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S. RES. 92

Expressing the sense of the Senate that judicial determinations regarding the meaning of the Constitution of the United States should not be based on judgments, laws, or pronouncements of foreign institutions unless such foreign judgments, laws, or pronouncements inform an understanding of the original meaning of the Constitution of the United States.

IN THE SENATE OF THE UNITED STATES

MARCH 20, 2005

Mr. CORNYN submitted the following resolution; which was referred to the
Committee on the Judiciary

RESOLUTION

Expressing the sense of the Senate that judicial determinations regarding the meaning of the Constitution of the United States should not be based on judgments, laws, or pronouncements of foreign institutions unless such foreign judgments, laws, or pronouncements inform an understanding of the original meaning of the Constitution of the United States.

Whereas the Declaration of Independence announced that one of the chief causes of the American Revolution was that King George had “combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws”;

Whereas the Supreme Court has recently relied on the judgments, laws, or pronouncements of foreign institutions to support its interpretations of the laws of the United States, most recently in *Atkins v. Virginia*, 536 U.S. 304, 316 n.21 (2002), *Lawrence v. Texas*, 539 U.S. 558, 573 (2003), and *Roper v. Simmons*, 125 S.Ct. 1183, 1198–99 (2005);

Whereas the Supreme Court has stated previously in *Printz v. United States*, 521 U.S. 898, 921 n.11 (1997), that “We think such comparative analysis inappropriate to the task of interpreting a constitution . . .”;

Whereas the ability of Americans to live their lives within clear legal boundaries is the foundation of the rule of law, and essential to freedom;

Whereas it is the appropriate judicial role to faithfully interpret the expression of the popular will through the Constitution and laws enacted by duly elected representatives of the American people and under our system of checks and balances;

Whereas Americans should not have to look for guidance on how to live their lives from the often contradictory decisions of any of hundreds of other foreign organizations; and

Whereas inappropriate judicial reliance on foreign judgments, laws, or pronouncements threatens the sovereignty of the United States, the separation of powers, and the President’s and the Senate’s treaty-making authority: Now, therefore, be it

1 *Resolved*, That it is the sense of the Senate that judi-
 2 cial interpretations regarding the meaning of the Constitu-
 3 tion of the United States should not be based in whole

1 or in part on judgments, laws, or pronouncements of for-
2 eign institutions unless such foreign judgments, laws, or
3 pronouncements inform an understanding of the original
4 meaning of the Constitution of the United States.

