

HON. RON PAUL OF TEXAS BEFORE THE US HOUSE OF REPRESENTATIVES September 23, 2004

### Federal Courts and the Pledge of Allegiance

Mr. Speaker, I am pleased to support, and cosponsor, the Pledge Protection Act (HR 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 courts’ 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 ensue 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 HR 2028, the Pledge Protection Act. I urge my colleagues to do the same.