

Committees on Armed Services of the Senate and House of Representatives of—

“(A) an exercise of authority under paragraph (2)(A) of subsection (a) to reduce the 3-year minimum period of required service on active duty in a grade in the case of an officer to whom such paragraph applies before the officer is retired in such grade under such subsection without having satisfied that 3-year service requirement; and

“(B) an exercise of authority under paragraph (5) of subsection (d) to reduce the 3-year minimum period of service in grade required under paragraph (3)(A) of such subsection in the case of an officer to whom such paragraph applies before the officer is credited with satisfactory service in such grade under subsection (d) without having satisfied that 3-year service requirement.

“(2) The requirement for a notification under paragraph (1) is satisfied in the case of an officer to whom subsection (c) applies if the notification is included in the certification submitted with respect to such officer under paragraph (1) of such subsection.

“(3) The notification requirement under paragraph (1) does not apply to an officer being retired in the grade of lieutenant colonel or colonel or, in the case of the Navy, commander or captain.”.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Mississippi.

The amendment (No. 4111) was agreed to.

Mr. ALLARD. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent the proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. I ask unanimous consent Senator NELSON be recognized as in morning business and that we then return immediately to the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Florida.

THE PLEDGE

Mr. NELSON of Florida. Mr. President, a few minutes ago, late-breaking news was called to our attention. As a matter of fact, it was while we were debating the Scott Speicher amendment, which was adopted unanimously on this Defense authorization bill. Sadly, I have confirmed that that news is accurate. A Reuters statement says:

A Federal appeals court found the U.S. Pledge of Allegiance unconstitutional on Wednesday, saying it was illegal to ask U.S. schoolchildren to vow fealty to one Nation under God.

The Ninth Circuit Court of Appeals in San Francisco overturned a 1954 act of Congress that added “under God” to the pledge, saying the words violated the basic constitutional tenet of separation of church and state.

It is with a heavy heart that I would have to take the floor—I imagine I am

just the first of many—to call to the attention of the Senate, and indeed to call to the attention of the courts, that I think there is substantial legal justification. There is a huge difference between separation of church and state—which we all support—and the separation of the state and of God. There is a huge difference.

The opening ceremony of the U.S. Senate each morning that we go into session is a very solemn occasion. Overlooking this Chamber are the words inscribed in gold, above the middle entrance into this Chamber, above the two stately columns—inscribed in gold: “In God We Trust.”

The opening ceremony, for those who have not participated in it, is a most solemn occasion about which the historian of this Chamber, one of our own, the distinguished senior Senator from West Virginia—who has been in Congress, if not over a half a century, certainly close to it, Senator BYRD—has taken it upon himself to educate the freshman Senators as to the dignity, the decorum, and the solemnity of the opening ceremony.

When the opening bells ring and those two doors to the left of the rostrum open, in walks the Presiding Officer accompanied by the Senate Chaplain or the especially designated Chaplain for the day.

As the Presiding Officer walks in and starts to mount the rostrum, the Presiding Officer steps up three of the four steps but does not ascend on the fourth step, which is the level of the Presiding Officer’s desk and chair. Rather, the Presiding Officer remains on the third step as the Chaplain ascends to the higher level, the level of the rostrum.

This is the symbolic act. It is a symbolic act of raising the dignity of the position of the Chaplain of the Senate, or the designated Chaplain of the Senate for the day, recognizing and elevating the deity, or the representative of divine providence to that position. We do that each day in the Senate.

Mr. JOHNSON. Mr. President, will the Senator yield for a question?

Mr. NELSON of Florida. I am happy to yield to the distinguished Senator from South Dakota.

Mr. JOHNSON. I share the shock and dismay expressed by my colleague, my friend from Florida, over the ruling of the Ninth Circuit Court relative to the Pledge of Allegiance in our schools.

Without having read the decision, other than what has been released within the hour through the media, it would appear that ruling of the three-judge panel of the Ninth Circuit—the Senator will concur that this is only one of our appellate circuits—applies only to the States of that circuit.

Certainly, it would be my hope that this matter would be appealed to the U.S. Supreme Court, and that the Supreme Court would not accept this decision and, hopefully, in my view, overrule the Ninth Circuit Court of Appeals.

Is that the progression of events that my friend and colleague from Florida

hopes will be the next step that this particular controversy might take?

Mr. NELSON of Florida. Indeed, under our constitutional system—that is part of what I wanted to point out, and I pointed out to the Senate earlier today—we have a mechanism of checks and balances. The check and balance here is the right of appeal from this court of appeals in San Francisco to the U.S. Supreme Court.

I have the confidence that the Supreme Court’s nine Justices representing the entire Nation would understand the difference between separation of church and state as being the difference between the separation of the state and God.

As I was saying, the dignity of this institution is started off each day under the watchful words inscribed in gold above the center door, “In God We Trust,” with an opening ceremony in which the position of the Chaplain is actually elevated above the Presiding Officer until the Chaplain delivers the opening prayer which opens the business of the Senate.

Furthermore, I point out to our colleagues that as part of our constitutional heritage—including the Constitution—one of the most important documents in our governmental archives is the Declaration of Independence. I call to the attention of the Senate the words of the second paragraph:

We hold these truths to be self-evident, that men are created equal, that they are endowed by their Creator with certain inalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

Then I point out that there are similar words at the end of the Declaration:

And for the support of this Declaration, with a firm reliance on the protection of divine Providence, we mutually pledge to each other our Lives, our Fortunes and our sacred Honor.

I have the confidence to know that when there is a judicial opinion that I think so violates the national understanding and national sense of the proper perspective of a state and divine providence as opposed to the issue that we all support, the separation of church and state so that anyone can worship as they wish if at all, then I think that distinction needs to be clearly made as well as it needs to be reminded of all of the historical significance of our reliance upon divine providence that is a part of the very fabric of this Nation, of this Government, and of the documents upon which this Government was founded.

I see the great Senator from Connecticut standing and I am anxious to hear what he has to say. Should all else fail, even in a judicial interpretation, there is another check and balance given to us by this document; that is, the will of this Nation can be expressed by the amending or an addition to this document, the Constitution. We can start right here in this legislative body by the process of adding to the Constitution, amending the Constitution

by the legislative branch's initiative of proposing a constitutional amendment.

I have great confidence in the system—that this judicial decision by the Ninth Circuit Court of Appeals is not going to stand.

I yield the floor.

The PRESIDING OFFICER (Mrs. CLINTON). The Senator from Connecticut is recognized.

Mr. LIEBERMAN. I thank the Chair.

Madam President, I rise to join my friend and colleague from Florida, Senator NELSON, in expressing dismay, outrage, and amazement at the news today of the decision by the Ninth Circuit Court declaring the recitation of the Pledge of Allegiance unconstitutional.

I say to my friends from Florida and friends in the Chamber, when my staff members told me this, I, frankly, thought they were joking. This is a decision that offends our national morality, that rejects the most universally shared values of our country, that diminishes our unity, and that attempts to undercut our strength at a time after September 11 when we need the strength, unity, and our shared belief in God which has historically brought the American people together, and does so today.

There may have been a more senseless, ridiculous decision issued by a court somewhere at some time, but I have never heard of it. I find the decision by this court hard to believe.

I remember a day, I say to my friends, a decade or so ago when the Supreme Court issued a ruling saying that it was unconstitutional for a clergyman—in that case, it was a Rabbi—to give an invocation at a high school graduation in Rhode Island. I couldn't believe that decision. In some sense this decision is its progeny. It offends the very basis of our rights as Americans.

My friend from Florida read from the Declaration of Independence. According to their decision of the Ninth Circuit Court, the reading of the Declaration of Independence is unconstitutional.

If that isn't turning logic and morality on its head, I do not know what is, because the paragraph is the first statement by the Founders of our independence and the first declaration of the basis for our rights that have so distinguished our history in the 226 years since.

First paragraph:

When in the Course of human events . . . and to assume among the powers of Earth, the separate and equal station to which the Laws of Nature and Nature's God entitle them.

Right there is the basis of the assertion of independence—the rights that we have under “the Laws of Nature and Nature's God.”

And then the second paragraph, famous to every schoolchild and American citizen:

We hold these truths to be self-evident, that all men are created equal, that they are

endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.

So that the premise of the rights that have distinguished America for the 226 years since, that were embraced in the Constitution as an expression of the declaration, all come from God, not from the Framers and the Founders, as gifted as they were, not from the philosophers of the enlightenment who affected their judgments, but were the endowment of our Creator.

And that judgment has framed our history in two ways. It has been the basis of our rights because it is from our shared belief in God, and the foundation place it has in our system of government, as stated right here in the first statement of the first Americans, the Declaration of Independence, that we are all children of the same God. That means we all have the rights.

It also has meant that we feel a deep sense of unity with one another. I remember, after the terrible events of September 11, how struck I was by the classically American reaction that not only at that moment when we were so shaken by the horror of inhumanity of what had happened did we go to our houses of worship to ask for strength and purpose and comfort, we went to each other's houses of worship—that is the American way—and gained strength and purpose from it.

Mr. WARNER. Madam President, will the Senator yield?

We are privileged to serve on the Armed Services Committee.

When I first heard of this, I thought to myself about the hundreds and hundreds and hundreds of thousands of men and women who have worn the uniform of our country and have gone beyond our shores to fight for freedom. All of them were proud to stand in their schoolhouses and on their military bases, or whatever the case may be, and pledge allegiance to the flag of the United States of America.

Madam President, I join my friends in expressing our grave concern over this opinion.

Mr. LIEBERMAN. I thank my friend from Virginia.

I want to say a few words more.

One is that your statement reminds me, my dad served in World War II. My dad passed away 18 years ago. One of the treasured possessions of his that I have is a small Bible that he was given with a written statement in it from President Roosevelt. All who served in defense of our liberty in World War II got similar Bibles—and to carry it with them as a source of strength.

It has been my honor, each time I have been sworn in as a Senator up there, to put my hand on that Bible. It meant a lot to me personally.

But under the twisted logic of this decision, it was unconstitutional for the U.S. military, the Pentagon, to give my dad, and the generations of others since him, a Bible as a source of strength.

Mr. WARNER. Madam President, I have to say to my friend, my father

served in World War I as a doctor in the trenches. He was wounded and highly decorated. And he carried, in his tunic, throughout every hour of the day, his prayer book which his mother had given him. And he noted in it every single battle and engagement he was in which he tended to the sick and the wounded and those who died.

Mr. LIEBERMAN. I appreciate my friend from Virginia sharing that moving story.

I will conclude in a moment because I know—

Mr. REID. Will the Senator yield for a question?

Mr. LIEBERMAN. Of course I will yield to my friend from Nevada.

Mr. REID. I know the Senator from Connecticut had a distinguished legal career prior to coming here. I believe the Senator was attorney general of the State of Connecticut; is that right?

Mr. LIEBERMAN. That is correct.

Mr. REID. I practiced law many years prior to coming back here and tried lots and lots of cases. We had a rule that when a judge ruled contrary to the interests of your client, you were not to comment on the judge.

I say to my friend, I am not constrained in this instance. I can say anything I want about the judge who wrote that opinion. And I say to my friend from Connecticut, that judge, who is no youngster, was appointed. He graduated from law school in 1951 and was appointed by President Nixon to be a member of the Ninth Circuit Court of Appeals.

I say to my friend, it is things like that that take away from what I think is a great institution; that is, the people who serve in the bar of the United States, lawyers.

This is just so meaningless, so senseless, so illogical. I cannot imagine that a judge, who has graduated and been a lawyer for 50 years, more than 50 years—does the Senator from Connecticut have any idea how, logically, you could come up with an opinion such as this? I read the highlights of the opinion. It is, for me, illogical, irrational. Can the Senator figure any rationality to this opinion?

Mr. LIEBERMAN. I thank my friend from Nevada.

In my opinion, having seen a precis of the decision, it offends all logic. The facts of the circumstances are that students, by previous court decisions, are allowed, if they are offended by a part of the pledge that says we are “one nation under God,” to not say the pledge or, in fact, to leave the room.

Secondly, this decision is the most extreme and ridiculous expression of what I take to be a fundamental misunderstanding of the religion clauses of the Constitution, which, to me, promised—if you will allow me to put it this way—freedom of religion, not freedom from religion. They protect the American people against the establishment of an official religion but have always, in the best of times, acknowledged the reality that our very rights, our very

existence comes from an acknowledgment of the authority and goodness of Almighty God, and that people of faith, throughout the 226 years since then, in our history, are the ones who repeatedly have led movements that have made the ideals of the Declaration and the Constitution real—the abolitionists, the suffragettes, all those who worked, beginning in the 19th century, and then in the 20th century, on social welfare, child labor legislation, and, of course, the civil rights movement of the 20th century.

So I do not see any logic. In fact, I think this decision offends logic. It will outrage the public. And if there is any-

thing positive that comes out of it, it will unify this most religious and tolerant of people.

We have found a way in this country, that is unique in world history, to express our shared faith in God, and to do so in a way that has not excluded anyone. I was privileged to benefit from that and feel that in a most personal and validating and inspiring way in the election of 2000.

So I thank the Senator from Nevada and the Senator from Virginia. I thank the Senator from Florida for initiating this discussion. I agree with him, this decision will be appealed. I hope and trust it will be overturned. But if, may

I say, God forbid, it is not overturned, then we will join to amend the Constitution to make clear that in this one Nation of ours—because we are one Nation under God—we are one Nation because of our faith in God, that the American people, children, forever forward will be able to stand and recite the pledge.

Mr. NELSON of Florida. Will the Senator yield?

Mr. REID. If my two friends would allow me to propound a unanimous consent request, we waited for 2 days to do this. As soon as I complete this, the Senator from Connecticut will regain the floor.

NOTICE

Incomplete record of Senate proceedings. Except for concluding business which follows, today's Senate proceedings will be continued in the next issue of the Record.

ORDERS FOR THURSDAY, JUNE 27, 2002

Mr. REID. Mr. President, I ask unanimous consent that when the Senate completes its business tonight, it adjourn until 9:30 a.m. tomorrow, Thursday, June 27; that following the prayer and the pledge, the Journal of proceedings be approved to date, the morning hour be deemed to have expired, the time for the two leaders be reserved for their use later in the day, and the Senate be in a period of morning business until 10:30 a.m., with Senators permitted to speak for up to 10 minutes each, with the first half of the time under the control of the Republican leader or his designee, and the second half of the time under the control of the majority leader or his designee; that at 10:30 a.m. the Senate resume consideration of the Department of Defense authorization bill and vote on cloture on the bill; and, further, Senators have until 10 a.m. tomorrow to file second-degree amendments to the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECITATION OF THE PLEDGE OF ALLEGIANCE

Mr. REID. Mr. President, Senators are encouraged by both the majority leader and the Republican leader to be in the Senate Chamber promptly at 9:30 following the prayer that will be given by the Chaplain. They will recite the Pledge of Allegiance, based upon what occurred in the Ninth Circuit today, which has been a disappointment to the entire Senate.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. REID. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:34 p.m., adjourned until Thursday, June 27, 2002, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate June 26, 2002:

THE JUDICIARY

RICHARD A. GRIFFIN, OF MICHIGAN, TO BE UNITED STATES CIRCUIT JUDGE FOR THE SIXTH CIRCUIT, VICE DAMON J. KEITH, RETIRED.

DANIEL L. HOVLAND, OF NORTH DAKOTA, TO BE UNITED STATES DISTRICT JUDGE FOR THE DISTRICT OF NORTH DAKOTA, VICE PATRICK A. CONMY, RETIRED.

THOMAS W. PHILLIPS, OF TENNESSEE, TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF TENNESSEE, VICE JAMES H. JARVIS II, RETIRED.

LINDA R. READE, OF IOWA, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF IOWA, VICE MICHAEL J. MELLODY, ELEVATED.

IN THE NAVY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ROXIE T. MERRITT, 0000
THOMAS P. VANLEUNEN JR., 0000
JACQUELINE C. YOST, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

TRECCI D. DIMAS, 0000
LEYDA J. HILERA, 0000
RITA L. JOHNSTON, 0000
YOUNG O. KIM, 0000
DAVID G. SIMPSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

STEPHEN W. BARTLETT, 0000
TELFORD G. BOYER II, 0000
THOMAS F. GLASS, 0000
ANTHONY S. HANKINS, 0000
JAMES M. TUNG, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DAVID R. ARNOLD, 0000
ELLEN S. BRISTOW, 0000
MAUREEN M. CAHILL, 0000
MARGARET R. W. REED, 0000
LORI P. TURLEY, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

VICTOR G. ADDISON JR., 0000

JOSE F. H. ATANGAN, 0000
JEFFREY S. BEST, 0000
LAWRENCE J. GORDON, 0000
FREDRICK M. TETTELBACH II, 0000
ZDENKA S. WILLIS, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ROBERT J. FORD, 0000
KIRK N. HARNES, 0000
WILLIAM E. LEIGHER, 0000
BOB R. NICHOLSON, 0000
SCOTT A. STEPHENSON, 0000
PAUL W. THRASHER, 0000
EDWIN F. WILLIAMSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DAVID A. BELTON, 0000
HERBERT R. DUFF, 0000
JOHN G. FAHLING, 0000
MICHAEL L. FAIR, 0000
ROBERT J. FIEGL JR., 0000
FRANK W. NICHOLS, 0000
WILLIAM PAPPAS, 0000
JAMES A. THOMPSON JR., 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be commander

JEFFREY A. BENDER, 0000
EDGAR D. BUCLATIN, 0000
CHRISTOPHER A. DOUR, 0000
DONALD A. SEWELL, 0000
JOHN M. WALLACH, 0000
DAVID E. WERNER, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ALEXANDER P. BUTTERFIELD, 0000
THOMAS R. CROMPTON JR., 0000
MARTIN J. DEWING, 0000
TIMOTHY L. DUVAL, 0000
JAMES V. HARDY, 0000
NORMAN R. HAYES, 0000
THOMAS P. MEEK, 0000
CRAIG W. PRUDEN, 0000
DANIEL J. SMITH, 0000
PETER F. SMITH, 0000
ELIZABETH L. TRAIN, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

TERRY J. BENEDICT, 0000
RICHARD D. BERKEY, 0000
ROBERT E. CONNOLLY, 0000
JOHN C. DAVIDSON, 0000
REID S. DAVIS, 0000
ALBERT J. GRECCO, 0000
JAMES G. GREEN, 0000
JAMES R. HUSS, 0000
DAVID C. JOHNSON, 0000
STEPHEN D. METZ, 0000