God Loves Flags, But I Don't: Why the Pledge of Allegiance is an American Travesty

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INTRODUCTION

The bell rings, signaling the start of a new day of instruction. The one adult in the room rises, faces the flag, and puts his hand over his chest. Over a dozen children, no older than eight, solemnly mimic his motions, just as they've been taught to do since they enrolled in preschool. In unison, they all recite the same words they do every morning:

"I pledge allegiance to the flag of the United States of America. Thank you very, very much for letting us little kids live here. It was really, really nice of you. You didn't have to do it. And it's really not creepy to have little, little kids mindlessly recite this anthem every day, and pledge their life to a government before they're old enough to really think about what they're saying. This is not a form of brainwashing. This is not a form of brainwashing. This really is the greatest country in the whole world. All the other countries suck. And if this country ever goes to war, as it often wants to do, I promise to help go and kill the other countries' kids. God bless Johnson & Johnson. God bless GE. God bless CitiGroup. Amen."
This is obviously not something any reasonable individual would expect to see in a classroom. Of course, these individuals are probably not familiar with the work of comedy sketch group Whitest Kids U'Know, who wrote this satirical version of the Pledge for a sketch on their IFC show. While this comedy troop has a penchant for absurdity, this particular sketch is a solid social commentary on how desensitized Americans have become to the Pledge of Allegiance.

We, as a culture, have been socialized to equate the Pledge, and other supposedly patriotic gestures as a sign of good morals. Every election cycle, we endure an endless barrage of campaign commercials from candidates flaunting how American they are. Political advisors do everything they can to make sure that their candidates are seen as the most American choice. And when that fails, they attempt to discredit the American-ness of their opponents. American democracy has systematically politicized patriotism.

America has become a Fox News culture. When Barack Obama won the presidency in 2008, his detractors did not focus on his actual qualification or views on the issues. Rather, they focused on two things. First and foremost, was his American-ness. He was the first non-white president, and many saw him as, among other things, not American. This entire theory was perpetuated by Fox News, as well as countless unverifiable, conspiracy-claiming photos and posts. Many of the people who shared these photos are the same people who killed Facebook for the rest of us. To his detractors, Obama was seen as less deserving than John McCain, a former soldier and POW, because McCain was seen as more American, and more in line with traditional American values.

The second thing Obama's detractors immediately focused on was related to those "traditional" American values. They went after his pastor, African-American Reverend Jeremiah Wright. For these true American patriots, black churches didn't count as real Christianity. To Fox News's target demographic, Obama was somehow less American and less Christian than his predecessors, and therefore was unworthy of being the president. And they certainly would not shut up about it, even after Obama released his long-form birth certificate in 2011—three years after it became an issue.

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3 To be fair, WKUK doesn't really use anything resembling typical humor.
4 Their other sketches include: "Gallon of PCP," and "What Really Happened to Abe Lincoln," among others. I've spent dozens of hours watching their sketches on Youtube, and their show on IFC.
5 Seriously, I live in Ohio. It's awesome that we pretty much decide who wins, but I'd trade that in a heartbeat to get rid of the endless fucking advertisements.
6 I have never seen a positive political campaign ad that didn't somehow prominently feature a huge American flag somewhere. Seriously, I can't remember ever seeing one.
7 See: The swiftboat ads against John Kerry, a man who, by most actual firsthand accounts, was an exemplary serviceman.
8 Obviously not all of America, but way too damn much of it. The people who think that there is actually a "War on Christmas" or a "War on Christianity" are the most fucking irritating people on this planet.
9 Things Barack Obama has been called: Muslim, terrorist, Anti-Christ (my personal favorite), atheist (actually somewhat plausible but unlikely), Kenyan, splinter cell, foreign-born, socialist, communist, and *Insert various racial slurs here*
10 I saw one the other day about how Obamacare requires the government to implant mind-control chips into the foreheads of every public schoolchild. And they connected it to the Obama = Anti-Christ theory. Seriously. People legitimately believe this shit. And it influences their votes.
11 Some people may think this is about old people (read: our parents), but that is not necessarily true. It's about anyone who shares those "Like for Jesus, keep scrolling if you want your grandmother to burn in hell for eternity" photos.
12 See: Jeremiah Wright controversy.
13 A lot of this can be plausibly contributed to Donald Trump trying to stay relevant, because that's just what
Christianity has become a de facto prerequisite to hold office, in most cases\textsuperscript{14}. We are taught as children that, if we work hard enough, we can do anything, like becoming an astronaut, a star quarterback, or the President of the United States. That's the American dream, but the harsh truth is that, unless you are a practicing Christian, your chances at becoming president probably are not great.\textsuperscript{15}

Another thing taught at a young age is the value of patriotism. From the onset of my academic career, I stood up with the rest of my classmates every morning, and recited the Pledge of Allegiance. As a five-year-old, I had absolutely no idea what "indivisible" meant, but I damn sure had a lot of practice pronouncing it. By the time I learned multiplication in third grade, I had recited the Pledge of Allegiance literally hundreds of times. Even in high school\textsuperscript{16}, my last-minute homework efforts were interrupted every morning by a short affirmation of my dedication to a glorified piece of fabric.

Then again, it is not simply a daily affirmation to a flag. It is also a daily affirmation to God\textsuperscript{17}. In 1954, as a response to those damn godless commies\textsuperscript{18}, and after a lot of lobbying, President Eisenhower signed into law a revision to the flag code that added the words "Under God" to the Pledge. This addition was an obvious violation of the constitution, but it's totally alright, because of Jesus and stuff.\textsuperscript{19}

On a serious note, having school officials lead the Pledge of Allegiance should absolutely be unconstitutional. Taking off the Jesus-colored glasses and looking at legal precedent make this easy to conclude. Children are coerced into saying the Pledge every day, and have absolutely no idea what they are saying\textsuperscript{20}. They are simply conditioned to follow the examples set by their

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\textsuperscript{14} Or, in others, de jure. State constitutions in Arkansas (Article 19, Section 1), Maryland (Article 37), Mississippi (Article 14, Section 265), North Carolina (Article 6, Section 8), South Carolina (Article 17, section 4), Tennessee (Article 9, Section 2), and Texas (Article 1, section 4) include some form of "no person who denies the existence of God/a supreme being may hold public office." Again, this is fucking ludicrously stupid and blatantly illegal, but nobody will ever do anything about it. Also, even if these laws weren't in place, do you really think any non-Christian would dare run for office in South Carolina, Tennessee, or Mississippi? Nope.

\textsuperscript{15} Not that anybody in particular has a great chance at becoming president, but every president so far has self-identified as Christian, despite what Rush Limbaugh and Glenn Beck would have you think about the current one.

\textsuperscript{16} I grew up in John Boehner's district. He lives in the only gated community in the entire district, runs unopposed almost every term, and is generally an asshole, by every firsthand account of him that I've heard. Anyways, apparently this is uncommon, but my high school started every day with the Pledge. I haven't heard of many other schools doing this. And everybody participated. I didn't really ever question it, nor did I know that I had a choice in the matter.

\textsuperscript{17} This is according to Eisenhower's own words when he added the words "under God" to the Pledge in 1954. More on that later.

\textsuperscript{18} This was added during the Cold War as a response to the Soviet Union's state atheism. Obviously, Soviet communism didn't work, but to me, there is palpable cognitive dissonance in that Americans have such a problem with the concept of communism. America is overwhelmingly Christian(although not a "Christian nation"), and somehow they're against the concept of everybody being treated equally and sharing with the less fortunate. Because, you know, Jesus thought corporations were people, too. He also thought the only way to prevent school shootings is to put an AR-15 in the hands of every teacher. Because 'Murica.

\textsuperscript{19} "I mean, fuck separation of church and state, you know what this country really needs? More Jesus." - Gretchen Carlson, probably. (Note to Gretchen Carlson: That was a joke, and my mother loves you.)

\textsuperscript{20} I remember being regarded as a pretty smart child, but there is absolutely no way that six-year-old me knew
teacher. While they have the right to abstain\textsuperscript{21}, they are taught from a young age to do whatever their teacher says, or face punishment, so when their teacher (and all of their classmates) rise and say the Pledge of Allegiance, they rise and speak as well. Most arguments against the pledge hinge on the phrase "Under God," and are absolutely right to do so, but there is definitely a case to be made against the Pledge based on coercion. The court's own precedents should make this a no-brainer as well\textsuperscript{22}.

As for the Pledge as an Establishment Clause issue, the most common justification to keep the words "Under God" is the historical acknowledgment argument. This is the argument that, like the national motto on our currency\textsuperscript{23} and a handful of patriotic songs\textsuperscript{24}, references to a supreme being (in every case, this is the Judeo-Christian God) are simply acknowledgments of the religious heritage and history of the country.\textsuperscript{25} Regardless of the actual intentions of the founding fathers and history of the country, Eisenhower's own words make it clear that the phrase "Under God" is not simply an acknowledgment, but an endorsement of monotheistic faith, particularly Christianity. The Lemon test\textsuperscript{26-27} commonly used to determine whether or not religious references are constitutional\textsuperscript{28}, can also be used to easily show that the phrase "Under God" is unconstitutional.

This issue came into the public eye in 2002, with Newdow v United States et al.\textsuperscript{29}. In this case, Michael Newdow argued that the Pledge's religious content, albeit brief, had infringed on his right as a parent to educate his daughter on religious topics. Previous court precedents\textsuperscript{30} had showed that the state did not have a right to further religious doctrines or views. The 9th Circuit

what "indivisible" meant. Hell, we didn't even learn what division was until third grade.

\textsuperscript{21} West Virginia State Board of Education v Barnette (319 U.S. 624), in which the court ruled that people have a right to not say the Pledge of Allegiance if they do not wish to.

\textsuperscript{22} When you combine the ruling of Barnette with Sherman v Community Consolidated School District 21(980 F.2d 437)(7th Cir. 1992), it's obvious that there is some psychological pressure to say the Pledge, and this is coerced speech. Again, this will be discussed later.

\textsuperscript{23} "In God We Trust" is the national motto, but apparently is not an endorsement of any particular religion. Seems legit.

\textsuperscript{24} See: "God Bless America" and the verses to "America the Beautiful" that apparently nobody besides Mitt Romney knows. (See: That one really .really awkward speech he gave during his failed 2012 presidential campaign.)

\textsuperscript{25} Again, this does not make sense. James Madison and Thomas Jefferson, who wrote the Constitution and Declaration of Independence, respectively, both believed that the government should not endorse religion. There is conflicting information regarding the actual religious affiliations of the founding fathers, and it is argued that many of them were deists, not necessarily Christians, but regardless, it's clear that they did not wish for the government to endorse or advance particular faiths.

\textsuperscript{26} Lemon v Kurtzman, 403 U.S. 602 (1971)

\textsuperscript{27} "Lemon Test" refers to the three-pronged test detailing requirements for legislation concerning religion. It has nothing to do with the scene from National Treasure where Nicolas Cage uses lemon juice to reveal the treasure map on the back of the Declaration of Independence.

\textsuperscript{28} The Lemon Test states that the legislation must have a secular purpose, must not have the primary effect of advancing or inhibiting religion, and must not result in excessive government entanglement with religion.

\textsuperscript{29} Elk Grove Unified School District v Newdow, 542 U.S. 1 (2004) and preceding Newdow cases. Looking back, if Newdow, an outspoken atheist, really wanted to get rid of the "under God" part of the Pledge, he should have realized that he was not the person to challenge it. The Supreme Court ruled that he did not have sufficient custody of his daughter to bring the suit forth. Not only that, but the timing was poor as well, as the case was originally filed in 2000, and the 9th Circuit ruled in 2002 that the "under God" was indeed unconstitutional. There was widespread backlash by the post-9/11 nation after the ruling, culminating in a 99-0 Senate vote on a nonbinding resolution denouncing the ruling.

Court of Appeals applied the Lemon test and endorsement test\textsuperscript{31} to the pledge, and ruled that the words "Under God" were tantamount to a state endorsement of religion. Therefore, they ruled that it was unconstitutional for school officials to lead the Pledge of Allegiance in school in its current state\textsuperscript{32}. In a post-9/11 America, this led to a very strong backlash against the ruling. In a symbolic vote, the Senate voted 99-0 affirming a non-binding resolution denouncing the decision. America was pissed off.\textsuperscript{33}

The Supreme Court overturned the ruling only because Newdow did not have sufficient standing to bring the suit in front of the court, as he did not have primary legal custody\textsuperscript{34}. In this respect, the Supreme Court was correct, but the 9th Circuit was correct about the Pledge. The Pledge of Allegiance's status as a patriotic gesture makes it seemingly untouchable, but it should absolutely be unconstitutional, based on the court's own rulings in the past.\textsuperscript{34}


\textsuperscript{32} The Supreme Court was correct to reverse the decision based on Newdow's lack of custody, but I really would have liked to see them actually look at it as an establishment clause issue. Although it is worth noting that there were three Justices who went on to review the Pledge, and all upheld its constitutionality.

\textsuperscript{33} Short list of things America loves: guns, beer, the ability to buy large-sized soft drinks, football, Jesus, and the Pledge of Allegiance.

\textsuperscript{34} It's a pretty obvious violation of the Establishment Clause, when the Lemon and Endorsement tests are applied.
I: The Pledge of Allegiance Over Time

The Pledge of Allegiance was written in 1892 by Francis Bellamy\(^{35}\), a socialist\(^{36}\) as part of a program for the National Public School celebration of Columbus Day. Bellamy's original text for the Pledge was as follows:

"I pledge allegiance to my Flag and the Republic for which it stands, one nation, indivisible, with liberty and justice for all."\(^{37}\)

That September, it was published in *The Youth's Companion*, and gained steam from there\(^{38}\). By 1905, 19 states had passed school flag laws involving the Pledge\(^{39}\). By 1923, the words "my Flag" had been changed to "the flag of the United States"\(^{40}\), apparently to avoid confusion\(^{41}\). One year later, the National Flag Conference\(^{42}\) added the words "Of America."\(^{43}\)

In 1940, the landmark *Minersville v Gobitis*\(^{44}\) case was filed, after two children were expelled for refusing to recite the pledge. Their rationale for doing so was their faith, as they were from a family of Jehovah's Witnesses, who refuse to swear to any power besides God. The Pledge was adopted nationally as part of the Flag Code in 1942\(^{45}\), the same year that the Supreme Court decided the *Gobitis* case was decided. In *Gobitis*, the court ruled that the Gobitis children did not have the right to abstain from saying the Pledge\(^{46}\). Justice Frankfurter wrote the opinion of the court.

"The wisdom of training children in patriotic impulses by those compulsions which necessarily pervade so much of the educational process is not for our independent judgment. Even were we convinced of the folly of such a measure, such belief would be no proof of its unconstitutionality... What the school authorities are really asserting is the right to awaken in the child's mind considerations as to the significance of the flag.

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\(^{35}\) Mini-biography at [http://freemasonry.bcy.ca/biography/bellamy_f/bellamy_f.html](http://freemasonry.bcy.ca/biography/bellamy_f/bellamy_f.html). Apparently, he was a Freemason, too. Also, according to this article, "Bellamy considered adding the word 'equality' to stand with 'liberty and justice,' but feared it would be too controversial."

\(^{36}\) Fun fact: Bellamy was a socialist. Hooray, irony.

\(^{37}\) Text from the Freemason biography. Even without the religious undertones of today's pledge, the thought of schoolchildren mindlessly reciting this phrase every day is a bit disturbing.

\(^{38}\) [http://historyofthepledge.com/history.html](http://historyofthepledge.com/history.html)

\(^{39}\) To me, this seems like a strange thing for states to pass. Granted that it was a completely different time, patriotism was a virtue. In today's skeptical, post-Vietnam society, I'm surprised that nobody has really challenged the Pledge. To me, it seems like one of the last remnants of a different time.

\(^{40}\) This happened against Bellamy's wishes.

\(^{41}\) Given the context of the words "my flag," which apparently stands for a republic that has liberty and justice (but not equality) for all, why did they think they needed to clarify that it was America's flag?

\(^{42}\) Apparently, the National Flag Conference is a thing. Or at least it was. The only reference to a National Flag Conference I could find involved the 1923 meeting where the text of the Pledge was changed. What kind of person goes to a National Flag Conference anyways? Apparently, they also said that the American flag "represents a living country and is itself considered a living thing" ([http://amhistory.si.edu/starspangledbanner/flag-rules-and-rituals.aspx](http://amhistory.si.edu/starspangledbanner/flag-rules-and-rituals.aspx)). I can't imagine that any sober person would seriously say that, so apparently National Flag Conferences are a really, really good time. I say we bring it back. For America.

\(^{43}\) Because "flag of the United States" was entirely too vague. There are so many countries that begin with "United States." Also, apparently the National Flag Conference happened again in 1924. Unfortunately, Google searches for "2013 National Flag Conference" did not turn up anything useful.

\(^{44}\) *Minersville v Gobitis*, 310 U.S. 586 (1940)

\(^{45}\) I can only hope that they had a National Flag Conference to celebrate.

\(^{46}\) Revenge for Jehovah's Witnesses' signature door-to-door soliciting? Or did they simply forget that the first amendment gives a freedom to practice religion? Regardless, it's strange to see a case where the rights of Christians are actually infringed upon. *Gobitis* was an absolute legal travesty.
contrary to those implanted by the parent. In such an attempt the state is normally at a
disadvantage in competing with the parent's authority, so long-and this is the vital aspect
of religious toleration-as parents are unmolested in their right to counteract by their own
persuasiveness the wisdom and rightness of those loyalties which the state's educational
system is seeking to promote.47

Frankfurter's opinion clearly stated that the state has the right to teach children views counter
to those of their parents.48 In this case, that view is that the flag and nation are entities worthy of
praise, counter to what the Jehovah's witness doctrines would say. It also states that the schools
are at a disadvantage to the parents, when it comes to education. Of course, forcing a child to
rescind their religious beliefs for the sake of nationalism is a blatant violation of religious
freedom49. The refusal to say the pledge made many perceive Jehovah's Witnesses as being
unpatriotic. This led to a string of hate crimes50 against Jehovah's Witnesses.

In an act of common sense, the court overturned the Gobitis decision one year later in
Barnette51, where the court ruled that students have the right to not speak, and abstain from the
pledge52. It also ruled unconstitutional any punishment for a student abstaining from the pledge.
Justice Jackson wrote the opinion of the court.

"[I]f there is any fixed star in our constitutional constellation, it is that no official, high or
petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of
opinion or force citizens to confess by word or act their faith therein."53

The main message here is that the government cannot force citizens to profess any belief,
whether or not they actually hold that belief. After Barnette, nothing really happened with the
Pledge until 195454, when President Eisenhower signed a Congressional resolution adding the
words "under God" to the pledge55. This was near the height of the Cold War, and thus, was
largely a response to Soviet atheistic communism56. Eisenhower's justification for signing the

47 This states that the courts have a right to "awaken" the minds of children to ideas counter to those which they
have been taught. Modern day example of this not happening: Last year in Texas, the Republican Party of Texas
stated in their platform that it was against critical thinking skills being taught in schools, stating that it challenges a
student's "fixed beliefs and undermines parental authority. This was done to stifle things such as evolution and
sexual education taught in schools. It's the kind of thing you would expect to see in The Onion, not the Washington

48 Cut to the aforementioned Texas Republicans shaking their heads in disapproval.

49 Not the "War on Christmas" kind of violation of religious freedom, but the actual "violation of religious
freedom" kind.

Rights Revolution. The ACLU reported nearly 1500 attacks on Jehovah Witnesses, including lynchings, between
May and October of 1940, according to Peters.

51 West Virginia State Board of Education v Barnette (319 U.S. 624)

52 The right not to speak, combined with the ruling in Sherman regarding psychological pressure in expression,
is the most prominent non-Establishment Clause argument against the Pledge, as the argument is that the Pledge,
when led by public officials, is a form of coerced speech.

53 Many have reservations about applying Barnette to the Pledge. Jackson's opinion should absolutely be
applied to the Pledge, as it is the government forcing citizens to confess to beliefs that they might not hold.

54 The History of the Pledge website has a pretty sizable gap. Of course, America was busy winning their
second consecutive World War. This inspired what is my favorite t-shirt of all time: "America: Back-to-back World
War Champions!"

55 This was done after Eisenhower attended a sermon by George MacPherson Docherty, and extensive lobbying
by the Knights of Columbus.

56 "Secretary of State John Foster Dulles believed that the United States should oppose communism not because
the Soviet Union was a totalitarian regime but because its leaders were
resolution is as follows:

"From this day forward... our school children will daily proclaim... the dedication of our nation and our people to the Almighty... In this way, we are reaffirming the transcendence of religious faith in America's heritage and future... we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource."\(^{57}\)

This justification will be revisited later in this article, as it is a blatant violation of the Establishment Clause, but it is worth noting that Eisenhower's own words state that it is an affirmation of faith in America, and it is heavily implied that the faith in question is Protestant Christianity\(^{58}\). A handful of cases\(^{59}\) followed, and the courts constantly reaffirmed Eisenhower's actions.\(^{60}\)

*Lipp v Morris* happened 24 years after Eisenhower signed the congressional resolution, and ruled a New Jersey law requiring students to stand during the Pledge of Allegiance unconstitutional.\(^{61}\) After that, the Pledge remained unchallenged until 2002, with *Newdow v United States*,\(^{62}\) later changed to *Elk Grove v Newdow*, regarding the words "Under God."

*Newdow* was a strange case, as the 9th Circuit ruled that the words "under God" were a violation of the Establishment Clause\(^{63}\). Newdow\(^{64}\) had claimed that those words encroached on his right as a father to oversee the religious education of his daughter, and that the state had no right to interfere. The problem, however, was that Newdow did not have full legal custody of his daughter, rather, her mother did\(^{65}\). Regardless, the court ruled that he had standing to bring the suit forth. The court's decision incited a storm of criticism\(^{66}\), and was overturned by the Supreme Court, as they ruled that Newdow did not have sufficient standing to bring the suit in front of the courts.\(^{67}\)

Two years later, "In God We Trust" replaced "E. Pluribus Unum" as the national motto, and Constitutional amendments were introduced stating that Americans obeyed "the authority and law of Jesus Christ"\(^{57}\). The notion that these words are somehow simply an acknowledgment is ridiculous. By Eisenhower's own words, it is an affirmation. He did not say "In this way, we are acknowledging the transcendence of religious faith in America's heritage and future." The fact that he states that religious faith is transcendent and that it has a place in America's future are also ringing endorsements.\(^{58}\)

Those who use the acknowledgment argument state that Christianity has impacted this country since its inception. And it has had a role in shaping policy, otherwise I would not be writing this paper. Although Eisenhower does not explicitly state which faith, it's clear that he's talking about Protestantism.\(^{59}\)

Most notably, *Newdow* and *Lewis v Allen*.\(^{60}\) In *Lewis v Allen*, the court stated that nonbelievers could simply omit the phrase "under God."

*Lipp v Morris* (579 F.2d 834) \(^{61}\)

Originally *Newdow v US Congress; United States of America; William Jefferson Clinton; President of the United States; State of California; Elk Grove Unified School District; David W. Gordon, Superintendent EGUSD; Sacramento City Unified School District; Jim Sweeney, Superintendent SCUSD*.\(^{62}\)

It was a 2-1 decision, and the dissenting opinion essentially dismissed atheists and nonbelievers as disgruntled malcontents who wish to kill religion. More on that later.\(^{64}\)

As evidenced by the original title of the *Newdow* case, Newdow really likes lawsuits. He has sued many, many people over religious references in state documents and things such as the national motto and the Pledge.\(^{63}\)

The mother was a Christian and had been raising the daughter as such.\(^{65}\) President Bush, John Edwards, and others spoke out against the 9th Circuit's ruling. Justice Alito had to recuse himself from the Supreme Court case after making comments that he did not agree with the 9th Circuit's decision.\(^{66}\)

An anti-climactic end, to say the least. With the exception of three Justices, the Court did not touch the Establishment Clause issue, making the case almost as big of a letdown as the Star Wars prequels.
The Supreme Court's decision regarding custody was valid, although three of the justices opined that Newdow did in fact have standing to bring the suit to the court. These three justices all ruled that the "Under God" was an acknowledgment, not an endorsement, and therefore was constitutional. On these grounds, they joined the rest of the court in overturning the 9th Circuit decision.

Although the court was correct about Newdow's lack of standing, they were absolutely wrong about the Pledge simply being an acknowledgment.

II: The Pledge as an Establishment Clause Issue

A The Problem with Historical Acknowledgment
Disproved by Eisenhower's Own Words

Historical acknowledgment is the argument that, so long as references to deities in legislation, songs, or other government-sponsored things are simply referencing the nation's religious history, it is constitutional, as an acknowledgment is not the same as an endorsement. This defense is valid in many cases, but it loses its credence when applied to the Pledge. When Eisenhower added the "under God" phrase to the Pledge, his own words showed that it was not an acknowledgment of America's religious past, but an endorsement of what one can easily infer is Christianity.

"From this day forward, the millions of our school children will daily proclaim in every city and town, every village and rural school house, the dedication of our nation and our people to the Almighty. ... In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource, in peace or in war."

Of course, this says that millions of children will proclaim their dedication to "the Almighty," not acknowledge the country's past dedication. The purpose of the legislation was explicitly to promote Christianity amid fears of the Soviet Union's atheistic communism. Even the people who wrote the bill can see that it is obviously an endorsement of religion, which led them to insert this mind-numbingly stupid statement into the bill, later signed by Eisenhower.

"This is not an act establishing a religion .... A distinction must be made between the existence of a religion as an institution and a belief in the sovereignty of God. The phrase 'under God' recognizes only the guidance of God in our national affairs."

Essentially, because the state does not name a specific sect of Christianity, it is not an establishment of religion, it simply affirms the religious beliefs of Christians. In Newdow, the 9th District court shot down this piece of mental gymnastics while applying the Lemon test to the Pledge:

"The Act's affirmation of "a belief in the sovereignty of God" and its recognition of "the guidance of God" are endorsements by the government of religious beliefs. The Establishment Clause is not limited to "religion as an institution"; this is clear from cases such as Santa Fe, where the Court struck down student-initiated and student-led prayer at high school football

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68 Rehnquist, O'Connor, and Thomas opined that he had standing to bring the suit forth, but upheld the Pledge.  
69 Things such as the Gettysburg Address, for example, where there are religious references, are acceptable, as they have a secular purpose. This is consistent with the Lemon test.  
70 The previously referenced Slate article has more on this.  
71 This is referenced in Religion on Trial: A Handbook With Cases, Laws, and Documents (Jurinski)
games. The Establishment Clause guards not only against the establishment of "religion as an institution," but also against the endorsement of religious ideology by the government. Because the Act fails the purpose prong of Lemon, we need not examine the other prongs.\(^\text{72}\)

Despite the Pledge obviously failing the Lemon test, the Supreme Court eventually ruled that the words "under God" were an acknowledgment. This spits in the face of common sense, as it is an endorsement, even by Eisenhower's own words. Endorsements of Christianity have become so commonplace that, in cases like this, they are now seen as acknowledgments rather than endorsements. John E. Thompson of the Harvard Civil Rights-Civil Liberties Law Review makes this point, and argues that the nation's religious history makes many think it acceptable to discriminate against atheists and nonbelievers.

Many expressions of support for the historical acknowledgement theory of the Establishment Clause are sprinkled with an unmistakably favorable view of religion (theism in particular), coupled with either hostility or blindness toward the place of nonbelievers (or even more broadly, nontheists) in American society. The Court has declared, “We are a religious people whose institutions presuppose a Supreme Being.” It speaks respectfully of the nation’s spirituality and religious history.\(^\text{73}\)

The court definitely has ruled consistently with Thompson's statement in a litany of cases.\(^\text{74}\) Newdow was far from the first case where the courts ruled that atheists and nonbelievers should simply deal with the religiosity of the nation. In the Lewis v Allen cases, the courts ruled that child nonbelievers could simply omit the words "under God" when reciting the pledge.

B) NEWDOW REVISITED

1) The 9th circuit's ruling

Michael Newdow, a prominent atheist, sued pretty much everybody\(^\text{75}\) in 2000, claiming that his daughter was forced to listen to the phrase "under God" every day at school during the pledge, and that this violated his right to educate and influence her religious beliefs. Previous Establishment Clauses had established\(^\text{76}\) that religious education, or lack thereof, was the right of the parent, and that the school could do nothing to encroach upon that right.\(^\text{77}\) The argument in Newdow was that the words "under God" indeed encroached upon his right as a father to guide his daughter's religious preferences.\(^\text{78}\) This was done on behalf of the state, per the 1954 Flag Code revision, and Newdow argued that it was the state endorsing religion. Previously, in Lewis v Allen, the court had ruled that nonbelievers could simply omit the words "under God" if they

\(^{\text{72}}\) Judge Goodwin’s opinion in Newdow v United States et. al.


\(^{\text{74}}\) For example, in Lewis v Allen where nonbelievers are pretty much told to just deal with it, or the dissenting opinion from the 9th Circuit’s Newdow ruling, where nonbelievers are generalized as grumpy malcontents hell-bent on destroying religion. There is no differentiation between nonbelievers, agnostics, humanists, secularists, atheists, and antitheists from the court’s point of view. This is mind-numbingly ignorant on the part of Judge Fernandez.

\(^{\text{75}}\) He sued two school districts, superintendents of both districts, all of Congress, the United States, and President Clinton.

\(^{\text{76}}\) I enjoy puns.

\(^{\text{77}}\) Engel v Vitale (1961): 370 U.S. 421

\(^{\text{78}}\) Except, as the child’s mother had full custody, the child’s actual religious preferences were Christianity. While I am obviously against the words “under God” being used in the Pledge, I think that Newdow was entirely out of line to bring this suit forth.
disagreed. It is also worth noting that Newdow was not a custodial parent, as his daughter's mother had sole legal custody of the child, and was raising the child as a Christian.

The 9th Circuit court ruled that Newdow, as a non-custodial parent, did indeed have standing to bring the suit forth. Validating the status of the lawsuit, they went on to examine the Pledge's constitutionality. This was done with the Lemon test.

The following excerpt from the *Lemon v Kurtzman* opinion establishes the Lemon test, and sets forth the guidelines.

"Three ... tests may be gleaned from our cases. First, the statute must have a secular legislative purpose; second, its principal or primary effect must be one that neither advances nor inhibits religion; finally, the statute must not foster an excessive government entanglement with religion."79

The court ruled that the 1954 revision of the Flag Code violated the first prong of the Lemon test, stating that it did not have a secular legislative purpose. In that regard, it also violated the second prong, as the court ruled that its primary purpose was indeed to advance religion. Judge Goodwin opined the following:

The federal defendants "do not dispute that the words 'under God' were intended" "to recognize a Supreme Being," at a time when the government was publicly inveighing against atheistic communism. Nonetheless, the federal defendants argue that the Pledge must be considered as a whole when assessing whether it has a secular purpose.80

Goodwin is essentially stating that, while the Pledge as a whole does have secular legislative merits, the entire pledge is not under review, the 1954 addition of the words "under God" is.81 Therefore, he states that the defense of the Pledge is flawed. When the 1954 flag code revision was added, its sole legislative purpose was to promote religion. Those who passed the flag code revision openly admitted that it was religiously based.

This is not an act establishing a religion .... A distinction must be made between the existence of a religion as an institution and a belief in the sovereignty of God. The phrase 'under God' recognizes only the guidance of God in our national affairs.82

This particular argument, which is addressed in Goodwin's opinion, is essentially saying that the flag code revision is not intended to promote a specific religious sect. Goodwin elegantly tears apart this argument, noting that the Establishment Clause is not limited to religion as an institution.

"The Act's affirmation of "a belief in the sovereignty of God" and its recognition of "the guidance of God" are endorsements by the government of religious beliefs. The Establishment Clause is not limited to "religion as an institution"; this is clear from cases such as *Santa Fe*, where the Court struck down student-initiated and student-led prayer at high school football games. 530 U.S. 310-16. The Establishment Clause guards not only against the establishment of "religion as an institution," but also against the endorsement of religious ideology by the government. Because the Act fails the purpose prong of *Lemon*, we need not examine the other prongs. *Lemon*, 403 U.S. at 612-14."83

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79 *Lemon v Kurtzman*
80 Again from his opinion in *Newdow*
81 Essentially, *Newdow* did not challenge the pledge, just the addition of the words “under God.” Although Goodwin eventually applies the coercion test to the Pledge as well.
82 Jurinski says that this is a poor attempt by those who made this law to keep it from being challenged in the future. I would say that he is correct, but the Pledge has not been challenged very often. With that said, the logic behind their argument is laughable.
83 Once again, an excerpt from Goodwin’s opinion in *Newdow*. 
Additionally, the court examined Elk Grove's district-wide policy, applying the Lemon test. While the court and Newdow both concede that the Pledge as a whole has a secular legislative purpose for the district, the "under God" violate the second prong of the Lemon test.

Similarly, the school district policy also fails the Lemon test. Although it survives the first prong of Lemon because, as even Newdow concedes, the school district had the secular purpose of fostering patriotism in enacting the policy, the policy fails the second prong. As explained by this court in Kreisner v. City of San Diego, 1 F. 3d 775, 782 (9th Cir. 1993), and by the Supreme Court in School District of Grand Rapids v. Ball, 473 U.S. 373, 390 (1985), the second Lemon prong asks whether the challenged government action is sufficiently likely to be perceived by adherents of the controlling denominations as an endorsement, and by the nonadherents as a disapproval, of their individual religious choices." Ball, 473 U.S. at 390. Given the age and impressionability of schoolchildren, as discussed above, particularly within the confined environment of the classroom, the policy is highly likely to convey an impermissible message of endorsement to some and disapproval to others of their beliefs regarding the existence of a monotheistic God. Therefore the policy fails the effects prong of Lemon, and fails the Lemon test. In sum, both the policy and the Act fail the Lemon test as well as the endorsement and coercion tests.84

The 9th Circuit ruled that both the 1954 act adding the words "under God" and the school district's policy of the pledge being teacher-led violated the Establishment Clause, and therefore would be unconstitutional.

2) The Supreme Court's ruling

After sufficient public and political backlash85, the Supreme Court took the Newdow case. This was also after the mother filed a motion to intervene and dismiss Newdow's complaint on the grounds that she had exclusive legal custody. She stated that she had sole legal custody due to a California court order, and that as the child's custodial guardian, she would not allow her child to be party to Newdow's complaint. Justice Alito had previously publicly stated that he was opposed to the 9th Circuit's ruling, and therefore had to recuse himself from the case. The court took the case, and ruled (8-0) that Newdow did not have sufficient legal standing to bring the suit forth. This overturned the 9th Circuit's ruling, despite only three justices reviewing the actual Establishment Clause issue. Justice John Paul Stevens wrote the court's opinion:

"When hard questions of domestic relations are sure to affect the outcome, the prudent course is for the federal court to stay its hand rather than reach out to resolve a weighty question of federal constitutional law"86

84 Goodwin's logic here is impeccable, and takes down the Pledge in multiple facets. Shame that Newdow basically shot his own cause in the foot. I don’t see why Newdow, who is an attorney, did not foresee the custody issues being an obstacle. Then again, I’m an Ohio State Buckeye, and according to his Wikipedia page, Newdow graduated from the University of Michigan Law School, and did not pass the bar until 14 years later, in 2002. This was in the middle of the Newdow case, as it was started in 2000 and ended in 2004. Regardless, that seems like quite a glaring oversight on his part. Atheist activism is a somewhat recent trend, but it’s implausible to me that Newdow could not find someone else to bring forth the suit.

85 Again, the Senate voted 99-0 in what was a meaningless, symbolic vote against the 9th Circuit’s ruling. Recent Census data shows that nonbelievers make up nearly 20% of the United States population, so it is extremely unlikely that 100% of Americans think the words “under God” should be upheld. Patriotism and religion have become extremely politicized.

86 This is the Supreme Court saying that they do not wish to overstep their authority. They are absolutely correct in this assertion. Newdow’s shortsightedness killed his own cause.
Stevens is basically saying that the courts would be reaching too far to uphold the Newdow case, as he legally did not have the right to bring the suit forth.

3) Why both courts are correct.

Although I feel that the 9th Circuit's decision was correct on the Establishment Clause claim, I cannot criticize the Supreme Court's decision. Doing so would have been an injustice to the mother and the child. Had the circumstances of the case been different, the Establishment Clause complaint would have been sufficiently reviewed. With that said, the 9th District's ruling on the actual Establishment Clause claim is a correct, albeit massively unpopular decision.

In the context of the Pledge, the statement that the United States is a nation "under God" is an endorsement of monotheism. It is a profession of a religious belief, namely, a belief in monotheism. The recitation that ours is a nation "under God" is not a mere acknowledgment that many Americans believe in a deity. Nor is it merely descriptive of the undeniable historical significance of religion in the founding of the Republic. Rather, the phrase "one nation under God" in the context of the Pledge is normative. To recite the Pledge is not to describe the United States; instead, it is to swear allegiance to the values for which the flag stands: unity, indivisibility, liberty, justice, and — since 1954 — monotheism.

Goodwin argues that, while the Pledge is not necessarily endorsing any branch of Christianity, it is an endorsement of monotheism. While it is an acknowledgment that America has a lot of Christians, it is not simply an acknowledgment, but an affirmation of those beliefs. By that logic, it is absolutely an endorsement of religion on behalf of the government, and is a blatant Establishment Clause violation. Not a popular decision but the correct one nonetheless, simply on the grounds of the Establishment Clause claim. With that said, the 9th Circuit should not have assumed that Newdow had standing, or even that they had the power to determine whether or not he did. This is addressed in Stevens's opinion, where he states that it was not the role of the courts to make a decision when there were such serious questions about legal custody. Newdow's suit was illegitimate to begin with, even if his claim regarding the Establishment Clause was absolutely correct.

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87 I doubt that the 9th Circuit’s ruling would have been upheld even if Newdow had sufficient standing for the suit. With rates of atheism growing and religiosity decreasing, perhaps there will be more serious challenges in the future, but not anytime soon.

88 Again, how anybody could consider this as an acknowledgment rather than an endorsement is beyond my comprehension, apparently.

89 Justice Alito has argued that it is not the place of the courts to decide issues such as state endorsement of religion, and says it is an issue better decided by lawmakers. Alito is wrong. Supreme Court Justices have life terms lest they cave to political pressure. They can and should make unpopular decisions because they do not have to worry about being re-elected. Take Brown v Board of Education for example. Lawmakers fought that decision for years in the south, as it was extremely unpopular. Of course, the under-representation of nonbelievers is absolutely nothing like racial discrimination. Brown is simply the most prominent example of the courts doing their job.

90 Newdow absolutely dropped the ball on this. I cannot emphasize that enough. Also, he told Neil Cavuto on live television that “In God We Trust” appearing on currency was tantamount to racial segregation, so maybe he is not the best person out there to challenge the Christian establishment. And by “maybe” I mean “of-fucking-course not.”
II: Coercion and The Pledge

A) Weisman and Sherman

While the typical arguments against the pledge are heavily predicated around the establishment clause, there is another approach one can take. The Lee v Weisman case made it unconstitutional for school and public officials to lead students in prayer. In this case, Justice Kennedy wrote that, while no student was legally compelled to follow along in the prayer, there was psychological pressure to participate. This is tantamount to coercion. Abner Greene of the Fordham Law Review wrote an article discussing the Pledge simply as an issue of psychological coercion, and came to the conclusion that the entire Pledge, not just the 1954 amendment, is unconstitutional when led by school officials. The Weisman case is one of two cases that he uses in his rationale. The second case is the aforementioned Barnette v West Virginia.

The Barnette case gave the "right not to speak" precedent, which dictates that the government and government officials cannot compel expression with which the speaker does not wish to engage. Greene says that, while students have the right not to recite the pledge, they are coerced into doing so. Justice Kennedy's opinion in Allegheny supports this.

We need not look beyond the circumstances of this case to see the phenomenon at work. The undeniable fact is that the school district's supervision and control of a high school graduation ceremony places public pressure, as well as peer pressure, on attending students to stand as a group or, at least, maintain respectful silence during the Invocation and Benediction. This pressure, though subtle and indirect, can be as real as any overt compulsion. Of course, in our culture, standing or remaining silent can signify adherence to a view or simple respect for the views of others. And no doubt some persons who have no desire to join a prayer have little objection to standing as a sign of respect for those who do. But for the dissenter of high school age, who has a reasonable perception that she is being forced by the State to pray in a manner her conscience will not allow, the injury is no less real. There can be no doubt that for many, if not most, of the students at the graduation, the act of standing or remaining silent was an expression of participation in the Rabbi's prayer. That was the very point of the religious exercise. It is of little comfort to a dissenter, then, to be told that, for her, the act of standing or remaining in silence signifies mere respect, rather than participation. What matters is that, given our social conventions, a reasonable dissenter in this milieu could believe that the group exercise signified her own participation or approval of it.

Greene argues that there is no reason to believe that there is less psychological pressure imparted on children to participate in the Pledge than there is to participate in prayer, like in Lee v Weisman. This argument gets stronger when the Establishment Clause is taken into

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91 And rightly so.
93 Greene is not the only one to think of this topic—Cynthia Ward of William and Mary Law School wrote a similar article.
94 A someone who said the Pledge of Allegiance every day at school until I came to college, I agree.
95 Excerpt from Kennedy’s opinion in Lee v Weisman (No. 90-1014)
consideration, and the Pledge is considered as religious speech, as the 9th Circuit ruled in the first *Newdow* case. Even when it is not considered religious speech, however, the Pledge is definitely political expression.

B) Arguing with Easterbrook

Easterbrook wrote in *Sherman* that even after *Weisman*, teachers can still lead the pledge in schools. He claims that religion should be treated differently, and that patriotism is an effort by the state to promote its own survival. He also says that the schools should teach virtues that justify its own survival, and says that it is within a school's rights to persuade, but not to compel.

Greene rebuts Easterbrook in his article, saying that the Pledge can be interpreted differently from religious speech, regardless of whether or not it is. He says that Easterbrook's argument is fallacious because it assumes that *Weisman* relied on the assumption that the pledge was inherently religious. The difference between this argument and the 9th Circuit's *Newdow* decision is that the 9th Circuit argued only against the 1954 addition to the Pledge, whereas Greene is arguing that the Pledge is unconstitutional when led by teachers.

Easterbrook also argues that extending *Weisman* is a slippery slope that could lead to invalidation of traditional teaching methods. Greene agrees with him on this, but states that most methods would remain untouched. I agree with Greene, as it is implausible for a student to object to fact-based questions. Assignments that make the student take on an opinion with which they disagree, or assignments that assume an opinion for the student, should not be used anyways. For example, extending *Weisman* to the Pledge could lead to prompts such as "Why is America the best country in the world" to be similarly ruled unconstitutional. And if a student objects to an assignment on similar grounds to an objection to the Pledge, the teacher should give an alternative assignment. This already happens in cases of sensitive material.

On a more personal level, I was never taught that I could challenge the Pledge as a child. I never was made aware that I did not have to participate, so I participated every day until graduation. From a young age, children are taught to listen to their teachers, and they are disciplined when they go against the wishes of their teachers. So, when a teacher or principal asks students to rise for the Pledge every morning, the students do it, as they have been conditioned to do so. This pressure is corroborated and amplified through the presence and compliance of peers. Seeing teachers and peers participate makes the student fear alienation.

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While Easterbrook does not call it a “slippery slope,” he does employ the slippery slope logical fallacy, and assumes that one action create a chain and lead to more extreme events. In doing so, he makes a few false assumptions about the nature of the *Weisman* case.

To be fair, if anybody had ever told me that I did not have to participate, I would have abstained from saying the Pledge for the purpose of giving myself extra last-minute homework time, rather than as some grandiose political statement.

This is something that a lot of people do not quite realize. Students are conditioned listen to their teachers. They become conditioned and rise for the pledge as if by reflex. For me, it became a part of my morning routine. I would be groggily doing my homework before my first period class in high school, arbitrarily stand up and mumble for a few seconds, sit back down, and continue. I was never taught to question it, and I never did. I was conditioned like Pavlov’s dogs, and I would stand up almost by reflex every time the principal came on the announcements and said “pleas rise for the Pledge of Allegiance.”

There are a lot of public service announcements regarding peer pressure that have invented a stereotype for peer pressure, where a kid in a denim jacket leans nonchalantly against the wall smoking a cigarette, and asks the bright-eyed protagonist to partake, using the rationale that “All of the cool kids are doing it.” With the Pledge, the peer pressure is motivating the student to partake in something to make them “cool,” but rather to comply with something, lest they stick out like a sore thumb. A very unpatriotic sore thumb.
CONCLUSION

It should be noted that this article is by no means a complete work on this subject. There were sections I intended to add, and simply ran out of time.\textsuperscript{101} I think that I covered the basic parts of this topic, however. This article is a very rudimentary one, and I intend to revise and publish it this summer.

The strong vitriolic backlash against the 9\textsuperscript{th} Circuit’s ruling in Newdow is a good indicator of this country’s culture. Patriotism and religion are not only seen as essential virtues, but they have become intertwined with each other, and heavily politicized. People believe that Christianity is the best indication of someone’s morals, and in the case of politicians, many view it as an informal prerequisite for office, although there are states that ban atheists from holding public office.\textsuperscript{102} Although we are a nation with separation of church and state, that is often disregarded by Christians who believe that they are doing the world a favor. As Barry Goldwater apparently\textsuperscript{103} said:

\begin{quote}
Mark my word, if and when these preachers get control of the [Republican] party, and they're sure trying to do so, it's going to be a terrible damn problem. Frankly, these people frighten me. Politics and governing demand compromise. But these Christians believe they are acting in the name of God, so they can't and won't compromise. I know, I've tried to deal with them.\textsuperscript{104}
\end{quote}

\begin{footnotes}
\footnote{I arbitrarily added a footnote here because it gives me an even 100. Also, I have never done a paper with footnotes before, so now I feel accomplished.}
\footnote{I wanted to delve more into Alito’s comments about the role of the courts, and I wanted an entire section on the Newdow cases, including other cases which Newdow has brought forth. I also really wanted to go more in-depth about the rising rates of nonbelief and the rise of internet atheist activism, and the representation of atheists in public office. I personally do not self-identify as atheist, rather, I self-identify as an agnostic, but I am a secularist. I strongly believe that the government should remain secular, an opinion which should have been painfully obvious in this article. The government, regardless of how many Christians there are in office, should not endorse faith, but should also not discourage it. I personally think that organized religion as an establishment does more harm to society than good, and that as long as churches have tax-exempt status, they should not have any say over legislation(Individual churches do not, but legislation is introduced all the time with religious justification), and while I spend this article arguing that the government should not endorse Christianity, I am opposed to the government endorsing atheism or agnosticism as well. And I think that Islamophobia is a huge, unreported problem in this country. But hey, I’m just a college kid, I do not dare to claim that I have any idea how to fix these issues. Unfortunately, I doubt that our elected officials do, either. Also, it is entirely possible, nay, probable, that this footnote is excessive, superfluous rambling, seeing as I am typing this at 3:00 AM the morning that this paper is due. But for my first draft ever of a law review article, I really think that I did well, putting aside my blatant disregard for blue book format.}
\footnote{If Newdow really wants to challenge something that is discriminatory against atheists and nonbelievers, this is absolutely what he should challenge in the courts. On second thought, Newdow probably should stay away from this. The Pledge is a pretty clear violation of the Establishment Clause, in addition to being coerced speech, and he completely messed it up by bringing an illegitimate suit to Supreme Court. Regardless, this is absolutely something that needs to be challenged. As cliché as it sounds, it’s 2013, as a society, we should absolutely be past this.}
\footnote{This quote is often attributed to Barry Goldwater. I tried and tried, and could not find an official verification.}
\footnote{Again, no way to verify this quote’s attribution, but regardless of who said it, this is quite the prophetic statement, as Pat Robertson ruined the political right wing shortly thereafter.}
\end{footnotes}
In this country, nonbelievers are treated as outsiders. This is consistent with court rulings and opinions cited in this article, such as the dissent in Newdow, the ruling in Lewis v Allen. The Pledge of Allegiance absolutely alienates nonbelievers and atheists, and makes them feel as if they are outsiders. This attitude has influenced entirely too much legislation, and caused some conflicting court rulings as well. The public reaction to Newdow was extremely hostile and dismissive towards nonbelievers, and overwhelming. Had Newdow realized that his case had no foundation due to his lack of custody, the court would have had to rule based on the Establishment Clause, rather than decide his standing. Instead, Newdow, and nonbelievers all over the country, ended up being portrayed as malcontents, and played into the stereotype set by the courts. And the Pledge is something that is so obviously unconstitutional that it is absolutely painful to look back at the Newdow case. This is partially because Newdow basically shot himself in the foot by not being prepared, and partially because the Supreme Court did not get to actually evaluate the Establishment Clause issue, but there is something that makes me even more angry.

Most people saw Newdow’s suit as frivolous. There was one thing that Democrats and Republicans in the Senate agreed on, ever, and it was that Newdow’s lawsuit did not have merit. They trivialized nonbelief. They said that we are a Christian nation, and that nonbelief has no place. They dismissed nonbelief and secularism as having no place in America, while conducting a domestic war that involved profiling and violating the rights of people because of different religious beliefs. While I believe that everybody has a right to practice whatever religion they wish, I respectfully ask that the government remains neutral. And the Pledge of Allegiance would be a great first step.

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105 McCollum v Board of Education (1948) established that the state cannot use the public school system to aid in the dissemination of any religious doctrines or faiths without violating the first and 14th amendments. Four years later, in Zorach v Clauson (1952), the court ruled that religion and the state should coexist and work together. The case was very similar to McCollum, and the courts upheld a public school policy which allowed children to leave early if they had a note that they were going to attend church and religious education sessions. This was the school district giving as much credibility to religious teachings as it did to secular teachings. Again, blatant violation of the Establishment Clause, but the court completely ignored the precedent set by McCollum. Nine years later, Engel v Vitale happened, and supported the ruling in McCollum. Still, the fact that Zorach was sandwiched in between Engel and McCollum, and had a ruling contradicting those two, while being so similar, is absolutely confounding.

106 There is an internet term known as “facepalming,” which is slang for the gesture of extreme disappointment in which one simply has no words, and instead opts to bury their palm into their forehead. When I was researching this paper, going over the Newdow case, and finding out that he had a law degree from Michigan, was one of the biggest facepalm moments I have ever had in my life.

107 See: War on Terror

108 See: Guantanamo Bay, Abu Ghraib