

1 The Becket Fund for Religious Liberty  
2 Derek L. Gaubatz, Esq.\* (C.B.N. 208405)  
3 Anthony R. Picarello, Jr., Esq.  
4 Eric Rassbach, Esq.  
5 1350 Connecticut Avenue NW  
6 Suite 605  
7 Washington, DC 20036-1735  
8 Telephone: (202) 955-0095  
9 Facsimile: (202) 955-0090  
10 *Counsel for Defendant-Intervenors*  
11 \* *Counsel of Record*

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IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

THE REV. DR. MICHAEL A. NEWDOW, *et al.*

*Plaintiffs,*

v.

THE CONGRESS OF THE UNITED STATES  
OF AMERICA, *et al.*

*Defendants,*

and

JOHN CAREY, *et al.*

*Defendant-Intervenors.*

2:05-cv-00017-LKK-DAD

**Defendant-Intervenors’  
Memorandum in Support of  
Motion to Dismiss**

Date: July 18, 2005

Time: 10:00 a.m.

Judge: Hon. Lawrence K. Karlton

Courtroom: No. 4

MEMORANDUM IN SUPPORT OF MOTION TO DISMISS OF  
DEFENDANT-INTERVENORS JOHN CAREY, *et al.*

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1                   **A.     The Pledge and Its Voluntary Recitation Have Legitimate Secular**  
2                   **Purposes.**

3           It is well-established that a “legitimate secular purpose” supporting a challenged  
4 governmental action will suffice to satisfy the *Lemon* test’s first prong. *See Lynch v. Donnelly*, 465  
5 U.S. 668, 681 (1984). *See also Mayweathers v. Newland*, 314 F.3d 1062, 1068 (9th Cir. 2002)  
6 (purpose prong inquiry satisfied by “a secular legislative purpose”) (emphasis added). The  
7 demonstration of a single legitimate secular purpose is “a fairly low hurdle.” *Brown v. Gilmore*, 258  
8 F.3d 265, 276 (4th Cir. 2001). Indeed, the first prong of the *Lemon* test is violated only if the  
9 challenged governmental action is “*entirely* motivated by a purpose to advance religion.” *Wallace v.*  
10 *Jaffree*, 472 U.S. 38, 56 (1985)) (emphasis added). *See also Am. Family Ass’n, Inc. v. City &*  
11 *County of San Francisco*, 277 F.3d 1114, 1121 (9th Cir. 2002) (“[a] practice will stumble on the  
12 purpose prong only if it is motivated *wholly* by an impermissible purpose.”) (emphasis added).  
13 Moreover, a court “is normally deferential to a legislative articulation of a secular purpose [and] . . .  
14 is reluctant to attribute unconstitutional motives to the States.” *Westside Comm. Bd. of Educ. v.*  
15 *Mergens*, 496 U.S. 226, 249 (1990) (plurality op.) (internal quotations and citations omitted).

16           Here, both California Education Code § 52720, the California statute governing the use of  
17 the Pledge in California’s public schools, and 4 U.S.C. § 4, the federal statute that codifies the  
18 Pledge, have at least one legitimate secular purpose. With regard to the California statute, it requires  
19 that public schools begin the school day with “appropriate patriotic exercises” and provides that  
20 “[t]he giving of the Pledge of Allegiance to the Flag of the United States of America shall satisfy”  
21 this requirement. CAL. EDUC. CODE § 52720. Thus, the face of this statute makes clear that the  
22 purpose of reciting the Pledge in California’s public schools is to foster patriotism. Because  
23 fostering patriotism in students is a legitimate secular objective, the California statute easily satisfies  
24 *Lemon*’s purpose prong.<sup>1</sup>

25           As for the federal statute codifying the Pledge, Plaintiffs do not claim that the Pledge as a  
26 whole lacks a secular purpose. Rather, they assert that the 1954 Amendment to the Pledge that

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27           <sup>1</sup> For the same reason, the policies of the various School District Defendants that call for the  
28 voluntary recitation of the Pledge in order to implement the “appropriate patriotic exercise[]” of  
CAL. EDUC. CODE § 52720 also serve the secular purpose of fostering patriotism.

1 added the words “under God” was motivated by an impermissible religious purpose. But as Justice  
2 O’Connor concluded, even a cursory examination of the legislative history and context of the 1954  
3 Amendment reveals that it was not *entirely* motivated by a purpose to advance religion. *Elk Grove*  
4 *Unified Sch. Dist. v. Newdow*, 124 S.Ct. 2301, 2325 (2004) (O’Connor, J., concurring in the  
5 judgment) (“It is true that some of the legislators who voted to add the phrase ‘under God’ to the  
6 Pledge may have done so in an attempt to attach to it an overtly religious message. . . . But their  
7 intentions cannot, on their own, decide our inquiry. . . . [T]hose legislators also had permissible  
8 secular objectives in mind—they meant, for example, to acknowledge the religious origins of our  
9 Nation’s belief in the ‘individuality and the dignity of the human being.’”) (quoting H.R.Rep. No.  
10 1693, 83d Cong., 2d Sess., 1.) (emphasis added).

11 In particular, the legislative history reveals that the words “under God” were added to the  
12 Pledge at the height of the Cold War not to promote religious beliefs, but with the purpose of  
13 “textually reject[ing] the communis[t]” philosophy “with its attendant subservience of the  
14 individual.” H.R. Rep. No. 1693, at 2. By adding the words “under God,” Congress served the  
15 permissible secular purpose of orienting the Pledge within the Framers’ political philosophy that  
16 Americans have inalienable rights that the State cannot take away, because the source of those  
17 inalienable rights is an authority higher than the State. As the House of Representatives Report put  
18 it: “Our American Government is founded on the concept of the individuality and the dignity of the  
19 human being. Underlying this concept is the belief that the human person is important because he  
20 was created by God and endowed by Him with certain inalienable rights which no civil authority  
21 may usurp.” H.R. Rep. No. 1693, at 1-2. *See also id.* at 3 (noting that “daily recitation of the pledge  
22 in school” will “daily impress[] [school-children] with a true understanding of our way of life and its  
23 origins,” so that “[a]s they grow and advance in their understanding, they will assume the  
24 responsibilities of self-government equipped to carry on the traditions that have been given to us.”)

25 To be sure, this political philosophy, whether expressed in the Declaration of Independence,  
26 the Gettysburg Address, or the present language of the Pledge depends for its force on the premise  
27 that our rights are only inalienable because they inhere in a human nature that has been “endowed”



1 with such rights by its “Creator.” But recognition and acknowledgment of that premise is not an  
2 impermissible purpose. If it were, that would lead to the absurd result that publicly acknowledging  
3 the traditional grounding of our rights in the dignity of the individual would somehow violate those  
4 very rights. Moreover, such a conclusion would be at odds with the “unbroken history of official  
5 acknowledgment by all three branches of government of the role of religion in American life from at  
6 least 1789.” *Lynch*, 465 U.S. at 674. *See also Mayweathers*, 314 F.3d at 1068 (holding that “[t]he  
7 secular purpose requirement does not mean that the law’s purpose must be unrelated to religion”).

8 In sum, there is no basis for finding that the Pledge fails *Lemon*’s purpose prong.

9 **B. The Pledge Does Not Have the Primary Effect of Advancing Religion.**

10 Governmental action does not violate *Lemon*’s effect prong unless “advancing religion is  
11 [its] principal or primary effect.” *Cholla Ready Mix*, 382 F.3d at 976. Like directing school children  
12 to recite the Declaration of Independence or memorize the Gettysburg address, the primary effect of  
13 reciting the Pledge of Allegiance—including the phrase “under God”—is not to indoctrinate  
14 religious beliefs or advance religion more generally. To the contrary, as discussed below, the  
15 primary effect of reciting the Pledge is to teach and reaffirm our Nation’s adherence to the political  
16 philosophy that government must be subordinated to individual human rights because we are  
17 “endowed” with those rights by our “Creator.” For that reason, the Supreme Court has refused to  
18 find that the phrase “under God” endorses religion and has instead used the Pledge as a benchmark  
19 by which the permissibility of other kinds of government expression that draw upon religious  
20 imagery are judged.

21 **1. The Pledge Does Not Have the Effect of Advancing Religion Because**  
22 **It Reflects Our Nation’s Continuing Commitment to the Universality**  
**and Inalienability of Individual Rights.**

23 Plaintiffs’ Complaint attacks more than just the Pledge of Allegiance, but instead, challenges  
24 the foundational American principle that human rights are universal and inalienable by the State  
25 precisely because they exist prior to the State. Affirming this challenge would cause a sea-change in  
26 our nation’s self-understanding that should not be imposed by judicial order.  
27

a. *Inclusion of “Under God” in the Pledge Echoes and Reaffirms the Political Philosophy of Limited Government Found in the Declaration of Independence and Gettysburg Address.*

At least since the Declaration of Independence was written, our national ethos has held that we have inalienable rights that the State cannot take away, because the source of those inalienable rights is an authority higher than the State. The Pledge, like the Declaration and the Gettysburg Address, is a statement of political philosophy, not of theology. Nevertheless, it is a statement of political philosophy that depends for its force on the premise that our rights are only inalienable because they inhere in a human nature that has been “endowed” with such rights by its “Creator.”

Put another way, no reasonable person would mistake the Declaration of Independence and the Gettysburg address as prayers (or religious affirmations) simply because they make references to a “Creator” and “God.” Rather, it is evident that they are expressions of a political philosophy that draw upon religious imagery to convey their point. So, in the Declaration, Jefferson’s defense of the American Revolution proceeds from the “self-evident” truth that all persons “are endowed by their Creator with certain inalienable rights.” THE DECLARATION OF INDEPENDENCE para. 2. Proceeding from this premise, the Declaration explains to a “candid world” that these God-given rights provided a basis for Americans to reject a tyrannical government and assume the “equal station to which the Laws of Nature and of Nature’s God entitle them.”<sup>2</sup> *Id.* para. 1. Lincoln’s Gettysburg Address

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<sup>2</sup> Of course, Jefferson and the other Founders were not writing on a blank slate in declaring a political philosophy that held that the State was subservient to the God-given, inalienable rights of its people. Their ideas drew not only on the religious faith that informed many of the Founders, *see, e.g., Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 213 (1963) (“the fact that the Founding Fathers believed devotedly that there was a God and that the unalienable rights of man were rooted in Him is clearly evidenced in their writings, from the Mayflower Compact to the Constitution itself”), but also on Classical political philosophy that recognized the universality and inalienability of individual rights. For example, when Jefferson wrote in the Declaration of the “equal station to which the Laws of Nature and of Nature’s God entitle[d]” Americans, he was expressly alluding to Cicero’s famous distillation of the *lex naturae*:

True law is right reason conformable to nature, universal, unchangeable, eternal, whose commands urge us to duty, and whose prohibitions restrain us from evil. Whether it enjoins or forbids, the good respect its injunctions, and the wicked treat them with indifference. This law cannot be contradicted by any other law, and is not liable either to derogation or abrogation. Neither the senate nor the people can give us any dispensation for not obeying

1 continues and embraces this same political philosophy in proclaiming that “this nation, *under God*,  
2 shall have a new birth of freedom—and that government of the people, by the people, for the people,  
3 shall not perish from this earth.” Abraham Lincoln, The Gettysburg Address (Nov. 19, 1863),  
4 *reprinted in* 7 THE COLLECTED WORKS OF ABRAHAM LINCOLN 23, 23 (Roy P. Basler ed., 1953)  
5 (emphasis added).<sup>3</sup>

6 Thus, the words “under God” were not a newly minted phrase or idea that Congress added to  
7 the Pledge in 1954 to achieve the effect of steering individuals to religion. Instead, they were added  
8 as a self-conscious effort to echo and re-affirm the political philosophy that has animated this  
9 country throughout its history and that is reflected in seminal documents like the Declaration and  
10 Gettysburg Address.<sup>4</sup> In other words, the primary effect of the words “under God” in the Pledge is  
11 to evoke and conform the Pledge to the quintessential American political philosophy that recognizes  
12 the subservience of the State to the God-given inalienable rights of individual citizens.

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16 this universal law of justice. It needs no other expositor and interpreter than our own  
17 conscience. It is not one thing at Rome, and another at Athens; one thing to-day, and another  
18 to-morrow; but in all times and nations this universal law must forever reign, eternal and  
19 imperishable. It is the sovereign master and emperor of all beings. God himself is its author,  
its promulgator, its enforcer. And he who does not obey it flies from himself, and does  
violence to the very nature of man.

20 MARCUS TULLIUS CICERO, DE RE PUBLICA III, xxii. The Founders’ political philosophy was  
21 therefore grounded at least in part on the classical conception of “natural rights” given by God to all  
people and therefore inalienable.

22 <sup>3</sup> Cf. 100 CONG. REC 7764 (1954) (“These two words [‘under God’ in the amended Pledge] are  
23 . . . taken from the Gettysburg Address, and represent the characteristic feeling of Abraham Lincoln,  
who towers today in our imaginations as typical of all that is best in America.”) (statement of Rep.  
24 Rodin).

25 <sup>4</sup> See also *Schempp*, 374 U.S. at 303 (Brennan, J. concurring) (“the reference to divinity in the  
26 revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was  
27 believed to have been founded ‘under God.’ Thus reciting the pledge may be no more of a religious  
exercise than the reading aloud of Lincoln’s Gettysburg Address, which contains an allusion to the  
same historical fact.”).

28

b. *The Executive Branch Has Consistently Affirmed the Political Philosophy of Limited Government Evoked by the Pledge’s Use of the Phrase “Under God.”*

That the “primary effect” of including “under God” in the Pledge is to advance and reaffirm a particular political philosophy is also seen by viewing the 1954 Amendment of the Pledge in the context of the “unbroken history of official acknowledgment by all three branches of government of the role of religion in American life from at least 1789.” *Lynch*, 465 U.S. at 674. The Executive Branch has led the way in this tradition, most notably in the speeches of our Presidents.

For example, with one exception (Washington’s brief, second inaugural in 1793), every single presidential inaugural address includes a reference to God—whether as the source of rights, of blessing to the country, or of wisdom and guidance. Examples include the following:

- “[M]ay that Being who is supreme over all, the Patron of Order, the Fountain of Justice, and the Protector in all ages of the world of virtuous liberty, continue His blessing upon this nation . . . .” John Adams, Inaugural Address (Mar. 4, 1797), *reprinted in* DAVID NEWTON LOTT, *THE PRESIDENTS SPEAK: THE INAUGURAL ADDRESSES OF THE AMERICAN PRESIDENTS FROM GEORGE WASHINGTON TO GEORGE WALKER BUSH*, 10, 15 (M. Hunter & H. Hunter eds. 2002).
- “We admit of no government by divine right, believing that so far as power is concerned the Beneficent Creator has made no distinction amongst men; that all are upon an equality . . . .” William Henry Harrison, Inaugural Address (Mar. 4, 1841), *reprinted in* LOTT, *supra*, at 81, 82.
- “The American people stand firm in the faith which has inspired this Nation from the beginning. We believe that all men have a right to equal justice under law and equal opportunity to share in the common good. We believe that all men have the right to freedom of thought and expression. We believe that all men are created equal because they are created in the image of God.” Harry S. Truman, Inaugural Address (Jan. 20, 1949), *reprinted in* LOTT, *supra*, at 280, 289.
- “[T]he same revolutionary beliefs for which our forbears fought are still at issue around the globe—the belief that the rights of man come not from the generosity of the state, but from the hand of God.” John F. Kennedy, Inaugural Address (Jan. 20, 1961), *reprinted in* LOTT, *supra*, at 306, 306.
- “We are a nation under God, and I believe God intended for us to be free.” Ronald Reagan, First Inaugural Address (Jan. 20, 1981), *reprinted in* LOTT, *supra*, at 340, 344.
- “When our founders boldly declared America’s independence to the world and our purpose to the Almighty, they knew that America, to endure, would have to change.” William Jefferson Clinton, First Inaugural Address (Jan. 20, 1993), *reprinted in* LOTT, *supra*, at 362, 362.

1           Intervenors have also attached a complete list of references to God in presidential inaugural  
2 addresses from 1789 to the present. *See* Appendix A.

3           References to God are also ubiquitous in important presidential addresses other than  
4 inaugurals:

- 5           • “I leave you, hoping that the lamp of liberty will burn in your bosoms until there shall no  
6 longer be a doubt that all men are *created free and equal*.” Abraham Lincoln, Speech at  
7 Chicago, Ill. (July 10, 1858) (emphasis added), *reprinted in* 2 THE COLLECTED WORKS OF  
8 ABRAHAM LINCOLN, *supra*, at 484, 502. (emphasis added).
- 9           • “Our government rests upon religion. It is from that source that we derive our reverence for  
10 truth and justice, for equality and liberty, and for the rights of mankind. Unless the people  
11 believe in these principles they cannot believe in our government. There are only two main  
12 theories of government in the world. One rests on righteousness, the other rests on force.  
13 One appeals to reason, the other appeals to the sword. One is exemplified in a republic, the  
14 other is represented by a despotism.” Calvin Coolidge, Speech at the Unveiling of the  
15 Equestrian Statue of Bishop Francis Asbury (Oct. 15, 1924), *reprinted in* CALVIN COOLIDGE,  
16 FOUNDATIONS OF THE REPUBLIC: SPEECHES AND ADDRESSES 149-50 (1968).
- 17           • “[W]e have always instinctively sensed that God’s purpose was bound up with the cause of  
18 liberty. The Founders understood this. As Jefferson put it, ‘Can the liberties of a nation be  
19 thought secure when we have removed their only firm basis, a conviction in the minds of the  
20 people that these liberties are the gift of God?’” George H.W. Bush, Remarks to the National  
21 Association of Evangelicals in Chicago, Ill. (Mar. 3, 1992), *available at* <http://bushlibrary.tamu.edu/papers/1992/92030301.html>.

22           In sum, the Executive Branch has repeatedly drawn upon religious language and imagery to  
23 reaffirm the political philosophy that our government is a limited one, bound to respect the God-  
24 given inalienable rights of its people. For that reason, it is not surprising that President Eisenhower  
25 viewed the addition of the words “under God” to the Pledge as falling squarely within this tradition:  
26 “The[] words [‘under God’] will remind Americans that despite our great physical strength we must  
27 remain humble. They will help us to keep constantly in our minds and hearts the spiritual and moral  
28 principles which alone give dignity to man, and upon which our way of life is founded.” Letter from  
29 Dwight D. Eisenhower to Luke E. Hart, Supreme Knight of the Knights of Columbus, Aug. 17,  
30 1954, *reprinted in* “Under God” Under Attack, COLUMBIA, Sept. 2002, at 9. Thus, to find that the  
31 Pledge’s reference to God has the primary effect of advancing religion would also be a judgment  
32 that every President since the Founding who has acknowledged God as the source of our citizens’  
33 inalienable rights has erred in interpreting the Establishment Clause.

c. *The Legislative Branch Has Consistently Affirmed the Political Philosophy of Limited Government Evoked by the Pledge's Use of the Phrase "Under God."*

In 1789, when the first Congress submitted the Establishment Clause and the rest of the Bill of Rights to the States for ratification, it also established the office of legislative chaplain, *see Marsh v. Chambers*, 463 U.S. 783, 790 (1983), and called upon President Washington to “recommend to the People of the United States, a day of public thanksgiving and prayer, to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God.” ANNALS OF CONGRESS, 90, 92, 949-50, 958-59 (Joseph Gales ed., 1789). The practice begun by the first Congress of acknowledging that the State is not the final guarantor of the inalienable rights of its citizens has continued throughout this country’s history. *See, e.g.*, 36 U.S.C. § 302 (making “In God we trust” the national motto); *Elk Grove*, 124 S.Ct. at 2319 (noting Congress’ adoption of the Star Spangled Banner as the National Anthem, including its words, “Blest with victory and peace, may the heav’n rescued land Praise the Pow’r that hath made and preserved us a nation! Then conquer we must, when our cause is just, And this be our motto In God we trust.”) (Rehnquist, C.J., concurring in the judgment).

The Congress that inserted the words “under God” into the Pledge stood squarely within this tradition. As Congressman Wolverton observed in urging the inclusion of “under God” in the Pledge:

Our American Government is founded on the concept of the individuality and the dignity of the human being. Underlying this concept is the belief that every human being has been created by God and endowed by Him with certain inalienable rights which no civil authority may usurp. Thus, the inclusion of God in our pledge of allegiance . . . sets at naught the communistic theory that the State takes precedence over the individual . . . .

100 CONG. REC. 7336 (1954) (statement of Rep. Wolverton).

The proponents of adding the phrase “under God” to the Pledge were conscious not only of that tradition generally, but also of the exigencies of their historical moment. As discussed above, a prime reason the words “under God” were inserted into the Pledge was to distinguish this country

1 from the Soviet Union.<sup>5</sup> But this was not some jingoistic exercise in contrasting good believers with  
2 bad atheists. It was a serious reflection on the different visions of human nature—and therefore of  
3 human freedom—that underlay the two systems. Representative Louis Rabaut, who first proposed  
4 the change in the House of Representatives, explained his motivation:

5 My reason for introducing this resolution may be very briefly stated. The most fundamental  
6 fact of this moment of history is that the principles of democratic government are being put  
7 to the test. The theory as to the nature of man which is the keystone in the arch of American  
8 Government is under attack by a system whose philosophy is exactly the opposite.

9 . . . . Our political institutions reflect the traditional American conviction of the  
10 worthwhileness of the individual human being. That conviction is, in turn, based on our  
11 belief that the human person is important because he has been created in the image and  
12 likeness of God and that he has been endowed by God with certain inalienable rights which  
13 no civil authority may usurp.

14 100 CONG. REC. 5750 (1954). The House Report likewise echoed that idea:

15 At this moment of our history the principles underlying our American Government and the  
16 American way of life are under attack by a system whose philosophy is at direct odds with  
17 our own. Our American Government is founded on the concept of the individuality and the  
18 dignity of the human being. Underlying this concept is the belief that the human person is  
19 important because he was created by God and endowed by Him with certain inalienable  
20 rights which no civil authority may usurp. The inclusion of God in our pledge therefore  
21 would further acknowledge the dependence of our people and our Government upon the  
22 moral directions of the Creator. At the same time it would serve to deny the atheistic and  
23 materialistic concepts of communism with its attendant subservience of the individual.

24 H.R. REP. NO. 83-1693, at 1-2 (1954); *see also* S. REP. NO. 83-1287, at 2 (1954) (describing similar  
25 sentiments of Senator Ferguson, author of the Senate proposal); 100 CONG. REC. 7332 (1954)  
26 (statement of Rep. Bolton).

27 In short, the political philosophy through which the Congress viewed the world when it  
28 amended the Pledge was traditionally and quintessentially Jeffersonian.<sup>6</sup> It contended simply that

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29 <sup>5</sup> The legislative history is replete with references to “times such as these,” 100 CONG. REC.  
30 7336 (1954) (statement of Rep. O’Hara); “communism,” *id.* at 7332 (statement of Rep. Bolton); “the  
31 conflict now facing us,” *id.* at 7333 (statement of Rep. Rabaut); “a time in the world,” *id.* at 7338  
32 (statement of Rep. Bolton); and “this moment in history,” *id.* at 5750 (statement of Rep. Rabaut).

33 <sup>6</sup> The Declaration of Independence is not the only evidence of Jefferson’s consistent argument  
34 that God is the source of inalienable rights. For example, shortly before drafting the Declaration of  
35 Independence, Jefferson wrote: “The God who gave us life gave us liberty at the same time; the  
36 hand of force may destroy, but cannot disjoin them.” Thomas Jefferson, On the Instructions Given  
37 to the First Delegation of Virginia to Congress, in August, 1774, reprinted in 1 THE WRITINGS OF

1 people who recognize a higher power than the State live in greater freedom.<sup>7</sup> By adopting the  
2 phrase “under God” in the Pledge, Congress achieved the permissible effect of bringing the Pledge  
3 within the “natural rights” philosophy of Jefferson, Madison, and Lincoln, on which the American  
4 system is based, and rejecting the Soviet view that rights, such as they are, are conferred at the  
5 pleasure of the State.<sup>8</sup>

6 d. *The Judicial Branch Has Consistently Affirmed the Political*  
7 *Philosophy of Limited Government Evoked by the Pledge’s Use*  
8 *of the Phrase “Under God.”*

9 The Supreme Court has joined its sister branches in reflecting and reinforcing the traditional  
10 American political philosophy that the State is subservient to the God-given inalienable rights of its  
11 citizens. That is the very real insight in what is too often assumed to be a throw-away line by Justice  
12 Douglas: Our “institutions” do indeed “presuppose a Supreme Being,” *Zorach v. Clauson*, 343 U.S.  
13 306, 313 (1952), because they presuppose the existence of a source of rights that is prior to the  
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16 THOMAS JEFFERSON 181, 211 (Albert Ellery Bergh ed., 1904). Later, he questioned: “Can the  
17 liberties of a nation be thought secure when we have removed their only firm basis, a conviction in  
18 the minds of the people that these liberties are of the gift of God?” Thomas Jefferson, Notes on  
19 Virginia, Query XVIII (1782), *reprinted in* 2 THE WRITINGS OF THOMAS JEFFERSON, *supra*, at 1,  
20 227.

21 <sup>7</sup> The House Report also quotes from two other men who helped shape this country early in its  
22 history. William Penn said, “Those people who are not governed by God will be ruled by tyrants.”  
23 H.R. REP. NO. 83-1693, at 2 (1954); *see also* 100 CONG. REC. 7333 (statement of Rep. Oakman  
24 (quoting William Penn)). George Mason explained: “All acts of legislature apparently contrary to  
25 the natural right and justice are, in our laws, and must be in the nature of things considered as void.  
26 The laws of nature are the laws of God, whose authority can be superseded by no power on earth.”  
27 H.R. REP. 83-1693, at 2 (1954); *see also* 100 CONG. REC. 7333 (statement of Rep. Oakman (quoting  
George Mason)).

<sup>8</sup> The Soviet Union, happily, is a threat no more. And the particular urgency the Congress  
perceived in the Cold War has passed. Nonetheless, the underlying principle of the inalienability of  
rights remains fundamental to our tradition. Moreover, the present moment is not without its own  
exigencies, as we engage entirely different enemies who deny, for different reasons, that liberty is a  
right given us by the Creator.



1 State.<sup>9</sup> For the same reason, Chief Justice Marshall established the tradition of opening Supreme  
2 Court for business with the words “God save the United States and this Honorable Court.” *Engel v.*  
3 *Vitale*, 370 U.S. 421, 446 (1962) (Stewart, J., dissenting).

4 The Supreme Court has also recounted in detail how the Framers did not view references to  
5 or invocations of God, such as the foregoing, as an “establishment” of religion. *See, e.g., County of*  
6 *Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573, 671-73 (1989) (opinion of Kennedy,  
7 J.); *Lynch*, 465 U.S. at 675-78 (1984); *Marsh v. Chambers*, 463 U.S. 783, 792 (1983). Government  
8 expression may *acknowledge* or *reflect* the broader culture, including its religious elements, *Marsh*,  
9 463 U.S. at 792 (permitting government religious expression as “acknowledgment of beliefs widely  
10 held among the people of this country”), so long as it does not *establish* religion. That is,  
11 government may freely recognize the role of religion in society, so long as it does not advocate for  
12 or “endorse” it. *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 306-08 (2000).

13 Justice Goldberg put the matter succinctly forty years ago:

14 Neither government nor this Court can or should ignore the significance of the fact that a vast  
15 portion of our people believe in and worship God and that many of our legal, political and  
personal values derive historically from religious teachings.

16 *Schempp*, 374 U.S. at 306 (Goldberg, J., concurring, joined by Harlan, J.). *See also McGowan v.*  
17 *Maryland*, 366 U.S. 420, 562 (1961) (Douglas, J., dissenting) (“The institutions of our society are  
18 founded on the belief that there is an authority higher than the authority of the State; that there is a  
19 moral law which the State is powerless to alter; that the individual possesses rights, conferred by the  
20 Creator, which government must respect.”).

21 Plaintiffs’ attack on the Pledge in this case is war with this principle. If voluntarily reciting  
22 the Pledge is now suddenly unconstitutional because it refers to a nation “under God,” then  
23 voluntarily reciting the Declaration of Independence or the Gettysburg Address (as schoolchildren  
24 have done for generations) must also be unconstitutional since those documents similarly refer to the  
25 Creator as the source of our rights. That turns the American theory of rights exactly on its head. To

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26 <sup>9</sup> Since *Zorach*, the Court has repeatedly reaffirmed that “[w]e are a religious people whose  
27 institutions presuppose a Supreme Being.” *Lynch*, 465 U.S. at 675; *Marsh*, 463 U.S. at 792; *Walz v.*  
28 *Tax Comm’n*, 397 U.S. 664, 672 (1970); *Schempp*, 374 U.S. at 213.

1 grant Plaintiffs the relief they seek by striking down the Pledge would effect a drastic change in our  
2 national ethos. Instead, the courts should respect not only that ethos, but the consistent interpretation  
3 of the Establishment Clause reflected in the expression and conduct of both coordinate branches.

4 **2. The Supreme Court Has Often Used the Reference to God in the**  
5 **Pledge as an Example of What is Acceptable Under the Establishment**  
6 **Clause.**

7 That the Pledge’s use of the phrase “under God” does not advance religion is also evident  
8 from the fact that the Supreme Court has repeatedly used the Pledge as the standard for evaluating  
9 the permissibility of other kinds of government expression that employ religious imagery. For  
10 example, in *Lynch v. Donnelly*, 465 U.S. 668 (1984), the Supreme Court described the Pledge and its  
11 recitation as one of the many permissible “reference[s] to our religious heritage,” both historical and  
12 contemporary, that create the context of any Establishment Clause analysis. *Id.* at 676. The Court  
13 then used the Pledge and other acknowledgments of religious heritage as a baseline of permissible  
14 government expression in the course of rejecting the Establishment Clause challenge at issue in  
15 *Lynch*. *See id.* at 686 (“If the presence of the crèche in this display violates the Establishment  
16 Clause, a host of other forms of taking official note of ... our religious heritage, are equally  
17 offensive to the Constitution.”).

18 Similarly, in *County of Allegheny v. ACLU Greater Pittsburgh Chapter*, 492 U.S. 573  
19 (1989), the Court again used the Pledge as a means for locating the boundary line between  
20 constitutional and unconstitutional governmental references to religion. In that case, the Court noted  
21 that the Pledge was a “nonsectarian reference[ ] to religion by the government” that the Court had  
22 “characteriz[ed] ... as consistent with the proposition that government may not communicate an  
23 endorsement of religious belief.” *Id.* at 602-03 (citations omitted). Accordingly, the Court used the  
24 Pledge to contextualize the practice of displaying a Christmas crèche in a certain way at the  
25 County’s courthouse as “sectarian” and therefore impermissible, while allowing other, non-sectarian  
26 displays. *Id.*

27 These Supreme Court decisions endorsing the constitutionality of the Pledge are binding on  
28 this Court because the discussion of the Pledge in those cases was “necessary” to the result in those

1 cases. *See Seminole Tribe v. Florida* 517 U.S. 44, 66-67 (1996) (“When an opinion issues for the  
2 Court, it is not only the result but also those portions of the opinion necessary to that result by which  
3 we are bound.”). *See also Sherman v. Community Consol. Sch. Dist. 21*, 980 F.2d 437, 448 (7th Cir.  
4 1992) (rejecting Establishment Clause challenge to Pledge because “[i]f the [Supreme Court  
5 proclaims that a practice is consistent with the establishment clause, we take its assurance  
6 seriously.”)

7 Moreover, the Court’s use of the Pledge as the yardstick for measuring the permissibility of  
8 other government expression has been echoed by many of the individual Justices in opinions stating  
9 that the Pledge does not violate the Establishment Clause. *See Elk Grove*, 124 S.Ct. at 2320  
10 (Rehnquist); *id.* at 2321 (O’Connor); *id.* at 2327 (Thomas); *Lee*, 505 U.S. at 638-639 (Scalia,  
11 Rehnquist, White and Thomas); *County of Allegheny*, 492 U.S. at 674 n.10 (Kennedy, Rehnquist,  
12 White and Scalia); *Wallace v. Jaffree*, 472 U.S. 38, 78 n. 5 (1985) (O’Connor); *id.* at 88 (Burger);  
13 *Abington Sch. Dist. v. Schempp*, 374 U.S. 203, 304 (Brennan); *Engel*, 370 U.S. at 449 (Stewart).

### 14 **3. Voluntary Recital of the Pledge Does Not Endorse Religion.**

15 Application of the endorsement test also confirms that the Pledge and its voluntary recitation  
16 do not advance religion. In her concurrence in *Elk Grove*, Justice O’Connor set out two principles  
17 that govern application of the endorsement test. First, the “the endorsement test ... assumes the  
18 viewpoint of a reasonable observer.” *Elk Grove*, 124 S.Ct. at 2321-22 (O’Connor, J. concurring in  
19 the judgment) (internal citation omitted). “Second, because the ‘reasonable observer’ must embody  
20 a community ideal of social judgment, as well as rational judgment, the test does not evaluate a  
21 practice in isolation from its origins and context. Instead, the reasonable observer must be deemed  
22 aware of the history of the conduct in question, and must understand its place in our Nation’s  
23 cultural landscape.” *Id.* at 2322 (internal citation omitted).

24 In applying these principles, the Court should first note that because the Supreme Court and  
25 numerous Justices have “characteriz[ed] [the Pledge] as consistent with the proposition that  
26 government may not communicate an endorsement of religious belief,” the Pledge and the practice  
27 of reciting it voluntarily *ipso facto* pass the endorsement test. *See County of Allegheny*, 492 U.S. at

1 602-03; *see supra* Section I.B.2. In other words, the Supreme Court is the “rational observer” *par*  
2 *excellence*, and unlike the typical situation that a lower court faces in applying the endorsement test  
3 to a challenged governmental practice, the Supreme Court has already addressed the specific  
4 practice in question and observed that the Pledge is “consistent with” the endorsement test.  
5 Therefore the Court need only incorporate the Supreme Court’s observations into its own  
6 examination, and thereby find that the Pledge and its recitation pass the endorsement test.

7       However, even were the Court to approach the endorsement test *de novo*, no “reasonable  
8 observer” could find that the Pledge and its voluntary recitation amount to an endorsement of  
9 religion in light of the Pledge’s “origins and context” and “its place in our Nation’s cultural  
10 landscape.” *Elk Grove*, 124 S.Ct. at 2322 (O’Connor, J., concurring in the judgment). As set forth  
11 in Section I.B.1 *supra*, the Pledge is a patriotic and political statement rather than a prayer or an  
12 affirmation of a religious belief. A reasonable observer would understand the words “under God,”  
13 taken in the context of both the entirety of the Pledge and its origins and historic uses, to be a  
14 statement that the government of the United States is subordinated to the “Laws of Nature and  
15 Nature’s God.” The words are, in essence, a daily mini-declaration of the thoughts expressed in the  
16 Declaration of Independence itself.<sup>10</sup>

17 <sup>10</sup>       The reasonable observer would also be aware that the United States is not unique in using  
18 references to God to denote the State’s responsibility to recognize fundamental rights. For example,  
19 the German Constitution, adopted by West Germany in 1949, begins as follows:

20       Conscious of their *responsibility before God and Men*, animated by the resolve to serve  
21 world peace as an equal partner in a united Europe, the German people have adopted, by  
virtue of their constituent power, this Basic Law.

22 GRUNDGESETZ [GG] [Constitution] preamble (F.R.G.) (emphasis added). The framers of the  
23 German Constitution included the explicit reference to God specifically because the experience of  
Nazism had left them with a strong “awareness” of the need for a “metaphysical anchoring”  
24 (*metaphysische Verankerung*) of the basic rights that the German Constitution was to guarantee.  
HANS-GEORG ASCHOFF, GOTT IN DER VERFASSUNG. DIE VOLKSINITIATIVE ZUR NOVELLIERUNG DER  
25 NIEDERSÄCHSISCHEN VERFASSUNG 21 (1995). Having just seen the atrocities wreaked by a  
26 government that acknowledged no authority higher than its *Führer*, the German framers wisely  
27 decided to build their new foundation on the recognition of God, rather than the State, as the source  
of limited government and basic human rights.

1           Plaintiffs’ attempt to make the endorsement test a subjective one by alleging that they  
2 personally find belief in God to be “offensive” and “significantly distasteful” (Complaint, ¶ 89) must  
3 be rejected. This is because the meaning and import of the Pledge under the endorsement test does  
4 not rest in the subjective eyes of the Plaintiffs, but in the eye of an objective reasonable observer. As  
5 Justice O’Connor, the author of the endorsement test has explained, application of an objective,  
6 “reasonable observer” standard is necessary to judge the permissibility of government expression  
7 under the Establishment Clause. *Elk Grove*, 124 S.Ct. at 2322 (O’Connor, J., concurring in the  
8 judgment). Were it otherwise, “[n]early any government action could be overturned as a violation  
9 of the Establishment Clause if a ‘heckler’s veto’ sufficed to show that its message was one of  
10 endorsement.” *Id.* (O’Connor, J., concurring in the judgment) (internal citation omitted); *see also id.*  
11 at 2321 (Rehnquist, C.J. and O’Connor, J., concurring in the judgment).

12           Moreover, the Court should reject Plaintiffs’ assertion (Complaint, ¶ 90) that the word “God”  
13 as used in the Pledge is ineluctably a statement of a belief in monotheism. Again, Plaintiffs do not  
14 get to simply impose their subjective understanding of the word “God” on the Court. To Plaintiffs,  
15 “God” is specifically the “Christian” God. (Complaint, ¶ 90). Yet a reasonable observer would  
16 view the term “God” as a far more ambiguous term—a kind of metaphysical Rorschach test that  
17 connotes a multitude of meanings in various philosophical and religious traditions. All that “God”  
18 necessarily means in the context of the Pledge is a source of cosmic accountability for the actions of  
19 the State. This is consistent with those who speak of “God” as an impersonal force, or even the  
20 “sequence of causes clinging one to the other.”<sup>11</sup> Others view “God” as the “void.”<sup>12</sup> In fact, the

21  
22 <sup>11</sup> See, e.g., SENECA, DE CONSOLATIONAE AD HELVIAM, VIII, 2-6. (“Wherever we betake  
23 ourselves, two things that are most admirable will go with us -universal Nature and our own virtue.  
24 Believe me, this was the intention of the great creator of the universe, whoever he may be, whether  
25 an all-powerful God, or incorporeal Reason contriving vast works, or divine Spirit pervading all  
26 things from the smallest to the greatest with uniform energy, or Fate and an unalterable sequence of  
27 causes clinging one to the other - this, I say, was his intention, that only the most worthless of our  
28 possessions should fall under the control of another. All that is best for a man lies beyond the power  
of other men, who can neither give it nor take it away.”). See also ARISTOTLE, METAPHYSICS at 12.7  
(1072b), reproduced in INTRODUCTION TO ARISTOTLE 321 (Richard McKeon, ed., 2d. ed. 1973)  
(using the term “God” to describe his famous “first mover” that, he reasoned, “exists of necessity,  
and in so far as it exists by necessity, its mode of being is good.”)

1 term “God” is at least as ambiguous and multivalent as the terms “liberty” and “justice” that also  
2 appear in the Pledge and may be affirmed in the presence of objectors. In order to take offense at the  
3 words “under God” (or “liberty” or “justice”), an observer must impose a particular meaning and  
4 definition on a term where none is given. Accordingly, this Court should conclude that the phrase  
5 “under God” in the context of the Pledge “represents a tolerable attempt to acknowledge religion . . .  
6 without favoring any individual religious sect or belief system.” *Elk Grove*, 124 S.Ct. at 2326  
7 (O’Connor, J., concurring in the judgment).

8 Finally, it is of no moment that the some of the Plaintiffs are children. The “reasonable  
9 observer” standard does not become the “reasonable schoolchild” standard when those observing the  
10 challenged governmental practice happen to be children. If a child does not understand what they  
11 are being exposed to, the remedy is an explanation of the practice rather than its termination. *See*  
12 *Good News Club v. Milford Central Sch.*, 533 U.S. 98, 119 (2001) (“We decline to employ  
13 Establishment Clause jurisprudence using a modified heckler’s veto, in which a group’s religious  
14 activity can be proscribed on the basis of what the youngest members of the audience might  
15 misperceive.”).<sup>13</sup>

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17 **C. Voluntary Recital of the Pledge Does Not Cause Excessive Entanglement  
of Government and Religion.**

18 The kind of excessive entanglement of government and religion precluded by *Lemon* is  
19 characterized by “comprehensive, discriminating, and continuing state surveillance” of religious  
20 exercise, *see Lemon*, 403 U.S. at 619, which is simply not present here. The Pledge and its  
21 voluntary recitation in public schools does not require pervasive monitoring or other maintenance by

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22  
23 <sup>12</sup> The Buddhist concept of *sunyata* or *ku*.

24 <sup>13</sup> Intervenors note that this Court need not consider Plaintiffs’ allegations of “coercion,”  
25 because the Pledge and its voluntary recitation, taken in their history and context, are the expression  
26 of a political philosophy rather than a religious exercise. Plaintiffs cannot argue that they have  
27 suffered coercion under the Establishment Clause if there is no religious practice at issue. *See Elk Grove*, 124 S.Ct. at 2327 (O’Connor, J., concurring in the judgment) (finding that Pledge passes coercion test as well as the endorsement test because it is not a religious exercise).

1 public authorities. *See Mueller v. Allen*, 463 U.S. 388, 403 (1983) (explaining that such  
2 comprehensive surveillance is “necessary [for a challenged action] to run afoul of” *Lemon*’s third  
3 prong). Because “entanglement must be ‘excessive’ to violate the Establishment Clause, there is no  
4 basis for finding that the Pledge violates *Lemon*’s entanglement prong. *Cholla Ready Mix*, 382 F.3d  
5 at 977 (citing *Agostini v. Felton*, 521 U.S. 203, 233 (1997)).<sup>14</sup>

## 6 **II. Plaintiffs Fail to State a Claim for Relief Under the RFRA.**

7 The Religious Freedom Restoration Act (“RFRA”) prohibits the federal government from  
8 substantially burdening a person’s religious exercise unless the government can demonstrate that the  
9 burden is in furtherance of “a compelling government interest and is the least restrictive means of  
10 furthering that compelling governmental interest.” 42 U.S.C. § 2000bb-1. Moreover, like religious  
11 exercise protected under the First Amendment, the religious exercise that may not be substantially  
12 burdened under RFRA “includes any exercise of religion, whether or not compelled by, or central  
13 to, a system of religious belief.” 42 U.S.C. § 2000cc-5; 42 U.S.C. § 2000bb-2(4).

14 Here, Plaintiffs cannot satisfy the threshold requirement of a RFRA claim—*i.e.*, the  
15 demonstration of a “substantial burden” on religious exercise. A substantial burden on religious  
16 exercise exists where the government “pressures” or “forces” a choice between following religious  
17 precepts and forfeiting certain benefits, on the one hand, and abandoning one or more of those  
18 precepts in order to obtain the benefits, on the other. *Sherbert v. Verner*, 374, U.S. 398, 404 (1963).  
19 *See also Locke v. Davey*, 540 U.S. 712, 721 (2004) (citing *Sherbert* for this proposition). Certainly  
20 Plaintiffs’ religious exercise would be substantially burdened if they were required to recite the text  
21 of the Pledge that they find objectionable. But there is no basis for finding that Plaintiffs’ religious  
22 exercise is burdened, much less substantially so, merely by the fact that the words “under God”  
23 appear in the Pledge, or that Plaintiffs hear those words when the Pledge is publicly and voluntarily  
24 recited by others. Simply put, the existence of the words “under God” in the Pledge and the fact that  
25 others recite them does not require the Plaintiffs to participate in or forego any religious practice.

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27 <sup>14</sup> Plaintiffs’ claim under CAL. CONST. art. 16, § 5 also fails for all the reasons that Plaintiffs fail  
28 to state a claim under the federal Establishment Clause.

1 Accordingly, Plaintiffs' RFRA claim must be dismissed.

2  
3 **III. Plaintiffs Fail to State a Claim for Relief Under the State and Federal Free Exercise Clauses.**

4 Plaintiffs' claim that the inclusion of voluntary recitations of the Pledge in the school  
5 curriculum violates their right to Free Exercise of religion is foreclosed by binding Ninth Circuit  
6 precedent. *See Grove v. Mead Sch. Dist. No. 354*, 753 F.2d 1528 (9th Cir. 1985) (rejecting Free  
7 Exercise claim where school district refused to remove book from public school curriculum despite  
8 parents' religious objections). *See also Fleischfresser v. Directors of Sch. Dist. No. 200*, 15 F.3d  
9 680 (7th Cir. 1984) (same).

10  
11 **IV. Plaintiffs Fail to State a Claim that Voluntary Recitation of the Pledge Violates Parental Rights of Privacy and Parenthood.**

12 Courts have repeatedly rejected parental efforts to dictate the content of the public school  
13 curriculum by claiming that the inclusion of certain subject matters violates their right to direct the  
14 upbringing of their children and educate them in accord with their own views (religious or  
15 otherwise). *See Leebaert v. Harrington*, 332 F.3d 134 (2nd Cir. 2003); *Immediato v. Rye Neck Sch.*  
16 *Dist.* 73 F.3d 454 (10th Cir. 1996); *Brown v. Hot, Sexy and Safer Productions, Inc.*, 68 F.3d 525 (1st  
17 Cir. 1995); *Smith v. Board of Sch. Comm'rs*, 827 F.2d 684 (11th Cir. 1987); *Mozert v. Hawkins*  
18 *County Bd. of Educ.*, 827 F.2d 1058 (6th Cir. 1987). *See also Grove v. Mead Sch. Dist. No. 354*, 753  
19 F.2d 1528 (9th Cir. 1985). Accordingly, Plaintiffs cannot show that the voluntary recitation of the  
20 Pledge as part of the public school curriculum violates their "fundamental constitutional rights of  
21 privacy and parenthood" under the Due Process and Equal Protection Clauses.



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**CONCLUSION**

For the reasons set forth above, Plaintiffs have failed to state a claim upon which relief can be granted. Intervenor therefore respectfully request that their Motion to Dismiss be granted and that Plaintiffs' First Amended Complaint be dismissed.

Respectfully submitted,

/s/ Derek L. Gaubatz  
The Becket Fund for Religious Liberty  
Derek L. Gaubatz, Esq.\* (C.B.N. 208405)  
Anthony R. Picarello, Jr., Esq.  
Eric Rassbach, Esq.  
1350 Connecticut Avenue NW  
Suite 605  
Washington, DC 20036-1735  
Telephone: (202) 955-0095  
Facsimile: (202) 955-0090

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*Counsel for Defendant-Intervenors*  
*\*Counsel of Record*

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## APPENDIX A

### REFERENCES TO GOD IN THE INAUGURAL ADDRESSES OF THE PRESIDENTS, 1789 TO PRESENT

Note that Presidents who were not directly elected to the office, but instead came to it after the death or resignation of their predecessor, did not give Inaugural Addresses. These Presidents include: John Tyler, Millard Fillmore, Andrew Johnson, Chester Arthur, and Gerald Ford. All of the quotes below were obtained from DAVIS NEWTON LOTT, *THE PRESIDENTS SPEAK: THE INAUGURAL ADDRESSES OF THE AMERICAN PRESIDENTS FROM GEORGE WASHINGTON TO GEORGE WALKER BUSH* 10, 15 (M. Hunter & H. Hunter eds., 2002).

#### **George Washington (1789)**

“[I]t 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, that His benediction may consecrate to the liberties and happiness of the people of the United States a Government instituted by themselves for these essential purposes, and may enable every instrument employed in its administration to execute with success the functions allotted to his charge. . . .

“No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of men more than those of the United States. Every step by which they have advanced to the character of an independent nation seems to have been distinguished by some token of providential agency.”

#### **John Adams (1797)**

“[A]n overruling Providence [has] so signally protected this country from the first.

“And may that Being who is supreme over all, the Patron of Order, the Fountain of Justice, and the Protector in all ages of the world of virtuous liberty, continue His blessing upon this nation and its Government and give it all possible success and duration consistent with the ends of His providence.”

#### **Thomas Jefferson (1801)**

“And may that Infinite Power which rules the destinies of the universe lead our councils to what is best, and give them a favorable issue for your peace and prosperity.”

1 **Thomas Jefferson (1805)**

2 “I shall need, too, the favor of that Being in whose hands we are, who led our fathers, as Israel of  
3 old, from their native land and planted them in a country flowing with all the necessities and  
4 comforts of life; who has covered our infancy with His providence and our riper years with His  
5 wisdom and power, and to whose goodness I ask you to join in supplications with me that He will so  
6 enlighten the minds of your servants, guide their councils, and prosper their measures that  
7 whatsoever they do shall result in your good, and shall secure to you the peace, friendship, and  
8 approbation of all nations.”

9 **James Madison (1809)**

10 “In these my confidence will under every difficulty be best placed, next to that which we have all  
11 been encouraged to feel in the guardianship and guidance of that Almighty Being whose power  
12 regulates the destiny of nations, whose blessings have been so conspicuously dispensed to this rising  
13 Republic, and to whom we are bound to address our devout gratitude for the past, as well as our  
14 fervent supplications and best hopes for the future.”

15 **James Madison (1813)**

16 “From the weight and magnitude now belonging to [this office of President] I should be compelled  
17 to shrink if I had less reliance on the support of an enlightened and generous people, and felt less  
18 deeply a conviction that the war with a powerful nation, which forms so prominent a feature in our  
19 situation, is stamped with that justice which invites the smiles of Heaven on the means of conducting  
20 it to a successful termination.”

21 **James Monroe (1817)**

22 “If we persevere in the career in which we have advanced so far and in the path already traced, we  
23 can not fail, under the favor of a gracious Providence, to attain the high destiny which seems to  
24 await us. . . .

25 “I enter on the trust to which I have been called by the suffrages of my fellow-citizens with my  
26 fervent prayers to the Almighty that He will be graciously pleased to continue to us that protection  
27 which He has already so conspicuously displayed in our favor.”

28 **James Monroe (1821)**

29 “[T]he liberty, prosperity, and happiness of our country will always be the object of my most fervent  
30 prayers to the Supreme Author of All Good. . . .

31 “With full confidence in the continuance of that candor and generous indulgence from my fellow-  
32 citizens at large which I have heretofore experienced, and with a firm reliance on the protection of  
33 Almighty God, I shall forthwith commence the duties of the high trust to which you have called me.”

1 **John Quincy Adams (1825)**

2 “I appear, my fellow-citizens, in your presence and in that of Heaven to bind myself by the  
3 solemnities of religious obligation to the faithful performance of the duties allotted to me in the  
station to which I have been called. . . .

4 “Knowing that ‘except the Lord keep the city the watchman waketh but in vain,’ with fervent  
5 supplications for His favor, to His overruling providence I commit with humble but fearless  
confidence my own fate and the future destinies of my country.”

6  
7 **Andrew Jackson (1829)**

8 “And a firm reliance on the goodness of that Power whose providence mercifully protected our  
9 national infancy, and has since upheld our liberties in various vicissitudes, encourages me to offer up  
my ardent supplications that He will continue to make our beloved country the object of His divine  
care and gracious benediction.”

10  
11 **Andrew Jackson (1833)**

12 “Finally, it is my most fervent prayer to that Almighty Being before whom I now stand, and who has  
13 kept us in His hands from the infancy of our Republic to the present day, that He will so overrule all  
my intentions and actions and inspire the hearts of my fellow-citizens that we may be preserved  
from dangers of all kinds and continue forever a united and happy people.”

14  
15 **Martin Van Buren (1837)**

16 “I should not dare to enter upon my path of duty ..., above all, did I not permit myself humbly to  
17 hope for the sustaining support of an ever-watchful and beneficent Providence. . . .

18 “I only look to the gracious protection of the Divine Being whose strengthening support I humbly  
solicit, and whom I fervently pray to look down upon us all. May it be among the dispensations of  
19 His providence to bless our beloved country with honors and with length of days. May her ways be  
ways of pleasantness and all her paths be peace!”

20  
21 **William Henry Harrison (1841)**

22 “I too well understand the dangerous temptations to which I shall be exposed from the magnitude of  
the power which it has been the pleasure of the people to commit to my hands not to place my chief  
23 confidence upon the aid of that Almighty Power which has hitherto protected me and enabled me to  
bring to favorable issues other important but still greatly inferior trusts heretofore confided to me by  
24 my country. . . .

25 “I deem the present occasion sufficiently important and solemn to justify me in expressing to my  
26 fellow-citizens a profound reverence for the Christian religion and a thorough conviction that sound  
morals, religious liberty, and a just sense of religious responsibility are essentially connected with all  
27 true and lasting happiness; and to that good Being who has blessed us by the gifts of civil and

1 religious freedom, who watched over and prospered the labors of our fathers and has hitherto  
2 preserved to us institutions far exceeding in excellence those of any other people, let us unite in  
fervently commending every interest of our beloved country in all future time.”

3 **James Knox Polk** (1945)

4 “In assuming responsibilities so vast I fervently invoke the aid of that Almighty Ruler of the  
5 Universe in whose hands are the destinies of nations and of men to guard this Heaven-favored land  
6 against the mischiefs which without His guidance might arise from an unwise public policy. With a  
7 firm reliance upon the wisdom of Omnipotence to sustain and direct me in the path of duty which I  
8 am appointed to pursue, I stand in the presence of this assembled multitude of my countrymen to  
take upon myself the solemn obligation ‘to the best of my ability to preserve, protect, and defend the  
Constitution of the United States.’ . . .

9 “I enter upon the discharge of the high duties which have been assigned me by the people, again  
10 humbly supplicating that Divine Being who has watched over and protected our beloved country  
11 from its infancy to the present hour to continue His gracious benedictions upon us, that we may  
continue to be a prosperous and happy people.”

12 **Zachary Taylor** (1849)

13 “In conclusion I congratulate you, my fellow-citizens, upon the high state of prosperity to which the  
14 goodness of Divine Providence has conducted our common country. Let us invoke a continuance of  
15 the same protecting care which has led us from small beginnings to the eminence we this day  
occupy, and let us seek to deserve that continuance by prudence and moderation in our councils.”

16 **Franklin Pierce** (1853)

17 “Let it be impressed upon all hearts that, beautiful as our fabric is, no earthly power or wisdom could  
18 ever reunite its broken fragments. Standing, as I do, almost within view of the green slopes of  
19 Monticello, and, as it were, within reach of the tomb of Washington, with all the cherished memories  
20 of the past gathering around me like so many eloquent voices of exhortation from heaven, I can  
express no better hope for my country than that the kind Providence which smiled upon our fathers  
may enable their children to preserve the blessings they have inherited.”

21 **James Buchanan** (1857)

22 “In entering upon this great office I must humbly invoke the God of our fathers for wisdom and  
23 firmness to execute its high and responsible duties in such a manner as to restore harmony and  
24 ancient friendship among the people of the several States and to preserve our free institutions  
throughout many generations. . . .

25 “I shall now proceed to take the oath prescribed by the Constitution, whilst humbly invoking the  
26 blessing of Divine Providence on this great people.”

27 **Abraham Lincoln** (1861)

1 “If the Almighty Ruler of Nations, with His eternal truth and justice, be on your side of the North, or  
2 on yours of the South, that truth and that justice will surely prevail by the judgment of this great  
tribunal of the American people. . . .

3 “Intelligence, patriotism, Christianity, and a firm reliance on Him who has never yet forsaken this  
4 favored land are still competent to adjust in the best way all our present difficulty.”

5 **Abraham Lincoln** (1865)

6 “Both read the same Bible and pray to the same God, and each invokes His aid against the other. It  
7 may seem strange that any men should dare to ask a just God’s assistance in wringing their bread  
8 from the sweat of other men’s faces, but let us judge not, that we be not judged. The prayers of both  
9 could not be answered. That of neither has been answered fully. The Almighty has His own  
10 purposes. ‘Woe unto the world because of offenses; for it must needs be that offenses come, but  
11 woe to that man by whom the offense cometh.’ If we shall suppose that American slavery is one of  
12 those offenses which, in the providence of God, must needs come, but which, having continued  
13 through His appointed time, He now wills to remove, and that He gives to both North and South this  
14 terrible war as the woe due to those by whom the offense came, shall we discern therein any  
departure from those divine attributes which the believers in a living God always ascribe to Him?  
Fondly do we hope, fervently do we pray, that this mighty scourge of war may speedily pass away.  
Yet, if God wills that it continue until all the wealth piled by the bondsman’s two hundred and fifty  
years of unrequited toil shall be sunk, and until every drop of blood drawn with the lash shall be paid  
by another drawn with the sword, as was said three thousand years ago, so still it must be said ‘the  
judgments of the Lord are true and righteous altogether.’

15 “With malice toward none, with charity for all, with firmness in the right as God gives us to see the  
16 right, let us strive on to finish the work we are in, to bind up the nation’s wounds, to care for him  
17 who shall have borne the battle and for his widow and his orphan, to do all which may achieve and  
cherish a just and lasting peace among ourselves and with all nations.”

18 **Ulysses S. Grant** (1869)

19 “In conclusion I ask patient forbearance one toward another throughout the land, and a determined  
20 effort on the part of every citizen to do his share toward cementing a happy union; and I ask the  
21 prayers of the nation to Almighty God in behalf of this consummation.”

22 **Ulysses S. Grant** (1873)

23 “Under Providence I have been called a second time to act as Executive over this great nation. . . .

24 “I believe that our Great Maker is preparing the world, in His own good time, to become one nation,  
25 speaking one language, and when armies and navies will be no longer required.”

26 **Rutherford B. Hayes** (1877)

27 “Looking for the guidance of that Divine Hand by which the destinies of nations and individuals are

1 shaped, I call upon you, Senators, Representatives, judges, fellow-citizens, here and everywhere, to  
2 unite with me in an earnest effort to secure to our country the blessings, not only of material  
prosperity, but of justice, peace, and union. . . .”

3 **James Garfield** (1881)

4 “[Our children] will surely bless their fathers and their fathers’ God that the Union was preserved,  
5 that slavery was overthrown, and that both races were made equal before the law.”

6 **Grover Cleveland** (1885)

7 “And let us not trust to human effort alone, but humbly acknowledging the power and goodness of  
8 Almighty God, who presides over the destiny of nations, and who has at all times been revealed in  
our country’s history, let us invoke His aid and His blessings upon our labors.”

9  
10 **Benjamin Harrison** (1889)

11 “Surely I do not misinterpret the spirit of the occasion when I assume that the whole body of the  
12 people covenant with me and with each other to-day to support and defend the Constitution and the  
Union of the States, to yield willing obedience to all the laws and each to every other citizen his  
13 equal civil and political rights. Entering thus solemnly into covenant with each other, we may  
reverently invoke and confidently expect the favor and help of Almighty God—that He will give to  
14 me wisdom, strength, and fidelity, and to our people a spirit of fraternity and a love of righteousness  
and peace. . . .

15 “God has placed upon our head a diadem and has laid at our feet power and wealth beyond  
16 definition or calculation. But we must not forget that we take these gifts upon the condition that  
justice and mercy shall hold the reins of power and that the upward avenues of hope shall be free to  
17 all the people.”

18 **Grover Cleveland** (1893)

19 “Above all, I know there is Supreme Being who rules the affairs of men and whose goodness and  
20 mercy have always followed the American people, and I know He will not turn from us now if we  
humbly and reverently seek His powerful aid.”

21  
22 **William McKinley** (1897)

23 “Our faith teaches that there is no safer reliance than upon the God of our fathers, who has so  
singularly favored the American people in every national trial, and who will not forsake us so long  
24 as we obey His commandments and walk humbly in His footsteps.”

25 **William McKinley** (1901)

26 “As heretofore, so hereafter will the nation demonstrate its fitness to administer any new estate  
27 which events devolve upon it, and in the fear of God will ‘take occasion by the hand and make the

1 bounds of freedom wider yet.””

2 **Theodore Roosevelt** (1905)

3 “My fellow-citizens, no people on earth have more cause to be thankful than ours, and this is said  
4 reverently, in no spirit of boastfulness in our own strength, but with gratitude to the Giver of Good  
5 being and of happiness.”

6 **William Taft** (1909)

7 “I invoke the considerate sympathy and support of my fellow-citizens and the aid of the Almighty  
8 God in the discharge of my responsible duties.”

9 **Woodrow Wilson** (1913)

10 “The feelings with which we face this new age of right and opportunity sweep across our  
11 heartstrings like some air out of God’s own presence, where justice and mercy are reconciled and the  
12 judge and the brother are one. . . .

13 “I summon all honest men, all patriotic, all forward-looking men, to my side. God helping me, I will  
14 not fail them, if they will but counsel and sustain me!”

15 **Woodrow Wilson** (1917)

16 “I pray God I may be given the wisdom and the prudence to do my duty in the true spirit of this great  
17 people.”

18 **Warren G. Harding** (1921)

19 “America is ready to encourage, to initiate, anxious to participate in any seemly program likely to  
20 lessen the probability of war, and promote that brotherhood of mankind which must be God’s  
21 highest conception of human relationship.”

22 “But with the realization comes the surge of high resolve, and there is reassurance in belief in the  
23 God-given destiny of our Republic.”

24 **Calvin Coolidge** (1925)

25 “Here stands our country, an example of tranquility at home, a patron of tranquility abroad. Here  
26 stands its Government, aware of its might but obedient to its conscience. Here it will continue to  
27 stand, seeking peace and prosperity, solicitous for the welfare of the wage earner, promoting  
28 enterprise, developing waterways and natural resources, attentive to the intuitive counsel of  
womanhood, encouraging education, desiring the advancement of religion, supporting the cause of  
justice and honor among the nations. America seeks no earthly empire built on blood and force. No  
ambition, no temptation, lures her to thought of foreign dominions. The legions which she sends  
forth are armed, not with the sword, but with the cross. The higher state to which she seeks the



1 allegiance of all mankind is not of human, but of divine origin. She cherishes no purpose save to  
2 merit the favor of Almighty God.”

3 **Herbert Hoover** (1929)

4 “I assume this trust in the humility of knowledge that only through the guidance of Almighty  
5 Providence can I hope to discharge its ever-increasing burdens.”

6 **Franklin D. Roosevelt** (1933)

7 “In this dedication of a Nation we humbly ask the blessing of God. May He protect each and every  
8 one of us. May He guide me in the days to come.”

9 **Franklin D. Roosevelt** (1937)

10 “While this duty rests upon me I shall do my utmost to speak their purpose and to do their will,  
11 seeking Divine guidance to help us each and every one to give light to them that sit in darkness and  
12 to guide our feet into the way of peace.”

13 **Franklin D. Roosevelt** (1941)

14 “We do not retreat. We are not content to stand still. As Americans, we go forward, in the service  
15 of our country, by the will of God.”

16 **Franklin D. Roosevelt** (1945)

17 “The Almighty God has blessed our land in many ways. He has given our people stout hearts and  
18 strong arms with which to strike the mighty blows for freedom and truth. He has given to our  
19 country a faith which has become the hope of peoples in an anguished world.

20 “So we pray to Him now for the vision to see our way clearly—to see the way that leads to a better  
21 life for ourselves and for all our fellow men—to the achievement of His will to peace on earth.”

22 **Harry S. Truman** (1949)

23 “The American people stand firm in the faith which has inspired this Nation from the beginning.  
24 We believe that all men have a right to equal right to justice under law and equal opportunity to  
25 share in the common good. We believe that all men have the right to freedom of thought and  
26 expression. We believe that all men are created equal because they are created in the image of  
27 God.”

28 **Dwight D. Eisenhower** (1953)

“Almighty God, as we stand here at this moment my future associates in the executive branch of  
government join me in beseeching that Thou will make full and complete our dedication to the  
service of the people in this throng, and their fellow citizens everywhere.

1 “Give us, we pray, the power to discern clearly right from wrong, and allow all our words and  
2 actions to be governed thereby, and by the laws of this land. Especially we pray that our concern  
3 shall be for all the people regardless of station, race, or calling.

3 “May cooperation be permitted and be the mutual aim of those who, under the concepts of our  
4 Constitution, hold to differing political faiths; so that all may work for the good of our beloved  
5 county and Thy glory. Amen.”

5 **Dwight D. Eisenhower** (1957)

6 “Before all else we seek, upon our common labor as a nation, the blessings of Almighty God. And  
7 the hopes in our hearts fashion the deepest prayers of our whole people.”

8 **John F. Kennedy** (1961)

9 “For man holds in his mortal hands the power to abolish all forms of human poverty and all forms of  
10 human life. And yet the same revolutionary beliefs for which our forbears fought are still at issue  
11 around the globe- the belief that the rights of man come not from the generosity of the state, but  
12 from the hand of God. . . .

12 “With a good conscience our only sure reward, with history as the final judge of our deeds, let us go  
13 forth to lead the land we love, asking His blessing and His help, but knowing that here on earth  
14 God’s work must truly be our own.”

15 **Lyndon B. Johnson** (1965)

16 “But we have no promise from God that our greatness will endure. We have been allowed by Him  
17 to seek greatness with the sweat of our hands and the strength of our spirit.”

18 **Richard Nixon** (1969)

19 “The laws have caught up with our conscience. What remains is to give life to what is in the law: to  
20 ensure at last that as all are born equal in dignity before God, all are born equal in dignity before  
21 man. . . .

21 “Our destiny offers, not the cup of despair, but the chalice of opportunity. So let us seize it, not in  
22 fear, but in gladness—and ‘riders on the earth together,’ let us go forward, firm in our faith, steadfast  
23 in our purpose, cautious of the dangers; but sustained by our confidence in the will of God and the  
24 promise of man.”

24 **Richard Nixon** (1973)

25 “We shall answer to God, to history, and to our conscience for the way in which we use these years.”

26 **Jimmy Carter** (1977)

27

28

1 “[A] timeless admonition from the ancient prophet Micah:  
2 “He hath showed thee, O man, what is good; and what doth the Lord require of thee, but to do justly,  
and to love mercy, and to walk humbly with thy God.” (Micah 6:8)”

3 **Ronald Reagan** (1981)

4 “We are a nation under God, and I believe God intended for us to be free. It would be fitting and  
5 good, I think, if on each Inauguration Day in future years it should be declared a day of prayer.”

6 **Ronald Reagan** (1985)

7 “It is the American sound. It is hopeful, big-hearted, idealistic, daring, decent and fair. That’s our  
8 heritage; that is our song. We sing it still. For all our problems, our differences, we are together as  
9 of old, as we raise our voices to the God who is the Author of this most tender music. And may He  
continue to hold us close as we fill the world with our sound—sound in unity, affection, and love—  
10 one people under God, dedicated to the dream of freedom that He has placed in the human heart,  
called upon now to pass that dream on to a waiting and hopeful world.”

11 **George H.W. Bush** (1989)

12 “For we are given power not to advance our own purposes, nor to make a great show in the world,  
13 nor a name. There is but one just use of power, and it is to serve people. Help us to remember it,  
Lord. Amen.”

14 **William J. Clinton** (1993)

15 “When our founders boldly declared America’s independence to the world and our purpose to the  
16 Almighty, they knew that America, to endure, would have to change.”

17 **William J. Clinton** (1997)

18 “Our rich texture of racial, religious and political diversity will be a Godsend in the 21<sup>st</sup> century.  
19 Great rewards will come to those who can live together, learn together, work together, forge new ties  
20 that bind together.”

21 **George W. Bush** (2001)

22 “And this is my solemn pledge: I will work to build a single nation of justice an opportunity. I  
23 know this is within our reach, because we are guided by a power larger than ourselves, who creates  
us equal in His image. . . .

24 “But the themes of this day he [Jefferson] would know: our nation’s grand story of courage, and its  
25 simple dream of dignity.

26 “We are not this story’s author, who fills time and eternity with His purpose. Yet His purpose is  
27 achieved in our duty; and our duty is fulfilled in service to one another.”