

Supreme Court Upholds Public Prayer—Where Do We Go From Here?

The U.S. Supreme Court, in a 5-4 ruling written by Justice Anthony Kennedy, upheld the right of local officials to begin meetings with public prayer.

In a brief filed on Aug. 2, 2013, in *Town of Greece v. Susan Galloway and Linda Stevens*, American Civil Rights Union general counsel Peter Ferrara defended the upstate New York town's practice of allowing rotating voluntary prayers before council meetings and explained the Coercion Test.

"The inclusion of a brief, ceremonial prayer as part of a larger exercise in civic recognition suggests that its purpose and effect are to acknowledge religious leaders and the institutions they represent, rather than to exclude or coerce nonbelievers," Justice Kennedy wrote.

What does this really mean for the cause of prayer in public places? Charisma News gathered a roundup of Christian responses:

"The court's landmark decision today echoes the wisdom of the founders," says Eric Rassbach, deputy general counsel at the Becket Fund for Religious Liberty. "Not only did the court uphold the centuries-old practice of legislative prayer, it also started the work of bringing the entire law of church and state onto a firmer foundation in the words of the Constitution."

This is the first time the court has addressed the constitutionality of legislative prayer in decades. In today's decision, the Supreme Court clarified that permitting individuals of diverse faith backgrounds to come together in

prayer does not violate the Establishment Clause of the First Amendment.

“As a people, we will always have disagreements about religion,” Rassbach says. “But that reality cannot be used as an excuse to banish religious activity entirely from public life. The founders recognized that prayer is not a trivial matter but plays a central role in the life of our nation. All the court did today is repeat what the founders said so many years ago.”

Mat Staver, founder and chairman of Liberty Counsel, explains that using the *Marsh v. Chambers* decision, the Supreme Court gave an unequivocal recognition that even sectarian prayers before a legislative session are constitutional. Finally, he says, the Supreme Court went back to a test that acknowledges a practice that was accepted by the founders who wrote the First Amendment.

“This opinion refutes all of the nonsense that the atheists groups have been spewing for years,” says Staver. “The majority opinion even points out the absurdity of trying to force a minister to pray to a neutral deity inoffensive to all present.”

Although the case centers on a New York town’s prayer practice, the court’s decision has ramifications upon other similar cases still in progress in lower courts. Alliance Defending Freedom attorneys will seek to resolve those cases in light of the decision, and they plan a nationwide campaign to inform governmental bodies at all levels that they are free to include prayer in their public meetings.

“You shouldn’t be forced to forfeit your freedom to appease someone who doesn’t like what you say or believe,” says Alliance Defending Freedom senior counsel Brett Harvey. “Opponents of prayer want to use government to attack our freedom, but the Constitution established our government to

protect our freedom.

“The Supreme Court has reaffirmed that the practice of prayer before legislative bodies is firmly embedded in the history and traditions of this nation. In so doing, they have simply reinforced what has been true about America since its founding: Americans should be free to speak and act consistently with their own beliefs.”

Institute on Religion and Democracy President Mark Tooley says we can be grateful that the U.S. Supreme Court in *Greece v. Galloway* upheld freedom of speech and religion by affirming the right of a town council to hear unrestricted prayer by local clergy.

“Kudos to groups like the Southern Baptist Ethics and Religious Liberty Commission and Becket Fund for their court briefs and advocacy,” he says. “Sadly, the court ruling was narrowly 5-4. And more religious groups should have actively spoken to the issue. Some actually filed briefs against the town council’s allowing unrestricted prayers.”

As Tooley sees it, some desire to enthrone a rigid secularism as the state religion while suppressing all other views. In contrast, ordered liberty allows free expression for all. Religious freedom remains under attack, Tooley says, and all persons who cherish freedom of speech and religion should prepare for future battles.

At the time the First Amendment was adopted, Ferrara says the countries of Europe each maintained their own preferred “Establishment of Religion,” which meant an official government religion enforced by laws requiring attendance at the official church, regular contributions to it, and other preferences in law for members of that church.

“These establishment policies all involved government coercion to force citizens to support the one favored church,” Ferrara

says. "Almost all of the American colonies had such establishments as well, with legal compulsion or coercion as their hallmark.

"These practices, and anything like them involving coercion in regard to religion, are what the framers meant to prohibit in adopting the Establishment Clause, for this is what an Establishment of Religion meant at the time. They did not mean, however, to prohibit any voluntary, public, religious speech or religious expression or symbolism, which do not involve any such coercion."