

During the 107th Congress, I also voted in favor of H. Res. 459, which expressed the view of the House of Representatives that the 9th Circuit Court of Appeals' original decision in *Newdow v. U.S. Congress* to strike the words "under God" from the Pledge of Allegiance was incorrectly decided. Similarly, I strongly supported S. 2690, legislation that reaffirms the language of the Pledge of Allegiance, including the phrase "one Nation under God."

I am concerned that the passage of H.R. 2028 would deny the Supreme Court its historical role as the final authority on the constitutionality of federal laws and nullify the separation of powers set forth in the United States Constitution. Furthermore, H.R. 2028 sets a dangerous precedent for future Congresses. By adding language from H.R. 2028 to unconstitutional legislation, a future Congress could enact laws that are clearly contrary to key tenets of the Constitution while preventing the Supreme Court from ever considering their validity. Given these considerable problems with H.R. 2028, I intend on voting against this measure.

Mr. PAUL. Mr. Chairman, I am pleased to support, and cosponsor, the Pledge Protection Act (H.R. 2028), which restricts federal court jurisdiction over the question of whether the phrase "under God" should be included in the pledge of allegiance. Local schools should determine for themselves whether or not students should say "under God" in the pledge. The case finding it is a violation of the First Amendment to include the words "under God" in the pledge is yet another example of federal judges abusing their power by usurping state and local governments' authority over matters such as education. Congress has the constitutional authority to rein in the federal court's jurisdiction and the duty to preserve the states' republican forms of governments. Since government by the federal judiciary undermines the states' republican governments, Congress has a duty to rein in rogue federal judges. I am pleased to see Congress exercise its authority to protect the states from an out-of-control judiciary.

Many of my colleagues base their votes on issues regarding federalism on whether or not they agree with the particular state policy at issue. However, under the federalist system as protected by the Tenth Amendment to the United States Constitution, states have the authority to legislate in ways that most members of Congress, and even the majority of the citizens of other states, disapprove. Consistently upholding state autonomy does not mean approving of all actions taken by state governments; it simply means acknowledging that the constitutional limits on federal power require Congress to respect the wishes of the states even when the states act unwisely. I would remind my colleagues that an unwise state law, by definition, only affects the people of one state. Therefore, it does far less damage than a national law that affects all Americans.

While I will support this bill even if the language removing the United States Supreme Court's jurisdiction over cases regarding the pledge is eliminated, I am troubled that some of my colleagues question whether Congress has the authority to limit Supreme Court jurisdiction in this case. Both the clear language of the United States Constitution and a long line of legal precedents make it clear that Congress has the authority to limit the Supreme

Court's jurisdiction. The Framers intended Congress to use the power to limit jurisdiction as a check on all federal judges, including Supreme Court judges, who, after all, have lifetime tenure and are thus unaccountable to the people.

Ironically, the author of the pledge of allegiance might disagree with our commitment to preserving the prerogatives of state and local governments. Francis Bellamy, the author of the pledge, was a self-described socialist who wished to replace the Founders' constitutional republic with a strong, centralized welfare state. Bellamy wrote the pledge as part of his efforts to ensure that children put their allegiance to the central government before their allegiance to their families, local communities, state governments, and even their creator! In fact, the atheist Bellamy did not include the words "under God" in his original version of the pledge. That phrase was added to the pledge in the 1950s.

Today, most Americans who support the pledge reject Bellamy's vision and view the pledge as a reaffirmation of their loyalty to the Framers' vision of a limited, federal republic that recognizes that rights come from the creator, not from the state. In order to help preserve the Framers' system of a limited federal government and checks and balances, I am pleased to support H.R. 2028, the Pledge Protection Act. I urge my colleague to do the same.

Mr. SHAYS. Mr. Chairman, I voted against H.R. 2028, the Pledge Protection Act.

The phrase "under God" belongs in our Pledge of Allegiance to the Flag of the United States of America and the words "In God We Trust" belong on our currency. The Ninth Circuit Court of Appeals made a serious error in *Newdow v. U.S. Congress* when they declared our Pledge unconstitutional.

When the phrase "under God" was added to the Pledge of Allegiance in 1954, I was in elementary school and remember feeling the phrase belonged there. It appropriately reflects the fact that a belief in God motivated the founding and development of our great Nation.

The Declaration of Independence states, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain inalienable rights . . ." Our forefathers understood it was not they, but He, who had bestowed upon all of us those most cherished rights to life, liberty and the pursuit of happiness upon which our model of government is based.

At Gettysburg, President Abraham Lincoln acknowledged we were a Nation under God and, during his Second Inaugural Address, he mentioned our Creator 13 times.

Those historic speeches, the Pledge of Allegiance, our currency and the Declaration of Independence are not prayers or parts of a religious service. They are a statement of our commitment as citizens to our great Nation and the role God plays in it.

Our founders envisioned a government that would allow, not discourage or punish, the free exercise of religion and we are living their dream.

I voted against the Pledge Protection Act because I have faith in our Constitution and do not believe we should preclude judges from hearing issues of social relevance, simply because we may disagree with their ultimate decisions.

The tactic of restricting courts' jurisdiction is spiraling out of control. In July, I voted against

a bill that would block the courts from hearing Constitutional challenges to the Defense of Marriage Act and again today we considered legislation to tie the courts' hands. What's next?

While the courts may, from time to time, produce a ruling we question, the principle of judicial review is essential to maintaining the integrity of our system of checks and balances and I fear the path we appear to be on. We are a Nation under God, and in Him we trust.

Mr. WELDON of Florida. Mr. Chairman, I rise in strong support of the Pledge Protection Act because it upholds the rights of the overwhelming majority of American people who support the phrase "under God" in the Pledge of Allegiance.

H.R. 2028, of which I am a cosponsor, removes from the jurisdiction of the Federal courts questions regarding the constitutionality of the Pledge of Allegiance. It does so utilizing the powers of Congress clearly expressed in article III of the Constitution. Article III reserves for the Congress the power to regulate or completely eliminate the Supreme Court's appellate jurisdiction over a class of cases.

Chief Justice Rehnquist of the U.S. Supreme Court stated that the court has already erected "a novel prudential principle in order to avoid reaching the merits of the constitutional claim" that the phrase "under God" violates the Establishment Clause. It is clear from this precedent that the U.S. Supreme Court is most likely to rule the phrase "under God" unconstitutional should a case reach the high court.

Liberal activist judges are consistently working to remove the mention of "God" from the public realm. As a Nation that affirms in its own Declaration of Independence that God is the source of our rights, it is absolutely appropriate for Congress to act on this important issue.

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

The CHAIRMAN pro tempore. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

H.R. 2028

*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 "Pledge Protection Act of 2004".*

**SEC. 2. LIMITATION ON JURISDICTION.**

(a) *IN GENERAL.*—Chapter 99 of title 28, United States Code, is amended by adding at the end the following:

**"§ 1632. Limitation on jurisdiction**

*"No court created by Act of Congress shall have any jurisdiction, and the Supreme Court shall have no appellate jurisdiction, to hear or decide any question pertaining to the interpretation of, or the validity under the Constitution of, the Pledge of Allegiance, as defined in section 4 of title 4, or its recitation."*

(b) *CLERICAL AMENDMENT.*—The table of sections at the beginning of chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

*"1632. Limitation on jurisdiction."*