

□ 1419

Mr. FRANK changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

#### GENERAL LEAVE

Mr. LEWIS of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill, H.R. 5010, just passed, and that I may include tabular and extraneous material at the appropriate place in the RECORD.

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

There was no objection.

#### COMMENDING MEMBERS AND STAFF OF COMMITTEE ON APPROPRIATIONS

(Mr. LEWIS of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of California. Mr. Speaker, I would like to clarify the Committee's intent regarding the "SPY-1 Solid State Radar." The Committee intends that the entire amount contained in the President's budget under the Sea Based Midcourse for Sea Based Solid State Radar development be used for the development of the S-Band SPY-1E radar.

Mr. Speaker, I did not take the time earlier for we were about to pass the first appropriations bill of the year in record time. There was a small little train wreck that got in the way of that record time; and, thus, I will take a moment that I would have taken earlier to express my appreciation for those who made this success possible.

Both the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) have been very, very helpful in the work of Committee on Appropriations this year as it deals with national defense. I want to take a moment to especially express my appreciation to the gentleman from Pennsylvania (Mr. MURTHA), my partner in this business, for we never would have been able to accomplish the level of bipartisan support we had in the House as demonstrated by the vote without his assistance.

Beyond that, we were both blessed with very, very fine staff on both sides of the aisle who do a fine job. Kevin Roper on my side and Greg Dahlberg on the other side help lead a team of staff people who worked endless hours, weekends, night and day to make sure this bill is not just successful but that it is done in a highly professional manner, and for that we very much appreciate their work.

#### PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 463 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 463

*Resolved*, That it shall be in order at any time on the legislative day of Thursday, June 27, 2002, for the Speaker to entertain motions that the House suspend the rules relating 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 SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I consume.

H. Res. 463 provides that it shall be in order at any time on the legislative day of Thursday, June 27, 2002, for the Speaker to entertain motions that the House suspend the rules relating to the resolution, H. Res. 459, expressing the sense of the House of Representatives that *Newdow versus U.S. Congress* was erroneously decided.

Yesterday was a sad day for the millions and millions of Americans who understand and appreciate the significance of the Pledge of Allegiance.

Incredibly, the Ninth Circuit Court of Appeals decided to overturn a 1954 act of Congress, which added the phrase "under God" to the Pledge of Allegiance, ruling that these two words violated the Constitution's Establishment Clause which requires the separation of church and state.

This fatally-flawed ruling, taken to its logical endpoint, would indicate that our currency, which contains the phrase "In God We Trust," is unconstitutional. Clearly, that is not true, but, in the meantime, the Ninth Circuit has issued this inexplicable ruling.

This decision, if not overturned by the U.S. Supreme Court, will force a number of Western States to remove this important phrase from the Pledge of Allegiance.

I am proud to stand with my colleagues today on both sides of the aisle as we fight to protect our American heritage. In bringing the underlying legislation, H. Res. 459, to the floor, we are reaffirming our commitment to bedrock values and beliefs that have made the United States of America the greatest country on Earth. I firmly believe that the Pledge of Allegiance should continue to include the entire phrase "One Nation Under God."

I want to thank the chairman of the House Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENBRENNER), for his leadership in bringing this important legislation to the House floor so quickly, given that

the Ninth Circuit's ruling was handed down only yesterday afternoon.

I urge my colleagues and fellow Americans getting ready to celebrate the birth of our country next week to remember the spirit that made us a great Nation.

The phrase "One Nation Under God" reflects a spiritual belief that was so important to our forefathers, a belief in God that was instrumental to the founding of our country. I believe we, as members of Congress, we have a duty and an obligation to express our vigorous disagreement with this ruling, rather than simply allow it to stand unchallenged.

On a personal note, Mr. Speaker, in 1976, in the Georgia legislature, my friend, Tommy Tolbert, and I provided an amendment to the education bill that required every class in Georgia to make available at some point during every day the Pledge of Allegiance for the students in those classes throughout Georgia; and now some clown from the Ninth Circuit, as it has been called, decides that the Congress did not know what it was doing in 1954.

I urge my colleagues to join me in supporting this rule and then supporting the underlying legislation which will allow the House to go on record in regard to this out-of-touch ruling.

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

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

Mr. Speaker, I thank my colleague, the gentleman from Georgia (Mr. LINDER), for yielding me the customary time.

Mr. Speaker, this rule provides for the consideration of H. Res. 459 under suspension of the rules. The underlying resolution expresses the sense of this House that *Newdow versus U.S. Congress* was erroneously decided.

Mr. Speaker, I urge my colleagues to support this rule and to support the underlying resolution.

Yesterday, a three-judge panel of the Ninth Circuit Courts of Appeals ruled that the Pledge of Allegiance is unconstitutional. It is difficult to describe that decision as anything but just plain dumb.

I strongly support the separation of church and State, and I strongly support the provision in the first amendment that prohibits government from establishing State-sponsored religion. The first amendment protects American citizens from government interference in their spiritual lives. It allows people to worship as they wish, and it allows them to refuse to worship at all.

The Pledge of Allegiance hardly rises to the level of a mandated national religion. The phrase "One Nation Under God" is similar to "In God We Trust" on our currency or "God Bless America" sung at high school graduations or even sung on the floor of this House. These invocations of God have more to do with tradition and heritage than

with the government forcing people to believe or practice a certain type of faith.

Every day in the well of this House a Member leads us in the Pledge of Allegiance. I had the honor of leading the Pledge of Allegiance just last week. The Pledge is a way for all of us come together, regardless of party or ideology, and express our love for this Nation and our commitment to our democracy. But we also have the right not to say the Pledge at all.

As the Supreme Court ruled in 1963, it is unconstitutional to force people to say the Pledge. And the resolution before us 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.

But here come a panel of the often-overturned Ninth Circuit, interestingly enough led by an appointee of the Nixon administration, charging into a nonexistent breach, issuing a divisive and unnecessary ruling. There are so many important issues facing our Nation, and I can say honestly that I have never had a constituent rush up to me in Worcester or Attleboro or Fall River to demand that we remove "under God" from the Pledge of Allegiance.

Indeed, yesterday's ruling only serves to trivialize the very real issues of church/state separation that deserve a full and fair hearing before all the branches of government. But the Constitution also protects the right of American citizens to have their day in court. That is what the plaintiff in this case has done; and because of the structure of our government, Congress cannot overturn that decision. We can only express our disapproval, which this resolution does in very clear and appropriate terms.

It will be up to the full Ninth Circuit and possibly the Supreme Court itself to toss this ruling into the dustbin of history where it belongs. In the meantime, Congress has the right to call yesterday's decision what it was, a big fat mistake. I urge my colleagues to support the rule and to support the resolution.

Mr. Speaker, I enter into the RECORD today's editorials from the New York Times, the Washington Post and the Los Angeles Times on this issue, as follows:

[From the New York Times, June 27, 2002]

"ONE NATION UNDER GOD"

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.

Yesterday, the United States Court of Appeals for the Ninth Circuit in California ruled 2 to 1 that those words in the pledge violate the First Amendment, which says

that "Congress shall make no law respecting an establishment of religion." The majority sided with Michael Newdow, who had complained that his daughter is injured when forced to listen to public school teachers lead students daily in a pledge that includes the assertion that there is a God.

This is a well-meaning ruling, but it lacks common sense. A generic two-word reference to God tucked inside a rote civic exercise is not a prayer. Mr. Newdow's daughter is not required to say either the words "under God" or even the pledge itself, as the Supreme Court made clear in a 1943 case involving Jehovah's Witnesses. In the pantheon of real First Amendment concerns, this one is off the radar screen.

The practical impact of the ruling is inviting a political backlash for a matter that does not rise to a constitutional violation. We wish the words had not been added back in 1954. But just the way removing a well-lodged foreign body from an organism may sometimes be more damaging than letting it stay put, removing those words would cause more harm than leaving them in. By late afternoon yesterday, virtually every politician in Washington was rallying loudly behind the pledge in its current form.

Most important, the ruling trivializes the critical constitutional issue of separation of church and state. There are important battles to be fought virtually every year over issues of prayer in school and use of government funds to support religious activities. Yesterday's decision is almost certain to be overturned on appeal. But the sort of rigid overreaction that characterized it will not make genuine defense of the First Amendment any easier.

[From the Washington Post, June 27, 2002]

ONE NATION UNDER BLANK

In the many battles over how high the church-state wall should be, there has always been a certain category of official invocations of God that has gone untouched. Legislative prayer has been upheld by the Supreme Court, for example. Court sessions begin by asking that "God save this honorable court." America's national motto says "In God We Trust." And the Pledge of Allegiance, since 1954, has described this country as "One nation under God, indivisible." At least it did until yesterday—when a panel of the 9th U.S. Circuit Court of Appeals struck down the words "under God" as an establishment of religion in violation of the First Amendment.

If the court were writing a parody, rather than deciding an actual case, it could hardly have produced a more provocative holding than striking down the Pledge of Allegiance while this country is at war. We believe in strict separation between church and state, but the pledge is hardly a particular danger spot crying out for judicial policing. And having a court strike it down can only serve to generate unnecessary political battles and create a fundraising bonanza for the many groups who will rush to its defense. Oh, yes, it can also invite a reversal, and that could mean establishing a precedent that sanctions a broader range of official religious expression than the pledge itself.

All of this might be justified if there were 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.

As 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 American" or "America the Beautiful" at official events? Is American currency unconstitutional? The answer must be, as Judge Fernandez argues, that in certain expressions "it is obvious that [the] tendency to establish religion in this country or to interfere with the free exercise (or non-exercise) of religion is de minimis." Amen.

[From the Los Angeles Times, June 27, 2002]

A GODFORSAKEN RULING

A panel of the U.S. 9th Circuit Court of Appeals has ruled 2 to 1 that the Pledge of Allegiance—you know, "I pledge allegiance to the flag of the United States of America . . ."—is unconstitutional. And the reason? Because of that phrase "under God" inserted by Congress 48 years ago.

The court said an atheist or holder of non-Judeo-Christian beliefs could see these words as an endorsement of monotheism, even though students can opt out.

"A profession that we are a nation 'under God' is identical, for establishment clause purposes, 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," wrote Judge Alfred Goodwin.

It's a fundamentally silly ruling, which deserves to be tossed out, as was the initial suit by a Sacramento atheist. For now, erasing the pledge applies only to 9th Circuit states—California, Alaska, Arizona, Hawaii, Idaho, Montana, Nevada, Oregon and Washington. Implementation of the ruling is suspended pending appeals.

The original 1892 pledge didn't contain the phrase "under God," which was added after a vigorous debate during a period of loyalty oaths and Red-baiting. The Cold War insertion of the phrase in 1954 clearly was driven as much by ideology as religion. That said, for all the overheated and dire predictions voiced then, the "under God" phrase has in no way led to establishment of an official state religion. Further, the U.S. Supreme Court ruled in 1943 that it was unconstitutional to force pledge recitations. Thus the 9th Circuit decision is a cure without an ailment.

In fact, references to the Almighty have long been an integral part of everyday American life—honest to God. That's not too surprising for a nation initially organized by Europeans fleeing persecution for practicing their beliefs in God. The pledge ("one nation under God, indivisible, with liberty and justice for all") is recited daily by millions, with few, if any, enforcement problems over which words someone mumbles or skips.

When taking office, many government officials, including judges, take an oath invoking God. Court witnesses swear to tell the truth "so help me God." In fact, the Supreme Court, where this case should go with Godspeed, opens sessions with a reference to God.

And what about that oppressive song "God Bless America" that the entire Congress sang on government property after Sept. 11? Then there's the problem of U.S. currency,

which may now be unconstitutional because it says, "In God We Trust." The appeal should come swiftly. God willing, it will.

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

Mr. LINDER. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. ROHRBACHER).

Mr. ROHRBACHER. Mr. Speaker, today I rise in strong support of this rule and the underlying resolution. Also, I rise today in outrage and indignation over yet the latest manifestation of an ongoing assault on the rights of Americans who cherish their beliefs and their commitment to God.

This is not just about the Pledge of Allegiance, although forcing people to excise God from this voluntary oath is bad enough. A liberal left coalition has been trying to do their best for decades to neuter American traditions that is based on God, beliefs and traditions that Americans have held dear for two centuries.

We see it in the attack on the rights of the Boy Scouts to have God in their scout oaths and have a high moral standard. We see it in our schools when they preempt Christmas programs and instead make them holiday programs. We see it at city halls when all of a sudden a manger scene or some recognition of Hanukkah are left out during those holy months. We see it when the courthouse takes down the Ten Commandments; and we see it when the National Endowment for the Arts subsidizes art works, supposed, so-called art work that attacks Christianity but then passes when it comes to religious works.

□ 1430

Yes, getting God out of the Pledge of Allegiance is bad; but it is part of an attempt, an overall attempt to use the judicial system to attack our fundamental liberties, especially the liberties of those of us who believe in God.

This is one reason why many of us are so concerned about who controls the United States Senate, because it will be the United States Senate who controls who is on the Supreme Court. No one has ever been forced to pray or to acknowledge God, but the liberal coalition that is involved in taking this Pledge and eliminating God from the Pledge are using our courts to attack the freedom of those who do believe in God and attack our rights to our expression.

Today, those of us who believe in God, those of us who cherish liberty need to unite to make sure that those who would use our court system, especially on to the Supreme Court, are defeated in their attempts to neuter America of its traditional recognition of God. I for one stand for liberty, and together we will keep God in our Pledge of Allegiance; and we will defeat this war to sever America and Americans from our religious traditions, and we will protect our people's precious rights to have their faith in God and to express it; and at the same

time, we will protect those who do not believe in God.

This is, as I say, a fundamental attack by atheists as part of a liberal left coalition to attack the rights of us who do believe in God to express that, and we need to unite with believers and nonbelievers together for human liberty, which is what America is all about.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Pennsylvania (Mr. HOLDEN).

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

Mr. Speaker, I rise in strong support of the rule and of the underlying resolution. I, like all of my colleagues and the entire American people, are outraged at the Ninth Circuit Court of Appeals, who have declared the Pledge of Allegiance unconstitutional because of the words "under God."

Mr. Speaker, patriotism is at an all-time high in rise since September 11 as we stand united behind our Commander in Chief and as we stand behind those brave men and women who wear the uniform daily and are fighting the war on terrorism in Afghanistan and across the world.

This decision could not have come at a worse time. This decision was ill advised. It was ridiculous, and we need to send a clear message that we are going to stand as a Congress to see that the words "under God" stay in the Pledge of Allegiance, or what will be next?

Mr. Speaker, above the Chair's head, "In God We Trust." Will that be the next thing to be attacked? Our currency, "In God We Trust." Will that be the next to be attacked? We need to stand united and send a clear message that we are not going to adhere to this ridiculous decision, and I hope it will be overturned as quickly as possible.

Mr. LINDER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Mississippi (Mr. PICKERING).

Mr. PICKERING. Mr. Speaker, I rise to proudly support the rule and this resolution. One Nation under God, indivisible. If we look in this great Chamber, behind the Speaker, "In God We Trust." My colleagues may not be able to see, but right in front of me, lining this Chamber, there are historical figures. The most central historical figure is Moses, the 10 Commandants. If we look to the symbol of our Nation, the eagle, under the eagle are the words "e pluribus unum," "for many there is one."

This Pledge has united school children across our country for generation after generation. It is a uniting force, indivisible. It is not a force of division in our country. It recognizes that our country under God, our liberty under God, our unity under God.

We need to make sure that this out-of-control court is put back in place and that our traditions and our expressions are maintained, whatever it takes.

The dissenting judge in this case says, In God we trust or under God have no tendency to establish a religion in this country or to suppress anyone's exercise or nonexercise of religion except in the fevered eye of persons who most fervently would like to drive all tincture of religion out of the public life. The dissenting judge goes on to say that by this logic "America the Beautiful," "God Bless America," "The Star Spangled Banner," our currency would be wiped away.

We must stop it now. We must stop it today, and we must reestablish that our country is one Nation under God, indivisible, with liberty and justice for all.

Mr. MCGOVERN. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Mrs. CAPPES).

Mrs. CAPPES. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, I rise in strong support of this rule, this resolution, and the Pledge of Allegiance. Yesterday, a Federal court ruled that the recitation of the Pledge is unconstitutional and all because it contains the words "under God." Mr. Speaker, I strongly oppose this ruling, and I know that I speak for my constituents when I say that the court should reverse itself or the Supreme Court should overrule it. If they do not, then this Congress should act to protect the Pledge of Allegiance.

For decades, Americans have said the Pledge of Allegiance as a way to show their respect and love for this country. We say it every day we are in session here on the floor of the people's House. The pledge is a statement reaffirming our belief in our country and the values for which it stands. Now more than ever those values, liberty, justice, equality, are so needed.

I urge my colleagues to support this resolution and to support the Pledge.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Illinois (Mr. HYDE), my friend.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, we ought to thank the court. It brought us together, Democrats and Republicans, in unanimity, something that is seldom seen around here.

Actually, though, the court's decision embarrasses us. We have been living in a dream world. Back in the Mayflower Compact in 1620, first sentence, "in the name of God, amen."

If we go on through that to the Declaration of Independence, "We hold these truths to be self-evident, that all men are created equal and are endowed by their creator, with certain inalienable rights, among which are life, liberty and the pursuit of happiness." Our human rights are the endowment from the Creator. That is a fundamental premise of America, and it is in our birth certificate, the Declaration of Independence.

The Treaty of Paris, which resolved the Revolutionary War, mentions God.

Abraham Lincoln on November 19, 1863, in a cold, windy little cemetery in Pennsylvania asked a very haunting question, whether this Nation, conceived in liberty and dedicated to the proposition that all men are created equal, can long endure, and the end of that greatest speech in American literature, he says that we here highly resolve but that these dead shall not have died in vain and that this Nation, under God, shall have a new birth of freedom and that government of the people, by the people and for the people shall not perish from the Earth.

So we are embarrassed by the decision. We have been barking up the wrong tree. We thought it was a good thing to acknowledge the fatherhood of God, to acknowledge our debt to Providence and to do so in a public way. The Supreme Court in 1892, in a case called *Church of the Holy Trinity versus the U.S.* said, "This is a religious Nation." That same court in 1951, in a case called *Zorach* said, We are a religious people whose institutions presuppose a supreme being.

So this decision by these three judges, two of the three judges in the Ninth Circuit, is based on a total lack of respect, if not knowledge, of American history, of American culture, of American tradition. It is an embarrassment; and we as a coequal branch of government ought to rise up and say no, no, it is wrong, and acknowledge, continue to acknowledge the primacy of the supreme being who has blessed this country for more than 225 years.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise here in support of this resolution. I am a graduate of Cleveland public schools, and I can remember as a little girl at Miles Standish Elementary School learning the Pledge of Allegiance to the flag and it being so important to me. In third grade, we learned French, and we even learned how to say the Pledge of Allegiance in French in that third grade class; and here I stand 53 years old, and I am still able to remember that I said: *Je jure fidelite au drapeau des Etats -Unis d'Amerique et a la Republique qu'il represente, une Nation sous Dieu, and so forth.* We learned it in French and it was very important to me as I thought about it.

I too am embarrassed by the Ninth Circuit Court. I am embarrassed that this court would take a pledge, when we make allegiance to our country, and try and take it out of context and move on; but I am even more disappointed today in the United States Supreme Court, because I come from the great city of Cleveland.

Today this United States Supreme Court made the decision that vouchers were not unconstitutional, that vouchers in the establishment clause could be used to pay for religious education

with public dollars. I was very interested in the decision. It said that parents have a choice to where they send their children, that the dollars go to the parents, and so, therefore, it is not a violation of the establishment clause.

The dissenting justices, who I agree with, said but it is clear based on the facts in this case that 96.6 percent of the students of the Cleveland public schools go to religious institutions and there are very few other options other than religious institutions for these children to go to.

Many of my colleagues know that before I came to this body I served as a judge, and I was very proud to be a judge, and I am very proud of the profession of judges that I sat with and that I served with. But I have to say that these two decisions yesterday, decision in regard to the Pledge of Allegiance to the United States of America and today's decision by the U.S. Supreme Court with regard to vouchers has disappointed me.

The last thing I would say, Mr. Speaker, is as we talk about the importance of this Pledge of Allegiance to the United States, lest we not remember that portion which says with liberty and justice for all, let us make sure that all get liberty and justice.

Mr. LINDER. Mr. Speaker, I am pleased to yield such time as he might consume to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, George Washington was quoted as saying, "An atheist is a person with no invisible means of support," and I think that that person that brought this lawsuit forward, I do not think, I know, he has got the right to feel like he does; but it is also our right to detest that particular point of view.

We stand here today, I do not care if someone is a Christian, Muslim, Jew, I think to denounce that decision that was made in Ninth Circuit Court, and I would tell my colleagues, there was a time in my own life, I was raised in a Christian family, had to go to church every Sunday. When I got out on my own, I could not say that I actually knew that there was a God at one time.

On May 10, 1972, over the skies of Vietnam, my aircraft was hit with a surface-to-air missile and the airplane started going out of control, and it actually rolled upside down; and like many people, the only time I would ever ask for God's help was when I was in trouble. I remember thinking, God, get me out of this, I do not want to be a prisoner of war or die. The airplane righted itself as I took the stick and put it to the left side, and I remember thinking, God did not have anything to do with this, it was just my superior flying skills that righted this airplane; but about that time, the airplane went back upside down, and I remember thinking, God, I did not mean it, get me out of here.

I will tell the people that are atheist or do not support this resolution, all they have to do is get on their knees

and say a prayer and I do not care what religion they are, somebody is going to listen.

□ 1445

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman of the Committee on Rules for yielding me this time and also for the very fine presentation that he made today. I think he clarified the debate that will be framed even more as we move into general debate.

I would like to just briefly, though there is much that I can say from the patriotic perspective and my love for this country, but more importantly the great honor I take in saying the Pledge to the United States of America every day, and would encourage the young people of America to take as much pride in pledging loyalty to their Nation. But I do want to speak to the appropriateness of the resolution as it is constructed, and that is a disagreement with the context and the decision of the particular court.

I am very much respectful of the independence of the three branches of government, the executive, the judiciary and the legislative; and so it is appropriate that the context is such that we express disagreement, but I will expand more in terms of debate and discussion on the language that is in this court opinion that suggests that our children will be put in untenable positions of choosing between participation in an exercise with religious context or protesting. That is not accurate.

In fact, what actually occurs is the right of freedom of religion and speech. The speaker has freedom of speech under the first amendment, and the individual who chooses not to say the Pledge of Allegiance has the freedom of religion. Therefore, I am unsure of the line of analysis that the court has made to suggest that one is protesting and that it is untenable. That individual is expressing their freedom of religion by their decision as to not express themselves through the Pledge of Allegiance to the United States of America.

I would hope that as this decision makes its way through to the Supreme Court we will once and for all understand the context of the first amendment, that is the freedom of expression, the freedom of religion, and the choice to do so.

Mr. MCGOVERN. Mr. Speaker, I yield myself such time as I may consume, and I would close by urging my colleagues to support this rule and support the underlying resolution.

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

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume, and I urge my colleagues to support this resolution and to support the underlying bill.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

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