

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF HOUSE THAT NEWDOW V. U.S. CONGRESS WAS ERRONEOUSLY DECIDED

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 459) expressing the sense of the House of Representatives that Newdow v. U.S. Congress was erroneously decided, and for other purposes.

The Clerk read as follows:

H. RES 459

Whereas on June 26, 2002, the Ninth Circuit Court of Appeals held that the Pledge of Allegiance is an unconstitutional endorsement of religion, stating that it "impermissibly takes a position with respect to the purely religious question of the existence and identity of God," and places children in the "untenable position of choosing between participating in an exercise with religious content or protesting."

Whereas the Pledge of Allegiance is not a prayer or a religious practice, the recitation of the pledge is not a religious exercise.

Whereas the Pledge of Allegiance is the verbal expression of support for the United States of America, and its effect is to instill support for the United States of America.

Whereas the United States Congress recognizes the right of those who do not share the beliefs expressed in the Pledge to refrain from its recitation.

Whereas this ruling is contrary to the vast weight of Supreme Court authority recognizing that the mere mention of God in a public setting is not contrary to any reasonable reading of the First Amendment. The Pledge of Allegiance is a recognition of the fact that many people believe in God and the value that our culture has traditionally placed on the role of religion in our founding and our culture. The Supreme Court has recognized that governmental entities may, consistent with the First Amendment, recognize the religious heritage of America.

Whereas the notion that a belief in God permeated the Founding of our Nation was well recognized by Justice Brennan, who wrote in *School District of Abington Township v. Schempp*, 374 U.S. 203, 304 (1963) (Brennan, J., concurring), that "[t]he reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact."

Whereas this ruling treats any religious reference as inherently evil and is an attempt to remove such references from the public arena.

Now, therefore, be it resolved by the House of Representatives, That it is the sense of the House of Representatives that—

(1) the Pledge of Allegiance, including the phrase "One Nation, under God," reflects the historical fact that a belief in God permeated the Founding and development of our Nation; and

(2) The Ninth Circuit's ruling is inconsistent with the U.S. Supreme Court's First Amendment jurisprudence that the Pledge of Allegiance and similar expressions are not unconstitutional expressions of religious belief; and

(3) The phrase "One Nation, under God," should remain in the Pledge of Allegiance and

(4) the Ninth Circuit Court of appeals should agree to rehear this ruling en banc in order to reverse this constitutionally infirm and historically incorrect ruling.

The SPEAKER pro tempore (Mr. SHIMKUS). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Virginia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on House Resolution 459, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, yesterday, the Ninth Circuit Court of Appeals in San Francisco topped itself, not an easy accomplishment for the court of appeals with the dubious record of being most likely to be reversed by the U.S. Supreme Court. It did so by ruling in *Newdow v. U.S. Congress* that the voluntary recitation of the Pledge of Allegiance by public school students is an unconstitutional endorsement of religion and, thus, a violation of the first amendment's establishment clause.

Immediately following this decision, I introduced House Resolution 459, expressing the sense of the House that the *Newdow* case was erroneously decided by the Ninth Circuit and the court should agree to rehear this ruling en banc.

The Ninth Circuit ruling treated the word God as a poison pill. Rarely has any court, even the notoriously liberal Ninth Circuit, shown such disdain for the will of the people, an act of Congress and our American traditions. What is next, a court ruling taking "In God We Trust" off the money, which the dissenting judge expressed his concern about? Or how about banning the performance of God Bless America from 4th of July celebrations at local courthouses and in parks next week?

Any fourth grader knows that the Pledge of Allegiance is not a prayer or a religious practice. Therefore, its recitation is not a religious exercise. Rather, as my resolution states, it is a verbal expression of support for the United States of America, and its effect is to instill support for the United States of America.

In truth, yesterday's ruling is the latest in a string of rulings by misguided courts misinterpreting the Constitution's establishment clause. Under *West Virginia Board of Education v. Barnette*, cited by the Supreme Court in 1943 and which is still good law, individuals cannot be compelled to recite the Pledge of Allegiance, and in this case children were not compelled to say the Pledge.

We recognize the right of those who do not share the beliefs expressed in the Pledge not to participate, but this ruling treats the mere reference to religion as inherently evil and coercive. It is simply a barefaced attempt to remove all religious references from the public arena by those who disagree. In effect, it is a heckler's veto.

Our Nation's founders based their claim of independence upon the laws of nature and nature's God. The Founders of our Nation declared all men to be endowed with inalienable rights by their creator and urged their revolution relying upon the protection of divine providence. Thus, God is referred to or alluded to four times in the Declaration of Independence and countless times in other documents.

In the years since the ratification of the Constitution, beginning with President George Washington's administration, religious services have been conducted in government buildings, including the halls of Congress. The Supreme Court begins each session with "God Save the United States and this Honorable Court." The Supreme Court has upheld the offering of a prayer by a publicly-funded chaplain to open legislative sessions. Lower Federal courts continue to uphold the constitutionality of the Federal Government's Christmas holiday as well as the placement of In God We Trust on our currency. If the Pledge of Allegiance is unconstitutional, then certainly these traditions and even the Declaration of Independence are as well.

The fact of the matter is that these statements of patriotism reflect the love Americans feel for their country and recognizes the fact that our Nation was founded by brave men who stood on the principle that all men possess inalienable rights endowed not by man but by God. This view continues to be shared by most Americans today.

In this time of profound challenges facing our Nation, the last thing our citizens need is two irresponsible judges using the Pledge of Allegiance to promote what can only be characterized as an effort to purge the public arena of all religious references.

Yesterday's ruling is dumb. It is an insult to the brave men that founded our Nation and preserved it for over 200 years, and we in Congress should do whatever it takes to void this laughable ruling.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I believe the reasoning in the majority opinion in this case is sound. It outlines how the phrase "under God" is in violation of all of the differing standards developed by the Supreme Court over the last 50 years to evaluate challenges under the establishment clause of the first amendment to our Constitution.

Nevertheless, Mr. Speaker, I tend to agree with the dissent in this case; and the operative language that persuaded

me is language on page 9132, which says, "But, legal world abstractions and ruminations aside, when all is said and done, the danger that "under God" in our Pledge of Allegiance will tend to bring about a theocracy or suppress somebody's beliefs is so minuscule as to be de minimis. The danger that phrase presents to our first amendment's freedoms is picayune at most. Judges, including Supreme Court Justices, have recognized the lack of danger in that and similar expressions for decades, if not for centuries."

But whatever we think of the decision, Mr. Speaker, the only thing worse than the decision is the spectacle of the Members of the United States House of Representatives putting aside discussions of prescription drug benefits under Medicare to take up and pass this resolution. When we were sworn in, we promised to uphold the Constitution, and it is important to acknowledge that any court ruling based on constitutional rights will be unpopular. If the issue were popular, the litigant would vindicate his rights using the normal democratic process. Obviously, the fact that the litigant had to rely on constitutional rights means that he was in the minority.

This is the way it always is with constitutional rights. An individual does not need a constitutional right of freedom of speech to say something popular. They only need it when the majority has the legislative and police power to stop them from expressing their views, and the decision will obviously not be politically popular.

In that light, Mr. Speaker, what Members of Congress think of the decision is irrelevant. If the judicial branch finds the Pledge to be unconstitutional, which I do not believe it will ultimately do, no bill we can pass will change that.

Mr. Speaker, because the decision is based on constitutional rights, it will always be unpopular, and what we think about the decision is irrelevant, and because we have important business to address, I would hope that this resolution will be defeated.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. DELAY), the majority whip.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding me this time.

I just want to answer the last speaker. That kind of attitude that thinks that when a judge speaks that that is the law of the land, well, it does not work that way by the Constitution. There are checks and balances in our Constitution, and what Congress does is relevant to what the judiciary does.

Congress is going to stand up in this particular case and fight the judiciary of this country and stop them from running amuck. There is accountability built into the Constitution, as long as this Congress understands that they have a responsibility to defend the Constitution against a runaway judiciary.

It appears that this Ninth Circuit Court of Appeals has experienced another short-circuit. This court went way too far, and we know that. This Congress is committed to righting that court's wrongs, starting right here, right now, today.

Now, according to this absurd logic, the following could be in danger of being outlawed:

The four mentions of God in the Declaration of Independence that made our country free; the oath that each President takes to uphold the Constitution, which holds our Nation together; the words etched right here above the Speaker in this august institution that helps govern our Nation; the phrase that begins with each U.S. Supreme Court session, "God Save the United States;" the oath of witnesses to tell the truth in courts that protect us; our own currency that keeps our Nation prosperous; and the singing of God bless America on the steps of this Capitol that signaled yesterday our resolve.

So as my colleagues can see, this absurd decision was made by a court run amuck; and I urge all our Members, of all political stripes, to send a very clear message and put the stars and stripes, along with the words "God Bless America" as the banner for their .gov websites.

As upset as we all are, once again we must summon the best in us to defend this one Nation, under God, indivisible, with liberty and justice for all. This Congress is not going to let anyone strip our Nation of our proud heritage; not now, not ever.

□ 1500

Mr. SCOTT. Mr. Speaker, I yield 30 seconds to myself.

Mr. Speaker, on constitutional issues, the judicial branch and the Supreme Court is the law of the land, even if those decisions are unpopular.

If we had to wait for school integration to be popular in America, people in many States would still be going to segregated schools. It is important that we note that the Supreme Court is the law of the land on constitutional issues.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I indicated earlier today that I adhere to the loyalty Pledge that is taken by all of us to pledge allegiance to the United States of America and find comfort in the fact that since 1954, we have been able to say "one nation under God, indivisible." I say it without hesitation, and I support this resolution.

Allow me, however, to track an understanding for the American people. I think that is important. It is likewise important to acknowledge the status and the position as it relates to the

laws of the land that the courts have. My colleague from Virginia is absolutely correct. When we look to the courts, we look to them to establish a body of law; and, of course, the Congress has a responsibility as an equal in the lineage of hierarchy in this Nation, judicial, legislative and executive, to speak its will and its mind.

What I consider the resolution today is a Congress speaking its will and its mind. It is speaking to the American people. It is saying all is well. It is suggesting to them its interruption of the utilization of the Pledge of Allegiance, something that is done most mornings in our schools around the Nation, most times at ceremonial activities, and certainly after September 11, recognizing the privilege we have in this country to pledge allegiance to the flag of the United States of America.

But allow me to take the first amendment again and refer us to it as I read from the Constitution of the United States which says "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press or the right of the people peaceably to assemble and to petition the government for a redress of grievances."

Mr. Speaker, I believe the first amendment is the first amendment because the Founding Fathers thought this had to be one of the highest tenets of our democracy. Why? Because our country was founded on those who were fleeing from persecution.

I would take issue, and I have the right now as I am debating on this floor, I have a right to take issue, I have a right to make a statement of what I believe in, is that in pledging allegiance to the flag or not pledging allegiance to the flag, Americans are exercising their freedom of religion. It is not classified or should not be classified as forcing someone to protest. An individual is absolutely within their right to exercise their freedom of religion.

I disagree with the decision of this particular court, but I do believe it has the right to move forward through the judicial process to express its view as well.

Let me share the dissent of the court that I think is accurate. Judge Ferdinand Fernandez pointed out in dissent: "The establishment clause tolerates quite a few instances of ceremonial deism. Is it okay to sing 'God Bless America' or 'America The Beautiful' at official events? Is American currency unconstitutional?"

The answer must be, as Judge Ferdinand Fernandez argues, that in certain expressions it is obvious that the tendency to establish religion in this country ought to interfere with the free exercise or nonexercise of religion is de minimis.

My point is to take that a step further and suggest that the first amendment allows one to exercise their religious faith. In not saying the Pledge of

Allegiance, it is exercised. It is not a protest. I say it. I willingly say it. I believe it should be said. I do not believe it is unconstitutional. I believe this resolution is intact and appropriate because it allows an equal, independent branch of government to express its viewpoint on a decision that is made. We all have to adhere to the procedures of this lands, the democracy as it works; and that is a republic, three branches of government. We will watch this case as it goes forward. I proudly rise to support this resolution because I believe the interpretation is accurate.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I am a little bit disturbed that what the gentleman from Virginia (Mr. SCOTT) seemed to have said was that Congress should never question a court decision that is based on constitutional grounds. Had he and I been in Congress before the Civil War when the Supreme Court decided the Dred Scott case, I am sure both of us would be asking the House of Representatives to go on record opposing that decision as being misguided. We are doing something similar to that today.

Mr. Speaker, I yield 1 minute to the gentleman from Ohio (Mr. CHABOT).

Mr. Speaker, as chairman of the Subcommittee on the Constitution, I rise in strong support of this resolution and against the court's decision. The Ninth Circuit Court of Appeals' ruling that the Pledge of Allegiance is an unconstitutional endorsement of religion is a complete misinterpretation of constitutional law. I would hope that this outrageous decision by this three-judge panel will be quickly overturned by the full Ninth Circuit Court or, if necessary, by the United States Supreme Court.

Incredibly, while Americans are pulling together following the horrific events of September 11, a panel of liberal Federal judges has chosen to challenge the time-honored Pledge of Allegiance. Like most Americans, I reject the court's unconscionable decision and stand resolutely with my colleagues today as we vote overwhelmingly to oppose this attack on an American symbol that we all hold dear.

Mr. Speaker, for all of the veterans who risked their lives for our country, for all the servicemen and service-women who serve today, and for all of our children who recite the Pledge every morning with respect and admiration, I urge my colleagues to support this resolution and condemn the court's decision.

Mr. SCOTT. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I indicated my support for this resolution because I believe this is an appropriate comment time by the House. Let me also suggest to Members, however, that what happens with this kind of approach, and I am at this moment thinking of this because it is

of such concern to me, my colleague from Ohio mentioned this, and the distinguished chairman mentioned the Dred Scott case, and none of us would claim to be in the House at that time in the 1800s. Maybe we are looking quite young at this point, but I would join him in asking for a commentary on that case.

Likewise, some of us are going to be asking for a comment on the question dealing with the constitutionality of vouchers. We happen to believe that that fosters segregation, as opposed to opening the doors of opportunity. What this does, in fact, is I hope out of the spirit of bipartisanship, and I certainly hope the distinguished majority whip was not suggesting that this issue is liberal or conservative, we are all over the lot on this particular legislative initiative. I support it, but I am going to be looking for bipartisan support when it comes to discussing what I think is an untimely decision on the voucher issue, and certainly an untimely issue as I review it, dealing with the question of drug testing. What we are trying to do here is improve the constitutional rights and freedoms of Americans, not diminish them.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. HYDE), the former chairman of the Committee on the Judiciary.

Mr. HYDE. Mr. Speaker, I just want to comment on what has been said by the gentleman from Virginia (Mr. SCOTT) and the gentlewoman from Texas (Ms. JACKSON-LEE).

I could not disagree more. What they are saying is because this is *de minimis*, because that was in the dissenting view, therefore, it is okay to let it go. That is a way of standing on two stools. That is a way of having it both ways because it is not important.

Well, I do not think that it is unimportant. I do not think that it is trivial. I think acknowledging the primacy of almighty God is of transcendent importance, and I guess *de minimis* is in the minds of the analysts; but I could not disagree more. In addition to the Dred Scott case, Plessy v. Ferguson, there is a whole line of cases that I am sure the gentleman from Virginia (Mr. SCOTT), my distinguished learned friend, would disagree with and not invest them with a dignity because they come from the Court.

And, lastly, I point out to my dear friend, the gentlewoman from Houston, Texas (Ms. JACKSON-LEE), that the first amendment has two parts: the establishment and the free exercise.

Mr. SCOTT. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, if the distinguished gentleman from Illinois (Mr. HYDE) would listen, the chairman, he has misinterpreted my entire remarks. I quoted from the dissent, and what I said was out of the dissent of Judge Fernandez, I believe, that any commentary about

God is *de minimis* in terms of saying that someone is practicing religion. I support the fact that saying "under God" is not violating religious freedom.

Mr. HYDE. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Illinois.

Mr. HYDE. Mr. Speaker, it is "*de minimis*" that offends me.

Ms. JACKSON-LEE of Texas. It is in the court's ruling.

Mr. HYDE. Mr. Speaker, I understand the court's ruling, and it was in the editorial in the Washington Post; but I disagree.

Ms. JACKSON-LEE of Texas. It is in the dissent.

Mr. HYDE. I disagree.

Ms. JACKSON-LEE of Texas. Mr. Speaker, in reclaiming my time, if the gentleman from Illinois (Mr. HYDE) disagrees, would he please indicate that he is disagreeing because he does not like the term "*de minimis*" used by the judge who is supporting his position, because I am supporting the position that we have a right to comment on it and am supporting the resolution. Please make sure that is clarified.

Mr. HYDE. Mr. Speaker, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Illinois.

Mr. HYDE. I object to "*de minimis*" from whatever source.

Ms. JACKSON-LEE of Texas. I will cite that to the Washington Post.

Mr. SCOTT. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. SHIMKUS). Both sides have exactly 10½ minutes remaining.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. GEKAS).

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding me this time.

The game is just beginning. We are in the first inning of what may turn out to be a long game in trying to overturn this decision by the Ninth Circuit. We must remember that this was only a three-judge panel, not representing necessarily the total views of all the Ninth Circuit. In that regard, we have directed that a letter be sent to the presiding judge of the Ninth Circuit to ask that they reconsider the decision rendered by the three-judge panel, which is within our right to ask and which is within the right of the Ninth Circuit to reconsider. So now we stretch out the possibilities that we have to overturn this decision. If they do the right thing and overturn their own panel, the game has ended. If not, then the game stretches on to the Supreme Court, which will undoubtedly undertake this case.

We will be guided when we see it go to the Supreme Court with the fact that another circuit has found just the opposite of what the Ninth Circuit may be leading to draw, and so we are strengthened by the resolve that when

it goes to the Supreme Court we will have precedent on the other side of the issue and we will have in front of the Supreme Court in the final innings of this game the undoubted wholesome fulsome support of the American people.

The Supreme Court of the United States cannot, cannot, discount the popular will of the people of the United States in this regard. So my ultimate position in all of this is that this will not stand even if we have to then undertake a constitutional amendment if the Supreme Court should disappoint us in this particular issue; and if that happens, all the more reason why we can say this will not stand because Americans stand together.

Mr. SCOTT. Mr. Speaker, prior to yielding to the gentleman from Maryland (Mr. HOYER), the gentleman from Illinois (Mr. HYDE), chairman of the committee, indicated what would happen if we had taken a position on *Plessy v. Ferguson* or *Dred Scott*. The litigants in those cases, Mr. Speaker, lost and I suspect that the Congress might have even approved of that.

Mr. Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. HOYER).

□ 1515

Mr. HOYER. I thank the gentleman for yielding me this time.

Mr. Speaker, our Nation's greatness derives not only from our commitment to tolerance and a profound belief in the separation of church and state but also from the fact that we have always been, and hopefully will always be, a Nation of faith.

Our Declaration of Independence which we celebrate 1 week from today avowed, and I quote, "firm reliance on the protection of divine providence." Every one of our 43 Presidents has said a prayer or invoked God during their inaugural address. And our Pledge of Allegiance has included the phrase "one Nation under God" since 1954, harkening back to, 100 years prior to that, the remarks of President Lincoln in his Gettysburg address.

Yesterday, the Ninth Circuit Court of Appeals held that the acknowledgment of a power greater than ourselves or the state was somehow unconstitutional, notwithstanding the language of Thomas Jefferson in the Declaration of Independence that we hold these truths to be self-evident that all men are created equal and endowed, not by the state, not by the majority, but by their creator with certain unalienable rights, and among these are life, liberty and the pursuit of happiness. That is what we acknowledge when we say "in God we trust." That is what we acknowledge when we say "one Nation under God, indivisible with liberty and justice for all."

I adamantly disagree with this misguided decision which runs counter to our cultural and historical traditions. I have high hopes that upon reflection that either the Ninth Circuit itself or the Supreme Court will reverse this erroneous and harmful decision.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Indiana (Mr. PENCE), a member of the Committee on the Judiciary.

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time.

Like most Americans, Mr. Speaker, I believe in this country, I believe in God, and I believe in the power and importance of allegiance to our flag. So I rise today in strong support of the resolution. Like millions of Americans, I was shocked and appalled by the Ninth Circuit's ruling that references to God in the Pledge of Allegiance are unconstitutional.

Mr. Speaker, we opened this House in prayer to God today. The walls of this temple of democracy bear His name. But we are told that it is unconstitutional for our children to name God as they acknowledge their fealty to that very same Nation.

Sadly, this decision is part of a 35-year history by radical secularists who would twist the freedom of religion into freedom from religion. We must reject this course of judiciary decisions. We must pass the resolution and reaffirm a right understanding.

I pledge myself to fight every decision by the judiciary, including this one, that seeks to drive expressions of faith, the Ten Commandments, and voluntary prayer out of schools and out of every corner of American life, so help me God.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I rise to support this resolution. I want to particularly commend the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, for bringing this resolution to the floor in a speedy fashion.

The American people are crying out for action. Here we are in the midst of a war. Our homeland has been attacked. The faith that many Americans have had has been rekindled. And now we are faced with this overreaching, inappropriate act of a court that is misinterpreting our Constitution.

There will be a lot of talk about the power of the judiciary versus the power of the legislative branch. But I would just like to remind all of our colleagues that the Constitution begins with "we the people" and that it has really vested in the American people the authority to make decisions, and they ultimately decide what will happen.

I believe that today the American people are clearly crying out, "Overturn this decision."

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in opposition to this ruling which found our Pledge of Allegiance unconstitutional. The Pledge of Allegiance is a sacred oath all Americans take to uphold the values of freedom and inde-

pendence for which so many veterans have fought and died. It is an outrage that today as our brave men and women are overseas defending our great country against the threat of terrorism, these words that represent the very core of the American values come under attack.

I ask my colleagues and the American people again to show our independence and protest the Ninth Circuit Court of Appeals decision by joining together as "one Nation under God" to recite the Pledge of Allegiance on that day we celebrate soon, 226 years of independence, on July 4. I ask all Americans to stop what they are doing on that day this July 4 and with hand over heart recite the Pledge that has reminded millions of schoolchildren each and every day of why America is the greatest Nation on the face of the Earth.

Mr. SCOTT. Mr. Speaker, I yield 2½ minutes to the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Mr. Speaker, I thank the gentleman for yielding me this time.

Let me say at the outset that when the vote is put on this resolution, I intend to vote "present." I have had a discussion with the gentleman from Virginia (Mr. SCOTT) earlier today about whether I agree or disagree with the court's opinion, the majority opinion, a 2-1 opinion, a part of the court; and I told him I thought I agreed more with the dissent in the case than I do with the majority.

But that is almost a side issue here. The real issue is what the gentleman from Pennsylvania (Mr. GEKAS) started to say, I think, was that the process is still continuing. Three people have entered a decision, a 2-1 decision. That decision no doubt will be reviewed by the entire circuit court and no doubt ultimately be reviewed by the United States Supreme Court. And while I recognize that this body has a prerogative to express an opinion about anything it wants to express an opinion about, I just do not think that I want to be a party to joining in the collective expression of an opinion of the legislative side of government to the judicial side of government on this issue, particularly when the case is still pending before the court and we do not know its ultimate disposition.

I have strong opinions about this issue. I think the Bill of Rights' first amendment and other amendments in the Bill of Rights was intended to protect those who are in the minority. Obviously, people who do not believe in some God are in the minority; but they are entitled to have their rights protected, too, and not to be in a coercive setting, so I can certainly understand the decision, although I do not necessarily agree with it. I just think at this juncture this body should not be expressing itself on this issue.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. GILMAN).

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding time, and I commend Chairman SENSENBRENNER for bringing this measure to the floor at this time.

Mr. Speaker, I rise in strong support of H. Res. 459, expressing the sense of Congress that *Newdow v. U.S. Congress* was erroneously decided by the Ninth Circuit Court of Appeals. The Federal court's decision is truly an insult to our Nation, a disgrace and an absurdity of justice. Moreover, it defies the basic principles of reason and good judgment. It is particularly outrageous that such a ruling was made at a time when our Nation's dedicated men and women are fighting an ongoing war against global terrorism, the very epitome of evil. What kind of message does this court's ruling send to our enemies? What message does it send to our patriotic military personnel out there on the front lines?

Accordingly, I urge the court to rehear the ruling with all due speed and overturn this egregious injustice perpetrated against the very principles upon which our great Nation was founded.

Mr. SENSENBRENNER. Mr. Speaker, I yield 30 seconds to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me this time.

I just want to, I guess, me-too-it as much as possible on this. I think it is incredible that at a time when our Nation is at war, when we have suffered one of the greatest domestic tragedies in our history, that a court would be so out of touch with America that they would say this is what we need at this point in time, reversing all the other court decisions.

I certainly stand in strong support of this resolution. I just want to say when I was in Afghanistan back in January, one of the proudest things I saw were all the young men and women on the USS *Theodore Roosevelt* saluting the flag which Rudy Giuliani had flown over the rubble of the World Trade Center. I am glad that they also said the Pledge and that they know that we are one Nation under God.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Mississippi (Mr. PICKERING), the cosponsor with me of this resolution.

Mr. PICKERING. Mr. Speaker, I rise proudly as a cosponsor of this resolution. For over a generation now, our courts have taken the wrong path, eliminating prayer from schools, eliminating Christmas from our court-houses. They are saying today in our courts that access to child pornography is a constitutionally guaranteed right, and today they are saying that saying the Pledge of Allegiance is unconstitutional.

Something is wrong. They are trying to drive God from the public square, and this is their fallacy. We believe that our creator endows all men with the right to life, liberty and the pur-

suit of happiness. History shows that every godless state every time trampled on the rights of life, liberty and the pursuit of happiness. Under God and through our creator, we have our rights. We must never forget that. We must protect it so those who disagree with us will have their rights protected as well.

I urge my colleagues to continue standing for the expression of our freedom under God.

Mr. SCOTT. Mr. Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. CONYERS), the ranking member of the Committee on the Judiciary.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Michigan is recognized for 5½ minutes.

Mr. CONYERS. Mr. Speaker, I would like to begin by commending the chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), and the manager of this measure, the gentleman from Virginia (Mr. SCOTT), for the excellent way that they have conducted it. It has been a fair and, I think, revealing discussion that is so important. I cannot help but also note that the former chairman of the Committee on the Judiciary, the gentleman from Illinois (Mr. HYDE), has considered this an issue of great importance, as has our colleague, the gentleman from North Carolina (Mr. WATT), and the gentleman from Texas (Ms. JACKSON-LEE). This is important.

This radical secularist decision was rendered by Judge Alfred T. Goodwin, appointed by past President, Richard Milhouse Nixon. And so for all of you who are leading the attack on the left, I do not know this judge and I do not know what his position was, but he passed muster in the Senate, he was reviewed and favorably considered by a sitting Republican President, and I think that it is very important that no one question the right of the Members of the House of Representatives to express their opinion on this decision or any other decision.

What I fear is that it may be intended by some for political gain. But that is not a new feature in the course of our discourse in the House of Representatives. Or some who may be trying to discredit the judiciary in general for the work of two people on the Ninth Circuit.

□ 1530

Certainly, the three-judge panel of the Ninth Circuit Court of Appeals appears to have presented a ruling that runs counter to the existing precedent regarding the establishment clause, and as someone with great respect for our Pledge of Allegiance, I do not believe its recitation substantively infringes on freedom of religion.

Now, interestingly enough, just hours ago the United States Supreme Court ruled in a 5-4 decision that taxpayer funds can be used in voucher programs to support parochial schools. This ruling has been regarded generally as the

worst church-state ruling in the last 50 years. Do we have any resolution on that one?

The Supreme Court today upheld the random drug testing of high school children, even those not suspected of wrongdoing. It is hard to imagine an opinion more objectionable from a privacy standpoint, but do we have anyone calling for a resolution of a program on that?

And then I have colleagues who come to the floor claiming that this is a shocking sign of some fundamental defect in the judiciary. Now, unlike *Bush v. Gore*, this decision can be appealed, and where there is a strong probability that it will be overturned. This has been observed as just the first step in a judicial process that usually and ultimately gets it right. From *Plessy v. Ferguson* to *Brown v. the Board of Education*, to the issue of executing mentally impaired prisoners, the courts who may have originally lost their way ultimately find it again.

But lost in today's debate and in the resolution before us is the value of our judicial system, the crown jewel of our democracy.

Our Founders, in their wisdom, created a system of checks and balances. Independent judges with lifetime tenure were given the tremendous responsibility of interpreting the Constitution. So it is no surprise over the years that the judiciary has ultimately been the greatest protector of our rights and our liberties. The fact that one panel of the Ninth Circuit that has rendered this opinion should do nothing, I hope, to diminish from Members our general, overarching respect for the judiciary.

All of this might be justified if there was any real question as to the constitutionality of the 1954 law that added God to the pledge. But while the Supreme Court has never specifically considered the question, the justices have left little doubt how they would do so. Even former Justice William Brennan—a fierce high-waller—once wrote “I would suggest that such practices as the designation of ‘In God We Trust’ as our national motto, or the references to God contained in the Pledge of Allegiance to the flag can best be understood . . . as a form a ‘ceremonial deism’ protected from Establishment Clause scrutiny chiefly because they have lost through rote repetition any significant religious content.” Other justices have likewise presumed the answer to the question and no court of appeals should blithely generate a political firestorm—one that was already beginning yesterday—just to find out whether they meant what they said.

Half a century ago, at the height of anti-Communist fervor, Congress added the words “under God” to the Pledge of Allegiance. It was a petty attempt to link patriotism with religious piety, to distinguish us from the godless Soviets. But after millions of repetitions over the years, the phrase has become part of the backdrop of American life, just like the words “In God We Trust” on our coins and “God Bless America” uttered by Presidents at the end of important speeches.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of the time.

Mr. Speaker, I agree with my distinguished ranking member, the gentleman from Michigan (Mr. CONYERS), that the Congress should not pass resolutions like this every time some of us disagree with a court decision. However, this court decision was so out of bounds in terms of basic American values as well as judicial precedent that I think that we would be remiss in our responsibilities as representatives in an equal branch of government not to express the fact that we strongly disagree with what the two judges that struck down the Pledge of Allegiance decided yesterday. So that is why this resolution is here before us.

If we look at the consequences of this decision becoming law, they are just mind-boggling. We have heard about the currency being placed at risk. Maybe we ought to pay those two in rubles or euros or something that does not have the offensive motto "In God We Trust" on it.

The Declaration of Independence refers to God either directly or indirectly in four separate places, and the signers of the Declaration of Independence called upon divine providence to support the revolution against the English crown. What if that is unconstitutional? Would Queen Elizabeth come back here to reclaim her sovereignty? I do not think so.

But I think that it is important that while the Court has a chance to change its mind rather than writing something in that can only be overturned by a constitutional amendment, that we express ourselves, and that is exactly what we are doing in this resolution.

Mr. Speaker, I could not believe the contorted logic that the two judges that were in the majority in the *Newdow* case used yesterday. They said that because all of the other kids except Mr. *Newdow's* daughter got up and recited the Pledge of Allegiance, they were coercing her to do the same. Now, that is ridiculous.

The Court, since 1943, has said, you cannot compel everybody to say the Pledge of Allegiance, and those who voluntarily do not wish to participate are perfectly and legally able to sit down and not do so. But to use the logical extension of the Court's contorted thinking, it gives every heckler and every dissident a veto over what the majority would like to do and to do it in a way that does not coerce somebody who is not in the majority from doing something against their own principles or their own beliefs. This resolution tells the court that they were wrong, that they should review and reverse.

Mr. BARR of Georgia. Mr. Speaker, I rise today to support passage of H. Res. 459, "Expressing the Sense of the House of Representatives that *Newdow v. U.S. Congress* was Erroneously Decided."

The Pledge of Allegiance is as much of a child's school day, as English, Math, or even recess. Yesterday, two activists jurists sitting on the 9th Circuit Court of Appeals in California robbed children in its nine states and

two territories of the privilege of following the tradition in which their parents and grandparents proudly took part.

I am fully aware of the significance of the 1st Amendment's Establishment Clause, and I wholeheartedly believe in its purpose—to prevent establishment of a state-sponsored religion—which was at the heart of our fight for independence against the English crown. However, jurists who interpret this vital clause of the Bill of Rights to prohibit even references to God, as in the Pledge of Allegiance, are way off base. If this decision is allowed to stand, can we next assume the 9th Circuit will require the San Francisco mint to cease producing U.S. currency with the motto, "In God We Trust?" Or perhaps, we can look forward to these distinguished jurists prohibiting the singing of our National Anthem at government sponsored events?

The Supreme Court has already established that a person cannot be compelled to recite the Pledge of Allegiance. However, this opinion cites dicta from concurring Supreme Court opinion, which has absolutely no controlling authority, stating that the Pledge of Allegiance, "constitutes a government endorsement of religion because it sends a message to unbelievers, that they are outsiders of the political community, and an accompanying message to adherents that they are insider, favored by the political community."

Nothing could be further from the truth, which is why the Supreme Court has rejected this argument. These ceremonial references to "God" neither endorse religion, nor coerce anyone into adhering to a specific religion. The inclusion of phrases like "Under God" or "In God We Trust" is solely a reference to America's long-standing reverence for our creator, and to the freedom and liberties that have been bestowed upon us.

Thankfully, not all the judges of the 9th Circuit are as irrational as the authors of this opinion. Judge Fernandez, writing in his dissent, stated that, "what religion clause of the 1st Amendment require is neutrality; that those clauses are, in effect, an early kind of equal protection provision and assure that government will neither discriminate for nor against a religion or religions." This rationale is precisely what was intended when the Bill of Rights was adopted and I am confident the full 9th Circuit, or if necessary the Supreme Court, will recognize this on appeal.

This point also underscores the necessity of pushing politics aside and confirming federal judges who understand the Constitution and will use common sense and rationality in reaching decisions.

Mr. Speaker, this is a nation "under God." It always has been. If the Republic is to endure, it must always remain so. I believe that Francis Scott Key stated it best, when he penned our national anthem in 1814, while observing the valiant defense of Fort McHenry:

"Oh! thus be it ever, when freemen shall stand

Between their loved homes and the war's desolation!

Blest with victory and peace, may the heaven-rescued land

Praise the Power that hath made and preserved us a nation.

Then conquer we must, for our cause it is just,

And this be our motto: "In God is our trust."

A handful of judges in ivory towers may not understand this; but our Founding Fathers did,

and the overwhelming majority of Americans do. I urge you to vote "aye" on H. Res. 459.

Mr. TRAFICANT. Mr. Speaker, today, I am deeply saddened to hear that a court in California has ruled that the Pledge of Allegiance is unconstitutional.

After September 11, America turned to prayer. Churches, community groups, colleges, all of America prayed for the victims, their families, and our great Nation. On the sides of buildings and in car windows and even on the roofs of houses the words "God Bless America" could be seen in every city and every town across the country. People everywhere donned red white and blue ribbons in support of our military forces and preachers everywhere called our great Nation to prayer. Every morning a moment of silent prayer was offered up for the victims of this great tragedy, wayward souls who had not set foot in a church in years found themselves on their knees praying for America.

And now, now after that great outpouring of faith, a court in San Francisco has decided that the Pledge of Allegiance is unconstitutional because it mentions God. "One Nation, under God with Liberty and Justice for all." Beam me up! I ask, what is next? Will we remove "In God we Trust" from our currency and from the House chamber? Will we deny members of Congress the right to recite the Pledge of Allegiance every morning? The courts started their assault on God by banning school prayer. The courts then banned the public display of the Christmas nativity scene. The courts banned students from writing papers about Jesus. Even in my home state of Ohio, the courts have ruled that our state motto "With God All Things Are Possible" is unconstitutional! Unbelievable. I am continually amazed at the utter stupidity of the American political system that continues to rationalize, debate, and deny the importance of God and why our founders placed in it our Constitution. The founders never intended to separate God from our schools; the founders simply intended to ensure that there would not be one State-sponsored religion, period. My colleagues know it, I know it, and the American people know it. I think that these judges should be tied to a chain link fence and flogged with a copy of the Constitution! They are so concerned with pleasing the FBI, the CIA, and the IRS so they won't lose their lifetime appointments, that God has become background music in a doctor's office!

I would like to commend my colleagues in both the House and the Senate for supporting God and supporting the Pledge of Allegiance. I also commend our President for taking a strong stand on religion and for fighting for our country's religious freedoms. Freedoms that are taken for granted every single day, but all it takes is one voice. One atheist who does not believe that God has a place in our schools, and those simple freedoms are taken away. I urge this Congress to take whatever steps and means are necessary to invite and allow God back into our schoolrooms.

Mr. GREEN to Texas. Mr. Speaker, today I introduce a constitutional amendment that would protect the rest of the nation from the erroneous and ill-timed decision by the 9th Circuit Court of Appeals that the Pledge of Allegiance violates the First Amendment's stricture against the establishment of a state religion.

The 9th Circuit, while arguing that this ruling is a logical extension of previous United

States Supreme Court decisions, is seeking to protect citizens from the advance of a non-existent theocracy. Religion and government have existed side-by-side in our nation for over 200 years, and we still have yet to establish an official religion for America.

Writing for the majority, Judge Alfred Goodwin asserts that the "profession that we are a nation 'under God' is identical * * * to a profession that we are a nation 'under Jesus,' a nation 'under Vishnu,' a nation 'under Zeus,' or a nation 'under no god,' because none of these professions can be neutral with respect to religion."

I disagree, and echo the thoughts of Judge Ferdinand Fernandez, who contended that there is only a "minuscule" risk that the use of the phrase "under God" would "bring about a theocracy or suppress someone's beliefs." According to his colleagues, he wrote, "'God Bless America' and 'America the Beautiful' will be gone [from public places] for sure, and . . . currency beware!"

Newspapers across the country were quick to respond, with the *Los Angeles Times*, the *San Francisco Chronicle*, the *San Jose Mercury-News*, and the *San Diego Union-Journal* all attacking the decision of the California-based court. They were not alone, though, as nationally prominent papers known for their dedication to the First Amendment like *The New York Times* and *The Washington Post* also weighed in with their criticism of the court.

As for the timing of the issuance of this decision, the 9th Circuit chose a time when our nation is still actively engaged in the war against terror, with our troops still present in Afghanistan, searching for al-Qaeda and Taliban operatives, providing logistical assistance and training to Philippine troops in their pursuit of the al-Qaeda ally organization Abu Sayyaf, and with the wounds of September 11 still fresh in the memory of all Americans.

I ask my colleagues to join me as cosponsors of this important legislation, and I hope that it will receive speedy consideration by this House.

Mr. CRANE. Mr. Speaker, I rise in strong support of this Resolution, which recognizes that the outrageous decision rendered by a three-judge panel in San Francisco yesterday has no basis in law. I am referring, of course, to the Ninth Circuit Court of Appeals decision yesterday to declare the Pledge of Allegiance unconstitutional.

Mr. Speaker, I have read the Court's opinion, which argues that the inclusion of the words "under God" in the Pledge of Allegiance violates the religious clauses of the Constitution of the United States. Specifically, we are told it violates the Establishment Clause, which reads as follows: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof."

Putting the pieces together, this means that the Ninth Circuit has determined that phrases such as "under God," or "In God We Trust" tend to establish a religion, or to suppress anyone's exercise of religion." This conclusion is absurd on its face.

The phrase "under God" when read in the Pledge of Allegiance, acknowledges that our rights are derived from our Creator. That is principle upon which our country was founded. How this qualifies as an attempt to suppress anyone's exercise of religion, or how it tends

to establish a religion, I'll never know. And while I will not force anybody to believe what I believe, neither will I sit still while the ability of my fellow citizens to practice religion is trampled upon by a court that failed U.S. history 101.

I am saddened by this ruling, but what is most unfortunate is that I am not surprised by it. I saw this coming from a mile away, Mr. Speaker. It is the logical conclusion to a judicial philosophy promulgated over the past 30 years by the politically correct.

Mr. Speaker, I pray this travesty of justice will wake the Daschle-led Senate up so that they might fulfill their Constitutional obligation and confirm President Bush's nominees.

Mr. CUNNINGHAM. Mr. Speaker, I rise today to join my colleagues in condemning the Ninth Circuit Court's ruling striking down the Pledge of Allegiance as unconstitutional. This decision is unpatriotic—particularly at this time when our nation is at war. We should be embracing symbols of national unity like our pledge of allegiance, but instead the Ninth Circuit Court is attacking them.

The argument against the pledge is above all, unreasonable. By declaring the inclusion of the phrase "under God" as unconstitutional, the ruling implies that any mention of "God" is equally inappropriate. Remember—the Declaration of Independence and the Constitution refer to "the Lord" and "Creator", our currency reads "In God We Trust", and even the oaths we take as Congressional members speak of "God". These references are embedded in the very foundation of our country and national identity—if we stand by and allow this change to the pledge, what will be next? Where do we draw the line?

Mr. Speaker, this court decision will only lessen the already declining respect for our national symbols and for the liberties for which they stand. Yet devaluing an American symbol is unfortunately something that America has been seen before. As you know, in 1989 the US Supreme Court ruled that desecration of an American flag was a permissible and constitutional right. Nevertheless, public disrespect for such a well-known symbol only weakens the sense of a united people. When we do not protect our flag and the god-granted liberties it represents, decisions such as the one declared yesterday will certainly continue.

It is just as essential for Congress to pass House Resolution 459 today as it is to pass the flag burning amendment. We must send a strong message to the courts of America: we value our liberties. We take pride in symbols of national unity. We will fight to protect the pledge and the flag to which we profess our allegiance.

Mr. OXLEY. Mr. Speaker, I stand in strong support of H. Res. 459, which I am proud to cosponsor. I am deeply troubled, but sadly not surprised, that the action of this San Francisco-based court compels us to consider this resolution today.

Mr. Speaker, the Pledge of Allegiance is one of the first things that children learn to recite in school. Adults still place their hands over their hearts when they say it. This simple thirty-one-word affirmation of our great country encompasses the affection and devotion of Americans young and old toward their flag and their nation.

Two years ago, in a court decision equally as absurd as this Newdow decision, a three-judge panel of the Sixth U.S. Circuit Court of

Appeals struck down Ohio's official state motto, "With God All Things Are Possible." The Court sided with the American Civil Liberties Union in declaring that the motto expresses a "particular affinity toward Christianity," in violation of the Establishment clause.

Mr. Speaker the Ohio motto decision was ultimately overturned, just as this outrageous decision will be overturned. Our Pledge of Allegiance, along with our Biblically based national motto "In God We Trust," stands as a testament to the undeniable religious foundation of our country. "In God We Trust" has been upheld in the courts time and again as a proper reflection of our nation's enduring faith.

It's too often overlooked that the First Amendment's Establishment clause—"Congress shall make no law respecting an establishment of religion"—is followed by the phrase "or prohibiting the free exercise thereof." My constituents are tired of having their free religious exercise attacked by fringe groups in the name of separation of church and state. The Ninth Circuit Court's action is nothing more than political correctness run rampant.

When President Eisenhower approved the addition of the words "under God" to the Pledge of Allegiance in 1954, he said, "In this way we are reaffirming the transcendence of religious faith in America's heritage and future; in this way we shall constantly strengthen those spiritual weapons which forever will be our country's most powerful resource in peace and war." During this time of war, when people across the nation gather in their homes and places of worship to pray for the safety of our men and women in uniform, the Ninth Circuit's assault on our nation's faith-based foundation cannot stand. It flies in the face of common sense, and blatantly ignores a plethora of court precedents.

When we pledge allegiance to our flag, we are not saluting a mere piece of cloth. Our flag is the most visible symbol of our nation—a unifying force in our nation of nearly 300 million. Since the Supreme Court invalidated state flag protection laws in 1989, the legislatures in each of the 50 states have passed resolutions petitioning Congress to propose a flag protection amendment to the Constitution. People across the nation—and across the political spectrum—support the right of everyone to affirm the religious foundation of our country through our Pledge.

My hometown of Findlay, Ohio, is known as Flag City USA. Major downtown thoroughfares are lined with flags in a patriotic salute to the greatness of America. Nearby Arlington, Ohio, which I am also privileged to represent enjoys the designation Flag Village USA. The messages I am receiving from Findlay, Arlington and throughout my district are clear: we are one nation under God, despite this ludicrous court action. I know that my constituents and all Americans are saying the Pledge of Allegiance a little louder and with even more pride.

Mr. KLECZKA. Mr. Speaker, I strongly oppose yesterday's 9th U.S. Circuit Court of Appeals decision holding that the use of "under God" in the Pledge of Allegiance is unconstitutional.

The case in question originated from a lawsuit filed by a parent who felt that the use of the phrase "under God" impinged on his daughter's First Amendment rights since he

believed that it constituted a sanction of religion in the public school she attends.

This decision was clearly erroneous and I find it abhorrent, as do the vast majority of Americans. It was based upon a total lack of respect if not knowledge of the traditions, the values, and the history of our nation. From the very beginning, as the Declaration of Independence points out, our founding fathers established this land based on the idea that individuals were endowed not by man, but by "their Creator with certain unalienable Rights."

The Pledge of Allegiance is a revered expression of patriotism recited by millions of citizens every day. When it is spoken, it instills support for the United States and reflects the love that Americans feel for their country. The Pledge does not violate the separation between church and state since it is not a religious statement, but a verbal expression of Americans' affection for our country.

As the dissenting judge pointed out, similar brief references such as the "In God We Trust" that appears on our currency and the opening call of the Supreme Court, "God save the United States and this honorable court" have always been accepted. I am hopeful that the 9th Circuit Court as a whole reverses the decision of this three judge panel or that the Supreme Court takes up the case and overturns this badly mistaken ruling.

This morning we were proud to recite the Pledge of Allegiance on the House floor as we do each day. I am a co-author of the resolution before us, H. Res. 459, that expresses the opinion of Congress that the court's judgment was in error. The measure calls for "under God" to remain in the Pledge, and for the decision to be reversed. I urge my colleagues to support this measure.

Mr. SHAYS. Mr. Speaker, I rise in strong support of H. Res. 459, Expressing the Sense of the House of Representatives that *Newdow v. U.S. Congress* was Erroneously Decided.

"One Nation, under God," reflects the fact that a belief in God permeated the founding and development of our Nation.

The Pledge of Allegiance is not a prayer or part of a religious service. It is a statement of our commitment as citizens to our great Nation and the role God played in it.

Yesterday, the Ninth U.S. Circuit Court of Appeals confused the issue of separation of church and state with the foundation on which our nation was built. "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness." So reads our Declaration of Independence.

As a new nation we claimed our freedom from any monarch in the Declaration of Independence and inherently in the U.S. Constitution because of "certain unalienable rights" guaranteed to us by our Creator.

President Abraham Lincoln, in his second inaugural address, spoke of God 13 times, not in an effort to unite church and state but to unite our Nation at the conclusion of one of the most devastating periods in U.S. history, the War Between the States.

Speaking of the Northern blue and Southern grey, this is what Abraham Lincoln said: "Both read the same Bible, and pray to the same God; and each invokes his aid against the other. It may seem strange that any men should dare to ask a just God's assistance in

wringing their bread from the sweat of other men's faces; but let us judge not, that we be not judged. The prayers of both could not be answered—that of neither has been answered fully."

Abraham Lincoln continued, "With malice toward none; with charity for all; with firmness in the right as God gives us to see the right."

Today, we as Americans need to seek the right as God gives us to see this right, and continue to ask God's blessing on our great Nation, whose 226th year of freedom we celebrate next week.

Mr. CHAMBLISS. Mr. Speaker, I rise today in support of House Resolution 459, Expressing the Sense of the House of Representatives that *Newdow v. U.S. Congress* was Erroneously Decided.

I do this on behalf of all Georgians who share my outrage with the Ninth Circuit ruling that our "Pledge of Allegiance" is unconstitutional.

For many years, liberals have been unsuccessful in achieving their objectives through the consent of the governed and have turned to activist judges who are willing to distort the Constitution and erase from all public forums any mention of religion and our country's rich religious heritage. Mr. Speaker, the First Amendment guarantees us freedom of religion.

Is it any wonder that this year alone, the Ninth Circuit Court has been overruled 12 times by the Supreme Court. But in a larger sense, this ruling is further evidence that our nation is facing a judicial crisis. Liberal special interests are working tirelessly to prohibit the confirmation of President Bush's judicial nominees in order to further pack the courts with liberal judges who will promote their liberal agenda thus guaranteeing that ruling such as this will become the norm.

Mr. Speaker, I urge my colleagues to pass this resolution, I urge the Department of Justice to immediately appeal this decision and work to have it overturned. I urge confirmation of the President's judicial nominees. To date, only 28% of the President's circuit court nominees have been confirmed. The ruling yesterday in San Francisco demonstrates that the time has run out for holding up the President's nominees. We need the President's judges. We need them now.

Mr. UDALL of Colorado. Mr. Speaker, I support this resolution—not because I necessarily agree that the recent decisions it addresses is "inconsistent with the U.S. Supreme Court's First Amendment jurisprudence" as the resolution says, but because I do agree that "the Ninth Circuit Court of Appeals should agree to rehear" the matter.

I am not a lawyer, and have not had a chance to carefully review the decision. So, I am not prepared to conclude that its author—a long-serving judge originally appointed by President Nixon—was clearly wrong as a matter of law. However, it is my understanding that another appeals court, in a similar case, has ruled differently. So, I definitely think the issue needs to be resolved, either through reconsideration or by the Supreme Court.

I also strongly agree with the part of the resolution which states that "the United States Congress recognizes the right of those who do not share the beliefs expressed in the Pledge to refrain from its recitation."

I am proud to recite the Pledge of Allegiance because I personally agree that, as the

resolution states, "the Pledge of Allegiance is not a prayer or a religious practice" and its recitation "is not a religious exercise" but instead "the verbal expression of support for the United States of America." However, I think it is not a good idea for the Congress to attempt to define what constitutes a religious practice or a prayer. So, I am uncomfortable with the parts of the resolution dealing with those points. The resolution is only an expression of opinion, of course, but still I would have preferred if those clauses had been omitted.

Similarly, I am not sure it is correct to say, as the resolution does, that the court's decision "treats any religious reference as inherently evil and is an attempt to remove such references from the public arena." That seems to me to be a bit of a stretch, especially since under our legal system the courts rule only on cases brought to them, and—unlike the political branches of the government—do not have complete control over their agenda.

On balance, however, and for the reasons I have outlined, I am generally in agreement with the resolution, and so I will vote for it.

Mr. CRENSHAW. Mr. Speaker, yesterday, the Ninth Circuit Court of Appeals held that the Pledge of Allegiance is an unconstitutional endorsement of religion. The Court stated that the Pledge "impermissibly takes a position with respect to the purely religious question of the existence and identity of God." Furthermore, the Court concluded that the Pledge places children in the "untenable position of choosing between participating in an exercise with religious content or protesting."

I vehemently disagree with the Court and rise in strong support of H. Res. 459, a resolution expressing the sense of the House of Representatives that this case was erroneously decided. The Court's ruling is contrary to the vast weight of Supreme Court authority recognizing that the mere mention of God in a public setting is not contrary to any reasonable reading of the First Amendment.

The Pledge of Allegiance is not a religious service or a prayer, but it is a statement of historical beliefs. The Pledge represents everything that unites us. It is a reminder of the ideals that we all share—patriotism, loyalty, and love of country. While I firmly believe in the separation of church and state, I also believe that the Constitution was not designed to drive religious expression out of public sight.

Our people are part of a culture where many believe in God and value the fact that religion played an important role in the founding of this great nation. The United States Ninth Circuit Court of Appeals is firmly out of touch with what is good and right in America and with the vast majority of this country's people and I trust that this fundamentally flawed decision will be quickly overturned.

Mr. Speaker, it is with great pride that I added my name as a cosponsor to this resolution and I urge my colleagues to join me and send a strong message to all Americans that they should be proud of the religious heritage of America by supporting H. Res. 459.

Mr. TERRY. Mr. Speaker, I rise in support of H. Res. 459 to firmly denounce yesterday's outrageous court ruling that the Pledge of Allegiance "is an unconstitutional endorsement of religion and cannot be recited in schools."

The Pledge of Allegiance is an American tradition that instills patriotism, gratitude, and respect in our children. Many of us grew up pledging allegiance to the flag each morning in

our school rooms—an honor I want my children to experience. Many of us also have family and friends who fought in foreign wars under the red, white, and blue of Old Glory. The Pledge of Allegiance affirms the strength, unity, sacrifice, and a commitment symbolized by the flag under which they fought and bled.

The late Red Skelton ended his now-famous patriotic commentary on the Pledge of Allegiance by saying “since I was a small boy, two states have been added to our country, and two words have been added to the Pledge of Allegiance: Under God. Wouldn’t it be a pity if someone said that is a prayer, and that would be eliminated from schools, too?” If allowed to stand, the Ninth Circuit Court of Appeals’ ruling would make this fear a reality. Generations of school children would be denied their right as Americans to publicly express gratitude to those who aided to secure the blessings of freedom.

We were all inspired by the firemen who risked their lives to stand atop the smoking, 70-story debris of the World Trade Towers to unfurl the American flag and recite the Pledge of Allegiance in its honor. In the face of such selfless bravery, it is more evident than ever that we are indeed a nation “under God.”

The First Amendment to the United States Constitution affirms that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . .” Our nation’s founding fathers sought to ensure freedom of religion, not freedom from religion, as the two Ninth Circuit Federal judges have erroneously and dangerously concluded. I agree with the dissenting Judge Fernandez, who wrote that “such phrases as ‘in God we trust,’ or ‘under God,’ have no tendency to establish a religion in this country or to suppress anyone’s exercise, or non-exercise, of religion,” except in the eyes of those who “most fervently would like to drive all tincture of religion out of the public life.”

I urge my colleagues to join me in supporting H. Res. 459 to ensure that generations of children can pledge allegiance to our flag and understand the sacrifices, values, and patriotism that have made our country great.

Mr. CASTLE. Mr. Speaker, I rise today in strong support of H. Res. 459 expressing the Sense of the House of Representatives that the 9th Circuit court of Appeals exercised poor judgment in deciding 2 to 1 that the phrase “under God” in the Pledge of Allegiance violated the Establishment Clause of the First Amendment. Today, the House of Representatives joins the Senator, which voted unanimously, to object publicly to this decision.

Because our Constitution only grants the Supreme Court the power to make a final interpretation of the Constitution, Congress cannot overturn this decision. However, it is entirely appropriate for Congress to express its collective opinion about this 9th Circuit decision. I hope the Supreme Court is listening as it will likely hear the appeal on this case.

The Pledge of Allegiance is not a prayer. It is an expression of support for our nation just as “In God We Trust” is on our currency or singing the song “God Bless America.” These phrases are a form of ceremonial deism, not an establishment of religion. Anyone who thinks the Pledge of Allegiance will lead us to abandon democracy and establish a theocracy is wrong. I hope they will come to realize that attempt to extinguish the phrase “God” from the public forum is really an attempt to extin-

guish an important element of our nation history.

Finally, it is worthwhile to note that the important principle of separation of church and state is already preserved. Under current law, student are not required to recite the Pledge of Allegiance. It is part of their freedom of speech to refrain from reciting it. Let’s not forget that it is also the freedom of speech of other students to recite the Pledge of Allegiance. I respect that the Supreme Court will ultimately make its own independent judgment. However, I sincerely hope that it will reverse the 9th Circuit decision.

Mr. CARDIN. Mr. Speaker, I rise today in strong support of H. Res. 459, expressing the sense of the House of Representatives that the decision of the U.S. Court of Appeals for the Ninth Circuit in the case of *Newdow v. U.S. Congress* was wrongly decided. I believe that students should be able to continue to recite the full Pledge of Allegiance, including the phrase “under God,” if they so chose, as the Pledge is a central part of the heritage of the United States.

Mr. Speaker, the day after the terrorist attacks of September 11, 2001, I took the floor of the House to remind members about the history and importance of our flag to the United States. On September 12, 2001, I stated:

Mr. Speaker, it was 187 years ago this very evening that in Baltimore, Maryland, at Fort McHenry, this Nation, this young Nation, won its second war of independence. It was the beginning of the end of the War of 1812. Francis Scott Key on this very evening 187 years ago wrote his inspirational poem that became our National Anthem.

In that third verse, he wrote some words that are helpful for us this evening:

From the terror of flight or the gloom of the grave,
And the Star-Spangled Banner in triumph
doth wave.

We survived the attack by a hostile power and became the strongest Nation in the world, and we will survive this attack on our democratic principles, and we will grow even stronger.

Mr. Speaker, the Pledge of Allegiance is a simple, eloquent statement of American values. For more than four decades, school children have recited it in classrooms across the country. Students pledge allegiance not only to the flag, but to the nation and our values and principles.

I was heartened to see Americans all across our great nation pause for the Pledge on June 14, Flag Day. The Supreme Court, Mr. Speaker, regularly opens its proceedings with the injunction “God save the United States and this Honorable Court.” Congress opens its business for the day with a prayer and the Pledge of Allegiance, as do many of our state legislatures. We should continue this fine tradition in our public institutions of government, as well as our schools.

At this most trying time for our nation, when American values and our democracy are under attack from terrorist both at home and abroad. Congress should send a clear message to the nation that we believe the Pledge of Allegiance continues to unite us.

Mr. Speaker, I urge passage of this resolution.

Mrs. ROUKEMA. Mr. Speaker, I am shocked and appalled by the U.S. Court of Appeals for the Ninth Circuit’s ruling of the

Pledge of Allegiance as unconstitutional. This outrageous decision allows a tiny minority to impose its atheistic views on the vast majority of Americans of all faiths. At the same time, it has no legal foundation.

The Pledge of Allegiance is based on the same fundamental legal principles that established our Nation under the Constitution.

This nation has experienced a tremendous rise in patriotism and we continue to take every opportunity to express our pride in this country. Yet we have now been told that the Pledge of Allegiance is a biased statement and an injury to hear that we are “one Nation, under God.” How ridiculous!

I am strongly opposed to this court decision and urge all Americans to join me in expressing contempt for this ruling.

This case must be appealed to the U.S. Supreme Court in an expedited fashion.

Mr. OTTER. Mr. Speaker, today I rise in support of the resolution introduced by my colleague, representative BOB RILEY opposing the ruling of the 9th circuit court that the Pledge of Allegiance is unconstitutional. This is just the kind of ridiculous decision we in the West have come to expect from the 9th Circuit. In an attempt to impose political correctness on society at the expense of freedom, these judges have ignored the real intent of the framers of the Constitution. The First Amendment says nothing about separating church and state. What it does is prohibit the government from establishing a state religion or laws prohibiting free exercise of religion. What’s next? Are they going to declare U.S. currency unconstitutional because it bears the words “In God We Trust?” Religious freedom is the one common unifying quality that makes us a peace loving, God-fearing nation. We are all Americans, and the Pledge of Allegiance stands as a testament to the citizens of this Nation, and their commitment to each other as Americans.

Mr. SMITH of Texas. Mr. Speaker, the Ninth Circuit Court of Appeals ruling yesterday treats the reference of God as one would treat profanity. Religious references in public discourse are wrongly under attack.

The Constitution guarantees us that government will not ‘establish’ a religion, but it also provides every American—even students—the right to freely express their views. We are ‘one nation under God’ and we have the right to say it.

I urge my colleagues to support this resolution.

Mr. HORN. Mr. Speaker, yesterday, the Ninth U.S. Circuit Court of Appeals ruled in a 2–1 decision that the words “under God” as recited in the Pledge of Allegiance were unconstitutional. The case was brought before the panel of three judges by Michael A. Newdow, a self-described atheist who protested the requirement of the pledge at his second-grader’s school in the Elk Grove Unified School District in Sacramento, California. His case had previously been dismissed by the U.S. District Court.

Writing for the majority, Judge Alfred T. Goodwin found that Newdow had standing as a parent to “challenge a practice that interferes with his right to direct the religious education of his daughter.” Following the precedent established by the Supreme Court in related school prayer cases, the Court ultimately decided that the 1954 Act, which placed the

words "under God" in the Pledge was unconstitutional because it violated the Establishment Clause of the First Amendment. The ruling will affect nine states in the western United States: Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, and Washington.

This decision will not be implemented for several months, and an appeal to the Supreme Court will likely be the next step. I urge Attorney General Ashcroft to take steps to begin these proceedings as soon as possible.

Congress already is protesting this decision as well. The day the decision was announced, members of the House of Representatives gathered on the steps of the Capitol building and proudly recited that Pledge of Allegiance. In addition, on Thursday, June 27, H. Res. 459 was introduced on the House floor. This legislation expresses the view of Congress that *Newdow v. U.S. Congress* was erroneously decided. If necessary, I would support a constitutional amendment protecting the right to recite the pledge in schools and other public settings.

As cited in H. Res. 459, the Pledge of Alliance, including the phrase "One Nation, under God," reflects the historical fact that a belief in God permeated the founding and development of our Nation. This is evident in many other cultural elements, including our currency and many patriotic songs, such as "God Bless America." In this time of uncertainty, it is important to remember and uphold the symbols of our Nation, which honor our heritage and draw us together as one people.

Mr. GILMAN. Mr. Speaker, I rise in response to the U.S. 9th Circuit Court of Appeals' declaration that the Pledge of Allegiance is unconstitutional because it contains the words "under God" which were added by Congress in 1954.

The Federal Court's decision is an insult to our Nation and a disgrace and an absurdity of justice. It is an obvious misinterpretation of the Constitution, one which violates the basic principles of reason and good judgment.

The ruling, if allowed to stand, means schoolchildren in the nine western states covered by the Court (Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon and Washington) can no longer recite the Pledge.

Accordingly, I urge the Attorney General to expeditiously appeal this decision to the Supreme Court. Each day that this unbelievable finding stands is another day that the Federal judiciary should hide its head in embarrassment.

Mr. SIMPSON. Mr. Speaker, I rise today to condemn the absurd logic of the Ninth Circuit Court of Appeals in its decision regarding the Pledge of Allegiance and renew my call for much needed reform to stop the unchecked abuses of this court.

We in the West have long known the Ninth Circuit is a court out of touch with reality. Yesterday's ruling, however, marks a new low for this court and is an affront to the principles on which our nation was founded.

The Ninth Circuit, without question, is the most overturned appeals court in the nation. The 1996–1997 session alone saw 95 percent of its cases reviewed by the Supreme Court overturned—and the wholesale rejection of this court's decision continues to this day.

I call upon my colleagues in the House to support legislation I put forward last year that would split the Ninth Circuit into two courts and put an end to this cycle of wasteful and

irresponsible rulings. My constituents deserve better, the people of the nation deserve better, and the constitution deserves better.

Mr. Speaker, yesterday the 9th Circuit Court of Appeals ruled that the Pledge of Allegiance is unconstitutional. This is an outrage to me, to Congress, to the man on the street, and to the children who will be told they can no longer say the pledge in school! I am livid over the court's brainless decision. I pledge to support every effort to overturn this horrible decision.

The court's decision stating that the words "under God" amounts to a government endorsement of religion shows just how out of step these liberal judges are with the American people. They state that saying God is akin to saying Jesus, Vishnu, or Zeus. This is blatantly nearsighted because the term God refers to God in the concept that is personal to every single person and does not refer to any certain idea of deity. Furthermore, the Pledge of Allegiance is not a prayer or a religious practice and thus the recitation of the pledge is not a religious exercise but rather it is an expression of support and loyalty for the United States. In Justice Brennan's concurring opinion in *School District of Abington Township v. Schempp*, 374 U.S. 203, 304 (1963) he stated, "the reference to divinity in the revised pledge of allegiance . . . may merely recognize the historical fact that our Nation was believed to have been founded 'under God.' Thus reciting the pledge may be no more of a religious exercise than the reading aloud of Lincoln's Gettysburg Address, which contains an allusion to the same historical fact." And Justice Blackmun writing for the Court in *County of Allegheny v. American Civil Liberties Union Greater Pittsburgh Chapter*, 109 S. Ct. 3086, 3106 (1989) stated, "Our previous opinions have considered in dicta the motto and the Pledge characterizing them as consistent with the proposition that government may not communicate an endorsement of religious belief."

Even before Congress added "under God" in 1954 to the pledge, the Supreme Court had ruled no one could be forced to recite the pledge. The court's decision yesterday said simply having to hear it every day violates the First Amendment ban on the establishment of religion. However, as Judge Fernandez points out in his dissenting opinion, "in *West Virginia Board of Education v. Barnette* the Supreme Court did not say that the Pledge could not be recited in the presence of Jehovah's Witness children; it merely said that they did not have to recite it. That fully protected their constitutional rights by precluding the government from trenching upon 'the sphere of intellect and spirit. As the Court pointed out, their religiously based refusal' to participate in the ceremony would not interfere with or deny rights of others to do so."

Essentially this court has with this opinion developed the idea of a coercive environment. However, the law doesn't normally condition ones behavior on how it will affect others around them. Instead, we are told to avert our eyes and turn our heads away from something we find objectionable. In *Cohen v. California*, the Court found that epithets on the back of a war protestor's jacket, worn in public places, was constitutionally protected speech—the rights of unwilling viewers do not outweigh the speaker's. With this decision, the court gives any statement which may appear to be religious, no matter how innocuous, less protec-

tion than any other speech. Religion should be a more highly protected value, not a less protected value. At the very least it deserves equal protection.

If this case is allowed to stand what will be next? Our national motto "In God We Trust" which is emblazoned on our money and above the Speaker of the House's chair? Or the singing of songs such as "God Bless America" or "America the Beautiful" in public? Or how about congressional prayers or the president's periodic invocation of the deity? Or maybe even the crosses at Arlington National Cemetery and our national military cemeteries across the country?

The Pledge, like the National Anthem, is one of few remaining vestiges of the old idea of civic inculcation. It reminds us that despite the fact that we are all from diverse ethnic, religious, and racial backgrounds we remain a part of the same republic. The key to our unity is a shared commitment to the republican ideas of liberty and justice. The sanctioning of our oath under God is not merely an assertion of religious belief, but an appeal for divine blessing of this rather strange and mysterious grand experiment. Out Pledge, National Anthem, national motto and civic prayers help remind our citizens that there are more spiritual ties that bind us than natural affinities that divide us.

Mr. NETHERCUTT. Mr. Speaker, I rise in support of House Resolution 459, to express the sense of Congress that the decision made in *Newdow v. U.S. Congress* was erroneous.

Yesterday, the Ninth Circuit Court of Appeals, the Federal Court that has jurisdiction over my constituents in Eastern Washington, ruled that our nation's Pledge of Allegiance is unconstitutional. The Ninth Circuit has a long history of bad rulings, and has had more decisions overturned by the Supreme Court than any other circuit. This decision once again proves that the Ninth Circuit needs a common-sense judge from the Eastern District of Washington to bring a voice of reason to the federal appellate bench.

The Pledge of Allegiance, recited by Americans of every age, is an affirmation of our principles of democracy, justice and individual liberty. The declaration of our being "one nation under God" is at the heart and soul of America and her distinguished history.

This case and decision should serve as a strong reminder to the U.S. Senate that it should fulfill its responsibilities to confirm President Bush's judicial nominees.

Mr. Speaker, the ruling in *Newdow v. U.S. Congress* eliminates a constitutionally protected "genuine choice" by disallowing students across the Nation from proclaiming their love for these United States through the Pledge of Allegiance. To do so is wrong. We must encourage our Nation's youth to believe in whatever religion they choose, for those beliefs set guiding principles that turn our youth into the outstanding leaders of tomorrow.

Mr. UNDERWOOD. Mr. Speaker, I rise today in support of House Resolution 459 expressing the sense of the House of Representatives that the court ruling in *Newdow v. U.S. Congress* as erroneously decided. By supporting this resolution we recognize the meaning of the Pledge of Allegiance and embrace the significance of its recitation by our nation's schoolchildren.

Since arriving in Congress in 1993, I have had the privilege of leading this House in the

Pledge of Allegiance several times upon convening at the beginning of the day. It is an honor to express my support for the principles and ideals of freedom, democracy, liberty and justice, the very foundation of this great nation, the nation that our flag and pledge celebrates.

The ruling by the U.S. Court of Appeals for the 9th Circuit in this case is unfortunate in that it fails to recognize the meaning that the Pledge of Allegiance has in our lives, its purpose in protection the principles of our democracy, and its remembering of the sacrifice made by our nation's veterans in defense of this nation and in support of all for which we stand and in which we believe.

Under the logic of this ruling the people of Guam won't be able to sing the Guam Hymn. Our hymn, which is sung daily in Guam's schools not only acknowledges God, it asks for His protection as in 'Yu'os prutehi islan Guam.

For our elders, for our children, and for generations to come, may the pledge continue to stand strong for all Americans and may it remain the words by which we pledge allegiance to the ideals of liberty and justice for all and recognize that we are indeed one nation, under God.

Mr. BLUMENAUER. Mr. Speaker, at a time when meaningful debate is at a minimum in this Congress, it is embarrassing that this resolution has been brought to the floor in this manner. Issues of great consequence to this nation, like reducing prescription drug costs, protecting investors and ensuring corporate accountability, and producing a budget that allows us to meet our military needs and protect Social Security, are being short-changed.

The Ninth Circuit Court of Appeals decided yesterday the case of *Newdow v. U.S. Congress* on the Pledge of Allegiance. One day later, we by-pass the committee process and rush this resolution to the floor. In my personal opinion, the Court's decision is an over-reaction to language that has been part of the civic and governmental life of the United States since this nation's founding. Every American responds in our own ways to the invocation of God on our currency, in solemn oaths and other customary circumstances. Our individual liberties have not been threatened by these expressions, including the words "under God" in the Pledge of Allegiance. However, I would hope we would allow this decision to work its way through the judicial process rather than engage in political grandstanding.

I refuse to dignify this trivialization of the legislative process and I vote "present."

Mr. POMEROY. Mr. Speaker, I am pleased to state my strong support for H. Res. 459. Yesterday, a three-judge panel of the U.S. Court of Appeals for the 9th Circuit ruled 2 to 1 that the Pledge of Allegiance is unconstitutional because it describes the United States as "one Nation, under God." This decision is absurd, and it flies in the face of reason and a 7th Circuit decision upholding the Pledge.

Immediate action must be taken against the court's latest decision. I call upon the Administration to ask the full 9th Circuit to reconsider the case or take the matter directly to the Supreme Court. The phrase "under God" was added to the Pledge at the height of the Cold War. The American values in force when this phrase was added are still shared today, as we rebuild as a nation from the tragedy that impacted our lives on September 11, 2002.

That is why I stand in support of House Resolution 459.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 459.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 416, nays 3, answered "present" 11, not voting 5, as follows:

[Roll No. 273]

YEAS—416

Abercrombie
Aderholt
Akin
Allen
Andrews
Armey
Baca
Bachus
Baird
Baker
Baldacci
Baldwin
Ballenger
Barcia
Barr
Barrett
Bartlett
Barton
Bass
Beceerra
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilirakis
Bishop
Blagojevich
Blunt
Boehlert
Boehner
Bonilla
Bonior
Bono
Boozman
Borski
Boswell
Boucher
Boyd
Brady (PA)
Brady (TX)
Brown (FL)
Brown (OH)
Brown (SC)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Carson (IN)
Carson (OK)
Castle
Chabot

Chambliss
Clay
Clayton
Clement
Clyburn
Coble
Collins
Combest
Condit
Conyers
Cooksey
Costello
Cox
Coyne
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Jo Ann
Davis, Tom
Deal
DeFazio
DeGette
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Flake

Fletcher
Foley
Forbes
Ford
Fossella
Frelinghuysen
Frost
Galleghy
Ganske
Gekas
Gephardt
Gibbons
Gilchrest
Gillmor
Gilman
Gonzalez
Goode
Goodlatte
Gordon
Goss
Graham
Granger
Graves
Green (TX)
Green (WI)
Grucci
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Harman
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill
Hilleary
Hilliard
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Hooley
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslie
Isakson
Israel
Issa

Istook
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kerns
Kildee
Kilpatrick
Kind (WI)
King (NY)
Kingston
Kirk
Klecza
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Luther
Lynch
Maloney (CT)
Maloney (NY)
Manzullo
Markey
Mascara
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Millender-
McDonald
Miller, Dan
Miller, Gary

Miller, George
Miller, Jeff
Mink
Mollohan
Moore
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Obey
Oliver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascarell
Pastor
Paul
Payne
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pitts
Platts
Pombo
Pomeroy
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reyes
Reynolds
Riley
Rivers
Rodriguez
Roemer
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Rush
Ryan (WI)
Ryun (KS)
Sabo
Sanchez
Sanders
Sandlin
Sawyer
Saxton
Schaffer
Schakowsky
Schiff
Schrock
Sensenbrenner

Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simmons
Simpson
Skeen
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stump
Stupak
Sullivan
Sununu
Sweeney
Tancred
Tanner
Tauscher
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Waters
Watkins (OK)
Watson (CA)
Watts (OK)
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—3

Honda Scott Stark

ANSWERED "PRESENT"—11

Ackerman Gutierrez Oberstar
Blumenauer Hastings (FL) Velazquez
Capuano McDermott Watt (NC)
Frank Nadler

NOT VOTING—5

Berman LaFalce Traficant
Greenwood Roukema

□ 1616

Mr. GUTIERREZ changed his vote from "yea" to "present."

Mr. NADLER and Mr. McDERMOTT changed their vote from "nay" to "present."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. GREENWOOD. Mr. Speaker, on rollcall No. 273 I was unavoidably detained by duties related to my investigation of Worldcom in a interview room without audible vote notification bells. Had I been present, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF H.R. 5011, MILITARY CONSTRUCTION APPROPRIATIONS ACT, 2003

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 462 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 462

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5011) making appropriations for military construction, family housing, and base realignment and closure for the Department of Defense for the fiscal year ending September 30, 2003, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. Points of order against provisions of the bill for failure to comply with clause 2 of rule XXI are waived. During consideration of the bill for amendment, the Chairman of the Committee of the Whole may accord priority in recognition on the basis of whether the Member offering an amendment has caused it to be printed in the portion of the Congressional Record designated for that purpose in clause 8 of rule XVIII. Amendments so printed shall be considered as read. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2. House Resolution 421 is laid on the table.

The SPEAKER pro tempore (Mr. ISAKSON). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), and I believe this is the first time we have done a rule together, welcome, pending which I yield myself such time

as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

On Wednesday, the Committee on Rules met and granted an open rule for the Military Construction Appropriations Act for the fiscal year 2003. H.R. 5011 recognizes the dedication and commitment of our troops by providing for their most basic needs, improved military facilities, including housing and medical.

Mr. Speaker, we must honor the most basic commitments we have made to the men and women of our Armed Forces. We must ensure reasonable quality of life to recruit and retain the best and the brightest to America's fighting forces. Most importantly, we must do all in our power to ensure a strong, able, dedicated American military, so that this Nation will be ever vigilant and ever prepared.

H.R. 5011 provides nearly \$1.2 billion for barracks and \$151 million for hospital and medical facilities for troops and their families. It also provides \$2.9 billion to operate and maintain existing housing units and \$1.3 billion for new housing units.

Military families also have a tremendous need for quality child care, especially single parents and families in which one or both parents may face lengthy deployments. To help meet this need, the bill provides \$18 million for child development centers.

Mr. Speaker, this is a fair and an open rule for consideration of the fiscal year 2003 military construction appropriations bill. I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes.

Mr. Speaker, we have before us a fair and open rule for H.R. 5011, the military construction appropriations for fiscal year 2003. The rule provides for 1 hour of general debate, waives all points of order against consideration of the bill, allows for all germane amendments to be offered with priority accorded to those preprinted in the CONGRESSIONAL RECORD, and provides for one motion to recommit with or without instructions.

This is a fair rule, and I urge my colleagues to vote for it.

I would like to express my appreciation for the work of the gentleman from Ohio (Mr. HOBSON), the chairman, and the gentleman from Massachusetts (Mr. OLVER), the ranking member of the Subcommittee on Military Construction, along with the gentleman from Florida (Mr. YOUNG), the Committee on Appropriations chairman, and the gentleman from Wisconsin (Mr. OBEY), the ranking member, for continuing the tradition of strong bipartisan support in the drafting of the military construction appropriations bill.

This is a very difficult year for the Committee on Appropriations, and I commend the gentleman from Ohio (Mr. HOBSON) and the gentleman from Massachusetts (Mr. OLVER) for bringing to this House a very fine bill, given the limited amount of funds allocated for military construction needs.

Mr. Speaker, the President's fiscal year 2003 request for military construction was \$1.6 billion, or 15 percent below the fiscal year 2002 enacted levels. However, included in the defense emergency response fund as part of the defense appropriations bill was approximately \$594 million worth of military construction projects. These projects were subsequently transferred over to the jurisdiction of the military construction request, resulting in the bill before us today. This combined request for military construction, therefore, now contains \$542 million more than the President requested but still remains \$522 million below last year's enacted levels.

Mr. Speaker, I believe it is incumbent upon all of us, the administration and Congress alike, to ensure that our forces have appropriate operational and training facilities, maintenance and production facilities, and research and development facilities. Yet each of these categories face significant reductions in funding in this bill.

According to the Pentagon, 68 percent of the Department's facilities have serious deficiencies that might impede mission readiness or they are so deteriorated that they cannot support mission requirements. The current reductions in funding for construction in these facility categories mean that the rates at which buildings are renovated or replaced has just increased from 83 years to 150 years.

Mr. Speaker, I keep hearing that we are engaged in a long-term struggle against a global enemy. So I find it difficult to believe that while we can find the funds to increase the defense budget by \$48 billion, we cannot find the funds to bring our operational facilities up to standard.

Mr. Speaker, I firmly believe that our uniformed men and women and their families deserve decent housing and accommodations, both here at home and abroad. We need to ensure that all personnel in all branches of service have a quality place to live and work, both at home and abroad; and I commend the committee for continuing to provide increased funding for dormitories in overseas construction; but again, through no fault of the committee, the funding provided does not come near to meeting the need. According to the Department of Defense, 180,000 of the 300,000 units of military housing are substandard. Mr. Speaker, this is a national scandal.

We also need to ensure that security is improved around all our military bases, installations and other sites both in the United States, its territories and abroad. I know that this is a