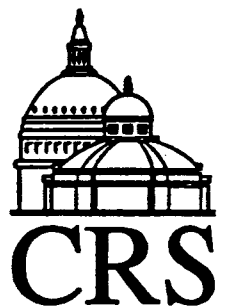


CRS Report for Congress

"In God We Trust" on the Nation's Coins and Currency and As the National Motto: History and Constitutionality

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"IN GOD WE TRUST" ON THE NATION'S COINS AND CURRENCY AND AS THE NATIONAL MOTTO: HISTORY AND CONSTITUTIONALITY

SUMMARY

Two federal statutes currently mandate that the phrase "In God We Trust" be inscribed on all U.S. coins and currency. A third statute declares the phrase to be the national motto. All of the statutes have been challenged from time to time on the grounds that they violate that part of the First Amendment which provides that "Congress shall make no law respecting an establishment of religion" But notwithstanding the religious affirmation embodied in the phrase, no court has held these practices to violate the establishment clause. Three federal appellate courts have held such uses to be constitutional, and the Supreme Court in *dicta* has repeatedly indicated its approbation.

"In God We Trust" first appeared on one- and two-cent coins during the Civil War as the result of an initiative by the Secretary of the Treasury and the Director of the Mint, and in 1865 Congress granted the Secretary discretionary authority to so inscribe other coins as well. In 1907 President Theodore Roosevelt stirred controversy by asserting that the inscription amounted to "irreverence which comes dangerously close to sacrilege" and approving the issuance of coins without the inscription. Congress responded to this act by mandating that the inscription be restored. In 1955 the inscription was extended to currency as well, and in 1956 the phrase was statutorily declared to be the national motto.

Three cases have been decided which involved challenges to the constitutionality of these uses of the phrase, and in each case a federal appellate court held the practices to be constitutional. In *Aronow v. United States* the U.S. Court of Appeals for the Ninth Circuit held such uses to be "of a patriotic or ceremonial character and ... no true resemblance to a governmental sponsorship of religion." In *O'Hair v. Murray* the U.S. Court of Appeals for the Fifth Circuit agreed that the phrase "has no theological or ritualistic impact." And in *Gaylor v. United States* the U.S. Court of Appeals for the Tenth Circuit held the practices to constitute "a form of 'ceremonial deism' which through historical usage and ubiquity cannot be reasonably understood to convey government approval of religious belief."

The Supreme Court has not decided any case involving the constitutionality of these practices. But it has repeatedly indicated in *dicta* that it perceives no constitutional problem. Individual Justices have opined at greater length to the same effect. Nonetheless, until the Court actually resolves a case raising the issue of the constitutionality of inscribing the phrase on the nation's coins and currency and declaring it to be the national motto, additional challenges can be expected to recur.

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"IN GOD WE TRUST" ON THE NATION'S COINS AND CURRENCY AND AS THE NATIONAL MOTTO: HISTORY AND CONSTITUTIONALITY

INTRODUCTION

Two statutes currently mandate that the nation's coins and currency be inscribed with the phrase "In God We Trust." Another statute declares that phrase to be the national motto. Both uses have been challenged as violating that part of the First Amendment which provides that "Congress shall make no law respecting an establishment of religion" But to date three federal courts of appeal have found no violation; and the Supreme Court, while not expressly resolving the issue, has in *dicta* indicated its approbation. This report examines how the phrase came to be used on our coins and currency and as our national motto and summarizes the judicial commentary on the constitutionality of these practices.

LEGISLATIVE HISTORY

(1) **As an inscription on the nation's coins and currency:** Two statutes currently mandate that the phrase "In God We Trust" be inscribed on all U.S. coins and currency. One statute directs that "United States coins shall have the inscription 'In God We Trust.'"¹ The second statute provides that "United States currency has the inscription 'In God We Trust' in a place the Secretary decides is appropriate."² Both statutes derive from another statute adopted in 1955 at the height of the Cold War. That 1955 statute³ marked the first requirement that the phrase be inscribed on the nation's currency. But the inscription of "In God We Trust" on the nation's coins dates back to the Civil War.

As often happens at times of national crisis, the Civil War precipitated numerous demands that religion be given broader recognition by the government. In 1861 the Secretary of the Treasury ordered the Director of the Mint to create a new inscription for the nation's coins, as follows:

¹ 31 U.S.C. 5112.

² *Id.*, § 5114.

³ P.L. 140, 84th Cong., 1st Sess. (July 11, 1955); 69 Stat. 290.

*No nation can be strong except in the strength of God, or safe except in His defense. The trust of our people in God should be declared on our national coins. You will cause a device to be prepared without unnecessary delay with a motto expressing in the fewest and tersest words possible this national recognition.*⁴

In his report for 1862 the Director of the Mint recommended that a variation of a phrase used in the "Star-Spangled Banner" be inscribed, as follows:

*The motto, "In God is our trust," which has become familiar to the public mind by its use in our National Hymn, -- the "Star-Spangled Banner," would be an appropriate one, but it contains too many letters to insert in the place of the crest, without crowding too much for good taste. For greater brevity we may substitute the words, "God our Trust," which convey the same idea*⁵

The Director repeated his recommendation in more urgent terms the following year, as follows:

*We claim to be a Christian nation -- why should we not vindicate our character by honoring the God of Nations in the exercise of our political Sovereignty as a Nation? Our national coinage should do this. Its legends and devices should declare our trust in God -- in Him who is the "King of Kings and Lord of Lords." The motto suggested, "God our Trust," is taken from our National Hymn, the "Star-Spangled Banner." The sentiment is familiar to every citizen of our country -- it has thrilled the hearts and fallen in song from the lips of millions of American Freemen. The time for the introduction of this or a similar motto, is propitious and appropriate. 'Tis an hour of National peril and danger -- an hour when man's strength is weakness -- when our strength and our nation's strength and salvation, must be in the God of Battles and of Nations. Let us reverently acknowledge his sovereignty, and let our coinage declare our trust in God.*⁶

In 1863 the Director of the Mint also submitted for approval designs for new one-, two-, and three-cent coins with the recommendation that the mottoes "Our country, our God" or "God our Trust" be inscribed. The Secretary of the

⁴ Letter of November 20, 1861, from Samuel Chase, Secretary of the Treasury, to James Pollock, Director of the Mint, *quoted in* H. Rept. No. 662, 84th Cong., 1st Sess. (May 26, 1955), at 3.

⁵ *Annual Report of the Director of the Mint* (1862), pp. 6-7, *quoted in* Stokes, Anson Phelps, ed., *Church and State in the United States*, Vol. III (1950), at 601-602.

⁶ *Annual Report of the Director of the Mint* (1863), at 10-11, *quoted in* Stokes, *supra*, at 602.

Treasury responded favorably to this recommendation, suggesting only that the mottoes read "Our God and our Country" and "In God we Trust."⁷

Because the design of the nation's coins was controlled by an earlier statute,⁸ Congressional action was necessary to permit the inscription to be added. When Congress in 1864 enacted a statute changing the composition of the one-cent coin and authorizing the minting of a new two-cent coin, it also gave the Secretary of the Treasury discretionary authority to determine "the shape, mottoes, and devices" of both of the coins.⁹ As a result, the motto "In God We Trust" appeared for the first time on the two-cent coin issued that year. In 1865 Congress authorized the minting of a new three-cent coin and included in the statute the following general authorization:

*And be it further enacted, That, in addition to the devices and legends upon the gold, silver, and other coins of the United States, it shall be lawful for the director of the mint, with the approval of the Secretary of the Treasury, to cause the motto "In God we trust" to be placed upon such coins hereafter to be issued as shall admit of such legend*¹⁰

Under this statute the inscription was added to the double eagle, eagle, and half eagle, plus the dollar, half dollar, and quarter dollar.¹¹ In a general revision of the coinage laws in 1873 Congress generally provided that "the director of the mint, with the approval of the Secretary of the Treasury, may cause the motto 'In God we trust' to be inscribed on such coins as shall admit of such motto."¹²

In 1907, however, the Director's discretion on the matter was eliminated. President Theodore Roosevelt apparently was much distressed over the ridicule visited upon the inscription "In God We Trust" during the nation's debate about the coinage of silver. As a consequence, in 1907 he approved new designs for the nation's coins which did not contain the inscription:

My own feeling in the matter is due to my very firm conviction that to put such a motto on coins, or to use it in any kindred manner, not only does no good but does positive

⁷ H. Rept. No. 662, *supra*, at 3.

⁸ Act of Jan. 18, 1837; 13 Stat. 136, provided only for "an impression emblematic of liberty, with an inscription of the word Liberty, and the year of the coinage; and upon the reverse ... there shall be the figure or representation of an eagle, with the inscription United States of America"

⁹ Act of April 22, 1864; 13 Stat. 54-55.

¹⁰ Act of March 3, 1865; 13 Stat. 517.

¹¹ H. Rept. No. 662, *supra*, at 3. The Director of the Mint concluded his annual report for the year ending on June 30, 1866, with the words "Happy is the Nation, whose God is the Lord." *Annual Report of the Director of the Mint*(1866), at 9, quoted in Stokes, *supra*, at 603.

¹² Act of Feb. 12, 1873; 17 Stat. 424, 427.

harm, and is in effect irreverence which comes dangerously close to sacrilege In all my life I have never heard any human being speak reverently of this motto on the coins or show any sign of its having appealed to any high emotion in him. But I have literally hundreds of times heard it used as an occasion of, and incitement to, the sneering ridicule which it is above all things undesirable that so beautiful and exalted a phrase should excite Every one must remember the innumerable cartoons and articles based on phrases like "In God we trust for the other eight cents"; "In God we trust for the short weight"; "In God we trust for the thirty-seven cents we do not pay"; and so forth and so forth If Congress alters the law and directs me to replace on the coins the sentence in question the direction will immediately be put into effect; but I very earnestly trust that the religious sentiment of the country, the spirit of reverence in the country, will prevent any such action being taken.¹³

The appearance of coins without the motto, however, set off a public furor. In response Congress on May 18, 1908, enacted a bill mandating that the inscription be restored, as follows:

Be it further enacted, That the motto "In God We Trust" heretofore inscribed on certain denominations of the gold and silver coins of the United States of America, shall hereafter be inscribed upon all such gold and silver coins of said denominations as heretofore.¹⁴

Although by its terms the mandate applied only to such coins as had been minted before 1908, in practice the inscription was included on all coins issued thereafter by the United States.

In 1955, at the height of the Cold War, a number of bills were introduced in Congress to mandate the inclusion of the inscription on the nation's currency as well as its coins. The phrase had not been included on U.S. currency up to that time. Because of the expense involved, the Treasury Department asked that the mandate be tied to the creation of new dies but otherwise supported the proposal. As a result, Congress, with limited debate, enacted the following statute:

Be it enacted ..., That at such time as new dies for the printing of currency are adopted in connection with the current program of the Treasury Department to increase the capacity of presses utilized by the Bureau of Engraving and Printing, the dies shall bear, at such place or places thereon

¹³ Bishop, Joseph B., *Theodore Roosevelt and His Time*, Vol. II, at 72-73, quoted in Stokes, *supra*, at 605.

¹⁴ Act of May 18, 1908; 35 Stat. 164.

*as the Secretary of the Treasury may determine to be appropriate, the inscription "In God We Trust", and thereafter this inscription shall appear on all United States currency and coins.*¹⁵

The changeover in dies began in 1957 and was completed in 1968.

Finally, Congress in 1982 enacted Title 31 into positive law, eliminated some of the words of the 1955 statute as no longer necessary, and divided the mandate into its current two parts -- one for coins providing that "United States coins have the inscription 'In God We Trust'"¹⁶ and one for currency providing that "United States currency has the inscription 'In God We Trust.'"¹⁷ In 1992 Congress inserted the word "shall" in the mandate for coins but made no change in the currency phraseology.¹⁸

(2) As the national motto: "In God We Trust" was declared by statute to be the national motto only in 1956.¹⁹ No floor debate occurred on the measure in either the House or the Senate.²⁰ But the reports of both the House and Senate Judiciary Committees cited in justification the use of the phrase on the nation's coins and currency and in the Star-Spangled Banner ("In God is our trust"). Both reports asserted that "it will be of great spiritual and psychological value to our country to have a clearly designated national motto of inspirational quality in plain, popularly accepted English," and that they found the phrase to be "superior and more acceptable" as the nation's motto than *E pluribus unum*.²¹

JUDICIAL DECISIONS

(1) Supreme Court dicta: The Supreme Court has not ruled directly on a case involving the constitutionality of the inscription "In God We Trust" on the nation's coins and currency or as the national motto, but in *dicta* it has expressed the opinion that there is no constitutional problem. In *Wooley v. Maynard*²² the Court held it to be unconstitutional for the State of New

¹⁵ P.L. 140, 84th Cong., 1st Sess. (July 11, 1955); 69 Stat. 290. For legislative history see H. Rept. No. 662 (May 26, 1955) and S. Rept. No. 637 (June 27, 1955) and 101 Cong. Rec. 7795-96 (June 7, 1955) and 9448-49 (June 29, 1955).

¹⁶ 31 U.S.C. 5112(d)(1).

¹⁷ *Id.*, § 5114(b).

¹⁸ P.L. 102-390, Title II, § 226(a) (Oct. 6, 1992); 106 Stat. 1630.

¹⁹ Act of July 30, 1956, ch. 795; 70 Stat. 732; 36 U.S.C. 186.

²⁰ See 102 CONG. REC. 6359 and 13917 (1956).

²¹ See H.Rept. No. 1959, 84th Cong., 2d Sess. (Mar. 28, 1956) and S.Rept. No. 2703, 84th Cong., 2d Sess. (July 20, 1956).

²² 430 U.S. 705 (1977).

Hampshire to criminalize car owners who sought to cover up the State motto "Live Free or Die" included on all vehicle license plates. The Court said New Hampshire's scheme violated the First Amendment by forcing an individual to participate in the dissemination of an ideological message. But the majority opinion (in which seven Justices joined) differentiated the inclusion of the phrase "In God We Trust" on the nation's coins and currency from this conclusion as follows:

*It has been suggested that today's holding will be read as sanctioning the obliteration of the national motto, "In God We Trust" from United States coins and currency. That question is not before us today but we note that currency, which is passed from hand to hand, differs in significant respects from an automobile, which is readily associated with its operator. Currency is generally carried in a purse or pocket and need not be displayed to the public. The bearer of currency is thus not required to publicly advertise the motto.*²³

A dissenting opinion by then-Justice Rehnquist, in which Justice Blackmun joined, similarly opined that "[t]he fact that an atheist carries and uses United States currency does not, in any meaningful sense, convey any affirmation of belief on his part in the motto 'In God We Trust.'"²⁴

Subsequently, in *Lynch v. Donnelly*²⁵ a five-Justice majority of the Court approvingly cited the inscription on the nation's currency and the national motto as examples of "an unbroken history of official acknowledgement by all three branches of government of the role of religion in American life" And in *County of Allegheny v. American Civil Liberties Union, Greater Pittsburgh Chapter*²⁶ a five-Justice majority observed that "[o]ur previous opinions have considered in dicta the motto and the pledge [of allegiance], characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief."

Individual Justices have expressed similar views. In a concurring opinion in *Lynch v. Donnelly, supra*, Justice O'Connor cited the inscription on the nation's coins and currency, along with legislative prayers, prayers at the opening of court sessions, and the declaration of Thanksgiving as a national holiday, as serving "in the only ways reasonably possible in our culture, the legitimate secular purposes of solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of

²³ *Id.*, at 717, n. 15.

²⁴ *Id.*, at 722 (Rehnquist, J., dissenting).

²⁵ 465 U.S. 668, 676 (1984).

²⁶ 492 U.S. 573, 602-03 (1989).

appreciation in society."²⁷ Justice Brennan, in an earlier concurring opinion in one of the school prayer cases, observed:

As we said in McGowan v. Maryland, 366 U.S. 420, 422, "the 'Establishment' Clause does not ban federal or state regulation of conduct whose reason or effect merely happens to coincide or harmonize with the tenets of some or all religions" This rationale suggests that the use of the motto "In God We Trust" on currency, on documents and public buildings and the like may not offend the clause. It is not that the use of those four words can be dismissed as de minimis -- for I suspect there would be intense opposition to the abandonment of that motto. The truth is that we have simply interwoven the motto so deeply into the fabric of our civil polity that its present use may well not present that type of involvement which the First Amendment prohibits.²⁸

Subsequently, he opined that the use of the phrase might be a constitutionally acceptable form of "ceremonial deism":

While I remain uncertain about these questions, I would suggest that such practices as the designation of "In God We Trust" as our national motto, the references to God contained in the Pledge of Allegiance, can best be understood, in Dean Rostow's apt phrase, as a form of "ceremonial deism," protected from Establishment Clause scrutiny chiefly because they have lost through rote repetition any significant religious content Moreover, these references are uniquely suited to serve such wholly secular purposes as solemnizing public occasions, or inspiring commitment to meet some national challenge in a manner that simply could not be fully served in our culture if government were limited to purely nonreligious phrases The practices by which the government has long acknowledged religion are therefore probably necessary to serve certain secular functions, and that

²⁷ *Id.*, at 693 (O'Connor, J., concurring). She reiterated this view in a concurring opinion in *County of Allegheny v. ACLU, Pittsburgh Chapter, supra*, at 625 (O'Connor, J., concurring):

...[I]n my view, acknowledgments such as ... legislative prayer ... and the printing of "In God We Trust" on our coins serve the secular purposes of "solemnizing public occasions, expressing confidence in the future, and encouraging the recognition of what is worthy of appreciation in society." *Lynch*, 465 U.S. at 693 (concurring opinion). Because they serve such secular purposes and because of their "history and ubiquity," such government acknowledgments of religion are not understood as conveying an endorsement of particular religious beliefs.

²⁸ *Abington School District v. Schempp*, 374 U.S. 203, 303 (1963) (Brennan, J. concurring).

*necessity, coupled with their long history gives those practices an essentially secular meaning.*²⁹

(2) State and lower federal court decisions: The inscription and motto have been challenged on establishment clause grounds in three cases, and in each instance they have been upheld by federal appellate courts. The constitutionality of their use has also been affirmed, in an advisory opinion, by one state court.

In *Aronow v. United States*³⁰ the U.S. Court of Appeals for the Ninth Circuit upheld the dismissal of a suit alleging the inscription and the use of the phrase as the nation's motto violated the establishment of religion clause of the First Amendment. The Ninth Circuit said that while the motto had an "inspirational quality," it had "no theological or ritualistic impact":

*It is quite obvious that the national motto and the slogan on coinage and currency "In God We Trust" has nothing whatsoever to do with the establishment of religion. Its use is of a patriotic or ceremonial character and bears no true resemblance to a governmental sponsorship of a religious exercise.*³¹

The U.S. Court of Appeals for the Fifth Circuit rebuffed a similar challenge to the inscription and the nation's motto in *O'Hair v. Murray*.³² The court affirmed the dismissal of the suit and simply adopted as its own the opinion of the district court, which had reasoned as follows:

*(The inscription) served a secular ceremonial purpose in the obviously secular function of providing a medium of exchange. As such it is equally clear that the use of the motto on the currency or otherwise does not have a primary effect of advancing religion. Moreover, it would be ludicrous to argue that the use of the national motto fosters any excessive government entanglement with religion. Thus we agree with the Ninth Circuit in concluding that no claim for relief has been stated in this complaint. As that Circuit noted, "(W)hile 'ceremonial' and 'patriotic' may not be particularly apt words to describe the category of the national motto, it is excluded from First Amendment significance because the motto has no theological or ritualistic impact."*³³

²⁹ *Lynch v. Donnelly, supra*, at 716-17 (Brennan, J., dissenting).

³⁰ 432 F.2d 242 (9th Cir. 1970).

³¹ *Id.*, at 433.

³² 588 F.2d 1144 (5th Cir.), *cert. den.*, 442 U.S. 930 (1979).

³³ *O'Hair v. Blumenthal*, 462 F.Supp. 19, 20 (W.D. Tex. 1978), quoting *Aronow v. United States, supra*, at 243.

Most recently, in *Gaylor v. United States*³⁴ the U.S. Court of Appeals for the Tenth Circuit held the inscription and motto not to violate the establishment clause. The appellate court held their use to violate neither the tripartite *Lemon* test that has often been used for establishment clause analysis nor the more recent endorsement test that has been put forward by the Court. With respect to the *Lemon* test, the appellate court said "the statutes establishing the national motto and directing its reproduction on U.S. currency clearly have a secular purpose (because) the motto symbolizes the historical role of religion in our society, ... formalizes our medium of exchange, ... fosters patriotism, and expresses confidence in the future." Of the primary effect prong of the *Lemon* test, the court asserted that "[t]he motto's primary effect is not to advance religion; instead, it is a form of "ceremonial deism" which through historical usage and ubiquity cannot be reasonably understood to convey government approval of religious belief." Finally, the court stated, "the motto does not create an intimate relationship of the type that suggests unconstitutional entanglement of church and state." With respect to the endorsement test, the court found "that a reasonable observer, aware of the purpose, context, and history of the phrase 'In God We Trust,' would not consider its use or its reproduction on U.S. currency to be an endorsement of religion."³⁵

Finally, it might be noted that in response to an inquiry from the legislature, the New Hampshire Supreme Court opined in an advisory opinion that the espousal of "In God We Trust" on coins and currency, on public buildings, in the national anthem, and on plaques in school did not contravene the establishment clause.³⁶

CONCLUSION

The inscription of the phrase "In God We Trust" on the nation's coins dates back to the civil war, and its use on the nation's currency and as the national motto date back forty years. Despite the religious affirmation of the phrase, no court has as yet held its use to violate the Constitution. Moreover, the Supreme Court in *dicta* has indicated that it perceives no constitutional problem. Nonetheless, until the Court actually resolves a case raising the issue, challenges to the government's use of the phrase as the national motto and as an inscription on coins and currency can be expected to recur.

³⁴ 74 F.3d 214 (10th Cir. 1996), *cert. den.*, 64 U.S.L.W. 3778 (1976).

³⁵ *Id.*, at 216-17.

³⁶ *Opinion of the Justices*, 228 A.2d 161 (1967).

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