

Preserving the Pledge of Allegiance



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Half a century after Congress added the words “under God” to the Pledge of Allegiance, the U.S. Supreme Court is poised to consider whether those words make it

impermissible for children to recite the Pledge in our nation’s public schools. Michael Newdow, the man at the center of the case now before the Court, contends that requiring students to say the words “under God” in the Pledge unconstitutionally establishes religion. An overwhelming majority of others, including Texas and all other states, strongly disagrees.

The case, which originated in California, has obvious implications for every state. In a brief I submitted this week to the Supreme Court, I argue on behalf of all 50 states that reciting “under God” in the Pledge of Allegiance in public schools is well within the confines of the First Amendment to the U.S. Constitution. In Texas, for example, schools must teach students to be “thoughtful, active citizens who understand the importance of patriotism.” One way school districts are accomplishing that goal is by having students recite the Pledge of Allegiance once during each school day. Yet, an adverse ruling from the Court would undermine that law and those of at

least 42 other states that specifically provide for public schoolchildren reciting the Pledge.

It’s no secret that many of the founders of our nation and state not only believed in God, but also sought Divine guidance in fashioning our system of government. That they chronicled this reliance on God stands to reason, and it explains why so many of our historical documents, speeches and even architecture acknowledge God in one way or another. The Declaration of Independence alone contains four references to God, including its unambiguous statement that all persons are “endowed by their Creator with certain unalienable Rights.” Likewise, the Texas Constitution begins by “invoking the blessings of Almighty God.”

The Pledge of Allegiance, too, is part of our common heritage. After an early form first appeared in a youth publication in 1892, the Pledge grew in acceptance and changed form until Congress officially adopted it in 1942. Twelve years later, Congress changed it once more, inserting the phrase “under God” to make the Pledge more reflective of the nation’s character. Congressional committee reports from the time of the 1954 amendment echo the Declaration of Independence, noting that our government recognizes the importance of each person as being “endowed by [God] with certain inalienable rights which no civil authority may usurp.” The addition

of “under God” meant the Pledge was not the first, but simply the latest, historical and patriotic acknowledgment of our nation’s undeniable religious heritage.

I am encouraged by the fact that virtually every reference to the Pledge of Allegiance by the Supreme Court and by at least 12 individual justices over the decades has agreed the Pledge is entirely consistent with the First Amendment. Justice Sandra Day O’Connor, for example, expressed her view in 1985’s *Wallace v. Jaffree* that the reference to God in the Pledge of Allegiance “serve[s] as an acknowledgment of religion with ‘the legitimate secular purposes of solemnizing public occasions, [and] expressing confidence in the future.’” Even Justice William Brennan, one of the Court’s more liberal members, admitted in the 1963 case *School District of Abington Township v. Schempp* that “[t]he reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was believed to have been founded ‘under God.’”

The Court clearly has acknowledged a key distinction between government-sponsored religious ceremony or display, and simple historical and patriotic recognition of religion by government institutions.

To be certain, there are others like Mr. Newdow – a self-described atheist – who do not see themselves as personally “under God.” The U.S.

Constitution protects their right not to believe in God, just as it safeguards others who choose to do so. But that is not the issue here. Ultimately, what is at stake in preserving the Pledge in its current form is whether our schoolchildren will continue to be taught the truth that acknowledgment of God is woven just as tightly into our nation’s fabric as are the other elements of our heritage.