and environmentally responsible thing to do.

OUTRAGEOUS SALES TAX

(Mr. SHERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHERMAN. Mr. Speaker, I rise to address a bill by the gentleman from Georgia (Mr. LINDER). It is co-sponsored by the majority leader, a bill which the President has indicated he looks upon favorably. It is to abolish the income tax and impose a ''23 percent sales tax on all Americans.''

First, I headed the largest sales tax agency in the world for 6 years, and I am going to tell you, you cannot administer a 23 percent sales tax. That is why Europe uses a value added tax.

Second, a 23 percent tax would not replace the revenue. It would leave our troops in the field without the supplies they need.

Third, imagine a billionaire decides to travel to luxury resorts in France for an entire year. His property is protected by the American Army, his person is protected, he enjoys all the joys of being an American citizen and pays absolutely zero in tax.

Now imagine a retired couple. They have paid tax on all the money they have made. They squirreled it away. They have invested in municipal bonds. This thing passes. The muni bonds drop in value. They are receiving this income, and they are paying 23 percent on their food, 23 percent on their health care, 23 percent on their pharmaceuticals. They can no longer afford food, so they are buying dog food, and they are paying 23 percent on that. This is an outrageous bill.

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 H.R. 2028.

The SPEAKER pro tempore (Mr. PENCE). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

PLEDGE PROTECTION ACT OF 2004

The SPEAKER pro tempore. Pursuant to House Resolution 781 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2028.

□ 1133

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance, with Mr. SHAW in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Pledge of Allegiance reads: ''I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stand, one Nation, under God, indivisible, with liberty and justice for all.''

Two words in the Pledge, ''under God,'' help define our national heritage as beneficiaries of a Constitution sent to the States for ratification, as the Constitution itself states, ''in the Year of our Lord,'' 1787, by a founding generation that saw itself guided by a providential God. Those two words, and their entirely proper presence in the system of government defined by our Constitution, have been repeatedly and overwhelmingly reaffirmed by the House of Representatives, most recently twice in the 107th Congress, by votes of 416 to 3 and 401 to 5, and in this Congress by a vote of 400 to 7.

The first Congress not only acknowledged a proper role for religion in public life, but it did so at the very time it drafted the Establishment Clause of the first amendment. Just three days before Congress sent the text of the first amendment to the States for ratification, it authorized the appointment of legislative chaplains.

And on November 28, 1863, President Abraham Lincoln delivered the Gettysburg Address and declared, in words now inscribed in one of our most beloved national monuments, ''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.''

Although the United States Supreme Court recently reversed and remanded the Ninth Circuit's latest holding striking down the Pledge as unconstitutional, the Supreme Court did so on the questionable grounds that the plaintiff lacked the legal standing to bring the case. The Supreme Court's decision not to reach the merits of the case is apparently an effort to forestall a decision adverse to the Pledge since the dissenting Justices concluded that the Court in its decision, ''erected a novel prudential standing principle in order to avoid reaching the merits of the constitutional claim.'' That does not bode well for the Pledge of Allegiance.

To protect the Pledge from Federal court decisions that would have the effect of invalidating the Pledge across several States, or nationwide, H.R. 2028 will preserve to State courts the authority to decide whether the Pledge is valid within that State's boundaries. It will place final authority or a State's pledge policy in the hands of the States themselves.

H.R. 2028 as reported by the Committee on the Judiciary is identical to H.R. 3313, the Marriage Protection Act, which the House passed just prior to the August recess except that it addresses the Pledge rather than the Defense of Marriage Act. If different States come to different decisions regarding the constitutionality of the Pledge, the effects of such decisions will be felt only within those States. A few Federal judges sitting hundreds of miles away from your State will not be able to rewrite your State's Pledge policy.

A remedy to abuses by Federal judges has long been understood to lie, among other places, in Congress's authority to limit Federal court jurisdiction. The Constitution clearly provides that the lower Federal courts are entirely creatures of Congress as much as appellate jurisdiction of the Supreme Court excluding its only very limited, constitutional, original jurisdiction over cases involving ambassadors and cases in which the States have legal claims against each other.

As a leading treatise on Federal court jurisdiction has pointed out, ''Beginning with the first Judiciary Act in 1789, Congress has never vested the Federal courts with the entire 'judicial Power' that would be permitted under Article III'' of the Constitution.

Justice William Brennan, no conservative by record, writing for the Supreme Court said, ''virtually all matters that might be heard in Article III Federal courts could also be left by Congress to the State courts.''

As the Dean of Stanford Law School wrote recently, ''The Constitution leaves room for countless political responses to an overly assertive Court: Congress can strip it of jurisdiction. The means are available and they have been used to great effect when necessary, used we should note, not by disreputable or failed leaders, but by some of the most admired Presidents and Congresses in American history.''

Far from violating the separation of powers legislation that leaves State courts with jurisdiction to decide certain classes of cases would be an exercise of one of the very checks and balances provided in the Constitution. Integral to the American constitutional system is each branch of government's responsibility to use its powers to prevent overreaching by the other two branches. H.R. 2028, which has 226 cosponsors, does just that, and I urge my colleagues to join me in supporting it.

Mr. Chairman, I reserve the balance of my time.

Mr. NADLER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this is not simply about the Pledge of Allegiance. I really