

NOTE: Where it is feasible a syllabus (headnote) will be released, as is being done in connection with the cases of the instant opinion is issued. The syllabus constitutes in 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.*, 370 U. S. 82, 87.

SUPREME COURT OF THE UNITED STATES

Syllabus

WALLACE, GOVERNOR OF ALABAMA, ET AL. v.
JAFFREE ET AL.

APPEAL FROM THE UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH CIRCUIT

No. 83-812. Argued December 6, 1964—Decided June 4, 1965*

In proceedings instituted in Federal District Court, appellees challenged the constitutionality of, *inter alia*, a 1961 Alabama Statute (§ 16-1-20.1) authorizing a 1-minute period of silence in all public schools "for meditation or voluntary prayer." Although finding that § 16-1-20.1 was an effort to encourage a religious activity, the District Court ultimately held that the Establishment Clause of the First Amendment does not prohibit a State from establishing a religion. The Court of Appeals reversed.

Held, Section 16-1-20.1 is a law respecting the establishment of religion and thus violates the First Amendment. Pp. 9-23.

(a) The proposition that the several States have no greater power to restrain the individual freedoms protected by the First Amendment than does Congress is firmly embedded in constitutional jurisprudence. The First Amendment was adopted to curtail Congress' power to interfere with the individual's freedom to believe, to worship, and to express himself in accordance with the dictates of his own conscience, and the Fourteenth Amendment imposed the same substantive limitations on the States' power to legislate. The individual's freedom to choose his own creed is the counterpart of his right to refrain from accepting the creed established by the majority. Moreover, the individual's freedom of conscience protected by the First Amendment embraces the right to select any religious faith or none at all. Pp. 9-16.

(b) One of the well-established criteria for determining the constitutionality of a statute under the Establishment Clause is that the statute must have a secular legislative purpose. *Lemon v. Kurtzman*, 403

*Together with No. 83-829, *Smith et al. v. Jaffree et al.*, also on appeal from the same court.

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U. S. 602, 612-613 The First Amendment requires that a statute must be invalidated if it is entirely motivated by a purpose to advance religion. Pp. 16-18

(c) The record here not only establishes that § 16-1-20.1's purpose was to endorse religion, it also reveals that the enactment of the statute was not motivated by any clearly secular purpose. In particular, the statements of § 16-1-20.1's sponsor in the legislative record and in his testimony before the District Court indicate that the legislation was solely an "effort to return voluntary prayer" to the public schools. Moreover, such un rebutted evidence of legislative intent is confirmed by a consideration of the relationship between § 16-1-20.1 and two other Alabama statutes—one of which, enacted in 1962 as a sequel to § 16-1-20.1, authorized teachers to lead "willing students" in a prescribed prayer, and the other of which, enacted in 1975 as § 16-1-20.1's predecessor, authorized a period of silence "for meditation" only. The State's endorsement, by enactment of § 16-1-20.1, of prayer activities at the beginning of each school day is not consistent with the established principle that the Government must pursue a course of complete neutrality toward religion. Pp. 16-23.

706 F. 2d 1628 and 713 F. 2d 614, affirmed

STEVENS, J., delivered the opinion of the Court, in which BRENNAN, MARSHALL, BLACKMUN, and POWELL, JJ., joined. POWELL, J., filed a concurring opinion. O'CONNOR, J., filed an opinion concurring in the judgment. BURGER, C. J., and WHITE and REHNQUIST, JJ., filed dissenting opinions.