

107TH CONGRESS
2D SESSION

H. RES. 459

Expressing the sense of the House of Representatives that *Newdow v. U.S.*
Congress was erroneously decided, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 26, 2002

Mr. SENSENBRENNER (for himself, Mr. PICKERING, Mr. POMBO, Mr. HASTERT, Mr. ARMEY, Mr. DELAY, Mr. CHABOT, Mr. GEKAS, Mr. SMITH of Texas, Mr. WATTS of Oklahoma, Mr. CANNON, Mr. PENCE, Mr. BARR of Georgia, Mr. BACHUS, Mr. JEFF MILLER of Florida, Mr. VITTER, Mr. GRAHAM, Mr. HYDE, Mr. KERNS, Mr. HOSTETTLER, Mr. SHOWS, Mr. SCHROCK, Mr. WELDON of Florida, Mr. FOSSELLA, Mr. JOHNSON of Illinois, Mr. DEFazio, Mr. ROSS, Mr. GRAVES, Mr. PITTS, Mr. GALLEGLY, Mrs. BONO, Mr. UPTON, Ms. DUNN of Washington, Mrs. BIGGERT, Mr. LUCAS of Kentucky, Mr. OSBORNE, Mr. SHADEGG, Mr. RILEY, Mr. HILLEARY, Mr. COX, Mr. GOODLATTE, Mr. GREEN of Wisconsin, Mr. ISSA, Mr. FORBES, Ms. HART, Mr. KELLER, Mr. TOM DAVIS of Virginia, Mr. COSTELLO, Mr. BAKER, Mr. TIBERI, Mr. REYNOLDS, Mr. TAYLOR of North Carolina, Mrs. EMERSON, Mr. WICKER, Mr. WALSH, Mr. COOKSEY, Mr. OXLEY, Mr. KINGSTON, Mr. SIMPSON, Mr. RAMSTAD, Mr. CALVERT, Mr. HAYES, Mr. GANSKE, Mr. LUCAS of Oklahoma, Mr. LATHAM, Mr. DEMINT, Mr. TIAHRT, Mr. SESSIONS, Mrs. MYRICK, Mr. LINDER, Mr. HASTINGS of Washington, Mr. DREIER, Mr. GOSS, Mr. DIAZ-BALART, Mr. SHIMKUS, Mr. PLATTS, Ms. PRYCE of Ohio, Mr. HULSHOF, Mr. FLAKE, Mr. ISTOOK, Mr. BRYANT, Mrs. WILSON of New Mexico, Mr. YOUNG of Florida, Mr. LEWIS of California, Mr. REHBERG, Mr. ISRAEL, Mr. MCCRERY, Mr. PETERSON of Minnesota, and Mr. SHERWOOD) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Expressing the sense of the House of Representatives that

Newdow v. U.S. Congress was erroneously decided, and for other purposes.

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 not a religious service or a prayer, but it is a statement of historical beliefs. 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.”; and

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

1 Resolved, That it is the sense of the House of Rep-
2 resentatives that—

3 (1) the Pledge of Allegiance, including the
4 phrase “One Nation, under God,” reflects the histor-
5 ical fact that a belief in God permeated the Found-
6 ing and development of our Nation;

7 (2) the Ninth Circuit’s ruling is inconsistent
8 with the U.S. Supreme Court’s First Amendment ju-
9 risprudence that the Pledge of Allegiance and simi-
10 lar expressions are not unconstitutional expressions
11 of religious belief;

12 (3) the phrase “One Nation, under God,”
13 should remain in the Pledge of Allegiance; and

1 (4) the Ninth Circuit Court of Appeals should
2 agree to rehear this ruling en banc in order to re-
3 verse this constitutionally infirm and historically in-
4 correct ruling.

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