"The withholding of educational benefits involves only an incidental burden upon appellee's free exercise of religion—if, indeed, any burden exists at all."—Justice BRENNAN

"Where Government places a price on the free exercise of one's religious scruples it crosses the forbidden line."—Justice DOUGLAS

Johnson v. Robison

415 U.S. 361, 94 S.Ct. 1160, 39 L.Ed.2d 389 (1974).

The Veterans' Readjustment Act of 1966 (the GI Bill) limited its benefits to those who had served on active duty in the armed forces. William Robison, a conscientious objector who had completed two years of alternate, non-military service required by the draft act, instituted a class action for himself and other COs against the Veterans Administration, seeking a declaratory judgment that, so limited, the GI Bill violated the First Amendment's free exercise clause and the Fifth Amendment's implicit guarantee of equal protection. The district court sustained the statute under the First Amendment, but held it invidiously discriminated, contrary to the Fifth Amendment. The Veterans Administration appealed directly to the Supreme Court.

Mr. Justice **BRENNAN** delivered the opinion of the Court. ...

Unlike many state and federal statutes that come before us, Congress in this statute has responsibly revealed its express legislative objectives in § 1651 of the Act and no other objective is claimed:

> The Congress of the United States hereby declares that the education program created by this chapter is for the purpose of (1) enhancing and making more attractive service in the Armed Forces of the United States, (2) extending the benefits of a higher education to qualified and deserving young persons who might not otherwise be able to afford such an education, (3) providing vocational readjustment and restoring lost educational opportunities to those service men and women whose careers have been interrupted or impeded by reason of active duty after January 31, 1955, and (4) aiding such persons in attaining the vocational and educational status which they might normally have aspired to and obtained had they not served their country.

Legislation to further these objectives is plainly within Congress' Art. I, § 8, power "to raise and support Armies." Our task is therefore narrowed to the determination of whether there is some ground of difference having a fair and substantial relation to at least one of the stated purposes justifying the different treatment accorded veterans who served on active duty in the Armed Forces, and conscientious objectors who performed alternative civilian service.

The District Court reasoned that objectives (2), (3), and (4) of § 1651 are basically variations on a single theme reflecting a congressional purpose to "eliminate the educational

gaps between persons who served their country and those who did not." ...

The error in this rationale is that it states too broadly the congressional objective reflected in (2), (3), and (4) of § 1651. The wording of those sections, in conjunction with the attendant legislative history, makes clear that Congress' purpose in enacting the Veterans' Readjustment Benefits Act of 1966 was ... primarily ... to compensate for the disruption that military service causes to civilian lives. ... Indeed ... "the very name of the statute—the Veterans' Readjustment Benefits Act—emphasizes congressional concern with the veteran's need for assistance in readjusting to civilian life."

Of course, merely labeling the class of beneficiaries under the Act as those having served on active duty in the Armed Services cannot rationalize a statutory discrimination against conscientious objectors who have performed alternative civilian service, if, in fact, the lives of the latter were equally disrupted and equally in need of readjustment. See Richardson v. Belcher (1971). ...

First, the disruption caused by military service is quantitatively greater than that caused by alternative civilian service. A conscientious objector performing alternative service is obligated to work for two years. Service in the Armed Forces, on the other hand, involves a six-year commitment. While active duty may be limited to two years, the military veteran remains subject to an Active Reserve and then Standby Reserve obligation after release from active duty. This additional military service obligation was emphasized by Congress as a significant reason for providing veterans' readjustment benefits. ...

Second, the disruptions suffered by military veterans and alternative service performers are qualitatively different. Military veterans suffer a far greater loss of personal freedom during their service careers. Uprooted from civilian life, the military veteran becomes part of the military establishment, subject to its discipline and potentially hazardous duty. ... Congress' reliance upon these differences between military and civilian service is highlighted by the inclusion of Class I–A–O conscientious objectors, who serve in the military in noncombatant roles, within the class of beneficiaries entitled to educational benefits under the Act.

These quantitative and qualitative distinctions, expressly recognized by Congress, form a rational basis for Congress' classification limiting educational benefits to military service veterans as a means of helping them readjust to civilian life; alternative service performers are not required to leave civilian life to perform their service.

The statutory classification also bears a rational relationship to objective (1) of § 1651, that of "enhancing and making more attractive service in the Armed Forces of the United States." By providing educational benefits to *all* military veterans who serve on active duty Congress expressed its judgment that such benefits would make military service more attractive to enlistees and draftees alike. Appellee concedes ... that this objective is rationally promoted by providing educational benefits to those who *enlist.* But, appellee argues, there is no rational basis for extending educational benefits to *draftees* who serve in the military and not to draftees who perform civilian alternative service, since neither group is induced by educational benefits to enlist. ...

The two groups of draftees are, in fact, not similarly circumstanced. To be sure, a draftee, by definition, does not find educational benefits sufficient incentive to enlist. But, military service with educational benefits is obviously more attractive to a draftee than military service without educational benefits. ... Furthermore, once drafted, educational benefits may help make military service more palatable to a draftee and thus reduce a draftee's unwillingness to be a soldier. ...

Finally, appellee ... contends that the Act's denial of benefits to alternative service conscientious objectors interferes with his free exercise of religion by increasing the price he must pay for adherence to his religious beliefs. That contention must be rejected in light of our decision in Gillette v. United States (1971). ...

... The withholding of educational benefits involves only an incidental burden upon appellee's free exercise of religion—if, indeed, any burden exists at all. ... Appellee and his class were not included in the class of beneficiaries, not because of any legislative design to interfere with their free exercise of religion, but because to do so would not rationally promote the Act's purposes. Thus, in light of *Gillette*, the Government's substantial interest in raising and supporting armies, Art. I, § 8, is "a kind and weight" clearly sufficient to sustain the challenged legislation, for the burden upon appellee's free exercise of religion—the denial of the economic value of veterans' educational benefits under the Act—is not nearly of the same order or magnitude as the infringement upon free exercise of religion suffered by petitioners in *Gillette.* See also Wisconsin v. Yoder (1972).

Reversed.

Mr. Justice **DOUGLAS,** dissenting. ...

... [T]he discrimination against a man with religious scruples seems apparent. ... Full benefits are available to occupants of safe desk jobs and the thousands of veterans who performed civilian type duties at home and for whom the rigors of the "war" were far from "totally disruptive," to use the Government's phrase. The benefits are provided, though the draftee did not serve overseas but lived with his family in a civilian community and worked from nine until five as a file clerk on a military base or attended college courses in his off-duty hours. No condition of hazardous duty was attached to the educational assistance program. ...

But the line drawn in the Act is between Class I–O conscientious objectors who performed alternative civilian service and all other draftees. Such conscientious objectors get no educational benefits whatsoever. ... Those who would die at the stake for their religious scruples may not constitutionally be penalized for the Government by the exaction of penalties because of their free exercise of religion. Where Government places a price on the free exercise of one's religious scruples it crosses the forbidden line. The issue of "coercive effects" ... is irrelevant. Government, as I read the Constitution and the Bill of Rights, may not place a penalty on anyone for asserting his religious scruples. ...

Editors' Note

Query: Several times Brennan spoke of a "rational basis" for Congress's distinction. Is that the test that the Court has applied when fundamental rights (or suspect classifications) have been involved? What sort of approach to constitutional interpretation was Brennan using? Douglas? Why did the Court not use some version of strict scrutiny/compelling interest here?