be over in that 4-year period, and they will be able to get an involuntary conversion for a cow that, because there is no longer a drought, will be able to stay alive.

It seems to me that these provisions are worthy and should move forward.

Mr. BEREUTER. Mr. Speaker, this Member rises in support of H.R. 1308, the Tax Reform, Simplification and Equity Act, and in particular the provisions which will assist our nation's farmers and ranchers who are suffering from a devastating drought.

Mr. Speaker, this Member is pleased that H.R. 1308 includes an important provision originally introduced by the distinguished gentleman from Colorado (Mr. MCINNIS) which is designed to assist farmers and ranchers suffering from the drought. This Member is a strong supporter and cosponsor of the Ranchers HELP Act, which is included in H.R. 1308. This provision would provide ''involuntary conversion'' tax relief for producers forced to sell livestock under certain circumstances, such as weather-related conditions. Specifically, the bill would allow producers four years (rather than the current two year limit) after a forced sale to reinvest in livestock without facing capital gains taxes. The Ranchers HELP legislation also would allow the Federal Government the flexibility to extend the amount of time a farmer or rancher can take to restore a herd in certain regions experiencing a drought which lasts more than three years.

It is important for the Federal Government to take actions, where appropriate to help relieve the hardships caused by the severe drought affecting Nebraska and the Great Plains region. The provisions included in this bill are an important step in that direction.

There are two other provisions that should help farmers. Under current law, farmers are allowed to average their income over three years for tax purposes since farm income often fluctuates from year to year. However, farmers who choose this option often fall into the Alternative Minimum Tax (AMT). The provision in H.R. 1308 ensures that farmers are not harmed by the AMT if they elect income averaging. In 1999 and 2000, this provision was included in a tax relief bill passed by the House and the Senate that subsequently was vetoed by then-President Clinton twice.

Another provision will help cooperatives that now face up to three levels of tax penalties. This legislation includes a reduction of one of these levels by providing that patronage dividends of cooperatives will not be reduced by stock dividends to the extent the stock dividends are in addition to amounts otherwise payable.

Mr. Speaker, this Member urges his colleagues to support H.R. 1308, the Tax Reform, Simplification and Equity Act.

Ms. DUNN. Mr. Speaker, I rise today in support of H.R. 1308, the Tax Relief, Simplification, and Equity Act.

Among other items, the bill contains an innovative solution to one of the most difficult challenges we face as policymakers—conserving our land while ensuring that it remains a source of economic activity.

What has been lacking in the Pacific Northwest is cooperation and collaboration between environmentalists, the business community, and local government on how best to solve difficult environmental issues. Until now.

Recently, numerous programs in Washington State have been developed that provide a road map for how everybody can come together to achieve environmental protection.

In particular, numerous conservation groups have been working with large landowners in an attempt to purchase sensitive parcels of land and protect them from development. What they're lacking is access to capital.

This bill will give them tax-exempt bond financing to preserve these lands. In exchange, the land must continue to be used as a productive resource and managed with the input of a diverse group of interests.

In the interest of progress in land conservation, I urge my colleagues to support this bill.

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

The SPEAKER pro tempore (Mr. LINDER). The question is on the motion offered by the gentleman from California (Mr. THOMAS) that the House suspend the rules and pass the bill, H.R. 1308.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. THOMAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of H.R. 1308, the bill just passed.

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

There was no objection.

SENSE OF HOUSE THAT NEWDOW V. UNITED STATES CONGRESS IS INCONSISTENT WITH THE SUPREME COURT'S INTERPRETATION OF THE FIRST AMENDMENT AND SHOULD BE OVERTURNED

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 132) expressing the sense of the House of Representatives that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and should be overturned, and for other purposes.

The Clerk read as follows:

H. RES. 132

Whereas on June 26, 2002, the Ninth Circuit Court of Appeals, in Newdow v. United States Congress (292 F.3d 597; 9th Cir. 2002) (Newdow I), held that the Pledge of Allegiance to the Flag as currently written to include the phrase, ''one Nation, under God'', unconstitutionally endorses religion, that such phrase was added to the pledge in 1954 only to advance religion in violation of the establishment clause, and that the recitation of the pledge in public schools at the start of every school day coerces students who choose not to recite the pledge into participating in a religious exercise in violation of the establishment clause of the first amendment;

Whereas on February 28, 2003, the Ninth Circuit Court of Appeals amended its ruling in this case, and held (in Newdow II) that a California public school district's policy of opening each school day with the voluntary recitation of the Pledge of Allegiance to the Flag ''impermissibly coerces a religious act'' on the part of those students who choose not to recite the pledge and thus violates the establishment clause of the first amendment;

Whereas the ninth circuit's ruling in Newdow II contradicts the clear implication of the holdings in various Supreme Court cases, and the spirit of numerous other Supreme Court cases in which members of the Court have explicitly stated, that the voluntary recitation of the Pledge of Allegiance to the Flag is consistent with the first amendment;

Whereas the phrase, ''one Nation, under God'', as included in the Pledge of Allegiance to the Flag, reflects the notion that the Nation's founding was largely motivated by and inspired by the Founding Fathers' religious beliefs;

Whereas the Pledge of Allegiance to the Flag is not a prayer or statement of religious faith, and its recitation is not a religious exercise, but rather, it is a patriotic exercise in which one expresses support for the United States and pledges allegiance to the flag, the principles for which the flag stands, and the Nation;

Whereas the House of Representatives recognizes the right of those who do not share the beliefs expressed in the pledge or who do not wish to pledge allegiance to the flag to refrain from its recitation;

Whereas the effect of the ninth circuit's ruling in Newdow II will prohibit the recitation of the pledge at every public school in 9 states, schooling over 9.6 million students, and could lead to the prohibition of, or severe restrictions on, other voluntary speech containing religious references in these classrooms;

Whereas rather than promoting neutrality on the question of religious belief, this decision requires public school districts to adopt a preference against speech containing religious references;

Whereas the constitutionality of the voluntary recitation by public school students of numerous historical and founding documents, such as the Declaration of Independence, the Constitution, and the Gettysburg Address, has been placed into serious doubt by the ninth circuit's decision in Newdow II;

Whereas the ninth circuit's interpretation of the first amendment in Newdow II is clearly inconsistent with the Founders' vision of the establishment clause and the free exercise clause of the first amendment, Supreme Court precedent interpreting the first amendment, and any reasonable interpretation of the first amendment;

Whereas this decision places the ninth circuit in direct conflict with the Seventh Circuit Court of Appeals which, in Sherman v. Community Consolidated School District (980 F.2d 437; 7th Cir. 1992), held that a school district's policy allowing for the voluntary recitation of the Pledge of Allegiance to the Flag in public schools does not violate the establishment clause of the first amendment;

Whereas Congress has consistently supported the Pledge of Allegiance to the Flag by starting each session with its recitation;

Whereas the House of Representatives reaffirmed support for the Pledge of Allegiance to the Flag in the 107th Congress by adopting House Resolution 459 on June 26, 2002, by a vote of 416–3; and

Whereas the Senate reaffirmed support for the Pledge of Allegiance to the Flag in the 107th Congress by adopting Senate Resolution 292 on June 26, 2002, by a vote of 99–0: Now, therefore, be it

Resolved, that it is the sense of the House of Representatives that—

(1) the phrase ''one Nation, under God,'' in the Pledge of Allegiance to the Flag reflects that religious faith was central to the Founding Fathers and thus to the founding of the Nation;

(2) the recitation of the Pledge of Allegiance to the Flag, including the phrase, ''one Nation, under God,'' is a patriotic act, not an act or statement of religious faith or belief;

(3) the phrase ''one Nation, under God'' should remain in the Pledge of Allegiance to the Flag and the practice of voluntarily reciting the pledge in public school classrooms should not only continue but should be encouraged by the policies of Congress, the various States, municipalities, and public school officials;

(4) despite being the school district where the legal challenge to the pledge originated, the Elk Grove Unified School District in Elk Grove, California, should be recognized and commended for their continued support of the Pledge of Allegiance to the Flag;

(5) the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress has created a split among the circuit courts, and is inconsistent with the Supreme Court's interpretation of the first amendment, which indicates that the voluntary recitation of the pledge and similar patriotic expressions is consistent with the first amendment;

(6) the Attorney General should appeal the ruling in Newdow v. United States Congress, and the Supreme Court should review this ruling in order to correct this constitutionally infirm and historically incorrect holding; and

(7) the President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) 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 include extraneous material on House Resolution 132.

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 such time as I may consume.

Mr. Speaker, today we will consider House Resolution 132, which expresses the sense of the House of Representatives that the Ninth Circuit Court of Appeals' recent ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment and urges the Attorney General to appeal its decision.

We are here today because the United States Court of Appeals for the Ninth Circuit continues to get it wrong.

On February 28, 2003, as our country continued preparations for what is now an impending war to defend the values upon which our great Nation is founded, the Ninth Circuit refused to rehear the case of Newdow v. U.S. Congress. In Newdow, a three-judge panel of the Ninth Circuit Court of Appeals ruled that the voluntary, voluntary recitation of the Pledge of Allegiance by public school students violates the first amendment because it includes the phrase ''one Nation under God.'' In addition, on February 28, the three-judge panel amended its June 2002 ruling and held that the Elk Grove, California, school district policy of opening each school day with the voluntary recitation of the Pledge of Allegiance to the Flag ''impermissibly coerces a religious act'' on the part of those students who choose not to recite the Pledge and, thus, violates the Establishment Clause of the first amendment.

This second preposterous ruling by the most-often reversed appellate court in the Nation impels us to come to the House floor again to voice our profound disagreement. House Resolution 132 expresses the sense of the House that the phrase ''one Nation, under God'' should remain in the Pledge of Allegiance and that the Ninth Circuit Court of Appeals ruling in Newdow v. U.S. Congress is inconsistent with the Supreme Court's interpretation of the first amendment.

It also urges the Attorney General of the United States to repeal the Ninth Circuit's ruling and urges the President to nominate and the Senate to confirm Federal circuit court judges who will interpret the Constitution consistent with the Constitution's text. House Resolution 132 also encourages school districts across the Nation to continue reciting the Pledge daily and praises the Elk Grove School District for its defense of the Pledge of Allegiance against this specious constitutional challenge.

Since the Pledge of Allegiance is not a prayer nor a statement of religious faith, the recitation of the Pledge is not a religious exercise. Rather, it is a patriotic exercise in which one expresses support for the United States of America and pledges allegiance to the flag, the principles for which the flag stands, and to the Nation. To conclude otherwise is to ignore clear precedent from the Supreme Court.

If this latest ruling is allowed to stand, schoolchildren at every public school in nine States, a total of 9,600,000 students, will be prohibited from reciting the pledge. Furthermore, the constitutionality of the voluntary recitation by public school students of numerous historical and founding documents such as the Declaration of Independence, the Constitution, and the Gettysburg Address has been placed into serious doubt. When one considers how this decision distorts Establishment Clause jurisprudence, the importance of appointing judges who will interpret the Constitution consistent with its text becomes clear.

Congress has consistently supported the Pledge of Allegiance by starting each session of the House with its recitation. The House reaffirmed its support for the Pledge when, on June 27, 2002, it adopted House Resolution 459, which I introduced, by a vote of 416 to three. The House should do the same with House Resolution 132 today.

I am proud to serve as an original cosponsor of this measure, and I urge my colleagues to support it.

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

□ 1145

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

Mr. Speaker, judges certainly should not be immune from criticism. I mean, healthy debate on the merits of judicial decisions is an important feature of our democracy. But there is a difference between legitimate criticism and overt pressure that threatens judicial independence.

Like all Americans, Members of Congress are free to criticize judicial decisions with which we disagree. Our collective voice should be heard on matters of profound constitutional significance as we, too, are guardians of the Constitution. In fact, I joined most of my colleagues in voting for a resolution during the last Congress that was referenced by the chairman that expressed disapproval of this very decision on the Pledge of Allegiance and urged that it be overturned.

However, I intend to vote present on this current resolution because it does not stop at expressing disapproval; it goes further, in a way that I believe would set an unwise and dangerous precedent.

It is one thing to urge the judicial branch to use the normal process of appellate review to correct an erroneous decision. It is quite another to imply that judges who issue unpopular decisions in particular cases are unfit for office.

Unfortunately, that is what H.R. 132 does. It not only expresses disapproval of the court's reasoning in the Newdow case, but it states that the President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text.

By linking future nominations to a particular ruling with which the proponents disagree, the resolution sends a not-so-subtle message to sitting judges, and in particular to potential nominees, that they had better tailor their constitutional views to those of the congressional majority if they wish to be confirmed. That, I submit, goes far beyond our appropriate constitutional role.

The Framers of the Constitution recognized that an independent judicial branch is an essential guarantor of liberty in any democracy. To understand this, one need only observe those nations with a weak judiciary that is subservient to the political branches. Invariably such nations are democracies in name only. Those who profess fidelity to the Constitution must take

great care not to chip away at the independence of the judiciary on which our liberty depends. For that reason, this resolution ought to be rejected.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, our Nation was founded on the idea of freedom of religion, the freedom to believe, the freedom to pray, the freedom to worship any time, anywhere. Today more than ever the people of our Nation need to have faith, a religion, a belief.

James Madison stated in 1825 that ''The belief in God All Powerful, wise and good, is so essential to the moral order of the world and to the happiness of man that arguments which enforce it cannot be drawn from too many sources nor adapted with too much solicitude to the different characters and capacities impressed with it.''

I believe Madison's statement is accurate, and we as a people should maintain this strong sense of values. We in Congress should do our part by protecting what our forefathers built this Nation on. We should do that today by passing H.R. 132.

Mr. DELAHUNT. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I rise in opposition to this resolution. I rise in opposition because it is wrong in its principles, it is wrong on the stated findings, it is wrong on its facts. Let me just go through them.

First of all, people may very well, everybody has the freedom to disagree with a court decision. All of us have the right to get up and say that. I do not think it is the role of Congress to say that a court decision is wrong. If we disagree as a body with a court decision, then pass a law if it is a question of statutory interpretation, or propose a constitutional amendment if it is a question of constitutional interpretation. That is our role.

The role of the judiciary is, to quote Chief Justice Marshall, to say what the law is. They say what the law is, and we say what the law should be. It is not our role to tell the court it is wrong; it is our role to change the law if we think so. To pass a resolution which has no power except perhaps the power to intimidate judges is wrong and a violation of our constitutional role.

Secondly, this states as fact that recitation of the Pledge of Allegiance to the flag, including the phrase ''one Nation under God,'' is a patriotic act, not an act or statement of religious faith or belief. It certainly is a patriotic act, but it certainly is a statement of religious faith and belief when you say ''one Nation under God.''

The only way you can get around that conclusion is to say, as the dissenting opinion in the court said, that the phrase ''under God'' is minor, it is de minimis, it does not mean anything. But that is a sacrilege. Since when is God minor? Are we really going to say in this Chamber that God is minor; that belief in God is a minor question, so minor as to not to be worthy of notice?

That is the only ground on which we could say that asking schoolchildren, in the context of a group recitation of a pledge in a classroom, is not a prayer and an affirmation of belief and a religious conviction. To say that God is minor and ''under God'' means nothing, I do not think we want to say that. I certainly hope we do not want to say that. Yet, if we say it means something, then the Pledge of Allegiance with that phrase in it is a statement of a religious belief, or at least a statement of a belief in God.

There are religions in this country, Shintoism, Hinduism, that do not believe in one God. There are people who are atheists. It is factually a wrong statement. It says, as a statement of fact, that the court's ruling in this case is inconsistent with the Supreme Court's interpretation of the first amendment. That is demonstrably wrong, and the Supreme Court will say so.

First, the Supreme Court for the last 40 years in its jurisprudence on school prayers has said that we cannot ask schoolchildren to recite a prayer or a belief in God in the classroom setting, even if we allow the dissenters to walk out of the room; but that is exactly what asking them to say the Pledge of Allegiance with that phrase ''under God'' is. It is exactly consistent with the Supreme Court's last 40 years of jurisprudence and rulings on the school prayer cases. It is, in effect, the school prayer, that as long as you ask schoolchildren to say ''one Nation under God.'' It has all the same pros and cons; and many disagree with the Supreme Court's decisions, but those were its decisions.

In the name of religious liberty, in the name of the separation of powers, in the name of religion, to say that God is not minor, we ought not to pass this resolution and let the Supreme Court uphold or overturn the Court of Appeals decision in Newdow. After that we can worry about a constitutional amendment, which I would propose, and some Members may want to propose. But at this point it is not our function to be correcting a court.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I rise in support of House Resolution 132 expressing the sense of the House that the Ninth Circuit Court of Appeals ruling in Newdow v. United States Congress is inconsistent with the Supreme Court's interpretation of the first amendment.

It is clear that the ninth circuit's amended Newdow ruling contradicts any reasonable interpretation of the first amendment. In a long line of cases, the Supreme Court has interpreted the establishment clause as prohibiting not only compelled participation in religious activity in public schools, but even voluntary religious devotional activity if, under the circumstances, children feel coerced to participate.

These cases, however, were based upon the fact that the activity at issue involved compelled participation in prayers and devotional exercises, as in the cases of School District of Abington Township v. Schemp and Engle v. Vitale; or the practice of graduation prayers at issue in Lee v. Weisman.

In fact, the questionable activity in these cases occurred either just before or just after the recitation of the Pledge. In its review of these cases, however, the court not only failed to question the practice of the voluntary recitation of the Pledge by schoolchildren, but instead explicitly limited its holding to the prayer or devotional exercise.

To have applied these cases to the facts in the Newdow case was incorrect because the Pledge is clearly not a religious statement or prayer; thus, its recitation is not a religious exercise. It is a historical fact that our Nation's founding principles were based upon the Founding Fathers' deeply held religious views. The Pledge of Allegiance simply refers to this fact.

The reasoning and holding of the ninth circuit in Newdow turns historical fact, as well as Supreme Court precedent, on its head. Either the judges were incapable or were unwilling to make this distinction.

Those who do not share the beliefs expressed in the Pledge or those who do not wish to pledge allegiance to the flag have a right to refrain from its recitation. This was recognized by the Supreme Court in the 1943 case of West Virginia Board of Education v. Barnett, in which the mandatory recitation of the Pledge of Allegiance was held unconstitutional under the first amendment's free speech clause.

Indeed, it is a cornerstone of the religious faith that the Founding Fathers held dear that no man can force another to say or believe that which their conscience will not allow. I would hope that no court would issue a ruling that tramples upon this right. However, the ninth circuit in Newdow simply ignored Supreme Court precedent and essentially gave those who do not wish to recite the Pledge, and who possess the right to refrain from reciting the Pledge, a heckler's veto over those who do wish to recite the Pledge.

This ruling also places the ninth circuit in direct conflict with the Seventh Circuit Court of Appeals which, in Sherman v. Community Consolidated School District, held that a school district's policy allowing for the voluntary recitation of the Pledge of Allegiance in public schools does not violate the establishment clause of the first amendment.

I believe that this clearly incorrect first amendment interpretation, as well as the split in the circuits created by the Newdow ruling, warrants an appeal by the Attorney General and Supreme Court review.

I urge my colleagues to approve this resolution so, during this time of international conflict in which our young men and women may be hours away from going to war to fight for those values based upon which our Founding Fathers gave birth to this very Nation, our youngest Americans, our children, may pledge their allegiance to those same values.

Mr. DELAHUNT. Mr. Speaker, I yield 5 minutes to the gentleman from Virginia (Mr. SCOTT), a member of the Committee.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I come from a State that has a long tradition in supporting religious freedom. In fact, it was Thomas Jefferson who wrote the Virginia statute for religious freedom which precedes the first amendment to our Constitution.

House Resolution 132 is totally gratuitous, as it will do nothing to change the underlying law. This is because we are dealing with constitutional issues that cannot be altered by resolution. If the judicial branch ultimately finds the Pledge or the motto to be constitutional, then nothing needs to be done; on the other hand, if the Court ultimately finds it to be unconstitutional, then no law that we pass can change that.

Mr. Speaker, I believe the reasoning of the majority opinion in the case was sound. In the case, the appellate court applied three different tests which have been applied in the last 50 years in Supreme Court jurisprudence in evaluating establishment clause cases. One test was whether the phrase ''under God'' in the Pledge constitutes an endorsement of religion. The majority opinion says that it was an endorsement of one view of religion, monotheism, and therefore was an unconstitutional endorsement.

□ 1200

Another test was whether individuals were coerced into being exposed to a religious message, and the majority concluded that the Pledge was unconstitutional because young children who are compelled to attend school ''may not be placed in the dilemma of either participating in a religious ceremony or protesting.''

Finally, the court applied the Lemon test, part of which holds that a law violates the Establishment Clause if it has no secular or nonreligious purpose. For example, cases involving a moment of public silence in public schools, some of those laws have been upheld if the law allows silent prayer as one of many activities which can be done in silence; but courts have stricken laws in which a moment of silent prayer is added to existing moments of silence because that law has no secular purpose.

The court concluded, if the 1954 law, which added ''under God'' to the existing Pledge, had no secular purpose, it was, therefore, unconstitutional.

It is interesting to note the reasoning of the dissent in the Newdow case. The important operative language in the dissent was the following: ''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 someone's belief is so minuscule to be de minimis. The danger that the phrase represents to our first amendment's freedoms is picayune at best.''

Unfortunately, Mr. Speaker, our actions in enacting H. Res. 132 may cause the courts to review the sentiments behind ''one Nation, under God'' because, if the courts look at the importance we apparently affix to the phrase by passing yet another resolution before the judicial branch has even entered final judgment, this attention diminishes the argument that the phrase has de minimis meaning and increases the constitutional vulnerability of the use of that phrase in the Pledge. While one Federal appeals court rejected a call to rehear the controversial ruling that struck down the recitation of the Pledge due to its religious content, the fact remains that this issue is still alive and well; and every resolution we pass chips away at the de minimis argument.

Furthermore, Mr. Speaker, the court may look at this very resolution, understand the Lemon test, and find that today's exercise has no secular purpose and, therefore, adds to the constitutional vulnerability of the Pledge.

Finally, Mr. Speaker, to quote from an editorial that appeared in the Christian Century, a nondenominational Protestant weekly, puts this matter in perspective: ''To the extent 'under God' has real religious meaning, then it is unconstitutional. The phrase is constitutional to the extent that it is religiously innocuous. Given that choice, I side with the Ninth Circuit. The government should not link religion and patriotism.''

Mr. Speaker, for those reasons I believe we should reject this resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. OSE), who represents the area that includes the Elk Grove Unified School District, which is the district from which this case arose.

Mr. OSE. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for yielding me time.

Mr. Speaker, the U.S. Ninth Circuit Court of Appeals recently declared it is unconstitutional to say the Pledge of Allegiance, our national recitation and proclamation of patriotism. This ruling is an attack on the history of our Nation and on the display of our patriotic pride.

On Friday, February 28, 2003, the Ninth Circuit Court of Appeals upheld its ruling on Newdow v. U.S. Congress. In its decision, the court declared the phrase ''one Nation, under God'' to infringe on the Establishment Clause of the first amendment and is therefore unconstitutional to recite within our public schools. This issue hits especially close to home because Newdow v. U.S. Congress originated in the Elk Grove Unified School District, which is located in my district in California.

I would like to recognize the school district for its participation in defending our right to say the Pledge. As the party named in the lawsuit, they have shouldered the burden and the cost for standing up for our community and our Nation. Elk Grove Unified has not waivered in their support of the Pledge of Allegiance and remains an example of true patriotism.

In response to the court's ruling, I authored this resolution reaffirming that the Pledge of Allegiance in its entirety is appropriate and calling upon the Supreme Court to review this ruling in order to correct this infirm and historically incorrect decision. The Ninth Circuit is quite plainly wrong and has failed to represent the values of the people of California and the United States of America.

The origin of this phrase is rumored to have come from a speech delivered on a cold fall day in the aftermath of the one of the bloodiest battles in American history. On November 19, 1863, President Lincoln delivered his famous Gettysburg Address while overlooking the massive graves of the soldiers who died there during that famous battle and said the following:

''It is rather for us to be here dedicated to the great task remaining before us, that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion, that we here highly resolve that these dead shall not have died in vain, that this Nation, under God shall have a new birth of freedom, and that government of the people, by the people, for the people shall not perish from the Earth.''

Mr. Speaker, there is no better time than today, given the circumstances of our efforts to protect our homeland, that we rise to honor the men and women of the military and reaffirm our patriotism to this great Nation across all generations.

I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and his staff for their assistance on this resolution, for bringing it to the floor in such a timely manner, and I urge Members to support the resolution.

Mr. DELAHUNT. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Massachusetts (Mr. DELAHUNT), particularly for the leadership that he has given on a number of

key issues dealing with the distinctive responsibilities of the three branches of government. H. Res. 132 challenges that interrelatedness and the constitutional structure of the judiciary, the executive, and the legislature. But, Mr. Speaker, I am not going to quarrel with that because as Members of Congress we are designated to represent the people of the United States and to come to voice those expressions. We do so in a tool called a resolution, congressional resolutions. This happens to be H. Res. 132.

Just as I am going to enthusiastically vote for the armed services tax relief that was just recently debated on the floor of the House, gratified of course that it has been eliminated from the baggage of gambling extras, benefits that were given to gamblers, I am likewise going to vote for H. Res. 132.

Mr. Speaker, let me share with you I believe an analysis that for some may hold water. The first amendment guarantees freedom of expression and freedom of religion. To date now this Pledge of Allegiance is a voluntary act that Americans choose to do, voluntarily in places of worship, voluntarily in this Congress, voluntarily in schools; and it should remain that. There is language in here to suggest that we encourage schools to do so. I want the CONGRESSIONAL RECORD to reflect that this is voluntary and no one should be forced to say the Pledge.

But if you do say the Pledge, then I believe out of your freedom of expression and freedom of religion you have every right to say ''under God.'' And for those who desire not to say it, they have every right not to say it.

Equally, I would argue with the proponent legislative listing of irrelevant aspects of this resolution, and that is to suggest that there may be, as we discussed in the Committee on the Judiciary, some litmus test for judges. The President should nominate and the Senate should confirm Federal circuit court judges who interpret the Constitution consistent with the Constitution's text. An interesting benign statement maybe, but irrelevant. Because the courts will do as they desire to do because that is an independent, free branch of government that we should reflect.

Interestingly enough, Mr. Speaker, as we are taking up H. Res. 132, I filed the first day H. Con. Res. 2, to repeal the Iraqi resolution, so that this Congress would not be deadly silent on the question of war. I intend to file today a resolution that will restate the constitutional premise that this Congress has the sole authority to debate the question of war.

It is interesting how my colleagues are selective in what resolutions can come to the floor, constitutional questions, commentary on the acts of other branches of governments. And I believe if we are to be fair and honest in this House, if we are to be truly the people's House, just as I can come to the floor and support this resolution because I believe the first amendment protects it, and I proudly pledge allegiance to the Flag with the language ''under God'' even though we have separate branches of government, it seems patently, if you will, disingenuous, and as well hypocritical, for us not to be able to debate questions, constitutional questions that deal with the issue of war. Not that we will be all of one mind. I respect that, Mr. Speaker, because this is a democracy. But certainly as the Prime Minister of England can go to the Parliament on this very somber question, then we can too, Mr. Speaker. We can unshackle ourselves from the fear of disagreeing with each other, and lo and behold we can unshackle ourselves from any commentary that anyone who opposes the particular option that has been chosen, I believe, should be the last option of war is in any way unpatriotic or is in any way not supporting the brave young men and women in the front lines allowing us to be here today.

We know that we are facing troubling times, and we will do it united as a Nation. But it speaks little of what we are fighting for if we cannot come again to the floor of the House and express either our support or our opposition to the question of the option of war being the only option.

I believe, Mr. Speaker, there are many options. There is a third option that we can engage in from putting troops at the front lines, U.N. inspections and indicting Saddam Hussein. But as I rise to support H. Res. 132, let me say, Mr. Speaker, I do it proudly; but I also ask this House to be able to debate a question that will deal with the lives of young men and women and it will be a question of life or death and war or peace.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Oklahoma (Mr. LUCAS) to get back to debating the Pledge of Allegiance and the Newdow ruling.

Mr. LUCAS of Oklahoma. Mr. Speaker, today I rise in support of this resolution and in support of the Pledge of Allegiance.

I believe children in schools across America should start their day in the same way we do here on the floor of the United States House of Representatives, by reciting the Pledge of Allegiance.

Mr. Speaker, the Ninth Circuit's decision is outrageous and has set a dangerous precedent that we cannot allow to continue nationwide. I know of no better way to educate our children about the beliefs we stand for in this great Nation of ours than with the Pledge of Allegiance. The Pledge is an important way of educating our children about the value of patriotism, democracy, a reminder that we are one Nation under God. That is why I believe we need to keep the Pledge in our schools, and as my constituents in Oklahoma would say, keep the judges who do not value the Pledge out of our courts.

Mr. Speaker, my constituents are dumbfounded and angered by the Ninth Circuit's actions. That is why I have introduced legislation immediately after the court's original ruling last year that would amend the U.S. Constitution to protect the right of schools to lead willing students in the recitation of the Pledge. I have reintroduced my Pledge of Allegiance Protection Amendment in this Congress; and while I know, I believe in my heart that the U.S. Supreme Court will overturn this foolish ruling, I urge my colleagues' support for its passage if the Supreme Court upholds the Ninth Circuit Court's atrocious decision.

Mr. Speaker, again, I support this resolution in support of the Pledge.

Mr. DELAHUNT. Mr. Speaker, I have no additional speakers, and I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1½ minutes to the gentleman from Arkansas (Mr. BOOZMAN).

□ 1215

Mr. BOOZMAN. Mr. Speaker, I rise today in support of House Resolution 132. This legislation expresses that the Ninth Circuit Court of Appeals' ruling against the Pledge of Allegiance is inconsistent with the Supreme Court's interpretation of the first amendment.

The Pledge of Allegiance brings together people of different backgrounds in a shared expression of support for our country. Before the start of business in the House of Representatives, my colleagues and I proudly recite the Pledge of Allegiance, just as I proudly said it before every school board meeting back home in my hometown of Rogers, Arkansas.

Our pledge to support our country and the beliefs on which it was founded is an important part of our everyday life. Every time an American turns to the flag to recite the Pledge of Allegiance, they are reminded of all that has been sacrificed in the name of our country and for our freedom.

The U.S. Court of Appeals for the Ninth Circuit outraged people across the country by ruling the phrase ''one Nation under God'' makes the Pledge of Allegiance unconstitutional. It is unbelievable that a Federal court would rule that the Pledge of Allegiance violates our first amendment.

Mr. Speaker, perhaps now more than ever the need for the unity in America exists. I commend the gentleman from California (Mr. OSE) for bringing this legislation before us, and I urge my colleagues to vote in favor of House Resolution 132.

Mr. STEARNS. Mr. Speaker, unfortunately, in an arrogant stunt, last summer, 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.'' This is an obvious instance of political correctness taken to an absurd extreme.

This court clearly shows that it is out of step with the will of the American people, the U.S. Congress, and traditional American values. Religious expression is the fundamental basis of our freedom in this country. At the earliest moment in this nation's history, the pilgrims signed The Mayflower Compact that declared that the voyage across the Atlantic was taken ''for the Glory of God'' and still today, the Ten Commandments are publicly displayed in the National Archives. In this Nation we have ''In God We Trust'' on our money, and each day the House of Representatives starts its day be reciting the Pledge of Allegiance. We will continue to do so despite the folly of the 9th Circuit Court.

Mr. FEENEY. Mr. Speaker, I thank you for the opportunity to revise and extend my remarks and submit them into the CONGRESSIONAL RECORD.

I rise in support of H. Res. 132. Fellow Members, in this time of war, I think it is more important than ever to be able to express our patriotic and religious views together in unity and solemnity. The Pledge of Allegiance is a beautiful manifest of the feelings of Americans. We are a religious people. We always have been. America has been such since our inception. Granted, we are a people of diverse religious backgrounds, but being able to express our faith in public without fear of government condemnation or censure is without a doubt, the reason why you and I are standing here today. The desire for religious liberty was what brought the first groups of Americans to our country hundreds of years ago to build this shining ''city upon a hill.''

Members, I stand in support of the Pledge of Allegiance as did this great body on Flag Day 1954 when the words ''Under God'' were added. As President Eisenhower, who supported this change, so eloquently stated, ''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.'' Eisenhower's words could not be more accurate or more timely. Americans' religious beliefs reach to the core of our being. It is in both times of uncertainty and turmoil, prosperity and blessing that we cling to our beliefs for direction, comfort, guidance and peace. To deny Americans the right to stand together and say the Pledge of Allegiance is to deny the spirit behind the Mayflower Compact, Patrick Henry's great Liberty Speech, the Declaration of Independence, the Gettysburg Address, and all of the other documents that serve as a mission statement of our people.

Members, in this time of war I urge you to support H. Res. 132 to defend the Pledge of Allegiance as a fitting and constitutional written expression for all Americans.

Mr. GOODLATTE. Mr. Speaker, I rise today in strong support of H. Res. 132, a resolution that expresses Congress's disapproval of the recent 9th Circuit Court of Appeals decision that held that a public school's policy of opening each school day with the voluntary recitation of the Pledge of Allegiance impermissibly coerced a religious act.

A State sponsored religion is unconstitutional, but there is nothing in our founding documents that requires the removal of every reference to God from the public square. Most Americans can make this distinction, which explains the public outcry to the 9th Circuit's misguided decisions.

The faith of our founding fathers was central to the establishment of our Nation and there are references to God in countless public forums. The Declaration of Independence declares that ''all men are Created equal, endowed by their creator with certain unalienable rights.'' The Supreme Court begins each session with the blessing ''God save the United States and this honorable court.'' Congress opens each day with a prayer, through which we seek divine guidance for the tasks before us. Our currency bears the slogan ''In God We Trust.''

The Pledge of Allegiance is an important affirmation of both our country's faith and patriotism. With our Nation on the brink of war, we must be vigilant in guarding against efforts to strip away the tradition and powerful public expressions of these key values. Instead, we should emphasize our shared heritage, our commitment to freedom, and our rich tradition of national humility before the ultimate author of our liberty. I urge each of my colleagues to vote in favor of H. Res. 132.

Mr. SENSENBRENNER. Mr. Speaker, I have no further speakers and am prepared to yield back if the gentleman from Massachusetts will do the same.

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

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

The SPEAKER pro tempore (Mr. HASTINGS of Washington). 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. 132.

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, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

PROVIDING FOR CONSIDERATION OF H.R. 975, BANKRUPTCY ABUSE PREVENTION AND CONSUMER PROTECTION ACT OF 2003

Mr. GOSS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 147 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 147

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. 975) to amend title 11 of the United States Code, 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 the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. 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. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. 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.

The SPEAKER pro tempore (Mr. LAHOOD). The gentleman from Florida (Mr. GOSS) is recognized for 1 hour.

Mr. GOSS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the distinguished gentlewoman from New York (Ms. SLAUGHTER), my friend and associate, pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purposes of debate on this matter only.

Mr. Speaker, I am exceedingly pleased that tonight we will consider much-needed bankruptcy reform legislation under the direction of a fair and balanced rule that makes a total of five amendments in order, including an amendment in the nature of a substitute sponsored by the gentleman from Michigan (Mr. CONYERS), the ranking member.

I am proud of the tireless and extensive efforts of many Members, including the gentleman from Texas (Mr. SESSIONS), who will be here to address us shortly in the rule on this, and the staff who have put together countless hours toward the passage of this legislation over several years now.

Their efforts allow us to ensure that our bankruptcy laws operate fairly, efficiently and free of abuse. We must end the days when debtors who were able to repay some portion of their debts are allowed to game the system. This bill is crafted to ensure the debtor's rights to a fresh start while protecting the system from flagrant abuses by those who can pay their bills.