

July 2002

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The Court—Supplanter of Good?

We acknowledge the separation of sectarianism and state, but affirm the belief that there is no separation between God and state.

--Rev. Lloyd Ogilvie, Chaplain of the United States Senate (6/27/02)

Another first for the federal judges west of the Pecos. Only days before the nation turns its attention to the picnics, parades and the solemn observances of Independence Day, the Ninth U.S. Circuit Court of Appeals ruled that the phrase “under God,” makes the Pledge of Allegiance unconstitutional. Talk about poor timing!

News of the ruling reached Congress even as members were making preparations in their home districts to attend Fourth of July celebrations that are certain to include the presentation of *Old Glory* and the Pledge of Allegiance. As word spread, members of the House rushed to the steps of the Capitol to recite the pledge before God and country.

Likewise, virtually the entire Senate attended morning prayer the next day, to demonstrate their disgust with the findings of the western court. With heads bowed, Senate Chaplain Lloyd Ogilvie proclaimed, “we are one Senate, united under You, to lead a nation that is free to say confidently, ‘In God we trust.’”

Reaction from President Bush was also unambiguous. Bush told reporters that “America is a nation ... that values our relationship with the Almighty. We need common sense judges who understand that our rights were derived from God.”

But off-the-wall opinions are not a rarity in the Ninth Circuit which covers nine western states including Alaska and Hawaii. Last month, the same circuit concluded that under certain circumstances, child pornography is protected speech.

For years, rulings coming out of the San Francisco conclave have been so flawed, even the moderate to left-leaning US Supreme Court has taken notice. In one session during the mid-nineties, more than a third of the cases reviewed by the high court were from the Ninth Circuit, and virtually all of them (27 of 29) were overturned. The message couldn't be more clear. The Ninth Circuit makes bad decisions—93 percent of the time!

In this latest “finding,” the lower court said that for children to recite the pledge at school amounts to a government endorsement of religion in violation of the Constitution's Establishment Clause. Although acknowledging that students cannot be forced to participate, two judges of a three member panel said the school district is nonetheless conveying a message of state endorsement of a religious belief when it requires public school teachers to teach, recite, and lead the recitation of the pledge in its present form.

The current flap stems from a lawsuit brought by Dr. Michael Newdow, a Sacramento-area atheist who does not want his second-grade daughter “forced” to recite the pledge at school. He called the pledge a “religious idea the certain people don't agree with.”

Many historians would concede that the Pledge of Allegiance is a religious idea. Moreover, they probably wouldn't dispute the supposition that America itself is a composite of religious ideas.

In his book, *What's So Great About America*, author Dinesh D'Souza makes the point that being a citizen of America is to embrace a body of ideas. Born and raised in India, D'Souza became a US citizen in 1991 and says that over the years his identification with America has deepened to the point that he truly feels he has "become an American."

D'Souza insists, however, that while an American could become a citizen of India and reside there for forty years, he still could not become Indian. Indians would not consider such a person Indian, he says, nor would it be possible for him to think of himself in that way. He explains that being Indian, like being German or Swedish or Iranian, is entirely a matter of birth and blood.

By contrast, according to Mr. D'Souza, people come here from all over the world, and over time most of them come to think of themselves as Americans. "Their experience suggests," he says, "that becoming American is less a function of birth or blood and more a function of embracing a set of ideas. It is only for this reason that terms like 'un-American' and 'anti-American' make sense. You could not accuse someone of being 'un-German' or 'un-Pakistani.' They would not know what you were talking about."

Earlier foreign visitors were equally convinced that the essence of America involved the embracing of ideas. And most, if not all, regarded those ideas as religious.

Alexis de Tocqueville, a French historian who extensively toured the United States from 1831 to 1835, regarded religion as the informer of political ideas in America. He wrote; "upon my arrival in the United States the religious aspect of the country was the first thing that struck my attention; and the longer I stayed there, the more I perceived the great political consequences resulting from this new state of things." Tocqueville continued, "I do not know whether all Americans have a sincere faith in their religion—for who can search the human heart? But I am certain that they hold it to be indispensable to the maintenance of republican institutions."¹

This week, a baffled and much scorned Judge Alfred T. Goodwin (writing for the 2-1 majority), has learned first-hand that the President, Congress, and the American people still hold religion to be indispensable to their public institutions. Apparently intimidated by the public outcry, the poorly informed judge ordered a stay of his own ruling less than 24 hours after it was published.

That Judge Goodwin is not schooled in the higher law, as were our founders, is obvious. In his first Inaugural, George Washington said, "... it would be peculiarly improper to omit, in this first official act, my fervent supplications to that Almighty Being who rules over the universe, who presides in the councils of nations and whose providential aids can supply every human defect..."

During his swearing in, Washington placed his hand upon a Bible opened to Deuteronomy 28, which says in part; *If you fully obey the LORD your God and carefully follow all his commands ... the LORD your God will set you high above all the nations on earth ... the LORD will grant you abundant prosperity ... enemies who rise up against you will be defeated before you ...*

It should be evident to all that the LORD our God keeps His promises!

Rick Forcier

Executive Director

¹ Federer, William J., *America's God And Country Encyclopedia of Quotations*, 1994, FAME Publishing, Inc., Coppell, TX, pg.204