

Mr. CORNYN. As Justice William O. Douglas explained in his decision in *Zorach v. Clauson*, “[t]he First Amendment . . . does not say that in every and all respects there shall be a separation of Church and State. . . . Other-wise . . . [p]olicemen who help parishioners into their places of worship would violate the Constitution. Prayers in our legislative halls,” such as we observed in this Chamber this morning and do every time the Senate meets, “the appeals to the Almighty in the messages of the Chief Executive; the proclamations making Thanksgiving Day a holiday; ‘so help me God’ in our courtroom oaths—these and all other references to the Almighty that run through our laws, our public rituals, our ceremonies would be flouting the First Amendment.”

The Founders of the Constitution did not ratify a Constitution or a Bill of Rights so hostile to religion. To the contrary, the very first day that the first Congress approved the Establishment Clause, it also passed the Northwest Ordinance which declared that “religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.”

Our Founders thus believed this new Nation could endorse and promote religion and encourage its citizens voluntarily to practice the faith of their own choosing. They are not mutually exclusive.

The Ninth Circuit’s decision to strike down the Pledge of Allegiance finds no basis in the text of the Constitution or the original understanding of our Founding Fathers. Indeed, it defies common sense.

I urge this body to support the resolution offered this morning by the Senator from Alaska and the Senator from Kentucky because the Ninth Circuit’s decision, like far too many decisions coming from our Federal courts, replaces the Constitution with an altogether new and made-up rule preferred by judges who may personally prefer a government that is actively hostile to all expressions of faith in a public forum.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). Under the previous order, the final 60 minutes shall be under the control of the Democratic leader or his designee.

The Senator from Oregon.

STANDING UP FOR THE CONSUMER

Mr. WYDEN. Mr. President, gasoline prices are soaring through the stratosphere, and the Federal Trade Commission, which is supposed to be standing up for the consumer, ought to stop playing footsie with the oil companies and take steps to protect the American people. I have been trying to get the Federal Trade Commission to do its job now for several years. In fact, I have

supplied them with detailed reports outlining anticompetitive practices in the oil industry in hopes that I could get their attention. Unfortunately, they are still sitting on the sidelines.

This morning I will outline what some of those anticompetitive practices are that the oil companies are now using to victimize the American consumer.

The oil companies are redlining. What they have sought to do is keep independent wholesalers known as “jobbers” from competing in markets by refusing to let independent dealers buy better priced gasoline from the local jobbers. This is a technique to wall off whole communities from competition. Redlining is going on today.

The oil companies are also zone pricing. They charge different prices for the same gas at their own branded stores in adjacent neighborhoods, pricing it as high as the market will bear. They have also charged independent dealers higher wholesale prices than they charge the company stores. The end result, the independents cannot compete.

So what we have in communities across the country is two stations that are located next to each other, and because of a Supreme Court decision, oil companies are required to treat those companies similarly situated in the same way. But what the oil companies do very cleverly is divide that community into different zones. Then they can stick it to one of the stations. That station goes out of business. There is a local monopoly and the consumer gets hosed once again.

A third area I have outlined for the Federal Trade Commission is that the oil companies keep the market to themselves. In the past, they have kept down refineries that could have increased supply and introduced new competition. We have given this information to the Federal Trade Commission and, again, they sit on their hands.

Finally, of particular importance to west coast consumers, where up and down the west coast of the United States prices have soared, people are paying \$2 a gallon and close to it in many communities. What we have seen in the past is the oil companies have exported gasoline to Asia at a discount and then more than made up for it by sticking consumers with higher prices in the tight west coast market.

The oil companies today would say they are no longer doing this, but the fact of the matter is that oil company representatives told my Oregon colleague, Senator SMITH, who has worked with me so cooperatively on many of these issues, in an open hearing in the Commerce Committee that they would export to Asia once again whenever it was in their commercial interest. So hypothetically, if they were allowed to drill for oil in the national wildlife refuge in Alaska, apart from the environmental considerations, based on the testimony in the Senate Commerce

Committee, the oil companies would be taking that oil from the wildlife refuge, selling it to Asia at a discount and sticking it to people in Oregon, Washington, and California.

It seems to me the Federal Trade Commission ought to be taking steps to stand up for the consumer. If they do not think they have the authority to stand up for the consumer at this point, they ought to come to the Senate and tell us what authority they actually need in order to protect the consumer and the gas-buying public. The unfortunate response from the Federal Trade Commission has been to simply sit this issue out.

For example, on July 17, 2002, in a hearing before the Senate Commerce Committee, I outlined once again for the Federal Trade Commission these anticompetitive practices. I went through with them the impact of redlining, of zone pricing, of the pressure that has been put on independent gasoline stations. I asked them to furnish for the record any set of concrete steps they have actually taken to protect the consumer.

We cannot find anything. We cannot find any specific action the Federal Trade Commission took, either before July 17, 2002, when I asked them that question, or since then. I am very troubled because I think the problems we are seeing today, and they are long-term problems, cry out for someone in the Federal Government to stand up for the consumer. It is the job of the Federal Trade Commission to deal with anticompetitive practices. These are long-term, anticompetitive practices that are siphoning the competition out of the gasoline markets in the United States.

I hope the Federal Trade Commission will either do its job under existing law—I think they have the authority to deal with these anticompetitive practices—or if they do not believe they do have the authority they need to protect the consumer, they should come to the Senate and outline what powers they need in order to stand up for the American people.

Essentially, both of the reports that I did and have submitted to the Federal Trade Commission found the very same thing. They found that the oil companies were engaging in anticompetitive practices. I hope now, given the enormous impact these huge gasoline price spikes are having on consumers, the ramifications for business—we had scores of businesses and business associations contact us in the past—that we can get the Federal Trade Commission off the side lines. They have a job to do. They are not doing it with respect to protecting the American people from anticompetitive practices in the gasoline businesses.

I intend to keep coming to the floor and the Senate Commerce Committee until the Federal Trade Commission is prepared to do its job.

I yield the floor.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Michigan.