

Statement of

The Honorable Mary Landrieu

United States Senator
Louisiana
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Before the Senate Subcommittee U.S. Senate Judiciary Subcommittee on the
Constitution, Civil Rights and Property Rights
Hearing on Religious Expression in the Public Square
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Thank you, Mr. Chairman, for inviting me to testify before the Subcommittee today at this important hearing on the public expression of religion. I want to begin my testimony with a quote from Benjamin Franklin, who I think of as a philosopher of democracy. He asked a very important question at the Constitutional Convention: "In the beginning of the contest with Britain, when we were sensible of danger, we had daily prayers in this room for Divine protection. Our prayers, Sir, were heard, and they were graciously answered.... do we imagine we no longer need His assistance?"

Mr. Chairman, we would do well to ask Benjamin Franklin's question again today. The rituals all around us indicate that we do need God's assistance for our great experiment in Democracy to work. We opened the Senate today with a prayer led by our Chaplain. It is a tradition has been followed from the beginning of our nation - over 200 years - and the Senate and our nation is stronger for it. We are stronger because we acknowledge a power higher than our selfish interest. We are stronger because we honor the free practice of all religions. Our nation is stronger because our government does not endorse one religion over another. But while we maintain a separation between church and state, we do not separate God from state.

Mr. Chairman, this hearing could not be more timely. The United States Supreme Court is expected to announce a decision in the case of Elk Grove Unified School District v. Newdow before the end of its current session. As members of the Subcommittee know, the Court of Appeals for the Ninth Circuit found that the phrase "under God" was not constitutional. The Pledge has been part of American life since 1942 and Congress added "under God" to the Pledge in 1954.

Like all of my colleagues, I was shocked by the Ninth Circuit's decision. The day the decision was announced back in June of 2002, I introduced a constitutional amendment that simply says that references to God in the Pledge of Allegiance and on our currency do not affect an establishment of religion in violation of the First Amendment. It has been reintroduced in the 108th Congress as Senate Joint Resolution 7. Senators Murkowski, Stevens, and Chambliss are cosponsors. I would ask that a copy of S.J.Res. 7 be placed in the record at the conclusion of my remarks.

Mr. Chairman, you do not need to be a legal scholar to know that the Newdow decision is an affront to common sense. References to God are found in every one of our founding documents from the Declaration of Independence to the Constitution, as well as in the Pledge of Allegiance. President James Madison, whom we appropriately acknowledge as the Father of the Constitution, wrote to the Virginia General Assembly:
We have staked the whole future of American civilization, not upon the power of government, far from it. We've staked the future of all our political institutions upon our capacity...to sustain ourselves according to the Ten Commandments of God

Those of you on the Committee, who have studied the writings of the Founders understand that there was a broad difference among them about the nature of God, and the role that religion played in their personal lives. But I do not think you could find anyone present at the creation of our nation that doubted that divine providence played a role in our victory over England, and in the crafting of the document that binds us together as the United States. So, when we acknowledge that history with the phrase "Under God," we do little more than reiterate something that our Founding Fathers accepted as a fundamental truth. Only something greater than themselves could create America. Something more significant than self-interest was needed to make "e pluribus, unum." They thought that something was the power of the divine. The Founders have almost never given us reason to doubt their wisdom.

The American experience is replete with examples of our sanctifying the acts of our government by invoking the Almighty. The phrase "In God We Trust" appears on all of our currency and is inscribed in the Senate chamber. I firmly believe that the framers of the Constitution and the First Amendment did not want to ban all references to God from public discourse when they wrote the Establishment Clause. What they wanted to prevent was the establishment of an official national religion, or the endorsement of one religion over others. They knew that many of the people who came to this country in the early colonial days left Europe because they could not freely practice their religion. The Establishment Clause also keeps the federal government from getting intimately involved in the affairs of religious organizations.

The Pledge of Allegiance expresses patriotism. It is not a prayer. It is not an endorsement of religion. The amicus brief filed by the Senate in the Newdow case makes this clear. The brief examines the legislative history of the Pledge of Allegiance and forcefully argues that it was a call to patriotism that acknowledges the historical role of religion in America. The Pledge of Allegiance does not interfere with religion or force one religious view on the entire country. People are free to think of God in the Pledge as a reference to any God, or they can choose to ignore the reference. Similarly, the fact that our nation's motto, "In God We Trust," appears on the currency does not mean that we are paying tribute to God when we spend money. This a ceremonial reference, not an oath. I ask that a copy of the Senate's amicus brief be made a part of the record.

S.J.Res. 7 is really very simple. All it says is that references to God in the Pledge of Allegiance and on our currency do not violate the Constitution. It is narrowly drawn and rooted in common sense. It is not intended to coerce anyone to recite the Pledge of Allegiance in public or in a school. If someone has a religious-based or other objection to reciting the Pledge, they have the right to not recite the Pledge.

The founding fathers wanted amending the Constitution to be an extraordinary remedy for change, so I do not take what I have proposed lightly. However, the Ninth Circuit simply went too far. The separation of church and state was intended to ensure neutrality between faiths by our government, not to eliminate all references to religion from public life.

Mr. Chairman, the Pledge of Allegiance has been a part of the fabric of our country for 50 years. It has not been a tool of religious persecution and no harm has come from it. I hope that the Supreme Court uses common sense when it decides the Newdow case later this month. If it decides to overrule the lower court and upholds the reference to God in the Pledge of Allegiance, then my amendment, S.J.Res. 7, would not be necessary. I hope that ends up being the case. If the Court decides to uphold the lower court's decision, the Congress can begin the process of restoring the proper balance between church and state and to restore the historical purpose of the Pledge of Allegiance by amending the Constitution.