would be hard placed to buy that for $50,000 or even $75,000.

So this act that we do pass today and hopefully the Senate will take up and pass will extend those protections, which many lenders are presently voluntarily complying with. But the ones that are not are the ones we worry about.

I want to commend, again, the gentleman from New York (Mr. LAFALCE) and the gentleman from Texas (Mr. BENTSEN). The gentleman from Ohio (Chairman OXLEY), chairman of the Committee on Financial Services, and I both support this legislation. It is part of a package of three bills that will move through the House today: this bill; the Mortgage Servicing Clarification Act, which the gentleman from California (Mr. ROYCE) sponsored and we have just disposed of; and H.R. 4005, the District of Columbia and United States Territories Circulation Quarter Dollar Program Act, which will extend that program to the District of Columbia and the Territories.

On behalf of the gentleman from Ohio (Mr. OXLEY) and myself, I urge my colleagues to support all three of these bills.

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

The SPEAKER pro tempore (Mr. UPTON). The question is on the motion offered by the gentleman from Alabama (Mr. BACHUS) that the House suspend the rules and pass the bill, H.R. 5507.

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.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 11 o'clock and 50 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1305

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. ADERHOLT) at 1 o'clock and 5 minutes p.m.

REAFFIRMING REFERENCE TO ONE NATION UNDER GOD IN PLEDGE OF ALLEGIANCE

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass Senate bill (S. 2690) to reaffirm the reference to one Nation under God in the Pledge of Allegiance, as amended.

The Clerk read as follows:

S. 2690

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress finds the following:

(1) On November 11, 1620, prior to embarking for the shores of America, the Pilgrims signed the Mayflower Compact that declared: ''Having undertaken, for the Glory of God and the advancement of the Christian Faith and honor of our King and country, a voyage to plant the first colony in the northern parts of Virginia,''.

(2) On July 4, 1776, America's Founding Fathers, after appealing to the ''Laws of Nature, and of Nature's God'' to justify their separation from Great Britain, then declared: ''We hold these Truths to be self-evident, that all Men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness''.

(3) In 1781, Thomas Jefferson, the author of the Declaration of Independence and later the Nation's third President, in his work titled ''Notes on the State of Virginia'' wrote: ''God who gave us life gave us liberty. And can the liberties of a nation be thought secure when we have removed their only firm basis, a conviction in the minds of the people that these liberties are of the Gift of God. That they are not to be violated but with His wrath? Indeed, I tremble for my country when I reflect that God is just; that his justice cannot sleep forever.''.

(4) On May 14, 1787, George Washington, as President of the Constitutional Convention, rose to admonish and exhort the delegates and declared: ''If to please the people we offer what we ourselves disapprove, how can we afterward defend our work? Let us raise a standard to which the wise and the honest can repair; the event is in the hand of God!''.

(5) On July 21, 1789, on the same day that it approved the Establishment Clause concerning religion, the First Congress of the United States also passed the Northwest Ordinance, providing for a territorial government for lands northwest of the Ohio River, which declared: ''Religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.''.

(6) On September 25, 1789, the First Congress unanimously approved a resolution calling on President George Washington to proclaim a National Day of Thanksgiving for the people of the United States by declaring, ''a day of public thanksgiving and prayer, to be observed by acknowledging, with grateful hearts, the many signal favors of Almighty God, especially by affording them an opportunity peaceably to establish a constitution of government for their safety and happiness.''.

(7) On November 19, 1863, President Abraham Lincoln delivered his Gettysburg Address on the site of the battle and declared: ''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.''.

(8) On April 28, 1952, in the decision of the Supreme Court of the United States in Zorach v. Clauson, 343 U.S. 306 (1952), in which school children were allowed to be excused from public schools for religious observances and education, Justice William O. Douglas, in writing for the Court stated: ''The First Amendment, however, does not say that in every and all respects there shall be a separation of Church and State. Rather, it studiously defines the manner, the specific ways, in which there shall be no concern or union or dependency one on the other. That is the common sense of the matter. Otherwise the State and religion would be aliens to each other—hostile, suspicious, and even unfriendly. Churches could not be required to pay even property taxes. Municipalities would not be permitted to render police or fire protection to religious groups. Policemen who helped parishioners into their places of worship would violate the Constitution. Prayers in our legislative halls; 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. A fastidious atheist or agnostic could even object to the supplication with which the Court opens each session: 'God save the United States and this Honorable Court.' ''.

(9) On June 15, 1954, Congress passed and President Eisenhower signed into law a statute that was clearly consistent with the text and intent of the Constitution of the United States, that amended the Pledge of Allegiance to read: ''I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.'';

(10) On July 20, 1956, Congress proclaimed that the national motto of the United States is ''In God We Trust'', and that motto is inscribed above the main door of the Senate, behind the Chair of the Speaker of the House of Representatives, and on the currency of the United States.

(11) On June 17, 1963, in the decision of the Supreme Court of the United States in Abington School District v. Schempp, 374 U.S. 203 (1963), in which compulsory school prayer was held unconstitutional, Justices Goldberg and Harlan, concurring in the decision, stated: ''But untutored devotion to the concept of neutrality can lead to invocation or approval of results which partake not simply of that noninterference and noninvolvement with the religious which the Constitution commands, but of a brooding and pervasive devotion to the secular and a passive, or even active, hostility to the religious. Such results are not only not compelled by the Constitution, but, it seems to me, are prohibited by it. Neither government nor this Court can or should ignore the significance of the fact that a vast portion of our people believe in and worship God and that many of our legal, political, and personal values derive historically from religious teachings. Government must inevitably take cognizance of the existence of religion and, indeed, under certain circumstances the First Amendment may require that it do so.''.

(12) On March 5, 1984, in the decision of the Supreme Court of the United States in Lynch v. Donelly, 465 U.S. 668 (1984), in which a city government's display of a nativity scene was held to be constitutional, Chief Justice Burger, writing for the Court, stated: ''There is an unbroken history of official acknowledgment by all three branches of government of the role of religion in American life from at least 1789 . . . [E]xamples of reference to our religious heritage are found in the statutorily prescribed national motto 'In God We Trust' (36 U.S.C. 186), which Congress and the President mandated for our currency, see (31 U.S.C. 5112(d)(1) (1982 ed.)), and in the language 'One Nation under God', as part of the Pledge of Allegiance to the American flag. That pledge is recited by many thousands of public school children—and adults—every year . . . Art galleries supported by public revenues display religious paintings of the 15th and 16th centuries, predominantly inspired by one religious faith. The National Gallery in Washington, maintained with Government support, for example, has long exhibited masterpieces with religious messages, notably the Last Supper, and paintings depicting the Birth of Christ, the Crucifixion, and the Resurrection, among many others with explicit Christian themes and messages. The very chamber in which oral arguments on this case were heard is decorated with a notable and permanent—not seasonal—symbol of religion: Moses with the Ten Commandments.

Congress has long provided chapels in the Capitol for religious worship and meditation.''.

(13) On June 4, 1985, in the decision of the Supreme Court of the United States in Wallace v. Jaffree, 472 U.S. 38 (1985), in which a mandatory moment of silence to be used for meditation or voluntary prayer was held unconstitutional, Justice O'Connor, concurring in the judgment and addressing the contention that the Court's holding would render the Pledge of Allegiance unconstitutional because Congress amended it in 1954 to add the words ''under God,'' stated ''In my view, the words 'under God' in the Pledge, as codified at (36 U.S.C. 172), serve as an acknowledgment of religion with 'the legitimate secular purposes of solemnizing public occasions, [and] expressing confidence in the future.' '.

(14) On November 20, 1992, the United States Court of Appeals for the 7th Circuit, in Sherman v. Community Consolidated School District 21, 980 F.2d 437 (7th Cir. 1992), held that a school district's policy for voluntary recitation of the Pledge of Allegiance including the words ''under God'' was constitutional.

(15) The 9th Circuit Court of Appeals erroneously held, in Newdow v. U.S. Congress, (9th Cir. June 26, 2002) that the Pledge of Allegiance's use of the express religious reference ''under God'' violates the First Amendment to the Constitution, and that, therefore, a school district's policy and practice of teacher-led voluntary recitations of the Pledge of Allegiance is unconstitutional.

(16) The erroneous rationale of the 9th Circuit Court of Appeals in Newdow would lead to the absurd result that the Constitution's use of the express religious reference ''Year of our Lord'' in Article VII violates the First Amendment to the Constitution, and that, therefore, a school district's policy and practice of teacher-led voluntary recitations of the Constitution itself would be unconstitutional.

SEC. 2. ONE NATION UNDER GOD.

(a) REAFFIRMATION.—Section 4 of title 4, United States Code, is amended to read as follows:

''§ 4. Pledge of allegiance to the flag; manner of delivery

''The Pledge of Allegiance to the Flag: 'I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one Nation under God, indivisible, with liberty and justice for all.', should be rendered by standing at attention facing the flag with the right hand over the heart. When not in uniform men should remove any non-religious headdress with their right hand and hold it at the left shoulder, the hand being over the heart. Persons in uniform should remain silent, face the flag, and render the military salute.''.

(b) CODIFICATION.—In codifying this subsection, the Office of the Law Revision Counsel shall show in the historical and statutory notes that the 107th Congress reaffirmed the exact language that has appeared in the Pledge for decades.

SEC. 3. REAFFIRMING THAT GOD REMAINS IN OUR MOTTO.

(a) REAFFIRMATION.—Section 302 of title 36, United States Code, is amended to read as follows:

''§ 302. National motto

'' 'In God we trust' is the national motto.''.

(b) CODIFICATION.—In codifying this subsection, the Office of the Law Revision Counsel shall make no change in section 302, title 36, United States Code, but shall show in the historical and statutory notes that the 107th Congress reaffirmed the exact language that has appeared in the Motto for decades.

The SPEAKER pro tempore. 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 include extraneous material on S. 2690, the Senate bill currently 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 such time as I may consume.

Mr. Speaker, Senate 2690 would amend section 4 of title 4 of the U.S. Code to reaffirm the text of the Pledge of Allegiance, including the phrase, ''one Nation under God,'' and section 302 of title 36 to reaffirm the text of the national motto, ''In God we trust.''

It is an accepted legal principle that government acknowledgment of the religious heritage of the United States is consistent with the meaning of the establishment clause of the first amendment. The U.S. Supreme Court has repeatedly affirmed this principle in its rulings.

Yet, on June 26, 2002, a three-member panel of the United States Court of Appeals for the Ninth Circuit held unconstitutional, in Newdow v. U.S. Congress, a California school district's policy and practice of teacher-led voluntarily recitation of the Pledge of Allegiance, concluding that the use of the phrase ''one Nation under God'' violates the establishment clause of the first amendment.

The Newdow ruling is troubling because its analysis to reflect a belief that any religious reference presents an inherent danger to individuals who hear it, the result of which would be the banishment of all such references from the public arena. Clearly, this is inconsistent with any reasonable interpretation of the establishment clause of the first amendment. Thus, it has become necessary for Congress to reaffirm its understanding that the text of both the Pledge and our national motto are legally and historically consistent with a reasonable interpretation of the first amendment.

Immediately following the Newdow ruling, on June 27, 2002, the House of Representatives passed House Resolution 459, which I introduced, expressing the sense of the House that the Newdow case was erroneously decided by the Ninth Circuit and that the court should agree to rehear the ruling en banc. H. Res. 459 passed the House of Representatives by a 416–3 vote.

By passing Senate 2690, the House will join the Senate in reaffirming its commitment to our Nation's pledge and motto and also reaffirm that the myriad of ways in which Federal, State and local governments acknowledge America's religious heritage and its consistency with both historical practice and legal precedent.

I urge Members to support this legislation.

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 come from a State that has a long tradition in supporting religious freedom. In fact, it was Thomas Jefferson of Virginia who wrote the Virginia Statute for Religious Freedom which precedes the first amendment of the Constitution.

Today's exercise is totally gratuitous, as nothing we do here will change the underlying law. This is because we are dealing with constitutional issues that cannot be altered by statute. If the Judicial branch ultimately finds the Pledge or the national motto to be constitutional, then nothing needs to be done. If, on the other hand, the courts ultimately find either to be unconstitutional, no law that we pass will change that.

Although I tend to agree with the dissent in the Newdow case regarding the Pledge of Allegiance, I believe the reasoning of the majority opinion in that case was sound. In that case the Supreme Court applied three different tests that have been applied in the last 50 years in evaluating the establishment clause cases.

One test was whether the phrase ''under God'' in the Pledge constitutes an endorsement of religion. The majority opinion says it was an endorsement of one view of religion, monotheism and, therefore, was an unconstitutional endorsement.

Another test was whether the individuals were coerced into being exposed to the religious message, and the majority opinion concluded that the Pledge was unconstitutional because young children ''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 silence in public schools, some of those laws have been upheld if the law allows silent prayer as one of the many activities that 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 that the 1954 law which added ''under God'' to the existing Pledge had no secular purpose and, therefore, was unconstitutional.

Mr. Speaker, I indicated that I tended to agree with the dissent in the case. The operative language in the dissent which persuaded me was, ''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 as to be de minimis. The danger that phrase represents to our first amendment's freedoms is picayune at best.''

Mr. Speaker, unfortunately, our actions today may cause the courts to review the sentiments behind ''one Nation under God'' or ''In God We Trust'' because if the courts look at the importance that we apparently affix to ''one Nation under God'' or ''In God We Trust,'' then it diminishes the argument that the phrase has de minimis meaning and increases the constitutional vulnerability of the use of that phrase in the Pledge.

Furthermore, the court may look at the legislation under the Lemon test and find that this exercise has no secular purpose and is, therefore, unconstitutional. The section of bill referring to ''In God We Trust'' as the national motto appears to be vulnerable to the same constitutional attack as the phrase ''under God'' in the Pledge. Those attacks gain validity because of our actions today.

Mr. Speaker, let me just close with a quote from an editorial that appeared in the Christian Century, a non-denominational Protestant weekly, which a good friend was kind enough to send me. It reads, ''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, we side with the Ninth Circuit. We see no need, especially for Christians, to defend hollow references to an innocuous God.'' For those reasons, I urge Members to oppose this legislation.

Mr. SHOWS. Mr. Speaker, in 1776 the great American patriot Thomas Paine wrote, ''These are the times that try men's souls.''

But right now we are living in times that try men's souls. These are times when our faith is being tested as never before.

Even as we contend with the aftermath of the September 11th attacks, three judges in California decide that our Pledge of Allegiance is unconstitutional because it includes the words, ''Under God.''

The values we teach at home and church are universal and should not be left outside the schoolhouse door, or outside of where we work and play every day.

''One Nation Under God'' is the foundation of our Pledge of Allegiance. ''In God We Trust'' is our national motto and should be engraved in our national conscience. I am not afraid to say, ''In God We Trust'' wherever and whenever I want. All Americans should have that right.

My father, Clifford Shows, was one of those captured as a Prisoner of War at the Battle of the Bulge in World War II. He stands tall when our Flag is displayed. There is nothing more un-American than denying our children the right to honor the symbol of the very freedom we all enjoy today.

The California court ruling flies in the face of every veteran who sacrificed his or her life to protect this nation. The Court's ruling was a disgrace and our people deserve better.

In the 106th Congress I introduced a resolution that encourages ''In God We Trust'' to be posted prominently in all public and government buildings, just like it is in my own office, right next to the Ten Commandments.

I wrote this bipartisan resolution with the direct assistance of the Reverend Donald Wildmon of the American Family Association. And I re-introduced it as H. Res. 15 on the first day of the 107th Congress.

This issue is too important to let partisan politics get in the way, and I am happy that we are today considering a measure that reiterates the importance of our National Motto, and the presence of God in our lives.

Let's adopt an ''In God We Trust'' resolution today—for our families and for our nation.

Mr. SCOTT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 2690, as amended.

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.

□ 1315

FEDERAL AGENCY PROTECTION OF PRIVACY ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4561) to amend title 5, United States Code, to require that agencies, in promulgating rules, take into consideration the impact of such rules on the privacy of individuals, and for other purposes.

The Clerk read as follows:

H.R. 4561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Agency Protection of Privacy Act''.

SEC. 2. REQUIREMENT THAT AGENCY RULEMAKING TAKE INTO CONSIDERATION IMPACTS ON INDIVIDUAL PRIVACY.

(a) IN GENERAL.—Title 5, United States Code, is amended by adding after section 553 the following new section:

''§ 553a. Privacy impact analysis in rulemaking

''(a) INITIAL PRIVACY IMPACT ANALYSIS.—

''(1) IN GENERAL.—Whenever an agency is required by section 553 of this title, or any other law, to publish a general notice of proposed rulemaking for any proposed rule, or publishes a notice of proposed rulemaking for an interpretative rule involving the internal revenue laws of the United States, the agency shall prepare and make available for public comment an initial privacy impact analysis. Such analysis shall describe the impact of the proposed rule on the privacy of individuals. The initial privacy impact analysis or a summary shall be signed by the senior agency official with primary responsibility for privacy policy and be published in the Federal Register at the time of the publication of a general notice of proposed rulemaking for the rule.

''(2) CONTENTS.—Each initial privacy impact analysis required under this subsection shall contain the following:

''(A) A description and assessment of the extent to which the proposed rule will impact the privacy interests of individuals, including the extent to which the proposed rule—

''(i) provides notice of the collection of personally identifiable information, and specifies what personally identifiable information is to be collected and how it is to be collected, maintained, used, and disclosed;

''(ii) allows access to such information by the person to whom the personally identifiable information pertains and provides an opportunity to correct inaccuracies;

''(iii) prevents such information, which is collected for one purpose, from being used for another purpose; and

''(iv) provides security for such information.

''(B) A description of any significant alternatives to the proposed rule which accomplish the stated objectives of applicable statutes and which minimize any significant privacy impact of the proposed rule on individuals.

''(b) FINAL PRIVACY IMPACT ANALYSIS.—

''(1) IN GENERAL.—Whenever an agency promulgates a final rule under section 553 of this title, after being required by that section or any other law to publish a general notice of proposed rulemaking, or promulgates a final interpretative rule involving the internal revenue laws of the United States, the agency shall prepare a final privacy impact analysis, signed by the senior agency official with primary responsibility for privacy policy.

''(2) CONTENTS.—Each final privacy impact analysis required under this subsection shall contain the following:

''(A) A description and assessment of the extent to which the final rule will impact the privacy interests of individuals, including the extent to which the proposed rule—

''(i) provides notice of the collection of personally identifiable information, and specifies what personally identifiable information is to be collected and how it is to be collected, maintained, used, and disclosed;

''(ii) allows access to such information by the person to whom the personally identifiable information pertains and provides an opportunity to correct inaccuracies;

''(iii) prevents such information, which is collected for one purpose, from being used for another purpose; and

''(iv) provides security for such information.

''(B) A summary of the significant issues raised by the public comments in response to the initial privacy impact analysis, a summary of the assessment of the agency of such issues, and a statement of any changes made in the proposed rule as a result of such issues.

''(C) A description of the steps the agency has taken to minimize the significant privacy impact on individuals consistent with the stated objectives of applicable statutes, including a statement of the factual, policy, and legal reasons for selecting the alternative adopted in the final rule and why each one of the other significant alternatives to the rule considered by the agency which affect the privacy interests of individuals was rejected.

''(3) AVAILABILITY TO PUBLIC.—The agency shall make copies of the final privacy impact analysis available to members of the public and shall publish in the Federal Register such analysis or a summary thereof.