that in the hands of government what might begin as a tolerant expression of religious views may end in a policy to indoctrinate and coerce. A state-created orthodoxy puts at grave risk that freedom of belief and conscience which are the sole assurance that religious faith is real, not imposed.

The lessons of the First Amendment are as urgent in the modern world as in the 18th Century when it was written.

One timeless lesson is that if citizens are subjected to state-sponsored religious exercises, the State disavows its own duty to guard and respect that sphere of inviolable conscience and belief which is the mark of a free people. To compromise that principle today would be to deny our own tradition and forfeit our standing to urge others to secure the protections of that tradition for themselves.

As we have observed before, there are heightened concerns with protecting freedom of conscience from subtle coercive pressure in the elementary and secondary public schools. See, e.g., *Abington School District v. Schempp*, 374 U.S. 203, 307 (1963) (Goldberg, J., concurring); *Edwards v. Aguillard*, 482 U. S. 578, 584 (1987); *Westside Community Bd. of Ed. v. Mergens*, 496 U. S. 226, 261-262 (1990) (Kennedy, J., concurring). Our decisions in *Engel v. Vitale*, 370 U. S. 421 (1962), and *Abington School District*, supra, recognize, among other things, that prayer exercises in public schools carry a particular risk of indirect coercion. The concern may not be limited to the context of schools, but it is most pronounced there. See *Allegheny County v. Greater Pittsburgh ACLU*, 492 U. S., at 661 (Kennedy, J., concurring in judgment in part and dissenting in part). What to most believers may seem nothing more than a reasonable request that the nonbeliever respect their religious practices, in a school context may appear to the

nonbeliever or dissenter to be an attempt to employ the machinery of the State to enforce a religious orthodoxy.

We need not look beyond the circumstances of this case to see the phenomenon at work. The undeniable fact is that the school district's supervision and control of a high school graduation ceremony places public pressure, as well as peer pressure, on attending students to stand as a group or, at least, maintain respectful silence during the Invocation and Benediction. This pressure, though subtle and indirect, can be as real as any overt compulsion. Of course, in our culture standing or remaining silent can signify adherence to a view or simple respect for the views of others. And no doubt some persons who have no desire to join a prayer have little objection to standing as a sign of respect for those who do. But for the dissenter of high school age, who has a reasonable perception that she is being forced by the State to pray in a manner her conscience will not allow, the injury is no less real. There can be no doubt that for many, if not most, of the students at the graduation, the act of standing or remaining silent was an expression of participation in the Rabbi's prayer. That was the very point of the religious exercise. It is of little comfort to a dissenter, then, to be told that for her the act of standing or remaining in silence signifies mere respect, rather than participation. What matters is that, given our social conventions, a reasonable dissenter in this milieu could believe that the group exercise signified her own participation or approval of it.

/* A fair and well reasoned indication of why a person might find being forced to respect school prayers as a form of assent. */

Finding no violation under these circumstances would place objectors in the dilemma of participating, with all that implies, or protesting. We do not address whether that choice is acceptable if the affected citizens are mature adults, but we think the State may not, consistent with the Establishment Clause, place primary and secondary school children in this position. Research in psychology supports the common assumption that adolescents are often susceptible to pressure from their peers towards conformity, and that the influence is strongest in matters of social convention. Brittain, *Adolescent Choices and Parent-Peer Cross- Pressures*, 28 *Am. Sociological Rev.* 385 (June 1963); Clasen & Brown, *The Multidimensionality of Peer Pressure in Adolescence*, 14 *J. of Youth and Adolescence* 451 (Dec. 1985); Brown, Clasen, & Eicher, *Perceptions of Peer Pressure, Peer Conformity Dispositions, and Self-Reported Behavior Among Adolescents*, 22 *Developmental Psychology* 521 (July 1986). To recognize that the choice imposed by the State constitutes an unacceptable constraint only acknowledges that the government may no more use social pressure to enforce orthodoxy than it may use more direct means.

The injury caused by the government's action, and the reason why Daniel and Deborah Weisman object to it, is that the State, in a school setting, in effect required participation in a religious exercise. It is, we concede, a brief exercise during which the individual can concentrate on joining its message, meditate on her own religion, or let her mind wander. But the embarrassment and the intrusion of the religious exercise cannot be refuted by arguing that these prayers, and similar ones to be said in the future, are of a de minimis character. To do so would be an affront to the Rabbi who offered them and to all those for whom the prayers were an essential and profound recognition of divine authority. And for the same reason, we think that

the intrusion is greater than the two minutes or so of time consumed for prayers like these. Assuming, as we must, that the prayers were offensive to the student and the parent who now object, the intrusion was both real and, in the context of a secondary school, a violation of the objectors' rights. That the intrusion was in the course of promulgating religion that sought to be civic or nonsectarian rather than pertaining to one sect does not lessen the offense or isolation to the objectors. At best it narrows their number, at worst increases their sense of isolation and affront. See supra, at ___.

There was a stipulation in the District Court that attendance at graduation and promotional ceremonies is voluntary. Statement of Agreed Facts -41, App. 18. Petitioners and the United States, as amicus, made this a center point of the case, arguing that the option of not attending the graduation excuses any inducement or coercion in the ceremony itself. The argument lacks all persuasion. Law reaches past formalism. And to say a teenage student has a real choice not to attend her high school graduation is formalistic in the extreme. True, Deborah could elect not to attend commencement without renouncing her diploma; but we shall not allow the case to turn on this point. Everyone knows that in our society and in our culture high school graduation is one of life's most significant occasions. A school rule which excuses attendance is beside the point. Attendance may not be required by official decree, yet it is apparent that a student is not free to absent herself from the graduation exercise in any real sense of the term "voluntary," for absence would require forfeiture of those intangible benefits which have motivated the student through youth and all her high school years. Graduation is a time for family and those closest to the student to celebrate success and express mutual wishes of gratitude and respect, all to the end of impressing upon the young person the role that it is his or her right and duty to assume in the community and all of its diverse parts.

The importance of the event is the point the school district and the United States rely upon to argue that a formal prayer ought to be permitted, but it becomes one of the principal reasons why their argument must fail. Their contention, one of considerable force were it not for the constitutional constraints applied to state action, is that the prayers are an essential part of these ceremonies because for many persons an occasion of this significance lacks meaning if there is no recognition, however brief, that human achievements cannot be understood apart from their spiritual essence. We think the Government's position that this interest suffices to force students to choose between compliance or forfeiture demonstrates fundamental inconsistency in its argumentation. It fails to acknowledge that what for many of Deborah's classmates and their parents was a spiritual imperative was for Daniel and Deborah Weisman religious conformance compelled by the State. While in some societies the wishes of the majority might prevail, the Establishment Clause of the First Amendment is addressed to this contingency and rejects the balance urged upon us. The Constitution forbids the State to exact religious conformity from a student as the price of attending her own high school graduation. This is the calculus the Constitution commands.

The Government's argument gives insufficient recognition to the real conflict of conscience faced by the young student. The essence of the Government's position is that with regard to a civic, social occasion of this importance it is the objector, not the majority, who must take unilateral and private action to avoid compromising religious scruples, here by electing to miss the graduation exercise. This turns conventional First Amendment analysis on