General. He was speaking to an Alabama Bar Association meeting when President Reagan was in office, not long after he left as Attorney General. The bar members asked: Judge Bell, what do you think about this litmus test that President Reagan is supposed to be applying to judges? I will never forget, he walked up to the microphone and said: We need a litmus test for judges. We don't need anybody on the Supreme Court who does not believe in prayer at football games.

This is where we are. We have the courts of the United States prepared to send in the 82nd Airborne to some high school that allows a voluntary prayer to be said before the ball game starts—an expression that there is something more important than who is the biggest, meanest, and toughest out on the football field.

I think we have a serious problem with the understanding of the first amendment. I am glad this body is taking it seriously. Hopefully, we can do something about it, but it is going to take a longtime effort.

I yield the floor.

EXPRESSION OF SUPPORT FOR THE PLEDGE OF ALLEGIANCE

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I indicated a few minutes ago that it was our intention, after consultation with the Republican leader and our colleagues, to offer a resolution immediately on the matter of the Ninth Circuit Court decision. That is our intention at this point.

I will propound a unanimous consent request that allows us to go to a vote. I know a number of other Senators wish to be heard, but I think it would be appropriate for scheduling purposes for us to have the vote and then accommodate other Senators who wish to be heard. We will certainly allow the floor to be available for purposes of additional comment by our colleagues.

Let me ask Senators to vote from their desks on this particular vote. I think it would be appropriate, given the strength of feeling we have on the issue, that we draw a distinction between this and other votes. I ask Senators to vote from their desks.

I also note as we have already announced through our cloakrooms, every Senator will be listed as a cosponsor unless they ask to be removed from that list. So Senators will automatically be listed as a cosponsor. We have had so many requests on both sides of the aisle, it was our view it would be appropriate for us to do that.

I also ask unanimous consent that the resolution be submitted and stated for the record, prior to the vote.

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

Mr. DASCHLE. I ask unanimous consent the Senate proceed to the consideration of the resolution at the desk earlier introduced by myself and Senator LOTT regarding the Pledge of Allegiance, that no amendments or motions be in order, the Senate immediately vote on passage of the resolution, that any statements thereon appear in the RECORD as though read.

Mr. LOTT. Reserving the right to object only for parliamentary inquiry, is it the majority leader's intent to put the vote immediately?

If I could, under my reservation, then just make a couple of points.

The PRESIDING OFFICER. The Republican leader is recognized.

Mr. LOTT. Mr. President, I certainly support this effort. I have no intent at all of objecting. I am very pleased the Senate is going to act so quickly on this matter.

Senator DASCHLE and I have been talking about it the last few minutes. We have developed what I think is very good language to address this outrageous decision by the Ninth Circuit Court of Appeals.

Just as the Supreme Court has recognized that elected officials may invoke God's blessing on their work as we do here every day, and as in the House Chamber they have over the Speaker's chair, ''In God We Trust,'' for our children to be allowed to invoke God's blessing on our country in the Pledge of Allegiance is certainly something we want to do.

If there is ever a time when we need this additional blessing, perhaps it is now more than ever in our lifetimes. I have seen that and felt that as I have gone around, not only my own State but this country. So I think it is essential the Senate speak immediately in clarification. I hope the Ninth Circuit will have an en banc panel that will reverse this decision; failing that, that the Supreme Court will act on it expeditiously.

In our resolved clause, we state that we disapprove of the decision by the Ninth Circuit and that we authorize and instruct the Senate legal counsel to seek to intervene in the case to defend the constitutionality of the Pledge of Allegiance.

Beyond that, to further make it clear, the Senate should consider a recodification of the language that was passed in 1954. There was no uncertainty or ambiguity about what was done in 1954. The Congress, in fact the American people, spoke through their Congress. We should make it clear once again.

I commend you, Senator DASCHLE, for moving this matter forward aggressively. For the Senate to have this vote is absolutely the right thing to do. I know the American people agree with that decision.

I withdraw my reservation.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. I compliment the Senator on his remarks. I appreciate very much his cooperation in the last couple of hours.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 292) expressing support for the Pledge of Allegiance.

Whereas, this country was founded on religious freedom by founders, many of whom were deeply religious;

Whereas, the First Amendment to the Constitution embodies principles intended to guarantee freedom of religion both through the free exercise thereof and by prohibiting the government establishing a religion;

Whereas, the Pledge of Allegiance was written by Francis Bellamy, a Baptist Minister, and first published in the September 8, 1892, issue of the Youth's Companion;

Whereas, Congress in 1954 added the words ''under God'' to the Pledge of Allegiance;

Whereas, the Pledge of Allegiance has for almost 50 years included references to the U.S. flag, the country, to our country having been established as a union ''under God'' and to this country being dedicated to securing ''liberty and justice for all;''

Whereas, the Congress in 1954 believed it as acting constitutionally when it revised the Pledge of Allegiance;

Whereas, this Senate of the 107th Congress believes that the Pledge of Allegiance is not an unconstitutional expression of patriotism;

Whereas, patriotic songs, engravings on U.S. legal tender, engravings on federal buildings also contain general references to ''God'';

Whereas, in accordance with decisions of the U.S. Supreme Court, public school students cannot be forced to recite the Pledge of Allegiance without violating their First Amendment rights;

Whereas, the Congress expects that the U.S. of Appeals for the Ninth Circuit will rehear the case of Newdow v. U.S. Congress, en branc;

Resolved, That the Senate strongly disapproves of the ninth circuit decision in Newdow v. U.S. Congress; and that the Senate authorizes and instructs the Senate Legal Counsel to seek to intervene in the case to defend the constitutionality of the Pledge of Allegiance.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

Mr. DASCHLE. Again, I ask Senators to vote from their desks.

The PRESIDING OFFICER. The question is on agreeing to the resolution. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

I further announce that if present and voting the Senator from North Carolina (Mr. HELMS) would vote ''yea.''

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—99

Akaka	Biden	Bunning
Allard	Bingaman	Burns
Allen	Bond	Byrd
Baucus	Boxer	Campbell
Bayh	Breaux	Cantwell
Bennett	Brownback	Carnahan

Carper	Gregg	Murray
Chafee	Hagel	Nelson (FL)
Cleland	Harkin	Nelson (NE)
Clinton	Hatch	Nickles
Cochran	Hollings	Reed
Collins	Hutchinson	Reid
Conrad	Hutchison	Roberts
Corzine	Inhofe	Rockefeller
Craig	Inouye	Santorum
Crapo	Jeffords	Sarbanes
Daschle	Johnson	Schumer
Dayton	Kennedy	Sessions
DeWine	Kerry	Shelby
Dodd	Kohl	Smith (NH)
Domenici	Kyl	Smith (OR)
Dorgan	Landrieu	Snowe
Durbin	Leahy	Specter
Edwards	Levin	Stabenow
Ensign	Lieberman	Stevens
Enzi	Lincoln	Thomas
Feingold	Lott	Thompson
Feinstein	Lugar	Thurmond
Fitzgerald	McCain	Torricelli
Frist	McConnell	Voinovich
Graham	Mikulski	Warner
Gramm	Miller	Wellstone
Grassley	Murkowski	Wyden

NOT VOTING—1

Helms

The resolution (S. Res. 292) was agreed to.

The preamble was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. DASCHLE. Mr. President, this was the last vote of the evening.

Under the normal rules of the Senate, of course, it is the custom of the Senate each morning to pledge allegiance to the flag. We will be coming into session tomorrow morning at 9:30. It would be my suggestion—not my original suggestion, I hasten to add—that we as Senators be here at 9:30 to pledge allegiance to the flag. I encourage Senators to be present at their desks at 9:30 to accommodate that suggestion.

(Applause, Senators rising.)

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I think the distinguished majority leader has made an excellent suggestion. I also wish to express my appreciation to him for bringing up S. Res. 292 and doing so in a bipartisan fashion. I also express my appreciation to the staff of the Senate Judiciary Committee who worked so very hard to move on this resolution as quickly as they did. I appreciate the distinguished majority leader requesting that we have such a resolution. He is absolutely right. I have to assume that the Ninth Circuit will now hear this case en banc, and I have to hope the decision will not be upheld.

The PRESIDING OFFICER. The majority leader.

Mr. DASCHLE. Mr. President, I simply want to respond to the distinguished Senator from Vermont and, as always, thank him for his kind words and support for the resolution and, as always, his willingness to be helpful. I am also pleased with the unanimity with which the Senate has expressed itself this afternoon. It was the right thing to do. It was important that we did it in a timely manner.

Again, let me reiterate my thanks to the distinguished Republican leader for the tremendous cooperation he has shown in allowing the Senate to move as quickly as it has. It sends as clear and unequivocal a message as I believe we are capable of sending.

We strongly disagree with the decision made today. We will authorize our Senate legal counsel to intercede on behalf of our position before the court. That is the right thing to do. I am very pleased we were able to say it as strongly as we have on a bipartisan basis that we have today.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. BENNETT. Mr. President, over the weekend I had the experience and the pleasure of narrating Aaron Copeland's ''Lincoln Portrait'' in a presentation by an orchestra back home in Utah. I had not done that before.

Aaron Copeland took some of Abraham Lincoln's most stirring words and accompanied them with music, and it is a great opportunity for those of us who don't have as much musical ability as some others to participate in that kind of a presentation.

I was interested that one of the things in the ''Lincoln Portrait'' by Aaron Copeland is a quotation from the Gettysburg Address, when Abraham Lincoln prophesied that this Nation, under God, shall have a new birth of freedom, and that government of the people and by the people and for the people shall not perish from the Earth. If the Ninth Circuit Court position is upheld and made universal, that means that Aaron Copeland's tribute to the memory of Abraham Lincoln will have to be censored and that we will no longer allow our schoolchildren to learn the Gettysburg Address.

Indeed, if this position is upheld, we will no longer be able to teach our children the Declaration of Independence because Thomas Jefferson referred to our rights as having been endowed by the Creator.

The Ninth Circuit makes it very clear that they do not believe any public official should speak of the Creator in a way that implies that he exists or, if you prefer, that she exists.

The word ''God'' is sufficiently universal and nonspecific as to allow those who use it to ascribe any quality, any gender, any doctrine, any position that those people might wish to ascribe to it. It is inconceivable to me that the Ninth Circuit should suggest that the generic term ''God'' is somehow endorsement of a specific religion.

It is interesting that the vote we have just taken takes place under words carved in marble, literally carved in marble and gilded in gold here in the Senate Chamber, that say: ''In God we trust.'' I would hope that the judges on the Ninth Circuit would not attempt to send U.S. marshals into the Chamber of the Senate with jackhammers in an effort to remove that marble from above our entryway. It has been there since the Chamber was built. I hope it remains there as long as the Chamber remains, the judges on the Ninth Circuit to the contrary notwithstanding.

As I walked over to come to this vote, I came under the flags of the 50 States. They are displayed in the walkway in the tunnel that comes between the Senate Office Building and the Capitol. I noticed that on two of those flags, Florida and Georgia, there are the same words that we have here in the Chamber, ''in God we trust.''

I wonder if the justices of the Ninth Circuit wish to order the State legislatures of those two States to change the State flags in their effort to see to it that we remove any reference whatsoever to God from our public discourse. Oh, I understand that they do not wish to remove all references to God. It will still clearly be fine for the people in Hollywood and on television to curse people in the name of God. It will only be illegal for someone to bless people in the name of God. The use of the name of deity in oaths of blasphemy are protected under the first amendment. It is just the use of the name of God in expressions of belief that these judges wish to strike down—an inconsistency which I hope will enter into their hearts and make them realize how foolish their decision is.

Finally, my mind goes back to the experience in the Middle Ages when Galileo—who said that the Earth revolves around the Sun rather than the Sun revolving around the Earth—was forced by the legal structure of his time to recant. And in order to save his life he did so. He stood there and proclaimed aloud that the Sun revolved around the Earth, and then as he stepped away from the place where he had made that public recantation, he muttered—speaking of the Earth going around the Sun—''nonetheless, it still revolves.''

Regardless of what the courts may say, the American people still trust in God. As long as they do, it will remain our national motto because it is a correct statement of how we feel, and it belongs in the Pledge of Allegiance to our flag.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I would like to say a few words about the resolution. Before I do, I know Senator LANDRIEU would like to speak and perhaps others. Perhaps I could offer a unanimous consent agreement that directly following me—does Senator BURNS wish to speak?

Mr. BURNS. Yes.

Mrs. FEINSTEIN. That Senator BURNS, and then Senator LANDRIEU, and Senator ALLEN have 5 minutes each.

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

Mr. LEVIN. Reserving the right to object, was that a unanimous consent request?

The PRESIDING OFFICER. Yes.

Mr. LEVIN. I would like some indication of approximately how long each

Senator plans on speaking. I have no desire to limit them, but I would like to get an idea.

Mrs. FEINSTEIN. Not very long for me.

Ms. LANDRIEU. Five minutes.

Mr. LEVIN. If it is 5 minutes each, that is fine.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I rise as a Senator from California, a member of the Judiciary Committee, and one who has been trying to hold together the Ninth Circuit. I find this decision, at best, very embarrassing—embarrassing because perhaps the court doesn't know, but our coins have contained ''in God we trust'' for a century and a half. This was put into action by the Congress in 1954, almost 50 years ago. So we have had reference to God on our coins for a century and a half and reference to God in the Pledge of Allegiance for over a half century. In 30 years of public life, I have never had an objection from anyone about either.

When I heard about this decision, knowing how Senator BURNS has felt about the Ninth Circuit, I quickly looked to see who the judges were. I found that one is a Nixon judge, one is a Carter judge, and the dissenting judge was a George Bush, Sr., judge.

I can only say that I would be hopeful that the full Ninth Circuit would take up this matter and straighten it out, and, if they do not, that it goes rapidly on appeal to the Supreme Court of the United States, and that the Supreme Court of the United States straightens it out.

From the beginning of our country, God has always played a role. All you have to do is look at some of the remaining churches in the Thirteen Colonies to know that God has always played a role in the foundation and the continuation of our Nation. For the Ninth Circuit to suddenly say that it is unconstitutional for the Pledge of Allegiance to make reference that we are one nation under God is incomprehensible to many of us. So our remedy must rest with the remainder of the Ninth Circuit.

For me, it is going to be interesting to see whether they will measure up to this challenge or whether they will let a three-judge panel speak for them. I strongly urge that, if they feel as strongly as the Members of this Senate do, they sit en banc and take a look at this matter. If not, it certainly should go to the Supreme Court.

I can only say this Senator is embarrassed.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BURNS. Mr. President, words cannot express the outrage I felt when I heard this decision. There will be those of us who will express it in different words than probably lawyers will. A couple of weeks ago we were visited and addressed by the Prime Minister of Australia, John Howard, when he related his feelings because he was in this country on September 11 of last year. He said that, since then, this country has reacted in a way that reestablishes or reconfirms the very values on which this country is based.

Then we have a circuit court that comes down with a decision such as this. It is absolutely unbelievable. Can our children no longer sing ''God Bless America,'' or even ''America the Beautiful,'' or all the stanzas to our National Anthem?

Do you want to take a look at the dollar bill? On the back of it is the symbol of this country, the eagle, and, of course, the eternal eye. This is a value-based society, and to say those who are sheltered from being removed from office, unless the crime is really something, but just for an opinion such as this, I find that unbelievable.

We are a nation founded upon the acknowledgement of a Creator. It has been that way since day one, or even when the flame of freedom was ignited in the men and women way back in the 1700s. Men and women have died, given their lives, on the field of battle to protect it, just as they have another symbol of this country called our flag.

It doesn't make a lot of sense. Of course, there are a lot of things that do not make sense in this world. I always refer to this place as 17 square miles of logic-free environment. Nonetheless, whenever you jump across the street, we find another logic that I fail to understand. So I will stand here and tell America that those values—this being one of them—that those men and women did not die in vain. And it did not take very long for this body, that represents constituencies across the width and breath of our country, to react to it. That has to tell you something about who we are and what we are and how we got here.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. I thank the Chair. Mr. President, I wish to add my voice to all of those who have risen in the last several hours to express my feelings and the feelings of people from Louisiana about this unfortunate ruling.

It is clear to most of us at least that we believe God is infallible, but clearly these judges are not. This case and this decision are very disappointing to many of us, and I am sure around the Nation it has caused a great deal of anxiety, anguish, disappointment, and anger.

We remember all too well the Dred Scott decision that relegated African Americans to a status as property, and the Plessy v. Ferguson decision that disgracefully upheld the Jim Crow laws of this Nation. In these cases the American judiciary unfortunately demonstrated its ability to be just plain wrong, and today is another one of those occasions.

A wonderful aspect, however, about our democracy is that when we make mistakes, those mistakes can be corrected, and there are a variety of ways that can happen today.

I thank Senator DASCHLE, our leader, and Senator LOTT for so quickly assembling a resolution in which we all have joined as coauthors stating our position in the Senate that reflects, I believe, the overwhelming views of the American people. The force of that resolution will have a very positive impact.

I also understand the entire Circuit Court will hear this case en banc, and I am almost certain, or at least very hopeful, that this decision will be reversed and this wrong righted.

There have been many beautiful things read into the RECORD that remind us of our heritage, that remind us of why this country is so great, is so wonderful, is so unique, and so special; from the eloquent remarks of the Senator from West Virginia to the Senators who have recently spoken.

I thought it might be appropriate at this time to read into the RECORD for this occasion a wonderful quote from Abraham Lincoln—one of our greatest Presidents, if not our greatest on what he had to say about our relationship to God and our Creator as a nation and as a collective people. It was on the occasion of the first Presidential resolution to set aside at least 1 day for a national day of prayer and fasting. This was established many years ago in 1863.

In this statement, Abraham Lincoln calls for our Nation to come together in prayer and to acknowledge God and to acknowledge a Supreme Being and our Creator. He said:

> We have been the recipients of the choicest bounties of Heaven. We have been preserved, these many years, in peace and prosperity. We have grown in numbers, wealth and power, as no other nation has ever grown. But we have forgotten God. We have forgotten the gracious hand which preserved us in peace, and multiplied and enriched and strengthened us; and we have vainly imagined, in the deceitfulness of our hearts, that all these blessings were produced by some superior wisdom and virtue of our own. Intoxicated with unbroken success, we have become too self-sufficient to feel the necessity of redeeming and preserving grace, too proud to pray to the God that made us.

It behooves us then, to humble ourselves before the offended Power, to confess our national sins, and to pray for clemency and forgiveness.

This is just one of the many writings—hundreds, thousands—by Presidents, Senators, Congressmen, Governors, council members, mayors, elected officials, leaders of this great country that we call America acknowledging that we as a nation stand under God, acknowledging His presence, although we worship Him in different ways, we may call Him by different names, and we strongly support the rights of those in our society to not acknowledge His presence. But we collectively as a nation will in no way back down in acknowledging His presence and His divine creation.

Madam President, I wanted to submit my thoughts on this issue for the

RECORD and also say that I am introducing a proposed constitutional amendment to address this issue in the event that the court decisions do not unfold the way I suspect they will. I send to the desk a joint resolution.

The PRESIDING OFFICER (Ms. CANTWELL). The measure will be received and appropriately referred.

Ms. LANDRIEU. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Madam President, I associate myself with the remarks of the Senator from Louisiana, Ms. LANDRIEU, and I commend her for her resolution. With her consent, I would like to add my name to her resolution in the event the Ninth Circuit and the Supreme Court continue this errant miscarriage of justice.

Madam President, we often talk about ''miscarriages of justice,'' but today I talk about an instance in which proper administration of justice was dragged into a dark alley and mugged.

Many of us are outraged to learn today that a divided three-judge panel of the Ninth Circuit Court of Appeals believed it knew better than the properly exercised wisdom of the people and their duly elected representatives in striking down the Pledge of Allegiance and stating that the Pledge of Allegiance is unconstitutional. These judges ignored the very basis of our democracy and representative Government. They have ignored, right before Independence Day, the spirit of our country that Mr. Jefferson, in the Declaration of Independence, proclaimed to the British monarchy, which had an established religion, that our rights are God-given rights.

He stated in the Declaration of Independence that we are endowed by our Creator ''with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness.'' All of this came from the Virginia Declaration of Rights which expressed the same sentiments.

Let's understand, if these judges do not understand, with their judicial activist decisions such as this, the judges are to interpret the laws, they are not to write the laws. The laws on the Pledge of Allegiance and the laws for the recitation of the Pledge of Allegiance in our schools are passed by State legislatures all across our country. They are reflecting the will, the desire, and the value of the people in their States and in their communities.

Let's also understand that these activist judges, like the two involved in this majority decision of the Ninth Circuit, often cite the first 10 words of the Establishment Clause, which says:

Congress shall make no law respecting an establishment of religion . . .

But they too often forget the six words that follow:

or prohibiting the free exercise thereof.

To understand the history of religious freedom in this country, one must understand that this country, in the very beginning, starting with the Virginia Company, which was a commercial venture—it still was a crown colony, as were all the colonies, and as such it was associated with the Church of England or the Anglican Church. People were compelled to pay taxes to that church whether they wanted to go to that church or not.

The concept of the statute of religious freedom first started in Virginia with Thomas Jefferson. He drafted the Virginia Statute for Religious Freedom. It is on his gravestone as one of his three most proud accomplishments, along with the founding of the University of Virginia, and drafting the Declaration of Independence.

The statute of religious freedom was a novel idea. It was a radical idea because what you had in the 1700s and before then were monarchies, theocracies in effect, where the monarchs were ruling because of bloodlines not because of merit or popular will. They also had a single church and that church was given that exclusive monopoly in that they would then say that those monarchs were ruling by divine guidance and divine right. In all of these monarchies, the idea that people could believe as they saw fit and not be compelled to join a church or be compelled to support a church was a very radical idea and upsetting to the tyrannical monarchs because that upset their whole justification for being in power in the first place.

The Virginia Statute for Religious Freedom actually took 7 years to pass in the Virginia General Assembly. Good ideas still sometimes take a long time. Mr. Jefferson was the Minister to France when James Madison finally got this Statute through the Virginia General Assembly.

The Virginia Statute for Religious Freedom states very clearly, in article I, section 16, of the Virginia Constitution, ''That religion, or the duty which we owe our Creator and the manner of discharging it, can be directed by reason and conviction, not by force or violence; and therefore, all men are equally entitled to the free exercise of religion, according to the dictates of conscience; . . . '' and so forth. It goes on to say that people's rights and individual's rights should not be enhanced nor should they be diminished due to their religious beliefs.

Now the purpose of the Establishment Clause, which was then put into the Federal Constitution in the First Amendment of the Bill of Rights, was not to expunge religion or matters of faith from all aspects of public life. The Pledge of Allegiance should remain in our schools and other public functions, but it should be voluntary. The Commonwealth of Virginia has such a law but it is voluntary. If a student does not want to recite the Pledge of Allegiance, he or she is not compelled to do so. One needs to respect that individual conscience.

The way it is in the law, whether in this case in the Ninth Circuit or elsewhere, is that it allows, in accordance with the founding documents of our Nation, the ability of the majority to express their values and their wisdom. If somebody somehow does not want to recite it, they are not compelled to do so.

So the Establishment Clause, as well as our Bill of Rights, and our Declaration of Independence, are all modeled on the Virginia Statute for Religious Freedom, and the Virginia Declaration of Rights.

The Virginia Statute for Religious Freedom, as drafted by Mr. Jefferson and then carried forward by James Madison and adopted in 1786, counsels against the impious presumption of legislators and rulers, civil as well as ecclesiastical, who being themselves but fallible and uninspired men who have assumed dominion over the faith of others.

The Virginia Declaration of Rights holds that all men are equally entitled to the free exercise of religion according to the dictates of their conscience. Minimal reference is made to a nondenominational creator or natural rights or God and that is consistent with the values and the desires of the people. This is in step, and the laws are, fortunately, in this regard, in step with our society and the views of the people, as they have been throughout our history.

It is my hope, and it is not without basis, that this decision of the Ninth Circuit will be handily reversed by the Supreme Court of the United States.

I remind the Senate that the Ninth Circuit Court of Appeals has by far the most dismal reversal rate in the Supreme Court of any court of appeals in our land. In recent years, the reversal rate has hovered around 80 percent compared to about 50 percent for the next highest circuit, which is the Eighth Circuit. In one recent session of the Supreme Court alone, an astonishing 28 out of 29 decisions of the Ninth Circuit Court were overturned. That is 97 percent. What ruling from the Ninth Circuit will come next? Are they going to white out passages of the Declaration of Independence? Will it be improper to recite on public grounds the Declaration of Independence because it refers to our Creator giving us unalienable rights? Will the Ninth Circuit order currency and our coinage to knock out the insidious message of ''In God We Trust''? Will they say that all coins have to be destroyed and melted down? Will they imprison school choirs and have the school directors imprisoned because the children are singing ''God Bless America''? Who knows what is next out of the Ninth Circuit.

At some point, though, a proper respect for the rights of the people, their desires, and also common sense and reason must be guiding our courts, especially this particular circuit court, and today's activist, offensive decision.

Today's action by the Ninth Circuit is hit-and-run jurisprudence. It is smug judicial activism at its rankest. It is

outrageously out-of-touch with the desires and values of the American people. It is striking down the basic concept that laws made by Congress or by State legislatures, unless they are clearly unconstitutional, ought to be respected.

I am proud today, only days before the 226th anniversary of our Nation's birth, of our Declaration of Independence, where we ceded from the monarchy of Britain, that we are going to stand for what is right. We are going to stand by our flag and the principles of freedom and justice and with our Pledge of Allegiance.

I thank my colleagues for their united, bipartisan stand for what is right about America and what is right for our schools and our youngsters, and that is stating the Pledge of Allegiance to our flag.

I yield the floor, and 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. BROWNBACK. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BROWNBACK. Madam President, I rise today to discuss this recent Federal court of appeals ruling on the Pledge of Allegiance and to express with my colleagues the universal outrage of the court's ruling today, and the delight with how we have joined together so quickly, and I express this on behalf of all Americans that we believe ''In God We Trust.'' We believe that this is a nation under God. We believe in what is placed on the mantel above the Senate Chamber, ''In God We Trust.'' Our very Constitution itself signs off using the word, ''Lord.''

Can we declare the Constitution unconstitutional? I guess it would be a legitimate question to ask the Ninth Circuit Court of Appeals. Is the Constitution unconstitutional? Our Declaration of Independence refers to God multiple times including saying that our certain unalienable rights are endowed by our Creator.

George Washington's Farewell Address, which is read in the House and Senate each year, refers to God and faith and religion. Abraham Lincoln's Gettysburg Address uses the word ''God,'' proclaiming that this Nation under God shall have a new birth of freedom. Booker T. Washington repeatedly referred to God when speaking. Even Elizabeth Cady Stanton and Sojourner Truth referred to God in their writings and speeches. Will it now be unconstitutional to teach American history to our children, to require them to read some of the words of the great men and women of our Nation because they mention God? Will those have to be stricken from all of the speeches of Lincoln and Washington and Martin Luther King? Will it have to be taken out of the Declaration of Independence? According to the Ninth Circuit Court of Appeals, this could indeed be so. After all, if saying the Pledge of Allegiance violates the establishment clause of our Constitution, how can these others not do so as well?

What about our money—I think we are in a real problem here—which has the motto ''In God We Trust'' on it, or the fact that every day we open Congress with a prayer, maintain full-time Chaplains on each side of the Capitol Building, and in the very Chamber in which we stand today it twice says ''God''. Do we have to get the putty out and fill them in?

Consider the very founding of our Nation. At that time, the brave men and women trusted in God and believed we owed our success to him. In fact, the first act of the first Continental Congress was a public prayer. As Sam Adams noted then in support of the idea, he was no bigot and could hear a prayer from any gentleman of piety and virtue who at the same time was a friend of his country. And so on September 7, 1774, the first official prayer before the Continental Congress took place when an Episcopal clergyman read aloud Psalm 35 from the Book of Common Prayer—a now unconstitutional act that he performed in 1774, the first Continental Congress.

In 1779, the Congress urged the Nation ''humbly to approach the throne of almighty God,'' to ask ''that he would establish the independence of these United States upon the basis of religion and virtue.''

Just 2 years later, Congress passed ''The Congressional Decree of 1781'':

> Whereas, it hath pleased Almighty God, the father of mercies, remarkably to assist and support the United States of America in their important struggle for liberty, against the long continued efforts of a powerful nation: it is the duty of all ranks to observe and thankfully acknowledge the interpositions of his Providence in their behalf. Through the whole of the context, from its first rise to this time, the influence of Divine Providence may be clearly perceived in many signal instances, of which we mention but a few.

An unconstitutional act?

The founders also inscribed on the seal of our nation the Latin phrase, ''Annuit Ceoptis''—translated as ''God favors our undertakings.''

This belief infused those courageous risk-takers then when they faced an unimaginable and seemingly insurmountable undertaking—and it inspires many of us today, especially as we face an unimaginable and seemingly insurmountable undertaking in challenging terrorists around the world.

Indeed, according to the 9th Circuit, it would be illegal to teach children about President Bush's address to Congress following the terrorist attacks.

That's not just sad, it is an injustice to our children, our nation and our government. It cries out for logic and commonsense—but clearly this Court has neither. Although I am not surprised—it turns out that in recent years, more than 80 percent of the rulings by the 9th Circuit have been overturned. Just a few years ago the 9th managed to compile an 1–28 record at the Supreme Court—that is, the Supreme Court reviewed 29 cases from the 9th Circuit Court and reversed a stunning 28 of them.

Although I must admit that I can't just criticize the 9th Circuit, as, interestingly enough, we can make an accurate and strong argument that the Establishment Clause is clearly misinterpreted by the entire legal system today. The concept of a ''wall of separation'' is actually from a letter Thomas Jefferson wrote in 1802 that was completely unnoticed until a mistaken transcription of the original letter was cited by the Supreme Court in 1879 in Reynolds v. United States. The focus in 1879 was not on ''separation'' but on the term ''legislative powers''—yet the transcriber had written that wrong; The original, in Jefferson's neat handwriting, said ''legitimate power.'' This metaphor again remained unused and virtually unknown until Justice Black drew it from obscurity in 1947—again using the erroneous translation.

So it is clear that our nation, perhaps even from the beginning, needs commonsense, reasonable judges—judges who will defend our principles, ideals and way of life. Judges who understand the risks and sacrifices made both by those who founded our nation and fought for its principles—and by those who continue to do so today.

It is why today I thank Frank Bellamy, who wrote this beautiful poem that our Pledge was based upon in 1892 when he lived in my home state of Kansas in the small town of Cherryvale. And why I thank those sincere leaders who in 1954 sought to reaffirm, as the Declaration of Independence first declared, our ''firm Reliance on the Protection of divine Providence.''

On a side note, Madam President, we have people every day who seek to emulate the model after the United States, thankfully. It is a great country. It is a country that stood for so much freedom for people around the world, people such as Mi-Hwa Rhyu and Sol-Hee Rhyu, a mother and daughter captured by police in Asia today, North Korean refugees seeking to flee North Korea and get to someplace like the United States, to be free and be able to live in a nation that honors God. They are now being detained and probably sent back to a country that does not honor God—North Korea—that does not believe, to suffer an ill fate there.

Yet people yearn to be free, to come into a place that says, ''In God we trust.'' And they are willing to risk their lives to come into a place such as this. Countries seek to emulate our great land.

Why, why, why will we seek to remove the foundation of all those basic beliefs that we have? I tell our schoolchildren not only is it wrong but unconstitutional to say ''under God'' or ''in God.''

I pledge allegiance to the flag of the United States of America, and to the

Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

I yield the floor.

Mr. LEVIN. 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. SESSIONS. Madam President, I ask unanimous consent the order for the quorum call be dispensed with.

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

Mr. SESSIONS. Madam President, we have been discussing with some passion this afternoon, the ruling of the Ninth Circuit Court of Appeals on the Pledge of Allegiance, their ruling that the Pledge of Allegiance violates the Constitution of the United States. I think it is important for us to note that this is not a total surprise, although it has been a surprise. It should not have been a total surprise, let me say, because we have had a number of decisions by courts in America that have lost sight of the balance contained in the first amendment and have rendered opinions that go beyond the intent of the Framers of the Constitution.

When we say go beyond the intent of the Framers, that is really not quite strong enough. The Constitution starts off saying:

> We the People of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

We, the people, ordain and establish this Constitution—the one that we have, not one somebody would like it to be, not one that they wish it would be, but the one that we ordained, passed, the one that was ratified by the people of the United States.

Over the years, we have amended that Constitution, as we have chosen to do so, from time to time. That is the way it should be amended. What the Constitution does not give is the power to judges to amend the Constitution. Some judges say: We will just redefine the Constitution. We are just matching it up with modern, enlightened standards. They may have meant that back then, but we want to reinterpret it today in the light of the standards and values that we have.

And whose standards and values are they? It is the standards and values of the judge.

I was very troubled about this recent ruling, the way it occurred, involving the death penalty law with regard to retarded individuals. The Court seemed to say that they had divined, somehow, that the American people had evolved in their thinking and, therefore, the laws their legislatures had passed were not valid anymore; that they could not execute people who were retarded.

However you feel about that, that is a dangerous philosophy, but it is a philosophy afoot in America today. It is a philosophy, I think, that is dangerous to liberty. If you care about the Constitution, really respect the Constitution, as Professor Van Alstyne, of Duke University, one time said: If you respect the document, you will enforce it, the good and bad parts. You will enforce the parts you do not agree with, if you love, respect, and revere the Constitution.

The way to erode the power of the Constitution to protect our liberties is to start playing around with the meaning of words, just redefining those words, and they come to mean whatever a judge says they do. That is a particularly pernicious thing because, you see, judges are not accountable. Federal judges are not accountable to the public. They are given a lifetime appointment.

The one thing we have is a moment in time to review their record, to make sure they are committed to follow the Constitution. We vote on them in the Senate, they are confirmed or not, and they go on to serve, and then they are there forever.

I think from a point of view of a democracy, our judges must show self-restraint. That is what President Bush has talked about in his judicial nominees—finding judges who follow the law, for the layman. Not make up law, not expand law, not make it say what they think the American people want it to say today—even though they may be correct. They may not be correct. They do not have the power to do that. It is an antidemocratic act when an unelected, lifetime-appointed judge simply takes a political view and imposes that through the reinterpretation of words.

I remember Hodding Carter, President Carter's aide, was on ''Meet The Press.'' He used to be on there regularly. One time he said: We liberals have gotten to the point where we want the courts to do for us that which we can no longer win at the ballot box.

I think that touched a nerve, really. I think that is too close to what I think is a problem in the legal system today.

I don't expect the courts to carry out my political agenda. I want them just to enforce the law. I will be satisfied with that. As one professor testified with regard to the Bush nominees: If you appoint a nominee who says he is going to be faithful and in fact he is consistently faithful to the meaning of the words in the statutes and the Constitution, then what do we have to fear of that? How does that threaten us?

What does threaten us is if a judge goes beyond that. I have been a big critic of the Ninth Circuit. I have spoken in this body more on this subject than any other Senator.

I have been shocked by the rate of reversals they have had.

Senator BROWNBACK from Kansas had something to say about that.

There was a Law Review article published recently that went into even more detail. The University of Oregon Law Review discussed this particularly troublesome trend.

They said:

> Another interesting phenomenon is that the Supreme Court unanimously agrees——

That means the U.S. Supreme Court, across the political spectrum, unanimously agrees that the Ninth Circuit was wrong 17 times during the 1996–1997 term. This is a fairly remarkable record considering that the rest of the circuits combined logged in with only 20 unanimous votes, 7 of which were affirmative.

We have liberals and conservatives on the U.S. Supreme Court, and 13 of these cases were unanimous reversals of the Ninth Circuit.

This article goes on to say that only 13 unanimous reversals were found throughout the rest of the United States but 17 in the Ninth Circuit.

So that is the problem for us. We need to be concerned about it.

I opposed two judges I sincerely believed were good people but who clearly—I had concluded clearly—had activist tendencies. And I was particularly concerned when President Clinton pushed those nominees because they were going to this circuit that has been out of step.

We have to understand why we need to confirm judges who will consistently follow the law, whether they like it or not. That is what President Bush campaigned on; that is what he promised to do. That is what he has been submitting—men and women of the highest possible integrity, and high legal ability. These men and women are clear in their record as being people who just follow the law, whether they like it or not. That is what we expect out of a judge. It is important or it undermines democracy otherwise.

I wanted to mention that.

I also want to discuss just briefly the trouble we are having throughout the court system of America. The U.S. Supreme Court is not blameless in this issue. Somehow they have got it in their heads that virtually any expression of religious faith in a public activity violates the Constitution. We have problems with valedictorians making speeches out of their own hearts. They cannot say certain things because we have gotten to that point, as I mentioned earlier.

That was criticized by Judge Griffin Bell, former Attorney of the United States under President Carter. Judge Bell said we ought to have a litmus test. Nobody ought to serve on the Court who doesn't believe in prayer at football games.

How did we get to this point? How did we get to the point that a voluntary prayer—you don't have to bow your head. There is no requirement that anybody has to do anything before football games. We take a minute, and somebody says a little prayer that acknowledges something more important than who is the toughest football player on the field. I don't think there is anything wrong with that. I don't believe that violates anybody's right.

Just as I believe I should respect somebody who has a different faith than mine, just as I am required to respect the person who believes in no God whatsoever, and to have a decent respect for the opinions of others who would say to me: If we want to have a little prayer and everybody wants to have a little prayer, it is not going to bother me. I don't believe in God anyway. Let them have it.

It is a part of our culture. It is not legitimate, in my view, for the Supreme Court or its subsidiary courts to come in and declare that it is in violation of the Constitution. After all, what does the Constitution say? The first amendment is the only reference to religion.

It says Congress shall make no law respecting the establishment of a religion or prohibit the free exercise thereof. That is what the Constitution says. There is nothing in the Constitution about a law of separation between church and state.

Thomas Jefferson wrote a letter to the Baptist Association not long before he died in which he expressed an opinion that there ought to be a wall of separation. What he meant by that, who knows? But judges have seized on that and rendered these opinions, many of them citing that quote as if it is somehow part of the Constitution. But the American people didn't ratify that. They ratified the Constitution. That is the law of the land. What he wrote in a letter before he died is of no benefit in interpreting the Constitution—or a minuscule benefit, if any.

In fact, Thomas Jefferson wasn't even at the Constitutional Convention when they were drafting the Constitution. He was off in France.

We are off base here. Somehow, under the idea that we have raised the establishment clause higher than all reason dictates that it be raised, we are saying anything that expresses religious faith publicly is somehow an establishment of a religion. But everybody who knows the history of the deal understands that Virginia had an established church, and England had the established Church of England—the Anglican Church, the Episcopal Church. Other countries had the Catholic Church as the established church. We didn't establish a church. No church was going to be given preferential treatment over another one.

That is what the Constitution was all about. That cannot be denied, in my view.

Congress shall pass no law respecting the establishment of a religion.

That is what the Founding Fathers wanted to prohibit. They didn't want to prohibit nor want to go back and strike the language from the Declaration of Independence, for Heaven's sake.

For 150 years, we never had a problem with this. We rolled on—no problem. We have chaplains. We have thanksgiving days. We have all kinds of things occurring that reflect an acknowledgment in general terms of religious beliefs, and of a higher being.

The Supreme Court said some things over the years. In recent years—during the last 50 or 70 years—they have been inconsistent about it. I think that has given some circuits, like the Ninth Circuit, and some judges the opportunity to perhaps run with some liberty to go further than I hope the Supreme Court wants them to go. But the Supreme Court has some fault here. We have had a long period of these kinds of opinions that go beyond reason, in my view.

For example, in Lynch v. Donnelly, the U.S. Supreme Court in 1984 recognized ''an unbroken history of official acknowledgment by all three branches of government of the role of religion in American life from at least 1789.''

And it adds, ''Our history is replete with official references to the value and invocation of Divine guidance in the deliberation and pronouncements of the Founding Fathers and contemporary leaders.''

We just have to be relaxed here, and be natural in our understanding of what we mean by not establishing a religion.

We also do not need to forget the free exercise clause of the first amendment that we shall not be denied the free exercise of our religion. That is of equal value with nonestablishment of religion.

Other things are important.

Engraved on the top of the Washington Monument are the words ''Praise be to God.''

I suppose the judges out there that rendered the opinion are going to have to take a chisel up there and go after it.

The Tomb of the Unknown Soldier: At that tomb are these words engraved: ''Here rests in honored glory an American soldier known but to God.'' Is somebody going to take the chisel to that?

Let me mention this final quote. It shows how, in the middle of this past century, we were not so far out of sync about what the first amendment really means.

Justice William O. Douglas, whom many would recognize as perhaps the most liberal member ever to serve on the Court—certainly one of the most, maybe, radical members of the Court; his background was quite unusual, but he was a brilliant man—he wrote many interesting opinions. This one, writing for the majority on the Court, in 1952, in Zorach v. Clauson, he stated this:

> The First Amendment . . . does not say that in every and all respects there should be a separation of Church and State. . . . Otherwise the state and religion would be aliens to each other—hostile, suspicious, and even unfriendly. . . . Prayers in our legislative halls; the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; ''so help me God'' in our courtroom oaths—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment.

If that were the way we were going to interpret it. He is exactly correct.

So my concern is that we would be in error if we simply stood up and said that the Ninth Circuit made a mistake and somehow it is all going to get corrected. There are Members of this body who have advocated aggressively for these kinds of opinions. There are Members of this body who have fought hard to confirm the kind of judges who render these rulings.

In fact, this ruling, I assume, is going to be compatible with the views, probably, of a majority of law professors in America today—maybe not, hopefully not—but a whole lot of them because that is what a lot of the people think.

We have had a radicalized version of the establishment clause that is being taught, that has been adopted, and in significant part adopted by the Supreme Court. So they have a problem now, as I see it. They are going to have to deal with this.

They say a schoolchild cannot say a prayer, cannot express religious faith through a prayer that nobody has to listen to, but we can chisel on a wall of the Senate: ''In God we trust.''

They are saying we can have paid chaplains in this Senate and in the Armed Forces by the taxpayers of the United States, but nonmandatory, free expressions of faith all over the country they strike down in many different ways.

So I think they have a problem. I hope this Supreme Court will reevaluate what they have done. I hope they will go back to the 1940s and 1950s, and all the century and a half of the founding of this country, and follow that history of jurisprudence. If they do so, they can get us out of this thicket.

What we simply need to do is to respect other people's religion. If a group of kids want to have a little prayer, so be it. Let's let them have it. It does not hurt me. I do not think it hurts anybody else. That is the way I was raised: to respect people's faith, and not to denigrate someone else's faith when they do not agree with you.

I hope that as we go through this whole debate, this resolution will have some impact. I doubt it will have much. But I hope in the course of responding to this opinion, which is, unfortunately, too consistent with some of the rulings of courts in America, that we will once again reattach ourselves to the great historic principles of America that venerate respect and further and nourish religious faith, not attempt to eliminate it from public life, but, at the same time, not allow anybody to impose their will on somebody else.

I think we can reach that balance. I think we can show courtesy to one another. I hope we will be able to do so. If we do, America will be better off for it. It is time for us to get to the bottom of it, confront the issues honestly, and head on, and maybe we can make some improvements.

Mrs. CLINTON. Mr. President, I am surprised and offended by the decision of the Appeals Court of the Ninth Circuit and hope that it will be promptly

appealed and overturned. I believe that the Court has misinterpreted the intent of the Framers of the Constitution and has sought to undermine one of the bedrock values of our democracy, that we are indeed ''one nation under God,'' as embodied in the Pledge of Allegiance to the flag of the United States of America.

While our men and women in uniform are battling overseas and defending us here at home to preserve the freedom that we all cherish for our country and its citizens, we should never forget the blessings of Divine Providence that undergird our Nation. That includes the freedom to recite the pledge of allegiance in our Nation's schools. I can only imagine how they will feel about this decision as they risk their lives for our values.

And the children of America, who share a bond with each other and with our Nation by reciting the pledge each day, what effect will a decision like this have on them? It will cause them to wonder about the ways in which our beliefs can be stretched, our heritage can be assaulted. It is the wrong decision, and it is an unfair decision, especially unfair to those who defend our Nation, and to the young people who will inherit our Nation's future.

Ours is a Nation founded by people of faith. People of faith have helped lead some of the most significant movements of social justice throughout our history: to end slavery, to win civil rights for all Americans. No one is required to have faith, and our Government does not impose faith on its citizens. But ours is the most faith-filled nation on Earth, and there is no moral or constitutional argument why our Pledge of Allegiance cannot acknowledge our commonly held belief that ours is one nation, under God, indivisible, with liberty and justice for all.

I am honored to support S. 292, the Pledge of Allegiance resolution, and I hope that the rule of law will be upheld by an ultimate rejection of this wrongheaded decision of the Ninth Circuit Court of Appeals.

Mr. SMITH of New Hampshire. Mr. President, I am outraged with the decision by the 9th U.S. Circuit Court of Appeals that the Pledge of Allegiance is unconstitutional because it contains the words ''Under God.''

The pledge is part of the fabric of our society, a wonderful tradition that is observed in thousands of schools each day by millions of school children.

For two activist judges to decide for thousands of schools and thousands of parents that their children can't recite the pledge is the height of liberal intolerance and arrogance.

The Declaration of Independence talks about our Creator. Our coins and dollars have ''In God We Trust'' imprinted on them. Our public officials take their oath on the Bible. The Ten Commandments is posted in the U.S. Supreme Court. The House and Senate start off each day with the Pledge of Allegiance. If it's good enough for Senators to say the pledge each day, it's good enough for America's school children to do the same.

There are countless more examples of religion in American public life. The First Congress enacted the Northwest Ordinance, which provided that ''religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.'' President George Washington offered a prayer at his First Inaugural Address. Many of our nation's Founding Fathers and Framers of our Constitution commented publicly and privately about the values and importance of religion in American public life. Our armed services provide chaplains, priests and rabbis. The U.S. House of Representatives and the U.S. Senate begin each day with an opening prayer. For this court to single out the pledge for including the phrase ''One Nation, Under God,'' is simply incredible.

Nobody's forcing school children to recite the pledge. What we want, and what millions of parents want, is to simply give American children the chance to pledge allegiance to our Flag and to everything that it represents: patriotism, sacrifice, courage, justice, perseverance. The list goes on.

Now, more than ever, we should encourage our young people to learn and respect the patriotic values embodied in our Flag, the symbol of our country, and in the Pledge of Allegiance.

Mr. HOLLINGS. Mr. President, the judges who today declared the Pledge of Allegiance unconstitutional because of the words ''under God'' threw out reason and common sense and misread the Constitution. What we are left with is an absurd result.

The first amendment of the Constitution allows for not only freedom of religion, but freedom to exercise religion. It is ludicrous that we can't say ''under God.'' Using these judges' twisted logic, ''In God We Trust'' couldn't be on coins, and we would have to edit the Declaration of Independence because it says that all men are ''endowed by their Creator.''

When reason, common sense, and the correct interpretation of the Constitution return, this opinion will be reversed.

I thank the Chair and yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. NELSON of Florida). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. MILLER). Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2003—Continued

AMENDMENT NO. 4111, AS MODIFIED

Mr. REID. Mr. President, I ask unanimous consent the previously agreed to Lott amendment, No. 4111, be modified with the changes that are now at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 4111), as modified, is as follows:

On page 100, between lines 3 and 4, insert the following:

SEC. 503. REINSTATEMENT OF AUTHORITY TO REDUCE SERVICE REQUIREMENT FOR RETIREMENT IN GRADES ABOVE O-4

(a) OFFICERS ON ACTIVE DUTY.—Subsection (a)(2)(A) of section 1370 of title 10, United States Code, is amended—

(1) by striking ''may authorize'' and all that follows and inserting ''may, in the case of retirements effective during the period beginning on September 1, 2002, and ending on December 31, 2004, authorize—''; and

(2) by adding at the end the following:

''(1) the Deputy Under Secretary of Defense for Personnel and Readiness to reduce such 3-year period of required service to a period not less than two years for retirements in grades above colonel or, in the case of the Navy, captain; and

''(2) the Secretary of a military department or the Assistant Secretary of a military department having responsibility for manpower and reserve affairs to reduce such 3-year period to a period of required service not less than two years for retirements in grades of lieutenant colonel and colonel or, in the case of the Navy, commander and captain.''.

(b) RESERVE OFFICERS.—Subsection (d)(5) of such section is amended—

(1) in the first sentence—

(A) by striking ''may authorize'' and all that follows and inserting ''may, in the case of retirements effective during the period beginning on September 1, 2002, and ending on December 31, 2004, authorize—''; and

(B) by adding at the end the following:

''(A) the Deputy Under Secretary of Defense for Personnel and Readiness to reduce such 3-year period of required service to a period not less than two years for retirements in grades above colonel or, in the case of the Navy, captain; and

''(B) the Secretary of a military department or the Assistant Secretary of a military department having responsibility for manpower and reserve affairs to reduce such 3-year period of required service to a period not less than two years for retirements in grades of lieutenant colonel and colonel or, in the case of the Navy, commander and captain.'';

(2) by designating the second sentence as paragraph (6) and realigning such paragraph, as so redesignated 2 ems from the left margin; and

(3) in paragraph (6), as so redesignated, by striking ''this paragraph'' and inserting ''paragraph (5)''.

(c) ADVANCE NOTICE TO THE PRESIDENT AND CONGRESS.—Such section is further amended by adding at the end the following new subsection:

''(e) ADVANCE NOTICE TO CONGRESS.—(1) The Secretary of Defense shall notify the 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