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ONE NATION INDIVISIBLE

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March 24th, 2004 – It is relatively rare for someone publicly identified as an atheist to make the national news, but entirely unsurprising that Michael Newdow did so today. According to the Associated Press, this “California atheist told the Supreme Court Wednesday that the words ‘under God’ in the Pledge of Allegiance are unconstitutional and offensive to people who don’t believe there is a God.”

Since the Supreme Court hears cases fairly regularly, there must be something especially controversial about this one, and that too is mentioned in the AP article, “Almost nine in 10 people said the reference to God belongs in the pledge despite constitutional questions about the separation of church and state, according to an Associated Press poll.”

We have here a case in which minority rights are at odds with majority thinking. Evidently, the vast majority of Americans believe that we are indeed “One Nation, Under God” and that public schoolchildren should be encouraged (if not required) by the government to chant this affirmation regularly.

A small minority objects to this setup, because they prefer to leave religious indoctrination in the hands of parents rather than government officials. Many folks in this dissenting group no doubt prefer this option because they do not believe in a generic monotheistic male deity, i.e. “God” but rather something else, such as a *goddess* or an entire *pantheon* of gods and goddesses. Some folks have claimed that the deity has a proper name and ought to be formally addressed as such. Still others, like Newdow, do not believe in any gods or goddesses and do not much care for the state indoctrinating their children into such belief.

However, the fundamental question at hand here is not which particular belief system (e.g. monotheism, polytheism, atheism, etc.) should be affirmed by federal law, but rather whether the federal government has any business taking sides on the issue. Put in constitutional terms, did Congress pass a law “respecting an establishment of religion” when they interpolated “under God” into the Pledge of Allegiance? This question has been best answered by the 9th Circuit Court of Appeals in their opinion on the Newdow case.

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WHY I SUPPORT MICHAEL NEWDOW

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The words "under God" were, as you all know, added in 1954 in an act of McCarthyist political grandstanding. Ironic, especially given that the Pledge's author, Francis Bellamy, was a Baptist minister, a Socialist, and a devoted advocate of the constitutional principle of the separation of church and state who, when he wrote the Pledge in 1892, saw no need to foist his religious beliefs upon children in what was (and is) supposed to be a publicly funded, neutral environment dedicated to the teaching of reading, writing, and arithmetic.

The Fifties were, after all, the age of "a red under every bed," and atheism was instantly (albeit erroneously) equated with Marxist/Leninist thought. Marxists tended to be (and still tend to be) atheists; however, by no means are all atheists Marxists. Also, remember that the people of Russia saw Orthodoxy as an integral part of Czarism (as it was). Many of them became staunchly atheistic in reaction to this well established little incestuous relationship. Little did they know that they would be replacing one form of autocracy for another -- Czarism for Marxism, and state required Orthodoxy for state required lack of belief.

It is truly sad how all those who find the whole concept of gods and goddesses implausible and without evidence of empirical proof have become falsely linked -- by way of broad and careless historical association -- with Marxist/Leninist thought. The two, in fact, are totally unrelated, save for the historical accident that Marx happened to have been an atheist himself, and that he happened to believe that what he foresaw of the death of capitalism would only come about when (among many other factors) religion had been discarded. Marxism -- for those of you who don't know already -- has more glittering generalities and outlandish prophecies than just about any religion one finds on the face of the earth.

In fact (on a local level, just as an example), most of our (i.e., O.A.'s) membership is made up of fiscal conservatives -- capitalists almost to a member -- largely Goldwater Republicans and Libertarians. Don't forget, too, that most of the great infidel rabblers of the 19th century were Republicans. (The Republicans were, at that time, considered the more progressive of the 2 major parties.) As a proud American patriot, a capitalist, a lover of liberty, and an infidel, I vehemently detest the erroneous and yet oft employed "connection" between freethought and Communism, and find it deliciously ironic and downright hilarious how the same party in this country that once gave us Ingersoll and Grant and other staunch separationists now gives us Inhofe and Nickles and thinly veiled theocrats. (And the Democrats are almost as bad -- they've voted for almost all of both Clinton's and Bush's "faith-based" nonsense.)

I am opposed to the words "under God" in the Pledge because they imply exactly what the grandstanding politicians (Democratic and Republican alike) wanted them to imply in 1954. Namely, this: in order to be a good American, you must believe in god(s).

I also despise this McCarthyist accretion because, simply put, it's hypocritical and dangerous. You know as well as I do that the American public would go bonkers were we to suggest that "god" (thus directly implying monotheism) should be replaced with "gods." The Religious Right doesn't see the dangerous precedent they're setting for future generations. As James Madison put it (and I paraphrase), the same sect that is stupid enough to believe that government ought to be merged with religion is the same sect that is stupid enough to believe that it will always be the dominant sect.

I am on Newdow's side because I know what it is like to have teacher after teacher after teacher after classmate after classmate after classmate try to convert me (!) in the classrooms of public schools. I know what it is like for Jewish and Catholic and Buddhist and atheist and Mormon children in countless rural and urban Oklahoma classrooms. (I know, too, what it's like for non-Mormons living in Utah -- talk about irony!) I know how our scientific education in this country is being compromised by pseudoscience based upon specific religious interpretations of Bronze Age texts.

I know what it is like to see the one dominant sect allowed to run roughshod over all others. **I know that more separationist lawsuits in the last 150 years have been brought by Mormons, Seventh Day Adventists, Roman Catholics, and Baptists than atheists put together. I know, too, how religious liberty has been protected and allowed to flourish under separation. I know how Baptists and Mormons and Jews and Buddhists and atheists and many, many, many other citizens have suffered because of the un-American fallacy of majoritarianism.**

I know that America is the most religious nation among the industrialized nations because of the separation of church and state, not in spite of it. I know that these theocratic yutzies who are stumping for Roy Moore and vilifying Newdow and praising Pat Robertson and kissing Gordon Hinckley's wrinkled old ass are doing it out of zeal for political power. I know, too, what Jesus said about praying in public (read Matthew 6:7).

I know, too, that the Bush Administration has far more sinister plans (i.e., regarding the demolition of the wall of separation) up its sleeve than just defending an absurd McCarthyist addition to Pledge. *Don't believe me?* Just take a good long look at "faith-based initiatives," proselytization efforts abroad, codified discrimination against GLBT people, the "Constitution Restoration Act of 2004," etc. etc. etc. **While the Newdow case is important, it's the smallest of all the fishes that liberty-loving Americans have to fry right now.**

**ONE NATION INDIVISIBLE
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Justice Goodwin, in his majority opinion, eloquently and succinctly expressed the fundamental problem with the Pledge in its amended form:

A profession that we are a nation “under God” is identical, for Establishment Clause purposes, to a profession that 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.

While dissenting from the majority view that the addendum to the Pledge constitutes a violation of the Establishment Clause, Justice Fernandez of the 9th Circuit Court nevertheless concurred that religious neutrality is the most applicable constitutional principle at issue:

We can run through the litany of tests...the one I think to be correct, is the concept that what the religion clauses of the First Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor discriminate against a religion or religions.

The circuit court follows Supreme Court precedent when applying the concept of neutrality, as set forth in *Wallace v. Jaffree*, “[T]he government must pursue a course of complete neutrality toward religion.”

Given this jurisprudential rule of thumb, how could the court possibly rule that the Congress did not violate the Establishment Clause when on June 14, 1954 they proclaimed that this nation will henceforth be considered “under God” by all those whom wish to pledge allegiance thereto?

Unfortunately, there is a way. The legal principle of *de minimis non curat lex* states that the law does not concern itself with trifles, and it appears that there are those on the bench who may well consider the phrase “under God” to fall into this category.

Justice Fernandez applied this logic in his dissent in *Newdow* case:

...the danger that “under God” in our Pledge of Allegiance will tend to bring about a theocracy or suppress somebody’s beliefs is so minuscule as to be *de minimis*. The danger that phrase presents to our First Amendment freedoms is picayune at most.

Many of the Supreme Court justices seemed somewhat sympathetic to this view in their questioning of Dr. Newdow this morning. Justice O’Connor noted that there are “so many references to God” in government today, such as those on our currency and in our official ceremonies, such as court sessions and inaugurations. Justice Breyer suggested the possibility that the amended Pledge “really doesn’t violate the Establishment Clause because it’s meant to include virtually everybody, and the few whom it doesn’t include don’t have to take the pledge.” Justice Souter asked Newdow to consider the possibility that the use of the phrase is “is so tepid, so diluted, so far from a compulsory prayer that it should in effect be beneath the constitutional radar.” Justices Kennedy and O’Connor both hinted that there is a constitutionally significant difference between student prayer addressed in *Lee v. Weisman* and an “affirmation of a belief” dealt with in *West Virginia State Board of Education v. Barnette*. Taking all this into account, one might reasonably conclude that the Court is giving serious consideration to the argument that “under God” is of too little import to be considered a matter of constitutional law.

If this truly were a matter of no great import, though, would the President and Congress have spoken out on the matter? One can only hope that the high court gives Newdow his due, and affirms the notion that we are one nation indivisible, undivided by legal language which discriminates against people of any faith – or none.