

# Court rules Pledge of Allegiance unconstitutional

SAN FRANCISCO (AP) — Stunning politicians on both the left and right, a federal appeals court declared for the first time Wednesday that reciting the Pledge of Allegiance in public schools is unconstitutional because of the words "under God" inserted by Congress in 1954.

The ruling, if allowed to stand, would mean schoolchildren could no longer recite the pledge, at least in the nine Western states covered by the court. Critics of the decision were flabbergasted and warned that it calls into question the use of "In God We Trust" on the nation's currency, the public singing of patriotic songs like "God Bless America," even the use of the phrase "So help me God" when judges are sworn into office.

In a 2-1 decision, the 9th U.S. Circuit Court of Appeals said the phrase "one nation under God" amounts to a government endorsement of religion in violation of the separation of church and state. Leading schoolchildren in a pledge that says the United States is "one nation under God" is as objectionable as making them say "we are a nation 'under Jesus,' a nation 'under Vishnu,' a nation 'under Zeus,' or a nation 'under no god,' because none of these professions can be neutral with respect to religion," Circuit Judge Alfred T. Goodwin wrote.

In Canada, where President Bush was taking part in an economic summit, White House spokesman Ari Fleischer said: "The president's reaction was that this ruling is ridiculous." "The Supreme Court itself begins each of its sessions with the phrase 'God save the United States and this honorable court,'" Fleischer said. "The Declaration of Independence refers to God or to the Creator four different times. Congress begins each session of the Congress each day with a prayer, and of course our currency says, 'In God We Trust.' The view of the White House is that this was a wrong decision and the Department Justice is now evaluating how to seek redress."

The ruling was also attacked on Capitol Hill, with Senate Majority Leader Thomas Daschle, D-S.D., calling it "just nuts."

After the ruling, House members gathered on the front steps of the Capitol to recite the Pledge of Allegiance en masse — the same place they defiantly sang "God Bless America" the night of Sept. 11 attacks.

And senators, who were debating a defense bill, angrily stopped to unanimously pass a resolution denouncing the decision of a three-judge panel of the 9th U.S. Circuit Court of Appeals in San Francisco.

The government had argued that the religious content of "one nation under God" is minimal. But the appeals court said that an atheist or a holder of certain non-Judeo-Christian beliefs could see it as an endorsement of monotheism.

The 9th Circuit covers Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington state. Those are the only states directly affected by the ruling.

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— Ari Fleischer  
White House spokesman

However, the ruling does not take effect for several months, to allow further appeals. The government can ask the court to reconsider, or take its case to the U.S. Supreme Court.

Congress inserted "under God" at the height of the Cold War after a campaign by the Knights of Columbus, religious leaders and others who wanted to distinguish the United States from what they regarded as godless communism.

The case was brought by Michael A. Newdow, a Sacramento atheist who objected because his second-grade daughter was required to recite the pledge at the Elk Grove school district. A federal judge had dismissed his lawsuit, which named the school district, Congress and then-President Clinton.

Newdow, a doctor who holds a law degree and represented himself, called the pledge a "religious idea that certain people don't agree with."

The appeals court said that when

President Eisenhower signed the legislation inserting "under God" after the words "one nation," he declared: "Millions of our schoolchildren will daily proclaim in every city and town, every village and rural schoolhouse, the dedication of our nation and our people to the Almighty."

The appeals court noted that the U.S. Supreme Court has said students cannot be compelled to recite the pledge. But even when the pledge is voluntary, "the school district is nonetheless conveying a message of state endorsement of a religious belief when it requires public school teachers to recite, and lead the recitation of, the current form of the pledge."

The ruling was issued by Goodwin, who was appointed by President Nixon, and Circuit Judge Stephen Reinhardt, a Carter appointee.

In a dissent, Circuit Judge Ferdinand F. Fernandez, appointed by the first President Bush, warned that under his colleagues' theory of the Constitution, "we will soon find ourselves prohibited from using our album of patriotic songs in many public settings."

"'God Bless America' and 'America the Beautiful' will be gone for sure," he said, "and while use of the first and second stanzas of the 'Star-Spangled Banner' will still be permissible, we will be precluded from straying into the third."

Fernandez said the same faulty logic would apply to "In God We Trust" on the nation's currency.

Sen. Kit Bond, R-Mo., was one of many lawmakers who immediately reacted in anger and shock to the ruling. "Our Founding Fathers must be spinning in their graves. This is the worst kind of political correctness run amok," Bond said. "What's next? Will the courts now strip 'so help me God' from the pledge taken by new presidents?"

Harvard scholar Laurence Tribe predicted the U.S. Supreme Court will certainly reverse the decision unless the 9th Circuit reverses itself. "I would bet an awful lot on that," Tribe said.

The 9th Circuit is the nation's most overturned appellate court — partly because it is the largest, but also because it tends to make liberal, activist opin-



## The Pledge of Allegiance

Written in 1892 by Francis Bellamy for a children's magazine, the Pledge of Allegiance was first recited in schools to commemorate the 400th anniversary of Christopher Columbus' voyage to America.

The most recent change to the pledge, the addition of "under God," led to its being declared unconstitutional.

Change: "the flag of the United States of America"

— June 14, 1923 at the National Flag Conference, Washington, D.C.\*

*I pledge allegiance to my flag and the Republic for which it stands - One nation indivisible - with liberty and justice for all.*

Add: "under God"

— June 1954, by order of President Dwight D. Eisenhower

\* "of America" was actually added the following year.

SOURCES: Associated Press; infoplease.com

AP

ions, and because the cases it hears — on a range of issues from environmental laws to property rights to civil rights — tend to challenge the status quo.

The nation's high court has never squarely addressed the issue, Tribe said. The court has said schools can require teachers to lead the pledge but ruled students cannot be punished for refusing to recite it.

In other school-related religious cases, the high court has said that schools cannot post the Ten Commandments in public school classrooms.

And in March, a federal appeals court ruled that Ohio's motto, "With God, all things are possible," is constitutional and is not an endorsement of Christianity even though it quotes the words of Jesus.

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