

Greenwood	Majette	Royal-Allard	Renzi	Shimkus	Tiahrt
Grijalva	Maloney	Ruppersberger	Rogers (AL)	Shuster	Tiberi
Hall	Markey	Rush	Rogers (KY)	Simmons	Toomey
Harman	Marshall	Ryan (OH)	Rogers (MI)	Smith (MI)	Turner (OH)
Hastings (FL)	Matheson	Sabo	Ros-Lehtinen	Smith (NJ)	Upton
Hill	Matsui	Sanchez, Linda	Royce	Smith (TX)	Vitter
Hinchey	McCarthy (MO)	T.	Ryun (KS)	Stearns	Walden (OR)
Hinojosa	McCarthy (NY)	Sanchez, Loretta	Saxton	Sullivan	Walsh
Hoefel	McCullum	Sanders	Schrock	Sweeney	Weldon (FL)
Holden	McDermott	Sandlin	Sensenbrenner	Tancredo	Weller
Holt	McGovern	Schakowsky	Sessions	Tauzin	Whitfield
Honda	McIntyre	Schiff	Shadegg	Taylor (NC)	Wicker
Hooley (OR)	Meek (FL)	Scott (GA)	Shaw	Terry	Wilson (NM)
Hostettler	Meeks (NY)	Scott (VA)	Shays	Thomas	Young (AK)
Hoyer	Menendez	Serrano	Sherwood	Thorberry	Young (FL)
Inslee	Mica	Sherman			
Israel	Michaud	Simpson			
Jackson (IL)	Millender-	Skelton	Clyburn	Istook	Ryan (WI)
Jackson-Lee	McDonald	Slaughter	Conyers	Jenkins	Smith (WA)
(TX)	Miller (NC)	Snyder	Engel	Larson (CT)	Weldon (PA)
Jefferson	Miller, George	Solis	Gephardt	McNulty	
John	Mollohan	Souder	Gutierrez	Miller (FL)	
Johnson (IL)	Moore	Spratt	Herger	Ortiz	
Johnson, E. B.	Moran (VA)	Stark	Hoekstra	Reyes	
Jones (NC)	Nadler	Stenholm			
Jones (OH)	Napolitano	Strickland			
Kanjorski	Neal (MA)	Stupak			
Kaptur	Oberstar	Obey			
Kennedy (RI)	Kildee	Olver			
Kilpatrick	Owens	Tauscher			
Kind	Pallone	Taylor (MS)			
Kleckzka	Pascarella	Thompson (CA)			
Kucinich	Pastor	Thompson (MS)			
LaHood	Paul	Tierney			
Lampson	Payne	Towns			
Langevin	Pelosi	Turner (TX)			
Lantos	Pence	Udall (CO)			
Larsen (WA)	Petri	Udall (NM)			
LaTourette	Pickering	Van Hollen			
Leach	Pitts	Velazquez			
Lee	Platts	Visclosky			
Levin	Pomeroy	Wamp			
Lewis (GA)	Price (NC)	Waters			
Lewis (KY)	Rahall	Watson			
Linder	Ramstad	Watt			
Lipinski	Rangel	Waxman			
LoBiondo	Reynolds	Weiner			
Lofgren	Rodriguez	Wolf			
Lowey	Rohrabacher	Woolsey			
Lucas (KY)	Ross	Wu			
Lynch	Rothman	Wynn			

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Abercrombie	Diaz-Balart, M.	King (NY)			
Akin	Doolittle	Kingston			
Bachus	Duncan	Kirk			
Ballenger	Dunn	Kline			
Barrett (SC)	Ehlers	Knollenberg			
Bartlett (MD)	English	Kolbe			
Barton (TX)	Everett	Latham			
Bass	Feeley	Lewis (CA)			
Beauprez	Ferguson	Lucas (OK)			
Biggert	Foley	Manzullo			
Bishop (UT)	Forbes	McCotter			
Blackburn	Franks (AZ)	McCrary			
Blunt	Gallegly	McHugh			
Boehlert	Garrett (NJ)	McInnis			
Boehner	Gerlach	McKeon			
Bonilla	Gibbons	Meehan			
Bonner	Gilchrest	Miller (MI)			
Bono	Gingrey	Miller, Gary			
Boozman	Goode	Moran (KS)			
Boucher	Goodlatte	Murphy			
Bradley (NH)	Granger	Murtha			
Brown (SC)	Graves	Musgrave			
Brown-Waite,	Green (WI)	Myrick			
Ginny	Gutknecht	Nethercutt			
Burgess	Harris	Ney			
Burns	Hart	Northup			
Calvert	Hastings (WA)	Norwood			
Camp	Hayes	Nunes			
Cannon	Hayworth	Nussle			
Cantor	Hefley	Osborne			
Carter	Hensarling	Ose			
Chabot	Hobson	Otter			
Coble	Houghton	Oxley			
Cole	Hulshof	Pearce			
Collins	Hunter	Peterson (MN)			
Crane	Hyde	Peterson (PA)			
Crenshaw	Isakson	Pombo			
Cubin	Issa	Porter			
Culberson	Janklow	Portman			
Cunningham	Johnson (CT)	Pryce (OH)			
Davis, Jo Ann	Johnson, Sam	Putnam			
Deal (GA)	Keller	Quinn			
DeLay	Kelly	Radanovich			
DeMint	Kennedy (MN)	Regula			
Diaz-Balart, L.	King (IA)	Rehberg			

PERSONAL EXPLANATION

Mr. ORTIZ. Mr. Speaker, I was unavoidably detained due to official business as a member of an official Congressional delegation traveling to North Korea and was not present for the following rollcall votes. Had I been present, I would have voted as indicated below.

Rollcall No. 230—"nay"; rollcall No. 231—"nay"; rollcall No. 232—"yea".

REQUEST FOR PERMISSION TO CONSIDER IN THE HOUSE H.R. 2286, EXPANDING CHILD TAX CREDIT AND MARRIAGE PENALTY RELIEF ACT

Mr. RANGEL. Mr. Speaker, I ask unanimous consent that the House consider H.R. 2286, a bill to expand the child tax credit and marriage penalty relief for families that were left out of the recently signed White House-supported tax law.

The SPEAKER pro tempore. Under the guidelines consistently issued by successive Speakers as recorded on page 712 of the House Rules and Manual, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships.

PARLIAMENTARY INQUIRIES

Mr. RANGEL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will please state his parliamentary inquiry.

Mr. RANGEL. If we have unanimous consent that an error had been made

by the conferees and the House Republicans and Democrats would like to correct this error, what would the Chair recommend that we do, since we want to avoid the accusation that this is class warfare, when the working poor have been excised from the bill?

The SPEAKER pro tempore. The Members who propound unanimous consent requests are also guided by page 712 of the House Rules Manual. Therefore, the Chair is constrained not to entertain the gentleman's request until it has been cleared by the bipartisan floor and committee leaderships.

Mr. RANGEL. Further parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may state his inquiry.

Mr. RANGEL. Could the Speaker tell me when the majority expects to bring additional Suspension Calendar requests to the floor?

The SPEAKER pro tempore. That as a matter of discretion is not a proper parliamentary inquiry.

Mr. RANGEL. I thank the Chair.

ANNOUNCEMENT REGARDING PROCEDURES FOR FILING OF AMENDMENTS ON H.R. 2143, UNLAWFUL INTERNET GAMBLING FUNDING PROHIBITION ACT

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

Mr. LINDER. Mr. Speaker, the Committee on Rules may meet this week to grant a rule which could limit the amendment process for floor consideration of H.R. 2143, the Unlawful Internet Gambling Funding Prohibition Act.

The Committee on Financial Services ordered the bill reported without amendment on May 20, 2003, and filed its report with the House on June 2, 2003. Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in room H312 of the Capitol by 3 p.m. on Wednesday, June 4.

Members should draft their amendments to the text of the bill as introduced on May 19, 2003. Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format.

Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 255 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 255

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 4) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution and on any amendment thereto to final passage without intervening motion except: (1) two hours of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) an amendment in the nature of a substitute offered by Representative Conyers of Michigan or his designee, which shall be considered as read and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 255 is a modified closed rule that provides for the consideration of H.J. Resolution 4, legislation proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the American flag.

This rule provides for 2 hours of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. House Resolution 255 waives all points of order against consideration of the joint resolution.

It makes in order an amendment in the nature of a substitute, if offered by the gentleman from Michigan (Mr. CONYERS) or his designee, which shall be separately debatable for 1 hour, equally divided between the proponent and an opponent.

Finally, this rule provides for one motion to recommit, with or without instructions.

With respect to the underlying legislation, H.J. Res. 4, I want to commend the gentleman from California (Mr. CUNNINGHAM) for introducing this legislation and the gentleman from Wisconsin (Mr. SENENBRENNER), the chairman of the Committee on the Judiciary, for his persistent leadership on this important legislation, of which I am proud to be a cosponsor.

The gentleman from Wisconsin (Chairman SENENBRENNER) has done a fine job in bringing this legislation to the House floor in the years since my very good friend and former chairman of the Committee on Rules, the late Jerry Solomon, originally sponsored this proposal in the 104th Congress and the 105th Congress.

As it should be, House Joint Resolution 4 is a simple, straightforward measure. It proposes to add an amendment to the U.S. Constitution that would simply give the Congress the authority to prohibit the physical desecration of the flag of the United States, if it chooses to exercise such power.

□ 1400

The proposed amendment contains a grand total of 17 words. To the credit of the House as an institution, we have passed proposed constitutional amendments of this nature with more than enough bipartisan support in the 104th Congress, the 105th Congress, the 106th Congress, and the 107th Congress. In each of those sessions, the U.S. House approved the proposed constitutional amendments with more than the two-thirds majority required to approve such modifications to the Constitution. Unfortunately, as has been the case too many times in recent years, the other Chamber has failed to approve the legislation and forward it to the States for consideration by their legislatures. Indeed, if the Senate could approve this proposed constitutional amendment, I understand from the Committee on the Judiciary that all 50 States have passed resolutions calling on the Congress to approve an amendment of this nature.

This is an ample reason to believe that if this amendment were sent to the States for ratification, more than three-quarters of the States are poised to ratify this measure, thereby making it a formal part of our Constitution.

In conclusion, Mr. Speaker, H. Res. 255 is a modified closed rule that will give the House an opportunity to work its will on a substitute put forward by the ranking member, the gentleman from Michigan (Mr. CONYERS), or his designee. I urge my colleagues to support the rule so we can move on to the underlying legislation.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me thank the gentleman from Georgia (Mr. LINDER) for yielding me time.

I rise in strong opposition to House Joint Resolution 4. I firmly believe that passing this constitutional amendment would abandon the very values and principles upon which the country was founded. Make no mistake, I deplore the desecration of the flag, and I am absolutely certain that 440 Members of the House of Representatives deplore the desecration of the flag.

Those who burn or otherwise desecrate the American flag tread on a symbol cherished by nearly every one of our citizens in this great country. While I am appalled at the notion of someone desecrating our flag, I am more concerned with tampering with the Constitution. The true test of any nation's commitment to freedom of ex-

pression lies in its ability to protect unpopular expression.

In 1929, Supreme Court Justice Oliver Wendell Holmes wrote that it was the most impressive principle of our Constitution that it protects not just freedom for the thought and expression we agree with, but freedom for the thought we hate.

The passage of this amendment would provide a dangerous precedent for future attempts to amend the Constitution, putting the essential freedoms it upholds at risk. If Congress amends the first amendment, something that has never happened in our Nation's history, it will open the door for other exceptions to liberty. Ultimately, we must remember that it is not simply the flag we honor but rather the principles it embodies. To restrict people's means of expression would do nothing but abandon those principles; and to destroy those principles would be a far greater travesty than to destroy its symbols.

I repeat a portion of that paragraph: to restrict people's means of expression would do nothing but abandon those principles, and to destroy these principles would be a far greater travesty than to destroy its symbol. Indeed, it would render the symbol meaningless.

Mr. Speaker, we are too secure as a Nation to risk our commitment to freedom by endeavoring to legislate patriotism. The flag burning amendment is one more example of the Republican tendency to play the patriot card, to distract the people from the consequences of their policy. And I wish to underscore that because there are no people in the House of Representatives who are not patriots. And there is no one here any more patriotic than anyone else. And for that reason alone we should not be toying with patriotism principles.

There are more important matters that Congress should be attending to. The way President Bush has short-changed our veterans, we could deal with that, who have fought in defense of all that Old Glory signifies, the way that he has done this is an outrage to all my colleagues and they should be prepared to fight about it. Why are we spending time arguing about the physical desecration of the United States flag instead of voicing anger about the disservices done to what the flag stands for?

One would like to believe veterans this year would receive more than a Top Gun flash visit. As a grateful Nation, we should ensure that all veterans have adequate access to health care and timely benefits. In my district alone, veterans are being told that they are not going to be able to get benefits, and we have some new super eight province that we have established that if their income is at a certain level they will not qualify. Those are some things that I believe we must seriously look at.

I also think we must seriously reexamine the President's budget priorities

that cause this Congress to provide inadequate funding for those in uniform so as to allow tax cuts that will mostly advantage some few wealthy Americans. And since veterans health services have not been appropriately funded, the Bush administration has proposed to increase co-payments for prescription drugs and to charge high annual enrollment fees.

I oppose this proposal, as I am sure many Members on both sides of the aisle do, which punishes those in need by charging them money they do not have to pay for services they do need but cannot pay.

Current Secretary of State, the retired four star Army general, Colin Powell, that so many people tout so often and a few denigrate, voiced opposition to a similar flag amendment in the year 2000. Here is what Secretary Powell said at that time: "The first amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend," Colin Powell says, "that great shield of democracy" that stands right behind the Speaker of this House, "to hammer a few miscreants. The flag will be flying proudly long after they have slunk away."

That sounded so good maybe I ought to repeat it again: "The first amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away."

I thank Secretary Powell.

This is a shallow amendment that addresses a nonissue. This is an unnecessary amendment that helps no one, but is likely to hurt us all. This is a dangerous amendment that should not be approved.

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

Mr. LINDER. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. WELDON).

Mr. WELDON of Florida. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, today I rise in strong support of this rule and the underlying legislation, H.J. Res. 4, the desecration of the flag resolution.

Our Nation's flag is a sacred symbol of our country's liberties that so many men and women in uniform have fought and died to defend. As the symbol of that liberty, the flag deserves our greatest respect. To desecrate the flag raised by soldiers at Iwo Jima, astronauts on the Moon, and rescue workers at the World Trade Center is an affront to the very values it represents. Even in the past week, young Americans have laid down their lives in Iraq to protect the freedom and liberty that we enjoy here at home.

It is disgraceful that people would desecrate, even burn, the flag that all

of our Nation's veterans have fought so valiantly to defend.

Even as American soldiers prepared for war in Iraq, there were reports of protesters defacing flags, even flags being displayed in a memorial to the victims of September 11, 2001. These acts are disgraceful. They are repugnant, and they should not happen in this great Nation.

The flag deserves and demands our respect. The physical desecration of the flag is not free speech nor should it be protected under the first amendment. The amendment before us will clarify that desecration of the flag does not fall under the first amendment and will prevent the courts from making such an assertion.

I urge my colleagues to support the underlying resolution. I urge my colleagues to support the rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), who serves on the Committee on the Judiciary with distinction.

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, this is a very solemn occasion. I thank the distinguished gentleman from Florida (Mr. HASTINGS) for yielding me time; and I also thank him for his detailed explanation of the needs of this House, the needs of the people of America.

Mr. Speaker, I know that he rarely mentions the fact that he has had the occasion to ably serve as a Federal judge, interpreting the Constitution on a very regular basis. I thought since we were discussing the privacy of this Nation, a freedom, that it would be important to do something that many Americans do not do. And I would encourage you to not only read the Constitution and the Bill of Rights, but I would encourage you and the children of this Nation to carry the Constitution with you.

Might I share with you the words of article I, which expresses the beliefs of Americans from the early stages of our founding: "Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof or abridging the freedom of speech or of the press or the right of the people peaceably to assemble and to petition the government for redress of grievances."

I believe that the young men and women throughout the ages, whether it was the war of 1812 or World War I or II, Korean conflict, Vietnam, Bosnia, Kosovo or the war in Iraq, young men and women went off inscribed not with the symbol of a flag but with the understanding of what the Constitution says. They are not fighting for a symbol, a piece of cloth. They are fighting for the fact that in America, we rise every day and are able to speak our minds, go to our respective places of worship and no one is there to restrain us, handcuff us, or detain us.

How shameful it is that we come now the fourth, fifth, sixth time since I have been in the United States Congress to suggest to the American people that our values are woven into the stripes and stars of this flag. They are woven into our hearts and the words and the Constitution and the Bill of Rights which you carry with you through your citizenship rights and privacy.

How tragic it is that we have to stand on the floor today when we have young Marines dying every day in Iraq, when we have not finished, if you will, in bringing order to Iraq; when we pass a tax bill that eliminates close to 25 percent of the American people from being able to access relief through taxation, people who work every day making 10,000 to \$25,000 a year. This Congress, this Congress voted a tax bill that would eliminate any relief for them, no child tax credit for families having as many as 12 million children, or representing 12 million children. This is the Congress that wants to come and denigrate the Constitution, disrespect its interpretation.

What is the interpretation? Freedom of expression, freedom of speech. And what I would say to you is that my understanding and value and love for this Nation is not based upon someone's desire to express their beliefs by any commentary or any action on the flag.

□ 1415

I have never burned the flag. I have never desired to burn the flag. I have expressed my opinion by way of the democracy that this flag guarantees for the freedom of speech.

How tragic it is. Does it mean that when we pass this resolution that if someone desires to wear a tie, a T-shirt or shorts that has a reflection or symbol of the flag that they are then in violation of the law of this land? Does it mean that we again go to the United States Supreme Court? Time after time, the United States Supreme Court has rejected any attempt to qualify the expression of speech.

Let me say this. We realize that we cannot cry fire in a crowded theater, that we would hurt someone, but we realize that burning the flag or desecrating it in any way does not do that.

Let me tell my colleagues why I am against this rule: Because I offered an amendment that would simply say, let us protect political speech, let us make sure that this amendment does not disallow one from expressing himself politically or his different views with the United States of America.

What does the Committee on Rules do? Rejects the many amendments that we offered to bring light as to what the Constitution actually says.

Mr. Speaker, let me say to my colleagues that I am certainly disappointed that we would use this floor to be able to frivolously undermine the Constitution. There is a saying that says, "the measure of a man," and we can go on to talk about the great

things of that person, the measure of a woman, the integrity and the honesty, the measure of this Congress should be the good works that we have done, by the American people.

I would simply argue this is a bad rule, this is a bad resolution because we are denying the very underpinning that the bill is built on, that is, the Constitution of the United States.

I yield back this amendment, I yield back this resolution, and I stand with the Constitution.

Mr. Speaker, I rise in opposition to H. Res. 255 the rule governing debate on H.J. Res. 4, an amendment to the Constitution to prohibit physical desecration of the flag of the United States. I oppose the rule to H.J. Res. 4 because the rule allows inadequate debate on amendment to an overly broad infringement on the First Amendment Right to Freedom of Speech. This partisan, modified closed rule, severely limits amendment and debate on issues that affect every American citizen—the U.S. Constitution and the First Amendment.

I proposed an amendment to H.J. Res. 4, that was not made in order. My amendment to H.J. Res. 4, was designed to protect American's right to express their opinions and views about government activity. My amendment stated in pertinent part, "a person shall not have violated a prohibition under that section for desecrating the flag, if such desecration is an expression of disagreement or displeasure with an act taken or decision made by a local, State, or Federal Government of the United States."

Under my amendment Americans would have retained their freedom to speak out against actions taken by local, State, and Federal governments through desecrations of the flag symbolizing their views. Our democratic government is a government of the people. Our citizen's freedom of expression is at the very heart of our democracy. An attack on American's freedom of expression is an attack on our entire democracy. My amendment would have protected our democracy and protects our citizens.

This rule, on the other hand, is potentially harmful to our democracy and America's citizens. Freedom of speech and freedom of expression are fundamental components of our democracy. Limiting the ability of American citizens to voice their opinions about their government, through flag desecrations or otherwise, is a violation of the principles of our democracy that are symbolized in the American flag, including the First Amendment right to freedom of expression.

I hope that the Republican leadership sees the irony of their decision to draft such a restrictive rule. We are debating a resolution that, if passed, will severely restrict American's ability to speak openly, freely, and fully, on issue that are of great concern to the public. Under this rule, my colleagues on this side of the isle are restricted from speaking openly, freely, and fully, on an issue that will have a drastic impact on the public, the First Amendment.

This proposed amendment to the Constitution, H.J. Res. 4, is a severe abridgement of the freedom of expression protected by the First Amendment of the U.S. Constitution. This rule is a severe abridgement of our ability to debate an issue that may have a profound impact on one of America's most fundamental rights.

Mr. Speaker, I oppose this rule and I encourage my colleagues to do likewise.

PARLIAMENTARY INQUIRY

Mr. LINDER. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. TERRY). The gentleman will state his parliamentary inquiry.

Mr. LINDER. Mr. Speaker, when individuals abuse the time limit, is there an arrangement by which that time can be applied against their side's total time left?

The SPEAKER pro tempore. All time for proper debate comes out of the time that has been yielded.

Mr. LINDER. Mr. Speaker, I yield 4 minutes to the gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me the time.

Mr. Speaker, I rise in support of the rule, although unenthusiastically. I am not too excited about this process, and certainly I am not very excited about this proposal to amend the Constitution. As for my viewpoint, I see the amendment as very unnecessary and very dangerous. I want to make a few points along those lines.

It has been inferred too often by those who promote this amendment that those who oppose it are less patriotic, and I think that is unfair. And an earlier statement was made by the gentleman from Florida that everybody here is patriotic and nobody's patriotism should be challenged.

It has also been said that if one does not support this amendment to the flag that they are disloyal to the military, and that cannot possibly be true. I have served 5 years in the military, and I do not feel less respectful of the military because I have a different interpretation on how we should handle the flag. But nevertheless, I think what we are doing here is very serious business because it deals with more than just the flag.

First off, I think what we are trying to achieve through an amendment to the Constitution is to impose values on people, that is to teach people patriotism with their definition of what patriotism is. But we cannot force values on people; we cannot say there will be a law that a person will do such and such because it is disrespectful if they do not, and therefore, we are going to make sure that people have these values that we want to teach. Values in a free society are done voluntarily, not through coercion, and certainly not by the law, because the law implies that there are guns, and that means the Federal Government and others will have to enforce these laws.

Here we are, amending the Constitution for a noncrisis. How many cases of flag burning have we seen? I have seen it on television a few times in the last year, but it was done on foreign soil, by foreigners, who had become angry at us over our policies, but I do not see that

many Americans in the streets burning up flags. There were probably a lot more earlier in previous decades, but in recent years, it averages out to about eight, about eight cases a year, and they are not all that horrendous. It involves more vandalism, teenagers taking flags and desecrating the flag and maybe burning it, and there are laws against that.

This is all so unnecessary. There are already laws against vandalism. There are State laws that say they cannot do it and they can be prosecuted. So this is overkill.

As a matter of fact, the Supreme Court has helped to create this. I know a lot of people depend on the Supreme Court to protect us, but in many ways, I think the Supreme Court has hurt us. So I agree with those who are promoting this amendment that the Supreme Court overreacted, because I think the States should have many more prerogatives than they do. Many states have these laws, and I believe that we should have a supreme court that would allow more solutions to occur at the State level. They would be imperfect, no doubt, it would not be perfect protection of liberty by State laws. But let me tell my colleagues, when we come here as politicians and superpatriots and we pass amendments to the Constitution, that will be less than perfect, then it will be just like the Supreme Court—a poor national solution.

It is a ruling for everyone, and if we make a mistake, it affects everybody in every State, and that is what I am afraid we are doing here.

The First Amendment has been brought up on several occasions, and I am sure it will be mentioned much more in general debate. This amendment does not directly violate the First Amendment, but what it does, it gives the Congress the authority to write laws that will violate the First Amendment, and this is where the trouble is. Nothing but confusion and litigation can result.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. FILNER), my good friend.

(Mr. FILNER asked and was given permission to revise and extend his remarks.)

Mr. FILNER. Mr. Speaker, I rise to speak against this rule and against the underlying motion.

As the chairman said in his eloquent opening remarks, our flag is a grand and glorious symbol of our great Nation, of our fundamental values of freedom, liberty, justice and opportunity; and it is those values we must protect.

We are not going to protect these values by tampering with the Bill of Rights and our Constitution. These have stood the test of time, and it is impossible to legislate patriotism. We protect these values through proper education of our children, nurturing their love and patriotism of our country and nurturing their respect for our

flag and the men and women who keep our Nation strong.

Yes, through the years our values have always included respect for our veterans, also. As a child, I heard from my veteran father of the sacrifices made by the men and women of our armed services to keep our Nation free during World War II; and we have just witnessed the willingness of our current generation to put themselves in harm's way without hesitation when called upon by their President and their Nation to in Iraq.

So why are we having this debate now? I would appreciate the attention of my good friend from California. Why are we having this debate now?

This is a shell game, Mr. Speaker. They want us to look at this shell that has the flag and they are waving it furiously. They are waving it furiously, but they do not want us to watch this shell which are veterans benefits, which they are taking away. They vote first, out of here, a \$25 billion cut in our Nation's veterans, and then it is down to \$15 billion.

Is this the way we honor our flag and honor our veterans? I find it deeply disturbing that many Members of the House of Representatives seem to be tenaciously determined, year after year, to pass this amendment at the very time, at the very time they vote for budgets that cut services and benefits to our Nation's veterans. This is hypocrisy, and the veterans who are here to lobby on this bill should understand the hypocrisy that is going on and the shell game that is happening. This hypocrisy will not escape these veterans.

True respect for our veterans means that we do not abandon them when they return to our shores. Do my colleagues know, and I ask the gentleman from California, 14,000 veterans right now have waited longer than a year and a half for their action, many more for four or five years, for adjudication of their claims. There are veterans in San Diego, I would tell the gentleman, who have died while waiting for their appeal to be adjudicated.

Two hundred thousand of our veterans right now are waiting longer than 6 months for their first health care appointment with the VA, their first health care appointment. This is the way we honor our veterans? Some of them will die before their first appointment.

We have educational benefits under the GI bill that do not pay for college education. My father went to college on the GI bill. He bought a home on the GI bill. I am in Congress because of the GI bill, and what are we doing now? We are not even given enough for anyone to buy a home or go to college.

This House has recommended to increase prescription drug copayments and impose a new enrollment of \$250 for many veterans whom we are supposedly honoring today. Let me tell my colleagues about concurrent receipt, which allows disabled veterans who are

retired from the military to receive both their disability compensation and their military retired pay. It has been on our agenda for years. The congressional leadership, the Republican leadership, while working diligently on passing this amendment, cannot find the courage, cannot muster up their skills at legislation to pass concurrent receipt. The very people who are arguing for this bill vote "no" when it comes to our veterans, vote "no" when it comes to our concurrent receipt.

I ask the gentlepeople from the majority party, what will be the morale of our soldiers, soon to be veterans when they return home from Iraq, when they know they will have to wait for the promised services that the VA has made, when they know that they will have to pay more for less? What will be their morale when they see we are not keeping our promise to veterans? Are they going to wave the flag?

I challenge my colleagues to put first our values that our great flag represents. We are patriots. We are Americans. Let us restore our contract with our Nation's veterans. That is the way to express our patriotism and to protect our Nation's flag.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

I would just like to comment that I am surprised that, for as long as the previous speaker served on the Committee on Veterans Affairs, he has allowed it to go on this long.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. GILCHREST).

Mr. GILCHREST. Mr. Speaker, I thank the gentleman for yielding me the time.

Sometimes in these debates one issue gets mixed up with another issue, and I think that is what is happening here. I rise in support of this rule.

I also want to make a comment to the previous speaker that this Congress, Republican majority, with the help of the Democratic minority, is increasing the amount of money that is going to a myriad of veterans programs all over the country. So when those veterans come back from Iraq, they will not only see us waving the flag in strong appreciation of the work they did in enhancing freedom in Iraq, but they will receive the kind of benefits that the previous speaker mentioned about going to college on the GI bill.

I went to college on the GI bill. I bought a house with the GI bill, and those kinds of services are for the veterans of today. These young people are children of democracy, and they deserve what we received many, many years ago in our service to our country, but we are here today to discuss the rule and the issue of flag burning amendment.

I want to ask the question, what does it mean to be patriotic? How do we protect the flag and honor the flag? We honor the flag by being good parents, by being good citizens, by being good neighbors, by understanding and re-

specting the rule of law and understanding the thread of tolerance that weaves its way through the quilt of democracy.

I rise today opposing the underlying bill. How many times have we seen the flag burned in the United States? We see it burned in China, we see it burned in Iraq, we see it burned in Syria. We see it burned all over the country, but we do not see it burned here. If a person burns the flag in China, they put them in jail. If they burn the flag in Iran, they probably cut their head off. If they burn the flag in Cuba, they go to jail. Do we want to follow that example and that precedent? I do not think so.

Our present Constitution blends together the best of our heart and our minds. Our present Constitution understands our responsibility to respect the rule of law, but it shows such humanity in the tolerance that we have for different opinions in this country.

□ 1430

Do we want to respect and honor those who lost their lives in defense of this Nation? The last verse of that wonderfully beautiful poem "In Flanders Fields" says, "If you break faith with us who die, we shall not sleep, though poppies grow in Flanders Field." How do you break faith with those who defended the country? You stop having tolerance. You start following the precedent of countries like the former Iraq or Cuba or China.

We want to raise the flag in honor of those people who have protected the flag. Be a good citizen, a good neighbor, a good American.

Mr. HASTINGS of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. LINDER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CUNNINGHAM), the sponsor of the underlying legislation.

(Mr. CUNNINGHAM asked and was given permission to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, I take umbrage at some who would say that this is frivolous legislation. Mr. Speaker, to me, patriotism demands more than standing on the House floor and stating that we are all patriotic or we all support the troops. Check the record of those Members that consistently vote against defense bills or intel or even our veterans. It is just not true. To me, there are Members who are unpatriotic in this body.

I would say that voting against this bill in itself is not unpatriotic. People have different reasons. But patriotism is always unfinished business. It requires action, not just verbiage. And I state again that a vote against this bill does not mean you are unpatriotic, but I think there is a combination of votes and support for our troops and our country that does classify some people with those actions.

Mr. Speaker, a few months ago, I watched on television as they played

the series "Glory." It was about a regiment of African American troops that volunteered to go up to the front. They knew in attacking a fort that it would be certain death. And as Denzel Washington, the actor, and his crowd started to go forward to this and attack, knowing that they would most certainly die, the question was asked, "If I should fall, who will carry this flag?" And echoed down the ranks was, "I will," "I will," "I will," and they each did so. Each time the flag fell, African Americans picked up that flag and carried it forward. Thousands upon thousands of African Americans died protecting that flag.

Who rejects the arguments of the few? This bill will pass. The same group rejects it every time. My friend, who is a libertarian, he votes against it. Many of the far left vote against it. Some people, in my opinion, attempt to hide behind the first amendment. But who says that they are wrong? Two hundred years of tradition. Abraham Lincoln, Jefferson, Washington, our forefathers, came forward and said that the flag is worth protecting.

In the Civil War, and I am not proposing this, but in the Civil War there was the penalty of death in desecrating the flag. That is extreme. But who says they are wrong are 80 percent of the American people. All 50 States have said they will ratify this if we pass this legislation on the floor. All 50 States, 80 percent of the American people, and 100 percent of the veterans groups. Look around and see the veterans groups around Capitol Hill today. They support this legislation. They do not think it is frivolous. They do not think it is unnecessary. They do not think it violates the Constitution, because of 200 years of tradition.

One Court, in a 5-to-4 decision, changed 200 years. Mr. Speaker, we are saying that that is wrong. Talk about extremism and affecting the Constitution, we think it is that decision in 1989. I reject their arguments. Mr. Speaker, 14 years ago, the Supreme Court did reverse 200 years of tradition.

In my own district there was a protest. It was not about the flag; it was about bilingual education. There was a group of Hispanics that came around to protest a bilingual education ruling. One of the Hispanics started tromping and burning an American flag, and a Hispanic from my district grabbed the flag and was beaten. He said, listen, I may disagree on bilingual education, but this flag is a symbol of why I came to this country. It stands for freedom, it stands for liberty, and you will not desecrate it in my presence.

Some people say, well, it does not exude violence. You burn the American flag, and generally there is violence that follows. And again I would say, Mr. Speaker, that patriotism is always unfinished business.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1½ minutes to my friend, the distinguished gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, I want to make two points in this 1 minute.

Number one, the gentleman who just talked disparaged the Supreme Court because of one decision, that we should not respect that decision. It is the same Supreme Court that 2 years ago arrogated to itself the right to take away from the American people the choice of the Presidency and said do not finish counting the votes, we declare George Bush the President of the United States. That decision has been respected. Though on the merits and on the intellect, that decision belongs in the garbage heap of history because it was not an honest decision, it was not honestly intended. It was a results-oriented decision.

Secondly, the gentleman said that there are Members of this body who are not patriotic as seen by the votes against defense bills. The fact of the matter is, you can vote for a defense bill, you can vote against it based on whether you think that bill is best for your country or not. But to ascribe unpatriotic motives to differences of opinion is to disrespect the Bill of Rights in the Constitution. To ascribe unpatriotic motives to people who differ with you politically is the methodology of a Soviet commissar. It is not an argument that should be heard on this floor. It is an argument that destroys liberty. It destroys freedom of speech.

And whether a particular defense bill was good or too small, or bad or good or deserved to be voted for should be addressed on the merits intellectually and not by disparaging the motives and saying that someone who votes against it is unpatriotic. That argument we could hear from Mr. Stalin, not from someone on this floor.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Robert Williams wrote an article recently, and he is one of the Tuskegee Airmen, and the title of the article was "A Tuskegee Airman Salutes The Flag." He talked initially about how he became a fighter pilot in the Second World War. And then he goes on, and I am skipping his first three paragraphs, but I quote him: "That is why I cringe when I see Congress preparing to pass a constitutional amendment that would rewrite the first amendment for the first time ever to ban a form of protest. It is particularly hard for me," Mr. Williams says, "as an American war veteran to see this action taken in the name of patriotism. For while we as a country view our flag as the very essence of patriotism, it is, in reality, a symbol of that spirit.

"And if the proposed flag desecration amendment wins final approval, our flag will become a symbol without substance. Don't get me wrong," Mr. Williams says, "no one endorses the idea of burning the flag or desecrating it in any way. It is, to me, a very repugnant concept. But I find more threatening

the idea that we would change the Constitution every time some American came up with a new repugnant way to protest."

He talks a lot about what it took to become an airman from Ottumwa, Iowa, and how he and his buddy applied on the same day, and he was, with empathy, told to give up. He did not give up, and he became a part of a proud fighter force in our Air Force, the Tuskegee Airmen. And he closes, and I am skipping a lot of what Mr. Williams said, he said: "Today, as I sit and recall the terrible attacks that we endured just to get the right to fight for our country, I am more certain that the elimination of any right to freedom of speech is dead bang wrong. Protest, after all, takes many forms and many shapes. Some of them may be seen as distasteful by some Americans. But if we change the Constitution to outlaw these less than acceptable forms of protest, then what we are doing is just as repugnant as burning the flag itself."

Thank you, Robert Williams.

You know what we could or should be doing right now? We should be passing the 13 appropriation measures that is our mandate here in Congress. We should be providing proper health benefits, rather than turning veterans away, as they are in my district in Fort Lauderdale, Florida. We should be passing a prescription drug benefit rather than talking about desecrating the flag. We should be building schools for our children and grandchildren rather than leaving them deficits that will cause them not to even have school. We should be passing aid to public universities to stop tuition from going up the way it is in my State and 20 other States around this Nation.

How about providing a child care tax credit for working families, like the gentleman from New York (Mr. RANGEL) came here and asked unanimous consent to do, rather than talking about flag desecration?

We should be increasing the funding of the National Institute of Health research funds. We should be helping the Centers for Disease Control prepare us in the event there is a problem in this Nation. We should be passing pay raises for Federal judges in this country who too long have suffered at the whim of this United States Congress. We should be providing dollars for first responders in this country. We should be providing money for port security, better housing for veterans, paving roads, paying teachers; and I can go on and on.

But what we come here with is a repugnant measure. All of us, every man and woman in this House, is patriotic, whether they voted for the defense measure or not. All of us are super-patriots in the sense that we provide service for our country. And each in our own way ideologically, left and right, black and white, rich and poor come here for the purpose of upholding that great symbol of ours, the flag. And I do not need anybody to tell me about patriotism.

I lost relatives and friends in wars like every man and woman here has. And there are kids right now that would rather come home and know that we took care of some of those things that we needed to take care of rather than handle a handful of miscreants that might go out and foolishly burn a flag. There are laws, as one of our colleagues said, that takes care of that. Let those laws be sufficient for us. Let the flag reign supreme. Do not let it rain down the kind of desecration that not passing these measures would help us to do.

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

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume to simply say that after that litany of spending measures, I believe the gentleman from Florida has forfeited any future opportunities to complain about deficits.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1445

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 255, I call up the joint resolution (H.J. Res. 4) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to House Resolution 255, the joint resolution is considered read for amendment.

The text of House Joint Resolution 4 is as follows:

H.J. RES. 4

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein),

SECTION 1. CONSTITUTIONAL AMENDMENT.

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

“ARTICLE—

“The Congress shall have power to prohibit the physical desecration of the flag of the United States.”

The SPEAKER pro tempore. After 2 hours of debate on the joint resolution, it shall be in order to consider an amendment in the nature of a substitute, if offered by the gentleman from Michigan (Mr. CONYERS), or his designee, which shall be considered read and debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman

from New York (Mr. NADLER) each will control 1 hour of debate on the joint resolution.

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 H.J. Res. 4.

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, H.J. Res. 4 is a proposed amendment to the United States Constitution that would simply return to Congress the authority that it possessed for over 200 years to prohibit the physical desecration of the flag of the United States. H.J. Res. 4 does not outlaw flag desecration; rather, this proposal merely sets the boundaries by which Congress can enact subsequent implementing legislation, if it so chooses, to prohibit such conduct.

The flag is the most revered and beloved symbol of our great Nation, representing all that is American and reminding the world of our undying love of freedom and democracy. The flag serves as a shining bedrock of our principles and values as a country, leading our men and women into conflicts around the globe and draping the caskets of those same individuals when they return home after giving the ultimate sacrifice in defense of such values. It is the flag to which we pledge allegiance here in the halls of Congress and in schools throughout our country. It is this object and all that it represents that we as Americans hold so dear.

While the Federal Government and almost every single State validly protected the flag without constitutional objection for numerous years, this protection was circumscribed by the United States Supreme Court in *Texas v. Johnson* in 1989. In the Johnson case, a majority of five justices held that burning the flag was expressive conduct protected by the First Amendment to the Constitution. Congress responded to this decision in 1990 by enacting a Federal statute to outlaw such conduct in accordance with the Supreme Court’s decision in Johnson. However, the Supreme Court that same year ruled in *United States v. Eichman* that the recently enacted Federal statute also violated the Constitution. Thus, the American people are now left with no other alternative but to amend the Constitution in order to protect their flag.

House Joint Resolution 4 will simply overturn these two erroneous Supreme Court decisions, restoring the original interpretation to the First Amendment that had persisted for over two centuries since the birth of our country.

When considering the powers of our respective branches of government in effecting the will of the American people, we should be reminded of the words of Abraham Lincoln in his first inaugural address in 1861, “If the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court, the people will have ceased to be their own rulers.”

Thus, because the Constitution expressly designates “We the People” as possessing the ultimate authority in this great Nation, and not the Supreme Court, we as representatives of the people must respond and act according to the will of the people in approving this proposed constitutional amendment.

Contrary to what opponents of House Joint Resolution 4 will claim, this proposal does not amend the First Amendment or the Bill of Rights for the first time in history. Rather, it was the Supreme Court that first amended our constitutional rights and liberties as Americans in this area of the law in 1989 by denying the American people the authority to protect their flag. H.J. Res. 4 will simply restore this sacred right and the original understanding of the First Amendment and the Bill of Rights that had persisted since the very beginning of our country. Thomas Jefferson, the author of the Declaration of Independence, and James Madison, the father of our Constitution, both agreed that the government could prohibit acts of flag desecration.

Rights guaranteed under the First Amendment are not unlimited. Rather, Americans are constrained in their speech to a certain degree, whether pursuant to libel and slander laws, perjury laws, laws against inciting breach of the peace or riots, or obscenity laws. Furthermore, conduct that is arguably associated with speech has also always been validly regulated. While someone seeking publicity or wanting to protest may think that the best method to convey a particular message may be to parade nude in Lafayette Square across from the White House, that form of conduct is illegal. H.J. Res. 4 simply seeks to give Congress the authority to prohibit another particular form of conduct, flag desecration, without regard to the speech being broadcasted during such conduct.

Those seeking to express themselves would be left with, as Chief Justice Rehnquist put it, “a full panoply of other symbols and every conceivable form of verbal expression” by which to make their ideas known. As the Supreme Court has stated, “the First Amendment does not guarantee the right to employ every conceivable method of communication at all times and in all places.”

I urge my colleagues to recognize the wishes of the American people and restore the original interpretation and understanding of the First Amendment and the Bill of Rights to the Constitution by supporting this resolution.

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

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

Mr. Speaker, today we are enduring the annual Republican rite of spring, a proposed amendment to the Bill of Rights to restrict what it calls flag desecration.

Why spring? Because the calendar tells us that June 14 is Flag Day, and then, of course, we have July 4. Members need to send out a press release extolling the need to protect the flag, as if the flag needed protection by Congress. We do not see a great epidemic of flag burning. This amendment is truly an answer in search of a problem.

The flag is a symbol of a great Nation and of the fundamental freedoms for which this Nation stands. If the flag needs protection at all, it is from Members of Congress who value the symbol more than the freedoms that the flag represents, and would, in fact, limit those freedoms to protect the symbol.

The argument that we must, for the first time in our Nation's history, amend the Constitution to limit freedom of speech because the flag stands for freedom would sound like a bad joke if the danger to the First Amendment were not so real. I warn my colleagues, once we get into the business of amending the Constitution, every time someone does something we do not like, there will be no end to it. We have never in the 200 years of this country so far, of this Republic, amended the Bill of Rights, and we should not start now.

There is unpopular speech that people find offensive, unpopular religions that people do not like. We had a Member of the House on the floor a few years ago excoriate the Army for allowing a wicked religious service on an Army base. The man with the protest sign in a crowd of people favoring the President and his policies, he was threatened with arrest if he did not leave or get rid of his sign because it did not agree with the other signs. Maybe some of our Republican friends think we need a constitutional amendment for protesting against Republican Presidents. Quite frankly, the crass political use of the flag to question the patriotism of those who value our fundamental freedoms is a greater insult to those who died in the service of our Nation than even the burning of the flag. It is the civic equivalent of taking the Lord's name in vain.

People have rights in this country that supersede public opinion, even strongly held public opinion. If we do not preserve those rights, the flag would have been desecrated far beyond the capability of any individual with a cigarette lighter. Let there be no doubt, this amendment is aimed directly at unpopular political ideas.

Current Federal law says that the preferred way to dispose of a tattered and old flag is to burn it, but there are those who would criminalize the same act if it was done to express political dissent. So if you burn the flag, if you physically burn the flag while standing

around saying nice things, pleasant things, platitudes about patriotism, then that is a wonderful thing to do. But if you burn the flag while criticizing the conduct of the current administration or some political decision, then you will be arrested.

Is the act of burning the flag any different in those two instances? No. What is different is the words said in association with it. In one instance, the words are pleasant and nice and therefore protected by the First Amendment; and in the other instance, the words are unpleasant and disagreeable and, therefore, we are going to pass a constitutional amendment to throw someone in jail for uttering the wrong words while he burns the flag, because if he uttered the nice words while he burned the flag, that would be the correct way of disposing of the flag.

Clearly, the Supreme Court was right, it is the expression of unpopular political opinions that this amendment is aimed at, and that is why this amendment should not be passed because we should protect the right to utter all opinions in this country, even those we think are harmful because bad ideas should be driven out of the arena of public opinion by good ideas, not by repression by the State or by the police. That is why we have the Bill of Rights, and that is why this amendment should not pass.

One other example, and that is if someone produced a movie or play in which actors impersonated Nazi soldiers, and during the course of that play, the Nazi soldiers trampled on the flag to show the contempt the Nazis had for freedom and the United States, no one would think of arresting the actors because they know they did not mean it. They would know they were showing what Nazis thought of the flag and the United States, not what the actors think. So it is clearly the ideas associated with the act of desecrating the flag, it is the speech that we are criminalizing here, and that is why the Supreme Court was right to say we cannot criminalize speech.

We heard in the hearings conducted before the Committee on the Judiciary from a Vietnam veteran who has been in a wheelchair for the last 30 years as a result of his combat wounds in Vietnam. He made clear he did not want his sacrifice to be used to destroy the freedoms for which he fought and for which many of his friends made the ultimate sacrifice. I would urge my colleagues to listen to all veterans and understand that those who support this amendment do not speak for all veterans.

General Colin Powell, for example, had this to say about this amendment a few years ago, "The First Amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away."

Jim Warner, a Vietnam veteran and prisoner of the North Vietnamese from October 1967 to March 1973, wrote, "The fact is, the principles for which we fought, for which our comrades died, are advancing everywhere upon the earth, while the principles against which we fought are everywhere discredited and rejected. The flag burners have lost, and their defeat is the most fitting and thorough rebuke of their principles which the human mind could devise. Why do we need to do more? An act intended merely as an insult is not worthy of our fallen comrades. It is the sort of thing our enemies did to us, but we are not them, and we must conform to a different standard. Now, when the justice of our principles is everywhere vindicated, the cause of human liberty demands that this amendment be rejected. Rejecting this amendment would not mean that we agree with those who burn our flag, or even that they have been forgiven. It would, instead, tell the world that freedom of expression means freedom, even for those expressions we find repugnant."

I would add that rejection of this amendment would mean that we understand that democracy in the United States and our protection of freedom of expression in the United States is stronger than the ill will and the venom that motivates people who might desecrate our flag, and that we do not need a constitutional amendment to protect us against them.

□ 1500

These thoughts are echoed by Terry Anderson, a former U.S. Marine staff sergeant and Vietnam veteran who was held hostage in Lebanon, who wrote:

"This constitutional amendment is an extremely unwise restriction of every American's constitutional rights. The Supreme Court has repeatedly held that the first amendment protects symbolic acts under its guarantee of free speech. Burning or otherwise damaging a flag is offensive to many, including me, but it harms no one and is so obviously an act of political speech that I'm amazed anyone could disagree with the Court."

Mr. Speaker, people have died for this Nation and the rights which this flag so proudly represents. Let us not destroy the freedoms and the way of life for which they made the ultimate sacrifice. Let us not demean our freedoms. Let us not demean our country. Let us not for the first time in the history amend the Bill of Rights to say we cannot be trusted with that freedom. Let us not pass this amendment.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 6 minutes to the distinguished gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me this time.

Before I get into the bulk of my talk, Mr. Speaker, the gentleman from New

York has mentioned once again a letter from Colin Powell. I have in my hand here a letter written by another distinguished American general, Norman Schwarzkopf, who in essence indicates, and I will just take one sentence here, "I regard legal protections for our flag as an absolute necessity and a matter of critical importance to our Nation." He goes on in support. I think both Colin Powell and Norman Schwarzkopf are great Americans but oftentimes, as on many other issues, good people can come to differing opinions on an important issue, and they have in this particular case. I do believe that we do need to protect the flag.

The flag of the United States of America has become the physical manifestation of democracy and freedom in the world today. The flag has been described as a national asset, akin to the Grand Canyon and the Washington Monument, as it symbolizes the strength and endurance of this great Nation and the embodiment of its ideals and its values. As Chief Justice Rehnquist has noted, "Millions and millions of Americans regard it with an almost mystical reverence, regardless of what sort of social, political or philosophical beliefs they may have." We pledge our allegiance to the flag, we pay tribute to the flag through song as illustrated by our national anthem, and we honor our fallen soldiers by draping flags over their coffins, planting flags at Arlington National Cemetery as we did most recently on Memorial Day not long ago, and presenting flags to widows and widowers. To say that the American flag is simply a colored piece of cloth mischaracterizes the nature of the symbol and its importance to our country. As the flag goes, so goes our country. If we allow its defacement, so too do we allow our country's gradual decline. Therefore, in order to ensure the future of our country, we must ensure the future of our flag.

Over the years, there have been countless acts of flag desecration. The gentleman has said, and we have heard this in committee, that it does not happen that often anymore; but since 1994 alone there have been over 115 reported incidents, and those are reported incidents, of flag desecration occurring in 35 States, here in the District of Columbia, and in Puerto Rico. The States and the Federal Government have been prevented from prohibiting such conduct since 1989 when the United States Supreme Court ruled in *Texas v. Johnson* that flag burning was expressive conduct protected by the first amendment to the Constitution. That was a 5 to 4 vote, I might add. Congress immediately responded by passing the Flag Protection Act of 1990. However, shortly thereafter, the Supreme Court in *United States v. Eichman* held that the act was unconstitutional for the same reasons as in the *Johnson* case. Thus, the only option remaining for the American citizenry to address and correct this prob-

lem is through the constitutional amendment process as set forth in article 5 of the United States Constitution. That is why we are here today. It is the only way that we now can protect the flag because of these two Supreme Court cases.

H.J. Res. 4 will simply restore the constitutional authority that Congress had possessed for more than 200 years to protect the flag from physical desecration. While opponents claim that amending the Constitution to remedy a problem that they contend does not exist will open the floodgates to other amendments, history has proven this assertion false. In fact, since the adoption of the Bill of Rights, there have been over 11,000 proposed constitutional amendments with only 17 approved and ratified.

So we have only amended the Constitution 17 times plus the 10 times it was amended in the Bill of Rights. Thus, the fear of an onslaught of constitutional amendments and the eventual destabilization of the document itself is unfounded. In addition, opponents claim that this proposed constitutional amendment will infringe upon speech and adversely impact those protesting against government policies. First, H.J. Res. 4 is in no way related to the suppression of free speech and is not at all concerned with content of any type of expression. Rather, H.J. Res. 4 is concerned only with the vehicle through which some individuals choose to express their ideas. Just as people cannot burn a dollar bill or burn their draft cards to express their ideas, so too should people be prohibited from burning or desecrating the American flag. H.J. Res. 4 would not interfere with a speaker's freedom to express his or her ideas by any other means.

Secondly, this amendment would not unfairly target those who protest against government policy, as there were numerous statutes in the past outlawing the desecration of the flag, and there is no evidence of prosecutorial abuse in this regard. The exaggerated scenarios that opponents of this measure paint are intended not to illustrate reality but only to incite fear and hostility toward this measure.

Opponents also argue that the words encompassed in the proposal such as "flag" and "desecration" are too broad and ambiguous, leaving the public uninformed as to the type of conduct that will ultimately be prohibited. The simple answer to this is that H.J. Res. 4 is a proposed constitutional amendment which by definition necessitates ambiguous terms in order to give Congress sufficient flexibility to draft and adopt authorizing legislation. Consider the calamity that would have resulted if the drafters of the 14th amendment would have been required to specifically define "due process" or "equal protection." The nature of the Constitution requires that such terms be broad and subject to interpretation.

Desecration of the flag necessarily diminishes and adversely affects those

values and principles for which the flag stands.

We believe very strongly that this should be passed.

Mr. NADLER. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. I thank the gentleman for yielding me this time.

Mr. Speaker, I would like to place this debate in context because every time we cut veterans benefits, we pull out this resolution. Just a few weeks ago, we voted to cut veterans benefits by \$28 billion. And so far those cuts have been restored, but many in this House, a majority, in fact, of this House, will have to explain those votes. Challenging the patriotism of those of us who voted "no" on those cuts will not cover up the fact that those votes were actually cast.

Mr. Speaker, we should acknowledge that the whole purpose of the underlying constitutional amendment is to stifle political expression that we find offensive. While I agree that we should respect the flag, I do not think it is appropriate to use the criminal code to enforce our views on those who disagree with us. The Supreme Court has considered restrictions on the Bill of Rights that are permissible by the government. For example, under the first amendment with respect to speech, time, place and manner may generally be regulated while content cannot. There are, of course, exceptions. Speech that creates an imminent threat of violence or threatens safety or patently offensive expression that has no redeeming social value, those may be restricted. But generally you cannot restrict content. The distinction is that you can restrict time, place and manner but not content. And so you can restrict the particulars of a march or demonstration, what time it is held, where it is held; but you cannot restrict what people are marching or demonstrating about. You cannot ban a particular march or demonstration just because you disagree with the message unless you decide to ban all marches. You cannot allow marches by the Republican Party but not by the Democratic Party.

Some have referred to the underlying resolution as the anti-flag burning amendment and they speak about the necessity of this amendment to keep people from burning flags. But, really, the only place we ever see flags burned is in compliance with the Federal code at flag ceremonies, disposing of a worn-out flag. If you ask any Boy Scout or any member of the American Legion, how do you dispose of a worn-out flag, they will tell you that you burn the flag at a respectful ceremony. This proposed constitutional amendment is all about expression and all about prohibiting expression in violation of the spirit of the first amendment. By using the word "desecration," we are giving government officials the power to decide that one can burn a flag if you are saying something nice or respectful,

but you are a criminal if you burn the flag while saying something offensive or insulting. This is an absurd distinction and is in direct contravention with the whole purpose of the first amendment.

Mr. Speaker, in addition to the violation of the spirit of the Bill of Rights, this legislation has practical problems. For example, what is a flag? Can you desecrate a picture of a flag? Can a flag with the wrong number of stripes or stars be desecrated?

Mr. Speaker, during the Vietnam War, laws were passed prohibiting draft cards from being burned and protesters with great flourish would say that they were burning their draft cards and offend everybody, but then nobody would know whether it was a draft card or just a piece of paper. Mr. Speaker, what happens if you desecrate your own flag in private? Are you subject to criminal prosecution if someone finds out?

And finally, Mr. Speaker, I feel compelled to comment on the ridiculous suggestions that stealing and destroying someone's personal property is protected if that property happens to be a flag. That is wrong. It is theft and destruction of personal property. What this legislation is aimed at is criminalizing political speech. And so we should not politicize criminal speech we disagree with just because we have the votes.

I would hope, Mr. Speaker, that we would defeat the resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from California (Mr. CUNNINGHAM), the author of the resolution.

(Mr. CUNNINGHAM asked and was given permission to revise and extend his remarks.)

Mr. CUNNINGHAM. Mr. Speaker, my friend on the other side mentioned a gentleman from the Tuskegee Airmen, a very honored group. As a matter of fact, there is a chapter in San Diego. I spoke to them about this resolution in San Diego years ago. They support this resolution. They are good friends of mine. These are the men that fought against racism and flew P-51s in WWII. Not a single bomber was lost while the Tuskegee Airmen escorted them.

Opponents say that this is frivolous, that we are offering a frivolous amendment. In the Tuskegee Airmen letter, it said that this for the first time was denying first amendment rights. It is not. For 200 years-plus, this was tradition in our country. Abraham Lincoln, Washington, Jefferson, yes, and even Betsy Ross knew the threads that held this country together. During the Civil War, it was a death penalty to desecrate the flag. No one is asking us to do this. As a matter of fact, this vote today only gives the States the right to ratify this resolution. Even if we pass this here today, if the States say "no," it will not pass.

The gentleman from New York said, do we know democracy? Fifty State

resolutions say that they will ratify this. That to me is democracy. Two hundred years of tradition wiped away by a 5 to 4 Supreme Court vote. That is democracy. Eighty percent of the American people support this bill. To me that is democracy. Two hundred Members of this House and one vote short in the other body on these resolutions. That is democracy.

□ 1515

Even the dissenters of the Supreme Court, and I quote, noted that "In times of national crisis, the flag inspires and motivates the average citizen to make personal sacrifices in order to achieve societal goals of importance."

Not just during war, but maybe there is an earthquake or a fire. It inspires people.

So what do you think on the other side it does to these same people when you desecrate that symbol that lifts them up? And that is why this is important, Mr. Speaker. This is 200 years of tradition.

What is patriotism? I told you in the rule vote about a young Hispanic, that other Hispanics were desecrating the flag and he grabbed the flag and he was beaten, and he stood up and said, "That is why I immigrated to this country. This flag represents the traditions, the freedoms, the liberty that I stand for." And he did not let them burn it.

I mentioned about "Glory," African Americans that picked up the flag when one of their fellow soldiers fell, knowing that they would die. Ask those African American soldiers that charged that fort what they would think of you today rationalizing against this vote that it is a First Amendment vote. It is not.

You have all kinds of actions. You can swear, you can yell, you can protest, you can hold up signs, but just do not desecrate the American flag.

I have a story that I have, a friend that was a prisoner of war for 6½ years. It took him 6 years to gather bits of thread to knit an American flag on the inside of his shirt. And that was fine, until the Vietnamese guards broke in, and they saw the POW with a flag that he hung above on the wall when they were able to get together.

They saw the flag. They ripped it to shreds. They dragged the POW out and they beat him unconscious, so bad that the other prisoners did not think he would survive. And they comforted him as much as they could. He went back in the corner, and a few minutes later they looked and saw this broken-body POW drag himself to the center of the floor and started gathering those bits of thread to knit another American flag.

That is action. Patriotism takes action, and it is action that is unfinished business at all times.

This is not frivolous to us. I was shot down on my 300th mission over Vietnam. The actors that protested the war, that was their right under the

First Amendment. I may disagree with them, but it was their right.

Protest in any way you want, just do not burn the American flag. Vote yes on this resolution.

Mr. NADLER. Mr. Speaker, I yield 3½ minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member of the subcommittee for yielding me time.

Mr. Speaker, this is about choices, and it is about differences of opinion, so I respect greatly my good friend from California for his desire to move on this legislation. But I think the American people need to be able to flush out what this debate is all about.

H.J. Res. 4, were it to pass, would be the first time in United States history that the Constitution is amended in order to curtail an existing right. Just a few minutes ago on this floor I held up the Constitution, and I said that Americans need to begin to read the Constitution again, that is, to understand that it is a document to give rights, to protect as opposed to prohibit.

We have seen the courts over the years refine our laws, and I have admitted on this floor that crying fire in a crowded theater certainly has been enunciated as being against the order, against law and order, and against the protection of the people. But this amendment does nothing to enhance the rights of Americans.

I have heard my good friend utilize Hispanics and African Americans. I certainly welcome his right to express his viewpoints and whatever characterization he is trying to suggest. But I would offer to say that today we all stand as patriots and Americans, Hispanics, African Americans, Asians; in Texas, Anglos or Caucasians, Native Americans, new immigrants, people seeking opportunity.

The real question is that there is no prohibition for some valiant soldier to rise to the occasion and take a flag across a battlefield. We do not stop that. We applaud that. Nor is there any prohibition likewise for someone who has a disagreement on the political philosophy of this Nation to be able to rise up in disagreement.

Clearly, during the civil rights era, might I say, thank God for the First Amendment, that there were brave souls enough to speak against the horrific nature of segregation. If you took the laws of the South, those people should have been jailed, as they were over and over again, you would have confirmed their being jailed for expressing their right to associate against segregation. So this is a matter of choice and a matter of disagreement.

Two generals who were annunciated by my friends, General Powell indicating his position, and a different position, difference of opinion; and this is what this amendment stands for, not accepting differences of opinion.

The Supreme Court in the Gregory Johnson case right out of Texas when this individual in 1989 burned a flag in front of the Republican convention, sounds horrific, sounds embarrassing, but yet the Court of Appeals and the Supreme Court indicated that the lower court's decision should be reversed, holding that the Texas law had been unconstitutionally applied to Johnson in violation of his First Amendment rights. The Supreme Court upheld that right for him to have political expression.

I had such an amendment before the Committee on Rules that political content, speech, should be protected, but yet it was rejected.

I would simply say, Mr. Speaker, in closing, it is a matter of choice and a matter of right. I beg my colleagues not to pass an amendment that restricts the Constitution. That would be wrong and misdirected.

Mr. Speaker, I rise in opposition to H.J. Res. 4, an amendment to the Constitution to prohibit physical desecration of the flag of the United States. I oppose H.J. Res. 4 because this resolution is an overly broad infringement on the First Amendment Right to Freedom of Speech.

BACKGROUND

This is not the first time this Chamber has considered this very Amendment to the Constitution. In 1990, Congress considered and rejected H.J. Res. 350—an Amendment to the U.S. Constitution specifying that "The Congress and the States have the power to prohibit the physical desecration of the flag of the United States." This failed to get the necessary two-thirds congressional majority by a vote of 254–177 in the House and 58–43 in the Senate. Again in 1995 Congress considered the same amendment, H.J. Res. 79, but did not get the necessary two third majority vote of the Senate. In 1999, this Constitutional Amendment, then call H.J. Res. 33, also failed to be passed.

If H.J. Res. 4 were to pass, it would mark the first time in United States' history that the Constitution is amended in order to curtail an existing right. In this case, the proposed amendment would severely narrow the scope of the First Amendment's protection of free expression codified in the Bill of Rights. This dangerous and unnecessary assault on our fundamental liberties would set a terrible precedent.

I renew my opposition to this Constitutional Amendment. Despite my opposition, I agree with the proponents of this Constitutional Amendment that the American flag is a symbol of all of the principles and ideals that this country is built upon—freedom of assembly, freedom of religion, equality, and justice to name a few.

FLAG DESECRATION AND THE FIRST AMENDMENT

One of the most important ideals that the flag symbolizes is the First Amendment protection of freedom of speech. I believe that freedom of speech should be protected without condition. The Supreme Court of the United States, as it relates to desecration of the flag, appears to agree.

In 1989 the Supreme Court addressed the issue of flag desecration as it related to the First Amendment. In 1989, the Supreme Court finally addressed whether a flag burning stat-

ute violates the First Amendment in *Texas v. Johnson*.

In that case, Gregory Johnson was arrested for burning the U.S. flag during a demonstration outside of the Republican National Convention in Dallas. Mr. Johnson's actions were deemed to be in violation of Texas' "Venerated Objects" law. The Texas statute outlawed "intentionally or knowingly" desecrating a "national flag." The statute, defined the term "desecrate" to mean "to deface, damage or otherwise physically mistreat in a way that the actor knows will seriously offend one or more persons likely to observe or discover his action." The Court of Appeals for the Fifth District of Texas upheld Johnson's conviction under the Venerated Objects law. The Court of Criminal Appeals, Texas' highest criminal court, reversed the lower court decision, holding that the Texas law had been unconstitutionally applied to Johnson in violation of his First Amendment rights.

The Supreme Court affirmed the Texas Court of Criminal Appeals ruling and determined that the First Amendment protects those citizens who burn the U.S. flag in political protest from prosecution. The Supreme Court ruled that Johnson's conduct constituted a symbolic expression that was both intentional and overly apparent. According to the Supreme Court, the Texas statute was "content-based" and, therefore, subject to "the most exacting scrutiny test" outlined in another Supreme Court case, *Boos v. Barry*. The Texas statute was deemed content-based because Johnson's guilt depended on the communicative aspect of his expressive conduct and was restricted because of the content of the message he conveyed. Furthermore, the Court stated that, although the Government has an interest in encouraging proper treatment of the flag, it was prohibited from criminally punishing a person for burning a flag as a means of political protest. The Court determined that the Texas statute was designed to prevent citizens from conveying "harmful" messages, reflecting a government interest that violated the First Amendment principle that government may not prohibit expression of an idea simply because it finds the idea offensive or disagrees with the idea.

In response to the Johnson ruling, Congress passed the content-neutral "Flag Protection Act of 1989." The Flag Protection Act of 1989 prohibited flag desecration under all circumstances by removing the requirement that the conduct cast contempt upon the flag. The statute also narrowly defined the term "flag" in an effort to avoid any vagueness problems. After the Flag Protection Act was passed, a series of flag burnings took place in cities across. Criminal charges were brought against protesters who participated in flag burning incidents in Seattle and Washington, D.C. In both cases, the federal district courts relied on Johnson, striking down the 1989 law as unconstitutional when applied to political protesters.

In *U.S. v. Eichman*, the Supreme Court protected First Amendment freedom of speech, and in a 5–4 decision upheld the lower federal court rulings and struck down the Flag Protection Act of 1989. The Court ruled, again, that the Government's stated interest in protecting the status of the flag "as a symbol of our Nation and certain national ideals" was a "suppression of free expression" that gave rise to an infringement of First Amendment rights.

The Court acknowledged that the 1989 law, unlike the Texas statute in Johnson, contained no content-based limitations on the scope of protected conduct. However, the Court determined, the federal statute was subject to strict scrutiny because it could not be enforced without reference to the message of the "speaker."

The supporters of H.J. Res. 4 argue that flag desecration should not be considered speech within the meaning of First Amendment. On the contrary, it is precisely the expressive content of acts involving the flag that the amendment would target. These expressive acts are within the definition of speech. It is obvious that the criminal sanctions against flag burning in the Johnson case, and the criminal sanctions the sponsors of this amendment will likely seek to enact if H.J. Res. 4 is adopted, are directly related to the expressive content of the act of burning the flag.

Under current law "[t]he flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning." It is clear then, that the prohibitions against flag burning or "physical desecration" in H.J. Res. 4 are fundamentally content-based. Burning a flag to demonstrate respect or patriotism is permissible under current law. Should the proposed amendment pass, burning the flag to convey a political viewpoint of dissent or anger at the United States would become a crime.

The airing of unpopular, dissenting views is an affirmative social good. Attempt to place limits on the manner or form of expressing unpopular views must inevitably translate into limits on the content of the unpopular views themselves. Likewise, limitations on the use of the flag in political demonstrations ultimately undermines First Amendment free speech.

Adoption of H.J. Res. 4 will also create a number of dangerous precedents in our legal system. The Resolution will encourage further departures from the First Amendment and diminish respect for our Constitution. Doing so would make it unlikely to be that this would be the last time Congress acts to restrict our First Amendment liberties.

H.J. RES. 4 DOES NOT HONOR AMERICA'S VETERANS

It also flawed reasoning to argue that this amendment honors the courage and sacrifice of America's veterans. It may be the opinion of many American's that we should condemn those who would dishonor our nation's flag. However, H.J. Res. 4 will dishonor the Constitution and betray the very ideals for which so many veterans fought, and for which so many members of our armed forces made the ultimate sacrifice. In a May 18, 1999 letter to Senator PATRICK LEAHY, General Colin L. Powell said:

The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will by flying proudly long after they have slunk away.

Another honored member of our Armed Services, Jim Warner, a Vietnam veteran and prisoner of the North Vietnamese from October 1967 to March 1973, wrote:

The fact is, the principles for which we fought, for which our comrades died, are advancing everywhere upon the Earth, while the principles against which we fought are

everywhere discredited and rejected. The flag burners have lost, and their defeat is the most fitting and thorough rebuke of their principles which the human could devise. Why do we need to do more? An act intended merely as an insult is not worthy of our fallen comrades. It is the sort of thing our enemies did to us, but we are not them, and we must conform to a different standard. . . . Now, when the justice of our principles is everywhere vindicated, the cause of human liberty demands that this amendment be rejected. Rejecting this amendment would not mean that we agree with those who burned our flag, or even that they have been forgiven. It would, instead, tell the world that freedom of expression means freedom, even for those expressions we find repugnant.

The flag is a symbol of our freedoms. The right to speak openly, even if that speech is unpopular, is a freedom. As we consider this Amendment we are faced with a difficult question: Do we protect a symbol of freedom of speech, or do we protect free speech itself? When given the choice, I choose to protect freedom itself over a symbol of freedom.

Mr. Speaker, while many Americans find desecration of the flag offensive or distasteful, the strength of our nation lies in our ability to tolerate dissent and allow free speech especially when we disagree. We should not let a handful of offensive individuals cause us to surrender the very freedoms that make us a beacon of liberty for the rest of the world. For these reasons, I urge my colleagues to vote no on H.J. Res. 4.

Mr. SENENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the word seems to be around here that the Supreme Court decisions are sacrosanct and we should never amend the Constitution when the Congress and the several States believe the Supreme Court is wrong. I believe the Supreme Court is wrong in this, and that is why this amendment is before us.

But I point out that in three of the 17 instances since the Bill of Rights was ratified, the Congress and the States have amended the Constitution to reverse Supreme Court decisions. The 11th Amendment reversed the decision relative to the judicial power of the United States. The 14th Amendment reversed the Dred Scott decision. The 16th Amendment reversed the decision on the income tax. So, three of the 17 amendments that have been ratified since 1791 have reversed Supreme Court decisions that the Congress and the States have thought were erroneous.

Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

(Mr. PENCE asked and was given permission to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me time.

I must tell you, Mr. Speaker, I think this is a great debate. As a member of the Committee on the Judiciary, as someone trained in constitutional law, I find the passion that I hear on this floor today for the First Amendment truly inspiring, and I respect it immensely.

In fact, would that we had heard that same passion for protecting the free speech rights of Americans when last

year this Congress adopted severe limitations on campaign speech in the so-called campaign finance reform legislation. But that is a battle for another branch of this government and another day.

I rise today, rather, Mr. Speaker, to try and express from my heart what I believe this amendment means to millions of patriotic Americans who support it, and I do so with a sincere heart, to speak to those millions of patriotic Americans who oppose it.

After surviving the bloodiest battlefield since Gettysburg, a squad of Marines trudged up Mount Suribachi on Sulfur Island with a simple task: to raise the American flag above the devastation below. When the flag was raised by Sergeant Mike Strank and his men, history records that a thunderous cheer rose from the troops on land and on sea, in foxholes and on stretchers. Hope returned to that field of battle when the American flag began flapping in the wind.

It is written, Mr. Speaker, that without a vision, the people perish. The flag was the vision that inspired and rallied our troops on Iwo Jima, and I would offer to you humbly today, the flag is still the vision for Americans who cherish those who stood ready to make the necessary sacrifices. It may well be why every single veterans group in America is scoring the vote in favor of the flag resolution today.

I would offer that by adopting this flag protection amendment, we will raise Old Glory again. We will raise her above the decisions of the judiciary that was both wrong on the law and on history. We will raise the flag above the cynicism of our times. We will say to my generation of Americans those most unwelcome of words, there are limits. Out of respect for those who serve beneath it and for those who died within the sight of it, we must say there are boundaries necessary to the survival of freedom.

Let us raise the American flag to her Old Glory again.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, we are gathered here today to debate a constitutional amendment that would restrict the right of an American to make a foolish, foolish mistake with his own property. My primary objection to this amendment is that it will give government a tool with which to prosecute Americans with minority views, particularly at times of great national division, behavior that would have been perceived as patriotic if done by the majority.

Unfortunately, our history has abundant examples of patriotism being used to hurt those who express views in disagreement with that of the majority. Let me share with you some news stories taken from the New York Times in years of great strife in America.

The first one I would like to read is from April 7, 1917, 1917, headline: "Din-

ers Resent Slight to the Anthem. Attack a Man and Two Women Who Refuse to Stand When It Is Played. There was much excitement in the main dining room at Rectors last night following the playing of the Star Spangled Banner. Frederick Boyd, a former reporter on the New York Call, a Socialist newspaper, was dining with Miss Jessie Ashley and Miss May Towle, both lawyers and suffragists. The three, alone of those in the room, remained seated. There were quiet, then loud and vehement protests, but they kept their chairs.

"The angry diners surrounded Boyd and the two women and blows were struck back and forth, the women fighting valiantly to defend Boyd. He cried out he was an Englishman and did not have to get up, but the crowd would not listen to explanation. Boyd was severely beaten when the head waiter succeeded in reaching his side. Other waiters closed in and the fray was stopped.

"The guests insisted upon the ejection of Boyd and his companions and they were asked to leave. They refused to do so, and they were escorted to the street and turned over to a policeman who took Boyd to the West 47th Street Station, charged with disorderly conduct.

"Before the magistrate, Boyd repeated that he did not have to rise at the playing of the National Anthem, but the court told him that while there was no legal obligation, it was neither prudent nor courteous not to do so in these tense times, and he was found guilty of disorderly conduct and released on suspended sentence."

Another one, July 2, 1917, headline: "Boston Peace Parade Mobbed. Soldiers and Sailors Break Up Socialist Demonstration and Rescue Flag. Socialist Headquarters Ransacked and Contents Burned, Many Arrests for Fighting."

"Riotous scenes attended a Socialist parade today which was announced as a peace demonstration. The ranks of the marchers were broken up by self-organized squads of uniformed soldiers and sailors. Red flags and banners bearing socialistic mottos were trampled on, and literature and furnishings in the Socialist headquarters in Park Square were thrown into the street and burned.

"At Scollay Square there was a similar scene. The American flag at the head of the line was seized by the attacking party and the band, which had been playing 'The Marseillaise' with some interruptions, was forced to play 'The Star Spangled Banner' while cheers were given for the flag."

The last one, from March 26, 1918.

□ 1530

"Pro-Germans Mobbed in Middle West. Disturbances Start in Ohio and are Renewed in Illinois. Woman among Victims."

"Five businessmen of Delphos, a German settlement in western Allen County near here, accused of pro-Germanism, were hunted out by a volunteer vigilance committee of 400 men and 50 women of the town, taken into a brilliantly lit downtown street and forced to kiss the American flag tonight under pain of being hanged from nearby telephone poles."

What do these old stories from the New York Times have to do with this very important and heartfelt debate today? The decision we make today, it seems to me, is a balancing, a weighing of what best preserves freedom for Americans. There may well be a decrease in public deliberate incidents of flag desecration, acts that we all deplore, if this amendment becomes part of our Constitution.

On the other side of our ledger, if this amendment becomes part of our Constitution, in my opinion, it will become a constitutionally sanctioned tool for the majority to tyrannize the minority. As evidenced by these news stories from a time of great divisiveness in our Nation's history, government, which ultimately is human beings with all of our strengths and weaknesses, will use this amendment to question the patriotism of vocal minorities, will use it to find excuses to legally attack demonstrations which utilize the flag in an otherwise appropriate manner.

Let me give an example. I was at a rural county fair in Arkansas several years ago, and a group had a booth with a great patriotic display in addition to handouts and signs. They had laid across the table like a tablecloth an American flag. I knew these people thought this to be a very patriotic part of the display. I watched as one of the volunteers sat on the table, oblivious to the fact he was sitting on our American flag. His action was a completely innocent mistake, and he did not realize such behavior is inconsistent with good flag etiquette.

I believe that had this group been a fringe group, those with views contrary to the great majority, and should we have laws prohibiting physical desecration of the flag, such an action as I described would not be excused as an innocent mistake. Instead, a minority group might be prosecuted, out of anger, out of disgust, but make no mistake, the motivation for such a prosecution would be that they hold a minority view.

Mr. Speaker, I do not think our Constitution will be improved nor our freedoms protected by placing within it enhanced opportunity for minority views to be legally attacked, ostensibly because of their misuse of the flag, but in reality because of views that many consider out of the mainstream.

I urge a "no" vote on the proposed amendment, and for the same reasons, a "no" vote on the substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 7 minutes to the gentleman from Illinois (Mr. HYDE), my distinguished predecessor as chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Speaker, I thank the gentleman from Wisconsin for yielding time to me.

Mr. Speaker, one of the great aspects of the privilege of being a Congressman is that we get to debate some pretty noble issues. We get to engage in them. This is certainly one. I am delighted this debate is occurring.

In my view, there is something larger at work here than simply the flag itself. I think this amendment offered by the gentleman from California (Mr. CUNNINGHAM) is an effort by mainstream Americans to reassert community standards. This bill is a protest against the vulgarization of our society.

In our popular culture, decent standards are under constant and withering assault. This amendment is an assertion that the community has some rights, too, and that with rights go responsibilities which help provide a moral compass for our "anything goes" society.

This amendment partially corrects the oversight in our Constitution whereby we have a Bill of Rights, oh, do we have a Bill of Rights, but no bill of responsibilities. Then, of course, a right is meaningless unless we are all responsible for respecting it, so one depends on the other.

This amendment asserts that our flag is not simply a piece of cloth, but like a photograph of our families on our desks, it symbolizes certain unifying ideals that most Americans hold sacred.

Our national motto, "E Pluribus Unum," underscores the fact that we are a thoroughly diverse Nation. If we look around this room, not at this moment, but when we are all present, we see a wildly diverse group of Irish and Greeks and Poles and African Americans and Hispanics, et cetera, et cetera, et cetera. Our whole country is a diverse exposition of people coming together, proud of their ethnicity, of their language, their native music, their culture.

But at the same time, there are unifying principles, things we share together. That is what "E Pluribus Unum" means, "one from many." We are still one Nation. We are all blessed, no matter our background, with the rule of law. That is a unity worth celebrating, not denigrating.

What is it about this swatch of fabric we call a flag? What gives it such beauty and power as it floats in the breeze? Well, men have followed it into battle again and again in defense of freedom, draped it over the coffins of heroes returned.

I remember standing at a gravesite in Normandy and looking at the cross. It says, "Here lies in honored glory, a comrade in arms known but to God." And decorating that sparse, grim grave was a little flag that somebody had put near the cross. I looked at that and I

thought that little flag was saying thank you for all America to that unknown soldier, thank you and God grant you peace.

If we ask an old veteran attending a Memorial Day ceremony as he struggles to his feet to salute the flag, what does he think of when we see the flag, he will tell us freedom, sacrifice, and hope. Yes, it is called Old Glory because it is old; it has been handed down from generation to generation, and Glory because it stands for the most precious ideas human beings have ever known.

Justice Frankfurter in a 1940 case said, "We live by symbols." He went on to say, "The ultimate foundation of a free society is the binding tie of cohesive sentiment."

Woven into the fabric of the flag is the collective memory of America from Bunker Hill to Baghdad. America lacks the cultural homogeneity that China or Japan or even France has, but as Americans, we share the unity of the Declaration.

But cohesive sentiment is what the flag symbolizes, and as tombstones are not for toppling nor churches for vandalizing, flags are not for burning. Burn a \$10 bill and you violate the law. Walk down Constitution Avenue at high noon without your clothes on and you will soon learn the limits of self-expression. Free speech is not absolute, never has been. We have slander and libel laws, copyright laws, and many other limitations.

This amendment does not trivialize our Constitution, far from it. It recognizes that nothing is more important in a democratic society than emphasizing the tradition of responsibility that nourishes our liberty.

Saul Bellow, the novelist, said years ago, "A great deal of intelligence can be invested in ignorance when the need for illusion is great." When I hear my learned friend, the gentleman from New York (Mr. NADLER), managing this bill on the other side of the aisle, saying that never in 200 years have we attempted to amend the first amendment, I refer him to the 13th amendment and the 14th amendment, 1865-1868, and suggest that maybe some law schools are better than others.

In any event, let me close with a paragraph from an article that I have saved over the years written by a woman named Diane Schneider. "You, of course, have the right to burn Old Glory. If you are compelled to so express your disdain, if you can find no civil outlet in speech or song, you are protected by law. But if I am there when you put a match to the colors, know this: I will take the flaming fabric in my hands, crush the embers and hold the star-spangled banner as high as I can in the free wind."

Mr. NADLER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. GREEN).

Mr. GREEN of Texas. Mr. Speaker, I thank the gentleman for yielding time to me, my New York colleague. He and I both came to Congress together.

I rise in support of and cosponsor this resolution which proposes an amendment to the Constitution allowing Congress to ban the desecration of our an American flag. You can speak your mind, but do not burn our flag.

I am a strong supporter of our first amendment rights to the freedom of expression. However, we do have limits. If I burn my car, protesting the auto maker, I am fine. If I burn a U.S. dollar, it is illegal.

For instance, court-made law restricts our freedom of speech as limited by the example given in law school classes about not screaming fire in a theater. That is court-made law that restricts my freedom of speech.

What we are trying to do today with this amendment is similar. We want the authority to enact legislation to say that desecration or burning the symbol of our country is unjust, just as yelling fire in a crowded theater is unjust.

A hallowed symbol like our flag deserves to be respected and protected as a national treasure. Our flag represents a principle our Nation was founded on and many people have given their lives for. I believe it should be afforded the maximum protection we can give it legislatively.

For these reasons, I am proud to be a cosponsor, and urge my colleagues to join me in supporting it.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, the issue that we face this afternoon is very simple. It is whether or not the American flag is of such importance to the American people that their elected Representatives should have the right to protect the desecration of that flag.

I would submit that the answer to that is deafening from voices from every military base, local barbershop, restaurant, church, school, or veterans group in America.

Last week I had the privilege to fly out to the USS *Roosevelt* as she returned home from her great efforts in Iraq. Just before that great aircraft carrier made its turn into the pier, all of those sailors in white uniforms circled around the aircraft carrier and in each of their hands was an American flag. As they turned and looked at the pier, they all raised their flags up, and the people on the pier raised their flags up in a great symbol of unity.

If we ask any of them if the flag is worth protecting, they will tell us that we are absolutely doing the right thing.

But Mr. Speaker, I will tell the Members that the testimony that was most compelling to me did not come from any of these, or any of the testimony before the subcommittee or the full committee, but it came really in the unintentional testimony of my 17-year-old son, Justin, that convinced me of what we were doing today and that it was the right thing.

Justin is like a lot of teenagers, he does not like politics and his greatest

love is basketball. My wife and I were therefore surprised when we discovered a few weeks ago that he had written an essay that had been selected as the number one essay on patriotism in Virginia by the State PTA.

He wrote that he was just an ordinary teenager who spent most of his time talking about girls, playing basketball, or fixing up his 1981 Jeep. He said he had an ordinary grandfather who was neither richer, smarter, nor better-looking than most people. Yet when his grandfather was 19 years old, he left for the Army only 3 days after he got married, and he ended up in a little place called Normandy. Fortunately, he arrived several weeks after the initial invasion, but Justin wrote that he could not get over the courage and commitment of 19-year-old boys coming off landing craft.

He wrote about September 11, when he looked at ordinary men and women who did extraordinary things across the country, and the thing that united them was the American flag.

Mr. Speaker, Justin concluded by saying that most of our heroes are very ordinary people who do very extraordinary things. He said that even though he might be ordinary, there was one time when he became very extraordinary, and that was when he held his flag high. That united him with his grandfather, it united him with the victims of 9/11, and it united him with all the other great heroes of this country.

I agree with him. I think it is time we hold this flag up high. It is time we say it really is a special piece of cloth.

Mr. Speaker, I think it is time we pass this legislation.

Mr. NADLER. Mr. Speaker, I am delighted to yield 3 minutes to the distinguished gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, certainly I am totally appreciative of my dear friend, the gentleman from New York (Mr. NADLER), yielding time to me.

When I first came to Congress, and each Congress since, I raised my right hand and swore to uphold and defend our Constitution. I rise today in the spirit of that oath.

Flag desecration offends all of us. Above all, we are a nation of law. Our Supreme Court has consistently held that behavior to be political expression, the very sort of unpopular speech the first amendment was intended to protect. No matter how rude or unpleasant, political expression of opposition to the government is constitutional.

This Congress, Mr. Speaker, is made up of people from all walks of life, of all political, religious, and philosophical persuasions. That does not deduce our patriotism among any of us. I was not born Julia Carson; I was married into the family of Carsons. My husband, Sam Carson, was a 100 percent service-connected Korean War veteran. My son, Sam Carson, is also a veteran of the Marine Corps.

Once again this week, in the fifth Congress in a row, in anticipation of Flag Day we are called upon to consider a bill to bring about an amendment to the Constitution to get around the Supreme Court's repeated holdings that tampering with, insulting or defiling the flag is protected conduct under the first amendment, the bedrock of our Bill of Rights.

□ 1545

I heard one of my distinguished colleagues indicate how good it is for soldiers to come back into this country and be met by the waving of the flag.

I was very troubled recently to see on the news where so many of our reservists who were called up and who leave families behind, families are in dire straits economically. One particular reservist left a \$25,000 job to serve his country and his family; his wife and four children had to move in with her parents in very small and cramped quarters. Yet we do a tax cut and cut out the families of those who are sent to protect the freedom of Iraq and the freedom of America.

Over the years we have made constructive changes to our Constitution. But in the 200 years we have enjoyed its protections, we have never before changed the meaning of the Bill of Rights, not so much as a single comma, recognizing and protecting that document as our freedom shield. I believe that this is no time to change the first amendment's protection of freedom and expression, so basic and so critical to the way American democracy works. This is brought home especially by the sacrifice of soldiers fighting and dying even today to ensure that Iraqi people have the right to speak and live freely and the right to protest against their own government. This is a fundamental value of freedom's promise, no less in Iraq, no less in the United States.

When first I came to Congress, and each Congress since, I raised my right hand and swore to uphold and defend our Constitution. Mr. Speaker, I rise today in the spirit of that oath.

Flag desecration offends us all but, above all, we are a nation of law. Our Supreme Court has consistently held that behavior to be political expression, the very sort of unpopular speech the first amendment was intended to protect—no matter how rude or unpleasant—political expression of opposition to the government.

Once again this week, in the fifth Congress in a row, in anticipation of Flag Day we are called upon to consider a bill to bring about an amendment to the Constitution to get around the Supreme Court's repeated holdings that tampering with, insulting or defiling the flag is protected conduct under the first amendment, the bedrock of our Bill of Rights.

The main objective of the first amendment is to stop Congress and the courts from picking and choosing what kinds of speech are permitted. It is clear that what would be regulated by this amendment is not physical desecration of the flag, but the sentiments expressed by the action.

Over the years we have made constructive changes to our Constitution but in the 210

years we have enjoyed its protections we have never before changed the meaning of our Bill of Rights—not so much as a single comma—recognizing and protecting that document as our freedom's shield.

I believe that this is no time to change the first amendment's protection of freedom of expression, so basic and so critical to the way American democracy works. This is brought home especially by the sacrifice of our soldiers fighting and dying—even today—to assure the Iraqi people the right to speak and live freely, and the right to protest against their own government. This is a fundamental value of freedom's promise, no less so in places where we would see freedom take new root than here at home.

However offensive such conduct may feel, the answer is not to restrict the freedom to speak. Rather, the answer is to remind our fellow citizens of how important unfettered political speech is to our democracy, how fundamental to our freedom. Supreme Court Justice Robert Jackson put it well back in 1943—during World War II: "Freedom to differ is not limited to things that do not matter. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order."

Sometimes we make a law because we can and not because we should, a powerful temptation we should resist. Changing the meaning of the Constitution to address hateful conduct by a tiny minority is unnecessary.

Together we have weathered severe crises over the past 2 years, proof that we can withstand the ugly actions of a few misguided protesters. Secretary of State Colin Powell said it well, "I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away."

Patriotism that forces reverence for national symbols at the expense of vital constitutional rights is not what our country is about.

I will honor and celebrate the flag by taking a stand for liberty and to support the Constitution and the Bill of Rights by voting to defeat this proposal.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, I am getting a little sick of hearing that this is an assault on the first amendment. We are using constitutional processes to overturn a Supreme Court decision that made no sense.

Now, last year a lot of my colleagues, not me, voted for a campaign finance reform bill that significantly restricted people's rights to express themselves on political issues. And that was emasculated by a lower Federal court, and it probably will be declared unconstitutional as well by the Supreme Court. So let us be consistent, the first amendment is not absolute.

Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman for yielding me time. I wish to associate myself with the gentleman's remarks just previous and also restate the Supreme Court has changed the meaning of the Bill of Rights. That is why we are here today.

I am a cosponsor of House Joint Resolution 4, which empowers Congress to

protect the paramount symbol of liberty of the United States by providing that "the Congress shall have power to prohibit the physical desecration of the flag of the United States."

To desecrate the American flag is equal to inciting a riot. Those that burn the flag do so for the sole purpose of striking horror into the hearts of veterans, members of armed services and patriots across the country.

For over half a century, every single State in the Union, and later the Federal Government, outlawed flag desecration without constitutional objection. Such laws have now been negated by a single opinion that the five Justices of the United States Supreme Court rendered in 1989 in *Texas v. Johnson*.

Countless Americans have fought and died under our flag. Our flag stands for our freedom as a Nation, a bulwark signifying not only our sovereignty but our resolve as a people against tyranny and terror. We must restore our great symbol of liberty to its rightful place under the laws so that our ancestors and immigrants, our friends and enemies, will have no doubt about its value, its meaning, or the very dear price paid to preserve our freedom.

I witnessed the desecration of hundreds of flags in this city this year. It is a sad and sickening sight. I urge you to vote for H.J. Res. 4 to protect our flag that Americans have fought and died for.

Mr. NADLER. Mr. Speaker, I yield myself 30 seconds.

Mr. Speaker, last year this House and the other body and the President all cooperated in passing legislation to improve campaign financing techniques. Some people say that regulated speech. What it did was regulate expenditures of money. Many people do not consider money as speech. It is a different issue.

Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. TANNER).

(Mr. TANNER asked and was given permission to revise and extend his remarks.)

Mr. TANNER. Mr. Speaker, I rise to oppose what I think is a well intentioned but misguided effort here to amend the first amendment, the Bill of Rights.

Every nation on Earth that I know of has a flag. There is only one that has a bill of rights and that is us. And that is the difference here. Every repressive regime I know of throughout history has tried in some form or another to repress the destruction of whatever they have consider symbolic. Again, every nation on Earth has a flag. There is only one that has a bill of rights, and that is us. We are talking about the first amendment.

For Congress to knowingly give to the government the power to prescribe what is permissible protest when that protest does not affect any other freedoms, nor does it physically harm anybody else, but yet give to the government the right to prescribe limits on

that I think is wrong. And I just say this, once we breach the Bill of Rights, they then become relevant. Up until now they are not. We breach those, they become relevant, believe you me it will not be long before there will be some on this floor talking about the second amendment and why we need to change that.

So I want all the conservative thinkers in this body and around the country to think about what we are doing. As a symbol, we are going over ground that has not been plowed. Every nation has a flag only. One has a bill of rights, and that is why I think this is a misdirected effort.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. Mr. Speaker, even though I generally do not support amending the Constitution, today I rise in strong support of this proposed constitutional amendment.

We have come here today because five individuals in black robes have opined that we must tolerate flag desecration as protected speech. As a result of that opinion, 48 States and the District of Columbia have decided not to enforce their own laws prohibiting the desecration of the flag of the United States of America.

Clearly, I believe the Supreme Court has it wrong. The flag is a unique symbol that merits our special recognition. The flag represents our freedom, our history, and our values as a Nation. In battles spanning 2 centuries in all corners of the globe, the flag has served as an inspiration and rallying point for U.S. soldiers fighting for the ideals it embodies.

More than a million Americans have given their lives in defense of our flag and our unique way of life. Many of those who gave the last full measure of devotion in serving their Nation were honored with a flag draped over their caskets. This proposed amendment places the debate exactly where our framers intended for it to take place, in the town halls across America. It is the American people, not the Supreme Court, that have the ultimate responsibility to answer constitutional questions. And that is encouraging to me, Mr. Speaker, because as it was suggested earlier that we act today to amend the Constitution because of the vulgarization of society, I believe we are here actually today because of the facilitation of the vulgarization of society by the highest Court in the land, the Supreme Court of the United States.

Forty-nine State legislatures, including my home State of Indiana, have passed resolutions asking that Congress approve this amendment to the Constitution. Moreover, Mr. Speaker, I find the words of the Pledge of Allegiance telling: "I Pledge Allegiance to the flag of the United States of America and to the republic for which it stands."

I would underscore that this simple phrase recited every morning in this

very Chamber pledges our allegiance not only to the Republic but to the flag itself. Mr. Speaker, others will argue that the ideals of the flag are the only things that are worth protecting. I must respectfully disagree with their argument.

The flag itself occupies a unique place in our Republic. It is the one symbol that merits our allegiance. Why do we continue to pledge our devotion and support to a flag if we are not willing to protect it from desecration? I urge my colleagues to support the proposed amendment.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Ohio (Mrs. JONES).

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I thank the ranking member for yielding me time.

When I was a little girl in elementary school and I learned the Pledge of Allegiance, I was so very proud. Even in my French class our French teacher taught us how to say the Pledge of Allegiance in French. As I stand here today, I know I can still remember those words.

I am so pleased to hear so many talk about allegiance to the flag and to the Republic, and they drape themselves in the flag and talk about all these issues that are important to them; yet I have stood here on the floor of the House and listened to my colleagues pass legislation that denies liberty and justice for all in this country.

I have seen us pass legislation that denies liberty and justice for all with regard to the child care credit. I have seen them deny liberty and justice for all for a whole lot of reasons. But what I say to you today is this debate is not about that piece of material up there, the flag that we all revel. This debate is merely about whether we are going to stand here and be divided, one side or the other, about whether or not people have a right to free expression and a right to free speech. And I stand with those who are entitled to free speech and a right to speak out on their own.

I love the flag. All of us love the flag. But let us not fool anybody about why we are debating the issue. It would be great. I even heard someone talk about African American soldiers. My father was an African American soldier. He is 83 years old. He was denied his rights of liberty and justice because he had to serve in a segregated Army, and he talks to me about that all the time.

So let us get real. Let us talk about the facts, and let us say the only reason we are up here debating this issue is because there are some who want to deny people the right of free expression and the right of free speech. So I stand here opposed to this resolution.

Mr. SENSENBRANNER. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. PAUL).

(Mr. PAUL asked and was given permission to revise and extend his remarks.)

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in opposition to this amendment. I do not believe much good will come of it. A lot of good intentions are put into the effort, but I see no real benefit.

It was mentioned earlier that those who supported campaign finance laws were inconsistent. And others would say that we do not have to worry about the first amendment when we are dealing with the flag amendments. But I would suggest there is another position. Why can we not be for the first amendment when it comes to campaign finance reform and not ask the government to regulate the way we spend our money and advertise, at the same time we protect the first amendment here?

It seems that that consistency is absent in this debate.

It is said by the chairman of the committee that he does not want to hear much more about the first amendment. We have done it before, so therefore it must be okay. But we should not give up that easily.

He suggested that we have amended the Constitution before when the courts have ruled a certain way. And he says absolutely right, we can do that and we have done that. But to use the 16th amendment as a beautiful example of how the Congress solves problems, I would expect the same kind of dilemma coming out of this amendment as we have out of the 16th amendment which, by the way, has been questioned by some historians as being correctly ratified.

I think one of our problems has been that we have drifted away from the rule of law, we have drifted away from saying that laws ought to be clear and precise and we ought to all have a little interpretation of the laws.

The gentleman earlier had said that there are laws against slander so therefore we do violate the first amendment. Believe me, I have never read or heard about a legislative body or a judge who argued that you can lie and commit fraud under the first amendment. But the first amendment does say "Congress shall write no laws." That is precise. So even the laws dealing with fraud and slander should be written by the States. This is not a justification for us to write an amendment that says Congress shall write laws restricting expression through the desecration of the flag.

□ 1600

So we do not know what the laws are, but when the laws are written, that is when the conflict comes.

This amendment, as written so far, does not cause the conflict. It will be the laws that will be written and then we will have to decide what desecration is and many other things.

Earlier in the debate it was said that an individual may well be unpatriotic if he voted against a Defense appropriation bill. I have voted against the Defense appropriation bill because too

much money in the Defense budget goes to militarism that does not really protect our country. I do not believe that is being unpatriotic.

Mr. Speaker, let me summarize why I oppose this Constitutional amendment. I have myself served 5 years in the military, and I have great respect for the symbol of our freedom. I salute the flag, and I pledge to the flag. I also support overriding the Supreme Court case that overturned State laws prohibiting flag burning. Under the Constitutional principle of federalism, questions such as whether or not Texas should prohibit flag burning are strictly up to the people of Texas, not the United States Supreme Court. Thus, if this amendment simply restored the State's authority to ban flag burning, I would enthusiastically support it.

However, I cannot support an amendment to give Congress new power to prohibit flag burning. I served my country to protect our freedoms and to protect our Constitution. I believe very sincerely that today we are undermining to some degree that freedom that we have had all these many years.

Mr. Speaker, we have some misfits who on occasion burn the flag. We all despise this behavior, but the offensive conduct of a few does not justify making an exception to the First Amendment protections of political speech the majority finds offensive. According to the pro-flag amendment Citizens Flag Alliance, there has been only 16 documented cases of flag burning in the last two years, and the majority of those cases involved vandalism or some other activity that is already punishable by local law enforcement!

Let me emphasize how the First Amendment is written, "Congress shall make no law." That was the spirit of our Nation at that time: "Congress shall make no laws."

Unfortunately, Congress has long since disregarded the original intent of the Founders and has written a lot of laws regulating private property and private conduct. But I would ask my colleagues to remember that every time we write a law to control private behavior, we imply that somebody has to arrive with a gun, because if you desecrate the flag, you have to punish that person. So how do you do that? You send an agent of the government, perhaps an employee of the Bureau of Alcohol, Tobacco and Flags, to arrest him. This is in many ways patriotism with a gun—if your actions do not fit the official definition of a "patriot," we will send somebody to arrest you.

Fortunately, Congress has modal laws of flag desecration laws. For example, Saddam Hussein made desecration of the Iraq flag a criminal offense punishable by up to 10 years in prison.

It is assumed that many in the military support this amendment, but in fact there are veterans who have been great heroes in war on both sides of this issue. I would like to quote a past national commander of the American Legion, Keith Kreul. He said:

Our Nation was not founded on devotion to symbolic idols, but on principles, beliefs and ideals expressed in the Constitution and its Bill of Rights. American veterans who have protected our banner in battle have not done so to protect a golden calf. Instead, they carried the banner forward with reverence for what it represents, our beliefs and freedom for all. Therein lies the beauty of our flag. A patriot cannot be created by legislation.

Secretary of State, former Chairman of the Joint Chiefs, and two-time winner of the Presidential Medal of Freedom, Colin Powell has also expressed opposition to amending the constitution in this manner:

I would not amend that great shield of democracy to hammer out a few miscreants. The flag will be flying proudly long after they have slunk away.

Mr. Speaker, this amendment will not even reach the majority of cases of flag burning. When we see flag burning on television, it is usually not American citizens, but foreigners who have strong objections to what we do overseas, burning the flag. This is what I see on television and it is the conduct that most angers me.

One of the very first laws that Red China passed upon assuming control of Hong Kong was to make flag burning illegal. Since that time, they have prosecuted some individuals for flag burning. Our State Department keeps records of how often the Red Chinese persecute people for burning the Chinese flag, as it considers those prosecutions an example of how the Red Chinese violate human rights. Those violations are used against Red China in the argument that they should not have most-favored-nation status. There is just a bit of hypocrisy among those members who claim this amendment does not interfere with fundamental liberties, yet are critical of Red China for punishing those who burn the Chinese flag.

Mr. Speaker, this is ultimately an attack on private property. Freedom of speech and freedom of expression depend on property. We do not have freedom of expression of our religion in other people's churches; it is honored and respected because we respect the ownership of the property. The property conveys the right of free expression, as a newspaper would or a radio station. Once Congress limits property rights, for any cause, no matter how noble, it limits freedom.

Some claim that this is not an issue of private property rights because the flag belongs to the country. The flag belongs to everybody. But if you say that, you are a collectivist. That means you believe everybody owns everything. So why do American citizens have to spend money to obtain, and maintain, a flag if the flag is community owned? If your neighbor, or the Federal Government, owns a flag, even without this amendment you do not have the right to go and burn that flag. If you are causing civil disturbances, you are liable for your conduct under state and local laws. But this whole idea that there could be a collective ownership of the flag is erroneous.

Finally, Mr. Speaker, I wish to point out that by using the word "desecration," which is traditionally reserved for religious symbols, the authors of this amendment are placing the symbol of the state on the same plane as the symbol of the church. The practical effect of this is to either lower religious symbols to the level of the secular state, or raise the state symbol to the status of a holy icon. Perhaps this amendment harkens back to the time when the state was seen as interchangeable with the church. In any case, those who believe we have "no king but Christ" should be troubled by this amendment.

We must be interested in the spirit of our Constitution. We must be interested in the principles of liberty. I therefore urge my colleagues to oppose this amendment. Instead, my colleagues should work to restore the

rights of the individual states to ban flag burning, free from unconstitutional interference by the Supreme Court.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. ACKERMAN).

(Mr. ACKERMAN asked and was given permission to revise and extend his remarks.)

Mr. ACKERMAN. Mr. Speaker, I love our flag and that for which it stands. It stands for a Nation founded by people fleeing from an oppressive regime. It stands for freedoms, not the least of which is the freedom of opinion and the unimpeded expression thereof, including the freedom to protest.

Bear in mind, this was a Nation founded by protesters. When our Founding Fathers sought to guarantee these freedoms, they created not a flag but a Constitution, debating the meaning of each and every word, every amendment, every one of which gives people rights. They did not debate a flag. The flag would become a symbol of these rights.

There are those who would have fewer rights. Why? What is the threat to the Republic that drives us to erode the Bill of Rights?

Well, someone burned the flag. Whatever happened to fighting to the death for somebody's right to disagree? We now choose instead to react by taking away a form of the right to protest. Most people abhor flag burners, but even a despicable, low-life malcontent has a right to disagree and disagree in an obnoxious fashion if he wishes. That is the true test of free expression, and we here are about to fail that test.

These are rare but vile acts of desecration that have been cited by those who would propose changing our founding document, but these acts do not harm anybody. If a jerk burns a flag, America is not threatened. If a jerk burns a flag, democracy is not under siege. If a jerk burns a flag, freedom is not at risk. We are offended. To change our Constitution because someone offends us is, in itself, unconscionable.

Hitler banned the burning of the flag. Mussolini banned the burning of the flag. Saddam banned the burning of the flag. Dictatorships fear flag burners. The reason our flag is different is because it stands for burning the flag.

Though we in proper suits may decry the protests and the protestors and the flag burners, protecting their right is the true stuff of a democracy. The real threat to our society is not the occasional burning of a flag, but the permanent banning of the burners. The real threat is that some of us have now mistaken the flag for a religious icon to be worshiped as pagans would, rather than to be kept as the beloved symbol of our freedom that is to be cherished.

It is not the flag burners who threaten democracy. Rather, it is those who would deny them. In the name of our Founding Fathers, save us from those who would put up this defense.

The Constitution was written by intellectual giants and is here today

being nibbled by small men with press secretaries. If flag burners offend us, do not beat a cowardly retreat by rushing to ban them. Protesters, like grapes, cannot be eliminated by stomping on them. Meet their ideas with bigger ideas for an ever better America to protect the flag by protecting democracy, not by retreating from it.

We cannot kill a flag. It is a symbol, and yes, patriots have died; but recall what they have died for. They have died for liberty. They have died for democracy. They have died for the right to speak out in protest. They have died for values.

The flag is a symbol of those values. What they died for are American principles. Saying that people died for the flag is symbolic language. The Constitution gives us our rights. The Constitution guarantees our liberties. The Constitution embodies our freedoms. It is our substance. The flag is the symbol for which it stands.

True patriots choose substance over symbolism. Diminish one right and it shall forever stand for less. Do not pass this amendment. Do not diminish the Constitution. Do not cheapen the flag.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

(Mr. GOODLATTE asked and was given permission to revise and extend his remarks.)

Mr. GOODLATTE. Mr. Speaker, I thank my chairman for yielding me the time.

Mr. Speaker, I rise in strong support of this resolution to amend the Constitution to give the Congress the authority to prevent the physical desecration of the American flag, and I would note the comments of the gentleman from New York, citing some dictators who have prohibited destroying flags, and would point out that many others of a very different mindset have strongly supported this, including President Abraham Lincoln. Many justices of the Supreme Court, as disparate in their views as Earl Warren and William Rehnquist and Hugo Black have found that the laws of the many States prohibiting the desecration of the flag to be constitutional, and it is only because of a narrow five-four majority at one moment in time in our Court's history, finding these laws to be unconstitutional and overturning the work of 48 States and the District of Columbia, that it is necessary for the Congress to address this.

I would argue to the gentleman from Texas, for whom I have respect, that we are turning away from the rule of law when we do not recognize that with freedom comes responsibility, and we have always recognized in the first amendment that there are a number of instances in which free speech is limited. A person cannot shout fire in a crowded theater. They cannot engage in slander or libel. They cannot engage in fighting words. There are a number of such restrictions, and certainly, the prohibition on the physical act of destroying a flag should be included

amongst them because it is the equivalent of fighting words to burn a flag in front of a group of veterans who put their lives on the line for their country and fought for the freedom which that flag represents.

This is a very basic, very straightforward amendment supported by the overwhelming majority of the American people, and I urge my colleagues to support this resolution.

Mr. NADLER. Mr. Speaker, I yield 4½ minutes to the distinguished gentleman from Maryland (Mr. HOYER), the minority whip.

(Mr. HOYER asked and was given permission to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, it has been said before and will be said again that everyone who speaks on this amendment loves this flag that hangs behind me as a symbol of the greatest democracy on the face of the earth, as a symbol of the country that has demonstrated throughout history the greatest countenance in the principles for which that flag stands.

It gives me absolutely no pleasure to oppose this proposed constitutional amendment providing the physical desecration of our flag. I believe people ought not to engage in that kind of activity, but our flag is more than mere cloth. It is a universal symbol for freedom, democracy and liberty, and it will continue to be so for so long as the symbols for which it stands flies high in the hearts of every American. That is where it needs to fly high, in our hearts and in our intellect.

Those who would desecrate it only seek to grab attention for themselves and inflame the passions of patriotic Americans. Without doubt, they deserve both our contempt and our pity for their stupidity, but while I appreciate and respect the motivations of those who offer and support this amendment, I will oppose it for the reasons so eloquently articulated by the gentleman from Texas (Mr. PAUL) and Senator McCONNELL of Kentucky.

In opposing a similar amendment a few years ago, Senator McCONNELL stated that it “rips the fabric of our Constitution at its very center, the first amendment.” That was Senator McCONNELL. He added, “Our respect and reverence for the flag should not provoke us to damage our Constitution, even in the name of patriotism.”

The question before us today is how we, the United States of America, the greatest democracy the world has ever known, the greatest bastion of freedom the world has ever known, a bastion of freedom that remains free because of the efforts of the Duke Cunninghams and the Sam Johnsons and so many others who risked their lives to maintain that freedom, the question before us is how to deal with those individuals who dishonor our Nation in this manner.

Mr. Speaker, a constitutional amendment, in my opinion, is neither the appropriate nor the best method for deal-

ing with these malcontents. As the late Justice Brennan wrote in the Supreme Court of Texas *v.* Johnson, “The way to preserve the flag’s special role is not to punish those who feel differently about these matters. It is to persuade them that they are wrong.”

That is what Thomas Jefferson talked about, that the best response to wrong speech was right speech, not prohibiting speech.

Our traditions, our values, our democratic principles, all embodied in our Constitution and the Bill of Rights, should not be overridden to prohibit this particularly offensive manner of speech, no matter how much we may disagree with it or how much contempt we may have for those who would express themselves in such an inappropriate and negative way.

The inflammatory actions of a few misfits cannot extinguish, it must not extinguish, our ideals. We can only do that ourselves, and I submit that a constitutional amendment to restrict speech, even speech as this, is the surest way to stoke the embers of those who will push for even more restrictions.

“America” is one of the great songs, and one of the lines from that song is “Long may thy land be bright with freedom’s holy light.” Freedom is not allowing those with whom we agree to express their opinion; it is allowing those with whom we deeply disagree to express theirs.

Long may this land be bright with freedom’s holy light. That is our responsibility. That is our oath.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, this proposed constitutional amendment does not restrict anybody from saying whatever they want to say about the flag, about the government, about their opinions of any public official, of any candidate for office, of the policies that have been made by the Federal Government, the State government or the local government. What it does do is to prohibit offensive acts, such as burning the flag or, in my own State, using the Johnson and Eichman decisions, the State Supreme Court said that defecating on the flag was an act that was a protected political expression under the first amendment to the United States Constitution.

The only way to put sense back into the law is to pass H.J. Res. 4.

Mr. Speaker, I yield 1 minute to the gentlewoman from Michigan (Mrs. MILLER).

Mrs. MILLER of Michigan. Mr. Speaker, I rise today to defend not only the flag of the United States, but also what it stands for and for those who have defended it throughout our Nation’s history.

□ 1615

The American flag is the greatest symbol of hope and freedom in the world. Countless Americans have fought and died for the freedom that

our flag represents, and the desecration of our great flag is an assault on their sacrifice.

Police officers and firefighters, as well, wear the flag on their sleeves each and every day as they do their duty to protect our communities. And on September 11, every American witnessed those brave firefighters raising Old Glory out of the rubble of the World Trade Center. That was a symbol of America’s resolve that our freedom will reign even in the face of unprecedented terror.

To allow the desecration of the flag is to give hope to those whose goal it is to destroy our freedom. I urge my colleagues to stand up for the freedom that the flag represents, to stand up for those who have fought and died to defend our freedom, to stand up for those who protect our communities and our Nation, to stand up for our flag.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Georgia (Mr. MARSHALL).

Mr. MARSHALL. Mr. Speaker, I rise today as a law professor who fiercely believes in the first amendment, but I am also the son and grandson of Army generals and a veteran of ground combat in Vietnam.

I accept the argument that I, my father, my grandfather, other relatives, many of whom were wounded, some of whom died, did not fight for a piece of cloth, but rather for what it symbolizes. Yet our memories and emotions are inextricably intertwined with that cloth itself. And the cloth symbolizes a country whose Constitution is not writ in stone, immutable for all time. Instead, our Constitution establishes a process for its amendment.

Mr. Speaker, no harm or violence is done here to our constitutional system by an amendment designed to respect the memories and emotions that are inextricably interwoven with the cloth of our flag. In fact, I believe that respecting those memories and emotions nourishes a vital spirit in this country, the spirit of individual sacrifice in combat for the good of the country.

Our country’s great freedoms were won and enjoyed today because of the selfless sacrifices of countless, often nameless, sometimes unknown heroes. Amending the Constitution to prohibit flag desecration is a small way to thank these individuals who cannot be thanked enough. And this amendment is a small price to pay if it strengthens our Republic and helps ensure its future.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

(Mr. SAM JOHNSON of Texas asked and was given permission to revise and extend his remarks.)

Mr. SAM JOHNSON of Texas. Mr. Speaker, the gentleman from California (Mr. CUNNINGHAM) made the statement, and it is true, that during our Civil War flag desecration was regarded as treasonous and punishable by death.

Today's resolution brings to mind when I was a POW in Vietnam. All they told us was that there were demonstrations here in this country; that people were burning our flag; that people were against the war. And you know what that did for our morale? Nothing. It was bad. We need to stop that.

I well remember when, at our homecoming, which was the day the longest-held prisoners left Vietnam for America, and I was part of that group, I remember cheering when we got out over the water. And looking out the window of our C-130 as we got in to Clark Air Base, guess what we saw? The American flag, the flag of the United States of America, with all the people on that base out to welcome us waving those flags. Not one of them was burning it or desecrating it. They were draped on the hangars, they were draped on the buses. What I remember most was how happy everyone looked, including those of us who were returning to this country to see the American flag hanging from a hangar.

We are truly blessed to call America the land of the free and the home of the brave, and I do not think we should disrespect all she stands for and all those who have fought for her. We need to protect this great flag. Vote for this amendment.

Mr. NADLER. Mr. Speaker, how much time do I have left, please?

The SPEAKER pro tempore (Mr. THORNBERRY). The gentleman from New York (Mr. NADLER) has 20 minutes remaining, and the gentleman from Wisconsin (Mr. SENSENBRENNER) has 17½ minutes remaining.

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

Mr. Speaker, first let me comment on what was just said by the distinguished gentleman from Texas, by reading an article written by a prisoner of war named James Warner. He wrote in "The Retired Officer" on September of 1989 of his experience as a prisoner of war in Vietnam. He writes as follows:

"We could subvert them," meaning his torturers, the North Vietnamese, "by teaching them about freedom through our example. We could show them the power of ideas. I did not appreciate this power before I was a prisoner of war. I remember one interrogation, where I was shown a photograph of some Americans protesting the war by burning a flag. There, the officer," that is the enemy officer, "there, the officer said, people in your country protest against your cause. That proves that you are wrong. No, I said, that proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us. The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto a table and screamed at me to shut up. While he was ranting, I was astonished to see pain, compounded by fear in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him."

That is the close of the quote from this article from "The Retired Officer" by James Warner, former prisoner of war in Vietnam.

Mr. Speaker, the truth of the matter is we have heard today that desecration of the flag ought to be made unconstitutional because it is not valid speech. True, the first amendment is not absolute. We do not allow people to yell fire in a crowded theater unless there is evidence that there is a real fire. The Supreme Court ruled that many years ago. But the core protection of the first amendment is for ideas, for outrageous ideas, for obnoxious ideas, for ideas that we find horrid and offensive and dangerous.

Our philosophy, what makes this country different and unique, is that this country is built on a foundation, the foundation being the belief in freedom, in liberty, in the fact that, not always the case but we fervently believe in the fact that good ideas will drive out of the marketplace of bad ideas; that good speech will defeat bad speech. And we do not legislate against bad speech; we do not legislate against speech that we disagree with or find outrageous.

Now, we have heard, of course, that we are not talking about speech here, we are talking about expressive acts. But the fact of the matter is, again, we are talking about speech. We are talking about speech that people are frightened of and outraged about because it offends them. Because, again, the very acts we would be outlawing or permitting Congress to outlaw with this amendment would not, by anybody's stretch of the imagination, be outlawed unless accompanied by the wrong speech.

Again, as the gentleman from Virginia earlier today told us, and as I mentioned in my opening remarks, the recommended manner, recommended by the law, of disposing of a flag is to burn it. So, again, if you burn the flag, and while you burn it you say respectful things, that is wonderful. But if you burn the flag while saying what a terrible policy the current administration is following or if you burn the flag while saying what a terrible policy we are conducting and that we do not like this country, then we would make that criminal. Why? Not because the act of the flag burning is any different than when it was done with respectful words, but because in the one case the words were respectful and in the other case the words were obnoxious.

I agree the words are obnoxious. But the whole idea of freedom is to protect obnoxious words, especially obnoxious words or words that I or you may regard as obnoxious, though someone else may regard as fine and intelligent. That is their privilege. That is what freedom is about. The freedom of speech is not freedom for what we agree with, but freedom for what we find outrageous. Not just disagreeable, but outrageous.

When someone criticizes our country and says the war we are fighting is

wrong, or the conduct of our troops is terrible, or whatever they may say that we may find disagreeable, outrageous and horrible, the glory of this country is that we give them the freedom to say it. And when someone burns a flag, and again there is no epidemic of flag burning, this amendment is really directed not at an existent problem, or has not existed really in the last 30 years of any size, but when you burn a flag and say respectful things, that is okay, because the law says that is okay; but when you burn a flag and say disrespectful things, that is not okay, what these circumstances say and that what we are really legislating against is the speech and not the act.

The act, accompanied by the right circumstances, would never be outlawed. We would not prosecute people who desecrated the flag as part of a movie or a play when they were portraying enemy soldiers, Nazi soldiers, or Chinese soldiers in the Korean War, because we do not think they mean it. What do they not mean? The speech. It is the ideas and the speech that we are outlawing by such an amendment. That is at the core of protected speech, at the core of the first amendment, at the core of the values we are supposed to hold dear. And that is why this amendment is so wrongheaded and ought not to be adopted.

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

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

Mr. Speaker, the Constitution of the United States was ratified and came into effect in 1789. For 200 years, nobody seriously said that desecrating the American flag violated the first amendment to the Constitution. In fact, the Federal Government, 48 States and the District of Columbia passed statutes declaring flag desecration criminal conduct and prescribing criminal penalties.

It was only after 200 years and the Vietnam War that a flag desecration case claiming that first amendment rights were violated reached the Supreme Court of the United States. And what were the facts of the Johnson case? The Johnson case did not involve protesting the Vietnam War. It was burning the flag in front of the 1984 Republican National Convention that was held in Dallas.

Five years later, the case reached the Supreme Court. They decided, by a 5 to 4 margin, that flag desecration was political expression that enjoyed constitutional protection. And that was the first time in over 200 years of this Constitution being affected that the courts ruled that that type of activity was constitutionally protected.

I agree with what Chief Justice Rehnquist said in the dissenting opinion: "I cannot agree that the first amendment invalidates the act of Congress and the laws of 48 of the 50 States which made criminal the public burning of the flag."

If Members agree that the first amendment does prohibit this, then vote "no" on the constitutional amendment. I do not impugn anybody's patriotism. This is a legitimately held political position. But if my colleagues think that the Constitution should allow a criminal statute to prevent the public desecration of the American flag, the only way this can be accomplished is through the strong medicine of amending the Constitution.

The Supreme Court has twice said that if this is attempted to be done by statute, the first amendment is violated. I think that the government should be able to prevent the physical desecration of the American flag no matter how it is done. That is why I support this amendment, and I would hope that over two-thirds of the Members of this House of Representatives will support this amendment when we vote on it shortly.

Mr. SOUTER. Mr. Speaker, for more than two hundred years, the American flag has occupied a unique position as the symbol of our nation. During the Second World War, U.S. Marines fought hand to hand against thousands of Japanese at Iwo Jima. Upon reaching the top of Mount Suribachi, a group of these Marines raised a piece of pipe and from one end fluttered a flag. This ascent cost nearly 6,000 American lives. As you know, the Iwo Jima Memorial in Arlington National Cemetery memorializes that event. There would seem to be little question about the power of Congress to prohibit the mutilation of this monument. The flag itself can be seen as a monument, subject to similar protection.

It is true that a person may, in a sense, "own" the flag. But this ownership is subject to special burdens and responsibilities. Congress has prescribed detailed rules for the design of the flag, the time and occasion of the flag's display, the position and manner of its display, respect for the flag and conduct during hoisting, and lowering and passing the flag. With the exception of Alaska and Wyoming, all the States have statutes prohibiting the burning of the flag.

When the desecration of the flag is used as a protest, far more than a single flag is being violated. The devotion of every American who has expended their blood, sweat, and tears for this great nation is being battered. This amendment takes on even more importance given the events of September 11th. After watching the horrific events unfold on television, our nation came together through the patriotic display of old glory. The flag became a rallying point and sent a message to our enemies that we will not back down.

I commend the gentleman from California for this important piece of legislation. As it is phrased, H.J. Res. 4 would permit Congress to enact laws addressing physical desecration of our flag. Passage of this legislation through both the House and Senate would allow the American people to vote on this amendment. In doing so we will not only affirm the right to speak one's opinions, but also to protect the symbol of those freedoms that thousands of Americans have died giving their last full measure of devotion to protect.

Mr. SWEENEY. Mr. Speaker, I cannot tell you how excited I am that we are finally going to have the chance to pass this amendment

that will restore the American flag to its rightful position of honor. I share much of the feelings of my predecessor in this seat: the Honorable Gerald Solomon. It has been a long time coming since that tragic day in 1989 when five Supreme Court justices decided it was OK to burn the flag and thereby hurt so many feelings around this country. That is why I am so proud to cosponsor this amendment on behalf of the American people. Today, we are going to hear the same arguments against this amendment that we have heard for years now. I respect the opinions of those opponents. That is their first amendment right.

But, Mr. Speaker, supporters of this amendment come to the floor today with the overwhelming support of nearly 80 percent of the American people. They are people from all walks of life: from religious organizations like the Knights of Columbus and the Masonic Orders, from civic organizations like the Polish and Hungarian and Ukrainian federations, from fraternal organizations like the Benevolent Order of Elks, Moose International, and the Federation of Police, and from other groups like the National Grange and Future Farmers of America.

Perhaps most impressive is the resounding support from the States around this country. All 50 States support this Flag Protection Amendment. After all, when have all 50 States agreed on anything?

Some opponents of this amendment claim it is an infringement of their First Amendment rights of freedom of speech, and they claim if the American people knew it, they would be against this amendment. Well, there is a Gallup poll taken of people outside the Beltway—that is real people, you know, real down-to-earth people. Seventy-six percent of the people in that poll say "No," a constitutional amendment to protect our flag would not jeopardize their right of free speech. In other words, the American people do not view flag burning as a protected right, and they still want this constitutional amendment passed, no matter what.

Mr. Speaker, we should never stifle speech, and that is not what we are seeking to do here today. People can state their disapproval for this amendment. They can state their disapproval for this country, if they want to. That is their protected right. However, it is also the right of the people to redress their grievances and amend the Constitution as they see fit. They are asking for this amendment. Therefore, I am asking you to send this amendment to the States and let the American people decide. That is really what America is all about.

And speaking of America, what is more important than Old Glory. It is what makes us Americans—and not something else. Over the past two centuries and especially in recent years, immigrants from all over this world have flocked to America, knowing little about our culture and our heritage. But they know a lot about our flag and respect it! Salute it—pledge allegiance to it. Mr. Speaker, it is the flag, which has brought this diverse group together, and made them Americans. No matter what our ethnic differences; no matter where we come from, whether it is up in the Adirondack Mountains of New York where I come from or Los Angeles, California; no matter what our ideology point of view, be it liberal or conservative, we are all bound together by those uniquely American qualities represented by our flag.

It is that common bond which brings us to this point, where we can elevate the Stars and Stripes above the political fray, and carry out the will of the vast majority of the American people. It is only appropriate, that the Constitution, our most sacred document, include within its terms, a protection of Old Glory, our most sacred and beloved national symbol. All that is required now, is for each of us to draw upon our patriotic fire, and do all we can to effect this demanded change to our Constitution. Please vote for this constitutional amendment.

Mr. VAN HOLLEN. Mr. Speaker, my father served in World War II and when I look at the American flag I see the sacrifices he and our nation's troops and veterans have made for us to be able to live freely. An important part of that freedom is the ability of our citizens to express themselves in any way that does not infringe on the rights of others. That is what sets the United States apart from so many other nations. Our constitutionally assured freedom of speech serves as a check against government oppression and injustice.

The Supreme court has held in several important First Amendment cases that a person may desecrate a flag, so long as a danger is not created. In 1989, the Supreme Court stated in *Texas V. Johnson* that any speech, particularly such intentionally expressive and overtly political speech as the burning of the flag, is protected; it is within the realm of liberties which our constitution guarantees us. Our government cannot dictate how we express ourselves politically, so long as we do not endanger or violate the rights of others.

While I personally find the desecration of this country's flag to be reprehensible, even more important than the flag itself is the freedom and liberty it represents. It is a sad day when, in the name of patriotism, we limit the freedoms enshrined in the First Amendment of the constitution. The flag is a symbol of the principles and freedoms that make our country great. When we encroach upon those freedoms, we risk doing far more harm to our nation than any flag burner could ever do.

Mr. LARSON of Connecticut. Mr. Speaker, I regret that due to a family medical emergency I could not be present today during the debate and votes on H.J. Res. 4, a proposed amendment to the Constitution of the United States to make burning or otherwise desecrating a United States flag a federal offense. I would, however, like to submit this statement for the record so that my position on this resolution is clear.

The flag burning amendment is an emotional issue that in my opinion cuts to the core of the things we hold dear and value as a nation. I do not question anyone's patriotism or conviction no matter where they stand on this issue. Mine is a matter of record. As a member of the Connecticut State Senate I voted to protect the flag, I did so not to limit peoples' freedom of expression, but to limit hateful behavior. Burning the flag is not speech, and as an expression it seeks to engender hate.

I am not a constitutional scholar, but have long felt that honoring my father's memory and that of so many veterans of his generation and mine, who have given their lives in defense of the nation should be afforded the respect they richly deserve. I do not believe that we endanger our freedom by protecting the flag and honoring their memory.

While I do support this proposed amendment, and have voted for it in the past, I also

understand and respect the opinions of those who have expressed concern about the possibility that this amendment could affect First Amendment rights guaranteed under the U.S. Constitution. I would, therefore, consistent with my votes in the 107th Congress on this issue, also support the substitute amendment offered by my colleague Congressman Watt that I believe represents an acceptable compromise on this issue.

I will remain steadfast in protecting peoples' freedom of speech, and speaking out against discrimination and injustice. As someone who adamantly supports the crime legislation, I cannot be oblivious to the incendiary nature and emotional response evoked by burning the nation's flag. For many Americans, burning the flag is a hateful action that is as repugnant as burning a cross on a lawn, or painting a swastika on a synagogue.

Ms. SCHAKOWSKY. Mr. Speaker, I rise today in opposition to H.J. Res. 4, an amendment to the Constitution of the United States to authorize Congress to prohibit the desecration of the flag. This amendment not only stands in stark contrast to what the flag represents, but this debate today is keeping the House from addressing more urgent matters facing our country.

The flag is a symbol of American greatness. It inspires awe and pride and is the official emblem of our nation. And, above all, it stands for freedom; the freedom we are guaranteed by being lucky enough to live in America. Ironically, this amendment would punish those who exercise that freedom. In our country, dissenting views are allowed and tolerated, even expressions as offensive as flag desecration. To take away this fundamental freedom of expression is to dishonor the flag and the liberty it represents.

Furthermore, this amendment is uncalled for. At this time when there are so many issues that this House should be addressing—when American soldiers continue to die every day in Iraq, when millions of low-income families are being left behind by the Republican Congress and the Bush Administration, when seniors across America can't afford their prescription drugs and millions more lack any health care coverage, and when millions of schoolchildren lack such basic resources as textbooks and safe classrooms—the House is instead debating a bill that is unnecessary, controversial, vague, and, if passed, would undermine our democracy.

Webster's dictionary defines "desecrate" as "violating the sanctity of" and "treating disrespectfully, irreverently, or outrageously." This bill does not specifically define "desecration." Therefore, if the amendment were to be passed, we would then be forced to discuss whether flag desecration included printing the flag on clothing or dropping small plastic flags on the ground after parades; we would have to discuss if the "protected flags" had size regulations or had to be made of specific material; we would have to decide if flags on personal property were "protected"; and on and on. These debates are necessary. Instead of debating what freedoms we should be infringing upon and taking away, this House of Representatives should be doing everything it can to protect people's freedoms, especially our freedom of speech, and be working toward solutions to the problems that plague our constituents every day.

I urge my colleagues to vote no on H.J. Res. 4.

Mr. VITTER. Mr. Speaker, I rise today in strong support of House Joint Resolution 4 to ban the desecration of the United States flag. Following the horrific events of September 11th, our nation responded with an overwhelming show of patriotism. Across our land Americans proudly flew their flags from their homes, cars and workplaces as a demonstration of their love for the United States, our values, and their support for the war against terrorism.

These actions clearly illustrate that the American people see the flag as a symbol of hope, strength, and freedom. It is the one national symbol that we can all unify behind. In the flag is at one time our history, our aspirations, and our identity. Therefore, we should act today as reaffirmation of what our country stands for.

I would be the first person to stand up in defense of freedom of speech; however, there are some actions that are not free political speech but behaviors gauged to anger. Defacing the United States flag is one of these actions. Those who wish to protest against the actions of our country can do it through our media, hold rallies, give speeches, and march in demonstrations. Those same people can contact elected officials, sign petitions, and express their views in many ways.

To burn the flag not only suggests disgust for our great country, it also shows a lack of respect for the men and women who are currently fighting overseas, and even more so for those who have fought and died to make the United States of America what it is today.

I urge my colleagues to support the Resolution and vote in favor of final passage.

Mr. UDALL of Colorado. Mr. Speaker, I cannot support this resolution.

I am not in support of burning the flag. But I am even more opposed to weakening the First Amendment, one of the most important things for which the flag itself stands.

I agree with the Boulder Daily Camera that "If Congress and the states embraced this amendment, it would shield a symbol of freedom while assailing the very freedom it signifies. That symbolic flag desecration would be far more egregious than the theatrics of any two-bit protester."

As the Denver Post put it when the House considered a similar proposal two years ago. "The American flag represents freedom. Many men and women fought and died for this country and its constitutional freedoms under the flag. They didn't give their lives for the flag; they died for this country and the freedom it guarantees under the Bill of Rights. Those who choose to desecrate the flag can't take away its meaning. In fact, it is our constitutional freedoms that allow them their reprehensible activity."

I completely agree. So, like Secretary of State Colin Powell, former Senator John Glenn, and others who have testified against it, I will oppose this resolution.

For the benefit of our colleagues, I am attaching the editorials on this subject in the Daily Camera and the Denver Post:

[From the Boulder (CO) Daily Camera, May 7, 2003]

THE REAL DESECRATION

"FLAG PROTECTION AMENDMENT" ASSAULTS AMERICAN VALUES

Colin Powell loves our country, its Constitution and the flag. A general and a statesman, he has spent decades defending

all three. Unlike many members of Congress, however, Powell can differentiate between our sweet liberty and a cherished symbol of that liberty.

Congress should heed Powell's advice. Let's hope it does. In the U.S. House of Representatives today, a committee is scheduled to consider a proposed constitutional amendment on "flag protection."

If ratified by three-fourths of the state legislatures, the amendment would allow Congress to do what the First Amendment forbids: to criminalize the physical desecration of the U.S. flag.

The House version of the flag-protection resolution has 135 co-sponsors, including Colorado Reps. Bob Beauprez, Joel Hefley, Marilyn Musgrave and Tom Tancredo. Colorado Sens. Wayne Allard and Ben Nighthorse Campbell are among the 55 Senate co-sponsors.

For years ago, Powell was asked about the flag-desecration amendment, which members of Congress were then, like now, pursuing. First, Powell noted, very few Americans burn the flag. Second, he said, these desecrators are irrelevant: "They may be destroying a piece of cloth, but they do no damage to our system of freedom, which tolerates such desecration."

Powell said he would not alter the Constitution on their account. "I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away."

It's just that simple. If Congress and the states embraced this amendment, it would shield a symbol of freedom while assailing the very freedom it signifies. That symbolic flag desecration would be far more egregious than the theatrics of any two-bit protester. It is nothing short of stupefying that many of our leaders continue to ignore this self-evident truth.

[From the Denver (CO) Post, June 25, 2001]

FLAG AMENDMENT SHOULD DIE

Although a proposed constitutional amendment to ban desecration of the American flag continues to lose steam, it nonetheless is once again being considered in the U.S. House.

The amendment, one of the most contentious free speech issues before Congress, would allow penalties to be imposed on individuals or groups who burn or otherwise desecrate the flag.

In past years, the amendment has succeeded in passing the House only to be killed, righteously, on the Senate floor.

The American flag represents freedom. Many men and women fought and died for this country and its constitutional freedoms under the flag. They didn't give their lives for the flag; they died for this country and the freedom it guarantees under the Bill of Rights. Those who choose to desecrate the flag can't take away its meaning. In fact, it is our constitutional freedoms that allow them their reprehensible activity.

American war heroes like Secretary of State Colin Powell and former Sen. John Glenn strongly oppose this amendment. Glenn has warned that "it would be a hollow victory indeed if we preserved the symbol of freedoms by chopping away at those fundamental freedoms themselves."

In addition, the Supreme Court has ruled that desecration of the flag should be protected as free speech.

Actual desecration of the flag is, in fact, a rare occurrence and hardly a threat. There have been only a handful of flag-burnings in the last decade. It's not a national problem. What separates our country from authoritarian regimes is the guarantee of free

speech and expression. It would lessen the meaning of those protections to amend our Constitution in this way.

The amendment is scheduled to go before the House this week, although if it passes it would still have to face a much tougher audience in the Senate. The good news is that House support of the amendment has been shrinking in recent years. It is possible that if that trend continues, the amendment could not only die this year but fail to return in subsequent years. We urge House lawmakers to let this issue go.

Ms. LEE. Mr. Speaker, I will not vote for any constitutional amendment that undermines the First Amendment, which, as the U.S. Supreme Court has repeatedly affirmed, protects even unpopular forms of dissent. Our founding fathers well know the importance of free speech and expression, and carrying on that tradition, we should do everything possible to ensure that this fundamental cornerstone of our democracy remains intact.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in opposition to this legislative proposal to amend the Constitution, giving Congress the power to prohibit the physical desecration of the flag.

For more than 2 centuries, the first amendment to the Constitution has safeguarded the right of our people to write or publish almost anything without interference, to practice their religion freely and to protest against the Government in almost every way imaginable. It is a sign of our strength that, unlike so many repressive nations on earth, ours is a country with a constitution and a body of laws that accommodates a wide-ranging public debate.

There is little question that those who would desecrate the flag have a lack of respect for this great nation. But we need not give these misinformed individuals any more attention than they deserve.

One can imagine the future protest situations that would take place should this legislation ever receive the massive support required of a constitutional change. It would be outrageous. And the contribution to the average hardworking American? More taxpayer dollars and police manpower wasted in the pursuit of little more than an offender lacking patriotism and good taste. The American flag does not need protection from such poor behavior. The principles embodied in it outshine such cowardly attempts to defame its stature.

Rather than spending time today arguing the merits of the 1st amendment, we should be focusing more attention on improving the daily lives of millions of Americans. From the rising costs of health care to a lack of affordable housing, many of our nation's veterans are struggling to make ends meet and now brace for the substantial cuts in benefits passed by this body. But instead of tackling those issues, we stand here debating a solution in search of a problem. Those brave men and women who risked their lives protecting our democracy need more than politicians paying them lip service, they need money to help pay the bills.

Heck, they can't even get a proper military burial service at Arlington National Cemetery because cuts to Veterans Affairs funding have eliminated the use of live buglers and replaced them with battery powered boom boxes. What a shame.

In short, the amendment in question is unnecessary. We don't need it and we must not become the first Congress in U.S. history to

chill public debate by amending the Constitution in such a way. This issue truly tests the notion of freedom of speech guaranteed by our fore fathers. Let's pass this test and do the right thing by opposing this unmerited resolution.

Mr. SHAYS. Mr. Speaker, I rise today in opposition to H.J. Res. 4, which would amend the Constitution to allow Congress to pass laws banning the desecration of the flag.

I find it abhorrent anyone would burn our flag. And if I saw someone desecrating the flag, I would do what I could to stop them at risk of injury or incarceration. For me, it would be a badge of honor.

But I think this Constitutional Amendment is an overreaction to a nonexistent problem. Keep in mind the Constitution has been amended only 17 times since the Bill of Rights was passed in 1791.

This is the same Constitution that eventually outlawed slavery, gave blacks and women the right to vote and guarantees freedom of speech and freedom of religion.

Amending the Constitution is a very serious matter. I do not think we should allow a few obnoxious attention-seekers to push us into a corner, especially since no one is burning the flag now, without an amendment. I agree with Colin Powell who, when he served as Chairman of the Joint Chiefs of Staff, wrote it was a mistake to amend the Constitution, "that great shield of democracy, to hammer a few miscreants."

When I think of the flag, I think about the courageous men and women who have died defending it and the families they left behind. What they were defending was the Constitution of the United States and the rights it guarantees as embodied by the flag.

I love the flag for all it represents, but I love the Constitution even more. The Constitution is not just a symbol; it is the very principles on which our nation was founded.

I urge my colleagues to vote against this resolution.

Mr. BUYER. Mr. Speaker, I rise in support of this constitutional amendment to empower Congress to enact legislation to protect Old Glory from desecration.

This is not an issue about what people can say about the flag, the United States, or its leaders. Those rights are fully protected. The issue here is that the flag, as a symbol of our Nation, is so revered that Congress has a right and an obligation, to prohibit its willful and purposeful desecration. It is the conduct that is the focus.

After September 11, Old Glory of any size, any fabric, including ones made by school children from construction paper; those stuck in flower pots, pinned on lapels, or decals posted in the back window of pickup trucks were displayed everywhere. On the news, Tom Brokaw referred to this phenomenon "like countless bandages of patriotism covering a nation's wounds—a reassuring symbol" of what it means to be an American. It represents the physical embodiment of everything that is great and good about our nation—the freedom of our people, the courage of those who have defended it, and the resolve of our people to protect our freedoms from all enemies, foreign and domestic.

It is not a coincidence that when others seek to criticize America, they burn the American flag. Old Glory is the embodiment of all that is America—the freedoms of the Constitu-

tion, the pride of her citizens, and the honor of her soldiers, not all of whom make it home.

I have seen the Stars and Stripes on a distant battlefield. Across the river from here is a memorial of another battlefield and to the valiant efforts of our fighting men to raise the flag at Iwo Jima. It was not just a piece of cloth that rose on that day over 50 years ago. It was the physical embodiment of all we, as Americans, treasure—the triumph of liberty over totalitarianism; the duty to pass the torch of liberty to our children undimmed.

The flag is worth protecting, defending. I urge the adoption of the Amendment.

Mr. BARRETT of South Carolina. Mr. Speaker, I rise today in strong support of H.J. Res. 4. This amendment rightfully restores authority to Congress to regulate the treatment of our most precious national symbol—the American flag.

The flag has been a symbol of our freedoms for over 200 years.

Our flag has sailed around the world, it has traveled to the moon, it has flown atop the North Pole and Mt. Everest, it has withstood war both on our soil and abroad—each time representing what our nation stands for—freedom and democracy.

Over the years our flag has not only inspired but has comforted our nation. This was never more evident than the days, weeks and months following September 11. It was a photo of 3 firefighters raising the flag amidst the rubble of the World Trade Center that showed not only our nation, but the world we would not fall. A few days later we watched as the flag was draped over the Pentagon—we showed the world with that one action—terrorists may have tried but they did not succeed in destroying our nation and all we hold dear.

On September 11 the terrorists forced war upon our country. Since that day our military has been fighting a global war against terrorism. These brave young men and women risk their lives every day to defend the very freedoms the flag represents.

I served in the United States Army, fortunately during peacetime, but as a Captain in the US Army if my country called, myself and those who I served alongside, were prepared to make the ultimate sacrifice to defend the freedoms our flag represented.

It saddens me to see people in foreign countries celebrate as they burn our flag—I cannot do anything about what they do in their streets, but I can try to do something about what happens in our streets. It disgusts me when I see our own citizens desecrate the flag, the flag represents all our nation has been through and embodies all our nation stands for—to burn the flag is to burn all it stands for.

I wonder how the soldiers in Afghanistan or Iraq, who fight every day to protect our nation from ever seeing the horrors of another September 11, feel when they see or hear about American citizens burning the American flag—the very flag they fight under.

Therefore, I urge my colleagues to support H.J. Res. 4, the U.S. Flag Protection Constitutional Amendment.

Mr. SIMMONS. Mr. Speaker, I rise today in strong support of House Joint Resolution 4, the Constitutional Amendment to prohibit flag desecration.

Our flag is a symbol of the American character and its values. It tells the story of victories won—and battles lost—in defending the principles of freedom, and democracy.

These are stories of real men and women who have selflessly served this Nation in defending that freedom. And many of them lost their lives for it. Bunker Hill, Gettysburg, San Juan Hill, Iwo Jima, Korea, Da Nang, Persian Gulf—our men and women had one common symbol—the American flag.

The American flag belongs to them, as it belongs to all of us.

Critics of the amendment believe it interferes with freedom of speech. I disagree. Americans enjoy more freedoms than any other people in the world. They have access to public television. They can write letters to the editors to express their beliefs, or call into radio stations. I meet with constituents everyday in order to best represent their interests in Washington. Americans can stand on the steps of the Nation's capitol building to demonstrate their cause.

They do not need to demonstrate our noble flag to make their statement, and I do not believe protecting the flag from desecration deprives Americans of the opportunity to speak freely.

And let us be clear: speech, not action, is protected by the Constitution. Our Founding Fathers protected free speech and freedom of the press because in a democracy, words are used to debate and persuade, and to educate. A democracy must protect free and open debate, regardless of how disagreeable some might find the views of others. Prohibiting flag desecration does not undermine that tradition.

The proposed amendment would protect the flag from desecration, not from burning. As a member of the American Legion, I have supervised the disposal of over 7,000 unserviceable flags. But this burning is done with ceremony and respect. This is not flag desecration.

Over 70 percent of the American people want the opportunity to vote to protect their flag. Numerous organizations, including the Medal of Honor Recipients for the Flag, the American Legion, the American War Mothers, the American G.I. Forum, and the African-American Women's Clergy Association all support this amendment.

Forty-nine states have passed resolutions calling for constitutional protection for the flag. In the last Congress, the House of Representatives overwhelmingly passed this amendment by a vote of 298 to 125, and will rightfully pass it again this year.

Mr. Speaker, I am proud to be an original cosponsor of H.J. Res. 4 and ask that my colleagues join me in supporting this important resolution that means so much to so many.

Mr. TERRY. Mr. Speaker, I rise in strong support of H.J. Res. 4 to allow Congress to ban the physical desecration of the flag.

During the War of 1812, American soldiers valiantly fought at Fort McHenry, Maryland to preserve the newly-formed United States. The story of the fort's battle flag, which continued to wave despite the barrage of bombs from British warships, was captured in the poetry of Francis Scott Key. He marveled at the resiliency of our flag, and the unfailing courage it brought to the men battling for freedom under its stars and stripes. His words are now our national anthem, sung in school rooms, at sporting events, and whenever our nation pays homage to its fallen heroes. The image of our flag is ingrained in the hearts of all freedom-loving Americans.

The flag represents our ideals of freedom, liberty, and justice for all. It also symbolizes

the sacrifice of 41 million Americans who have fought our wars dating back to the Revolution, and the one million Americans who have died to defend our freedoms. We live in liberty today because they did not shrink from duty. The least we can do to show our eternal gratitude is to protect our flag—our treasured symbol of those who made the ultimate sacrifice.

We are debating H.J. Res. 4 today because the Supreme Court has ruled that flag burning is "protected expression" under the First Amendment. Since this misguided decision was handed down, every state in the union has asked Congress to approve a Constitutional Amendment to protect Old Glory from physical desecration. Our First Amendment does not allow citizens to yell "fire!" in a crowded theater, nor does it protect intentionally outrageous acts of destruction. Desecrating our flag falls squarely into this category.

We are not debating free speech rights today. We are debating whether our sons and daughters will appreciate the sacrifices of their forefathers when they see the flag waving. The freedom, honor and sacrifice symbolized by Old Glory must never be taken for granted.

Mr. Speaker, I urge my colleagues to join me in supporting H.J. Res. 4.

Mr. BACA. Mr. Speaker, I rise in support of H.J. Res. 4 to protect our nation's flag.

Our flag is a symbol of pride to all of the veterans who have bravely fought for this nation. It is a symbol of hope and prosperity to the many immigrants who have traveled to this land seeking a better way of life. But most of all, it is a symbol of freedom to all Americans.

We must ensure that our symbol, representing all of the things Americans hold sacred is respected. We must stand up and protect our flag from destruction.

Just as no one has the right to take away our freedom and democracy, no one should have the right to burn our flag.

Many soldiers have died protecting our freedom and democracy. The rights and freedoms that we enjoy today are because of the courage of our brave soldiers. Our flag, flies as a constant reminder of our military's victories.

We must not forget that all of our soldiers have not yet returned from war. Many of our men and women are still in the Middle East trying to safeguard Iraq. Many of our soldiers are still in Afghanistan, searching for Osama Bin Laden. The battle for peace in the Middle East is not over.

Our soldiers are still risking their lives and dying in the name of this nation. Now is not the time to question patriotism. We must be united and stand behind our soldiers and our symbols of freedom.

When a soldier or a veteran dies, his family receives a flag honoring the loss of their loved one. We proudly drape the flag over their coffins. We must make sure the families know that their loved one did not die in vain. The American Flag is the symbol that represents the soldier's sacrifice and a nation's respect.

Many people come to this land seeking religious freedom, freedom from oppressive governments, economic prosperity and a better way of life for their children. Many people come to this land and join the military because they know America is a land worth protecting. To them the flag is a promise of liberty, security, and opportunity.

Our flag flies high symbolizing the hopes and dreams of immigrants all over the world.

We must keep our flag sacred to welcome those believing in the American Dream.

Just as you would not melt the Liberty Bell, tear up the Declaration of Independence, or destroy the Statue of Liberty, we must protect our nation's flag. I stand in support of this legislation for the soldiers and veterans who have fought to protect it, the immigrants who believe in its promise, and all of the Americans who pledge their allegiance to it. We must keep our flag flying high.

Mr. SKELTON. Mr. Speaker, even before we were a nation, we had our flags. Different from today's to be sure. But serving the same purpose—symbols of unity, and of our hopes, achievements, glory, and high resolve.

Brave New England patriots faced down British regulars at a place called Bunker Hill under the Continental Flag which prominently featured a pine tree.

"Don't Tread on Me," said the colonists in the South, and a coiled rattlesnake on their flag reinforced that message.

The Grand Union Flag went to sea with John Paul Jones and marched under George Washington in the early days of our Revolution. By combining the British Union Jack with thirteen red and white stripes it reflected the thinking of the colonists during that time: allegiance to the Crown, but willing to fight for their rights as Englishmen.

That thinking had changed, however, by July 4, 1776. The Declaration of Independence—"That these United Colonies are, and of Right ought to be Free and Independent States"—set us on a new course, from which there was no turning back. It was a realization that a people could not at once fight against the king and at the same time profess their loyalty to him. And, it meant that the new United States would need a national flag.

On June 14, 1777—the day we now celebrate as Flag Day—the Continental Congress adopted the following brief resolution: "Resolved, that the flag of the thirteen United States be thirteen stripes, alternate red and white: that the union be thirteen stars, white in a blue field, representing a new constellation."

It is now believed that Francis Hopkinson, a signer of the Declaration of Independence, designed the first national flag that legend attributes to Betsy Ross. For his services, he submitted Congress a bill for nine dollars. Of course, government in 1777 was not really much different from government today. Hopkinson never got paid.

So, we had a national flag, the "Stars and Stripes." In 1792, the first version with thirteen stars in a circle appeared. In 1795, the flag was changed to recognize the entry of Vermont and Kentucky into the Union with the addition of two stars and two stripes. This flag of fifteen stars and fifteen stripes figured in many stirring episodes. It was the first flag to be flown over a fortress of the Old World when it was raised at Tripoli in 1805. It was flown at the Battle of Lake Erie and by Andrew Jackson at New Orleans. And it was flown at our young nation's most inspiring moment.

In 1812, our nation had declared war on Great Britain because of British seizure of neutral U.S. trading vessels, and the impressment of American seamen into service on British ships. The British, preoccupied with Napoleon, were not amused. They were even less amused when we sent forth speedy privateers to seize their merchant ships and to frustrate their heavily gunned men-of-war.

In 1814, with Napoleon exiled to the island of Elba, the British determined to put the upstart former colonists in their place. They dispatched a 50-ship expeditionary force—veteran soldiers and sailors from the world's strongest military power. Up the Chesapeake Bay they came, and on August 24 and 25, 1814, they burned Washington. Their next target: Baltimore—third largest city in the U.S., a rich trading center, and home to many of the fleet privateers that had humiliated the proud Royal Navy.

As the British moved on Baltimore, one thing blocked their way—Fort McHenry, whose guns dominated the channels leading into Baltimore Harbor. Unless they could get past the fort, the British Navy could not support its ground forces whose advance on the city had been stalled.

So, at dawn on September 13, a 25-hour bombardment began. At the same time, a 35-year-old American lawyer was being held on board a British ship pending the end of the battle. Francis Scott Key watched the "rockets red glare" and "the bombs bursting in air" through the night. At the first light of dawn, Key was relieved to see that Fort McHenry's giant flag—30 feet by 42 feet—"The Star Spangled Banner"—did indeed still wave over "the land of the free and the home of the brave." Inspired by the sight, he took pen in hand and gave us what would become our National Anthem.

The burning of Washington and the victory at Ft. McHenry united our young nation like nothing before had done. We emerged from the War of 1812, with a new national identity, confidence, and patriotism, a recovering economy, and a place in the world. And we continued to grow—to the valleys of the Ohio and Mississippi Rivers and beyond with new states joining the union and the number of stars in that field of blue growing.

Less than 50 years after the end of the War of 1812, our flag would face one of its greatest challenges. As our nation was split asunder in a great civil war, and its ability to endure as one hung in the balance, courage related to the flag often spelled the difference between victory and defeat.

Missionary Ridge, Tennessee, November, 1863. A key link between the east and west for the Confederacy. Confederate troops entrenched along a 400-foot-high, seven-mile-long summit. Sixty Union regiments under General George Thomas attacked positions at the foot of the ridge, and then, unexpectedly, surged up the slope. Flag bearers led the way. When one fell, another stepped forward to grab the colors, and the advanced continued. A young First Lieutenant—not yet 20 years old—caught the flag of the 24th Wisconsin as it was about to fall, and carried it to the crest. Arthur MacArthur's bravery earned him a battlefield promotion to major and the Medal of Honor that day. Many of you here today may have served under his son, Douglas, in the Pacific or Korea. In all, seven flag bearers won the Medal of Honor at Missionary Ridge. At day's end, the flags of 60 Union regiments lined the summit.

The War ended and the Union was preserved. And the flag proved as inspiring in peace as it was in war. In 1868, a former Union Army Sergeant, Gilbert Bates, set out to carry the Stars and Stripes from Vicksburg, Mississippi, to Washington, D.C., to prove to friends back in Wisconsin that we were once

again one nation. Crowds cheered him at every town and village as he marched through the heart of the Old Confederacy. Ironically, and maybe today we could say prophetically, Sergeant Bates and his flag encountered real hostility and opposition only in our nation's capital.

Westward we moved, behind the flag. Across the Wide Missouri, and along the South Platte to the Rockies, and beyond to Oregon and California. South to Santa Fe and the Rio Grande—conquering a wilderness, settling a continent, and fulfilling our destiny. New stars added to the flag and more people to enjoy the blessings of liberty it embodies: people in the new lands, and immigrants from the Old World—the "huddled masses yearning to breathe free."

Our flag went to foreign shores. Up San Juan Hill with Teddy Roosevelt in the Spanish American War ending four centuries of Spanish colonialism in the New World. At Veracruz, on the Gulf coast of Mexico, its honor was defended by brave sailors and marines. "Over there" it went with a Missourian, General John Pershing, in the "War To End All Wars."

Our flag was tattered, but not lowered at Pearl Harbor. And we rallied behind it, lifted it higher. We took it ashore at Normandy, and across the Rhine with Eisenhower, Bradley, and Patton, and Hitler's "Thousand Year Reich," the worst tyranny the world has yet known, crumbled at its advance. Across the South Pacific it went, island by island. In 1944, the most dramatic flag raising in American history, on a rocky Pacific island called Iwo Jima. When the sun rose the next day on that flag atop Mount Suribachi, the sun of Japanese Imperialism began to set.

The flag was with us: In Korea helping to preserve democracy for half of a divided nation. In Vietnam, where brave American POWs fashioned handmade flags to defy their captors. It went to the moon with the astronauts of Apollo 11.

Yes, our flag has stood by us—leading us, inspiring us, sustaining us—in all of our national endeavors, in war and in peace, for over 200 years.

Now, sadly, it seems that some people don't want to stand by our flag. The Supreme Court has said that it is all right to desecrate our flag, to burn it even, in the name of free speech. "Government," says the Court, "may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable."

I agree that everyone in this country has the right to make his views known on any issue, no matter how irrational, how wrong, or how unpopular those views might be. But does that mean that every form of conduct is permissible as a means of exercising rights guaranteed by the First Amendment to the Constitution? I say no. And I say so as a student of law and of history. The framers of the Bill of Rights used words carefully to convey a precise meaning. The First Amendment to the Constitution says "Congress shall make no law . . . abridging the freedom of speech, . . ." It says nothing about "expression."

Legal precedent and common sense tells us that there can be limits on conduct which are not inconsistent with First Amendment rights. Consider some extreme examples: Would anyone, even the Supreme Court, contend that we must permit human sacrifice under the guise of free exercise of religion? Would

someone be allowed to blow up the Lincoln Memorial to express a political view?

Flag burning does not merit First Amendment protection. It is conduct that is offensive and provocative to the overwhelming majority of Americans. Moreover, it is unnecessary. Any point of view that can be expressed by flag burning can be better expressed in a manner that is reasoned, rational and more effective in communicating an idea or attempting to persuade others.

We have a great system of government, and one reason it is so great is that if you disagree with a government action, even a decision of the highest court in the land, you can work to change it.

Therefore, I support legislation being considered by the House of Representatives today that will create a Constitutional Amendment that will allow Congress and the States to ban flag burning and other similar forms of flag desecration. The process of changing the Constitution is not fast and easy. The framers wanted to make amending the Constitution a difficult, deliberative process.

I am confident that a Constitutional Amendment can be passed. But if it fails, or if it stalls, we can move in other areas. We can redraft and enact new flag desecration statutes that attempt to meet the Court's objections to the Texas statute. If those new statutes won't pass muster, we'll enact new ones.

We can do still more. Our children must be taught to respect the flag not only in our schools, but by our example. We must instruct them to display it and use it properly and salute it appropriately. We must encourage our children and every future generation to value the freedoms we enjoy and to stand tall and proud when they say, "I pledge allegiance to the Flag of the United States of America . . ." We must instill in them a strong sense of the heritage embodied in our flag, and the pride of being an American. Finally, we must ensure that they continue to recognize and honor the great sacrifices made by previous generations of Americans, many of whom gave "the last full measure of devotion" so that we could live free.

The poet Edgar A. Guest said it best when he penned:

THE BOY AND THE FLAG

I want my boy to love his home, his Mother,
yes, and me:
I want him, wheresoe'er he'll roam, With us
in thought to be.
I want him to love what is fine, Nor let his
standards drag,
But, Oh! I want this boy of mine To love This
country's flag!

Let me take a moment and put a few things in perspective. As much as the Supreme Court decision has disappointed me, it is in the final analysis no real threat to our nation. Our flag stands for too much to be brought down by matches lit by those who would desecrate it. Its glory cannot be diminished by a U.S. Supreme Court ruling. It cannot be threatened by any enemy, foreign or domestic. If they step on it, write on it, tear it to shreds, even burn it to ashes, we'll just raise it up again, and it'll fly higher and more gloriously than ever before.

A few years ago, we had a flag day ceremony in the House of Representatives. Country-western singer Johnny Cash recited these lyrics that he had written:

RAGGED OLD FLAG
(By Johnny Cash)

I walked through a county courthouse square
On a park bench an old man was sitting
there
I said, "Your old courthouse is kinda run
down."
He said, "Naw, it'll do for our little town."
I said, "Your old flag pole is leaned a little
bit."
And that's a ragged old flag you got hanging
on it."
He said, "Have a seat." And I sat down.
"Is this the first time you've been to our lit-
tle town?"
I said, "I think it is." He said, "I don't like
to brag.
But we're kind of proud of that ragged old
flag."
"You see, we got a little hole in that flag
there
When Washington took it across the Dela-
ware
And it got powder burned the night Francis
Scott Key
Sat up watching it, writing 'Say Can you see'
It got a bad rip in New Orleans
With Packington and Jackson pulling at its
seams
And it almost fell at the Alamo,
Beside the Texas flag, but, she waved on
though
She got cut with a sword at Chancellorsville
And she got cut again at Shiloh Hill
There was Robert E. Lee, Beauregard and
Bragg
The South wind blew hard on that Ragged
Old Flag
On Flanders field in World War One
She got a big hole from a Bertha gun
She turned blood red in world War Two,
She hung limp and low by the time it was
through
She was in Korea and Viet Nam
She went where she was sent by he Uncle
Sam
She waved from our ships upon the briny
foam
And now they've about quit waving her back
here at home
In her own good land she's been abused
She's been burned, dishonored, denied, re-
fused
And now the government for which she
stands
Is scandalized throughout the land
And she's getting threadbare and she's wear-
ing thin
But she's in good shape for the shape she's in
Cause she's been through the fire before
And I believe she can take a whole lot more
So we raise her up every morning
Bring her down slow every night
We don't let her touch the ground
And we fold her up right.
On second thought, . . . I do like to brag,
Cause I'm mighty proud of that ragged Old
Flag."

Mr. Speaker, I urge all my colleagues to
support H.J. Res. 4 and to give Old Glory the
respect it deserves.

Mr. KIND. Mr. Speaker, I have the utmost
reverence and respect for the flag of the
United States, one of the most recognizable
symbols of freedom and liberty in the world.
And I have the utmost respect for those who
want to protect it. Among other things, the flag
represents our rights as Americans, including
those protected by the Bill of Rights. The first
amendment in particular is the amendment
that embodies the very essence upon which
our democracy was founded because it stands
for the proposition that anyone in this country
can stand up and criticize this government and
its policies without fear of prosecution.

The first amendment is perhaps the best
known provision of the Constitution and has
been well guarded over the years by Con-
gress and the Courts. But today's amendment
would create a tremendous spiritual change,
effectively turning the words "no law" in "Con-
gress shall make no law" into "few laws."
Which is to say it would sap the first amend-
ment of the principle it represents, the one
that insists that this country does not punish
ideas, no matter how unpopular.

But here we are, yet again, debating an
amendment that would for the first time in our
Nation's history change the first amendment to
our Constitution, without a compelling reason.
Flag burning is exceedingly rare. Yet sup-
porters have never let themselves be re-
strained by the fact that the amendment rep-
resents a non-solution to a non-problem, and
whose predictable outcome would be to make
flag burning the "in" protest among the young
and antisocial.

I am going to oppose this legislation, not be-
cause I condone or do not feel repulsed by
the senseless act of disrespect that is shown
rarely against one of the most cherished sym-
bols of our country, the American Flag, but be-
cause I recognize that our Constitution can be
a challenging document. It reminds us that our
democracy requires all of us to permit the ex-
pression of ideas that we may spend a lifetime
opposing—and not simply move to pass an
amendment to silence their voice. Our democ-
racy, rather, is about advanced citizenship. It
asks all Americans to fight and even protect
the right of our fellow citizens to express views
that are against what we believe and value
most in our country.

There are few things that evoke more emo-
tion, passion, pride or patriotism than the
American Flag. But if we pass this amendment
today, where do we stop? Do we move to pro-
tect other icons of American patriotism?
Should we pass an amendment that prohibits
the burning of a copy of the Declaration of
Independence or of the Constitution? Let us
not go down that path today. We have done
well these past two centuries without having to
amend the Bill of Rights.

In a country of over 280 million people, I do
not believe that the actions of a few individ-
uals should compel us to change our most
fundamental principles. I respect our flag as
well as those who have fought and died to
protect the ideals which it symbolizes, but I
also respect those very ideals and principles
contained in our Constitution. The purity of the
first amendment should not be adulterated
now so that Congress can protect flags that
nobody's burning anyway.

Mr. KLECKZA. Mr. Speaker, the American
flag is a visible symbol of all the freedoms that
make our Nation great, and this includes our
First Amendment right to express ourselves
freely. Our Constitution protects even those
forms of speech that others may disagree with
or find offensive. It is this very liberty to pub-
licly voice one's opinions and ideas no matter
how controversial they may be that distin-
guishes our great Nation from others.

While the desecration of our flag triggers an
almost universal reaction of disgust by Ameri-
cans, we are strong enough as a nation to
allow individuals to express themselves in this
manner, and stronger still to resist the urge to
stamp out free speech that challenges us. By
outlawing the expression displayed in dese-
cerating the flag, we would diminish and under-

mine our flag's value by suppressing the very
freedoms that it represents.

We must also note that this amendment of-
fers a solution to a problem that simply
doesn't exist. Only 45 incidents of flag dese-
ceration were reported between 1777 and
1989. Since then, these acts have been very
rare. This was particularly noteworthy during
the lead-up to the War in Iraq. Despite vehe-
ment anti-war sentiment, no groups burned or
desecrated the flag during rallies or protests.
I fail to see why it is necessary to tinker with
the Bill of Rights—the bedrock of our Repub-
lic—for the first time in 211 years to outlaw an
act that rarely occurs.

The United States of America has a long
and proud history of protecting the right of free
expression for its citizens, and I do not believe
that the voice of freedom should be muzzled.

Mr. STARK. Mr. Speaker, I rise today to op-
pose H.J. Res. 4, a constitutional amendment
to prohibit the desecration of the U.S. flag. In
doing so, I rise in support of protecting the
right to free speech.

The First Amendment to the Constitution
says, "Congress shall make no law . . .
abridging the freedom of speech . . ." Yet,
this bill would overturn two Supreme Court de-
cisions upholding flag burning as symbolic
speech protected under the First Amendment.
If ratified, this amendment would be the first
time ever that the Bill of Rights has been al-
tered and in a manner that limits the freedoms
that belong to the American people.

Conveniently, we debate this bill just before
Flag Day. Now Republicans can run back to
their districts to flaunt what they believe is pa-
triotism. But, we must ask ourselves: is it patri-
otic to trample upon the Constitutionally pro-
tected freedoms? The freedom of speech is
vital to our democracy—it sets our nation
apart from those oppressive regimes we have
fought and deposed throughout our history.

Some of my colleagues—mainly on the
other side of the aisle—will mention today that
veterans across the nation support this
amendment. I respect these brave Americans
and what the flag means to them. But, the Re-
publicans are using this issue to cover over
their failure to fully compensate our veterans
for their heroic service.

Republicans have no intention to provide for
the real needs of these men and women, like
improved veterans benefits, better health care
for them and their families, access to afford-
able housing and affordable educational op-
portunities to name a few. Instead, Repub-
licans are using this amendment for political
gain without paying respect to those things
that bring real dignity and honor to our veter-
ans. And let us not forget, these veterans
fought for our freedoms and everything our
Constitution stands for.

Opening the door to limiting the freedoms of
all Americans is a dangerous precedent. I fear
what could be next if the Republican leader-
ship of this House have their way. I ask my
colleagues to stand up for our Constitution
and vote no on this amendment.

Mrs. MALONEY. Mr. Speaker, I rise today in
opposition to H.J. Res. 4, which would add an
amendment to the Constitution banning the
desecration of the American flag.

I believe that desecrating the American flag
is a terrible way to exercise one's freedom of
expression. It is hurtful and offensive. Yet,
freedom of speech is one of the bedrock prin-
ciples of this Nation's democracy. Some of the

most powerful movements in the history of America occurred because our Constitution guarantees everyone the freedom to express themselves.

While desecrating the American flag in protest offends many people, the flag is a symbol of our Nation's powerful democracy. Protecting our citizens' right to express themselves is more vital to the strength of our democracy than the physical appearance of the flag.

I believe that all Americans should respect and honor the flag. However, I oppose placing restrictions on the First Amendment by adding this amendment to our Constitution.

While this is an important issue and it deserves to be debated by this body, we cannot forget another issue of vital importance to America's veterans. The budget proposed by the Majority includes serious cuts to the Department of Veterans Affairs.

The proposed \$15 billion cut in benefits and \$9.7 billion cut in health care would leave many veterans without access to critical resources. With the ongoing conflict in Iraq, there will undoubtedly be more soldiers who will need care in the future. Rather than cut the funding for the VA, we should be providing adequate funding so that the Department will be prepared for caring for the soldiers who may need care after the current conflict has ended.

Mr. OXLEY. Mr. Speaker, I stand in strong support of H.J. Res. 4, which calls for a constitutional amendment permitting Congress to protect our Nation's flag.

As the vast majority of our constituents all know, Old Glory is far more than a piece of cloth. Especially in this post-September 11 era, it is the most visible symbol of our Nation and the freedoms we have too often taken for granted. It is a unifying sign in times of peace and war, instilling pride in our great country and continued hope for our future.

Americans from across the political spectrum and from every walk of life support the passage of this amendment. Since the Supreme Court in 1989 invalidated state-passed flag protection laws, the legislatures in each of the 50 states have passed resolutions petitioning Congress to propose this amendment. I am proud that the House is taking this important step toward a constitutional amendment today.

Mr. Speaker, my hometown of Findlay, Ohio, is well known for its civic pride and spirited celebration on Flag Day. The annual display of many thousands of flags on houses and businesses throughout Findlay earned the community the designation "Flag City USA." Arlington, Ohio, which I am also privileged to represent, has been named "Flag Village USA" for the patriotism inherent in its citizens. The letters, phone calls, and e-mails I have received from Findlay, Arlington, and throughout my congressional district in recent weeks express strong support for the protection of Old Glory.

I am proud again this year to be cosponsor of Duke Cunningham's joint resolution, and recognize him for his unwavering leadership on this issue. I urge my colleagues to support their constituents and vote in favor of sending this amendment to the states for ratification.

Mr. THOMAS. Mr. Speaker, I rise today in support of H.J. Res. 4, which would amend the United States Constitution to restore to Congress the power to prohibit the physical desecration of the flag of the United States.

Amending the United States Constitution is not something that should be undertaken in a cavalier manner. The gravity with which such changes in the document that provides the structure for our system of governance should be taken is reflected by the amendment process devised by the Founding Fathers. Article V of the Constitution provides that amendments can be proposed by two-thirds of both Houses or through a convention called by two-thirds of the states. Additionally, the Article provides that these proposed amendments must be ratified by three-fourths of the state legislatures or by conventions in three-fourths of the states.

So, the question before us today is whether we believe that we should restore to Congress the power to protect the flag if Congress so chooses. As I have stated previously, we are considering this question because the United States Supreme Court has taken what the Bill of Rights says is protected speech, and has extrapolated it to encompass behavior that the Bill of Rights does not specifically mention, the burning or otherwise desecration of the United States flag. When the Supreme Court did this, it handcuffed Congress in order to provide Constitutional protection to behavior that many Americans find despicable. Notwithstanding those assertions that H.J. Res. 4 itself would ban the desecration of our flag, H.J. Res. 4 would instead unlock the handcuffs that the Supreme Court slapped on Congress.

While the question of protecting our Nation's flag from desecration is not before us today, I do recognize that many of my constituents do not view the flag as merely a compilation of red, white, and blue cloth; rather, they see that cloth as the enduring emblem of freedom and America. I also recognize that to preserve both freedom and America, many American men and women, including some of my constituents in the recent Middle East conflicts, have willingly sacrificed their lives and limbs and have endured hardships that few of us can comprehend. And, I know that the desecration of our flag is a direct affront to these brave men and women and their sacred sacrifices. Thus, I now take my Constitutional prerogative to ensure that Congress has the ability to enact, or not to enact, legislation as Congress sees fit to protect our Nation's flag from intentional desecration.

Mr. BLUMENAUER. Mr. Speaker, the United States flag is one of the two most enduring symbols of our freedom and liberty. I believe that those who desecrate the flag degrade themselves and I find it a reprehensible act. So too, it is reprehensible for people to express hateful language against our country and some of our citizens. One of the values our flag represents is the freedom of expression. The United States and our cherished freedom are strong enough to withstand assaults of the crude, the bigoted and the hateful. The strength to withstand assaults comes from the other enduring symbol of our liberty: the Constitution. We should not trivialize the importance of that document, especially the freedom of speech enshrined in the First Amendment, by rushing to change the Great Document when we are offended by acts.

Because Americans honor this cherished symbol, I understand the rage and disgust most of us feel towards those who made their points by trampling on our flag. It is important to note that flag burning today is not a major problem. Throughout my years in Congress,

only one constituent has voiced his concerns regarding flag burning, and none back home in Oregon.

The proposed constitutional amendment is the wrong way to protect the flag. Ironically, it would be the fastest way to make the very rare occurrences of flag burning more frequent. After all the publicity surrounding ratification by the states occurs, we will have made our flag the target for every publicity-seeking protester in America. Burning the flag will be the fastest way to go to court, perhaps to jail, but certainly the evening news. Because we cherish our flag and our Constitution, we should reject this amendment.

Mr. LANGEVIN. Mr. Speaker, I rise today in strong support of our American flag and as a cosponsor of H.J. Res. 4, which would amend the Constitution to allow Congress to protect the United States flag from acts of physical desecration.

Our flag has become a symbol of freedom for Americans and people around the world, whether flying outside of a home, or raised out of the rubble of the World Trade towers after the September 11 attacks. As an international emblem of the world's greatest democracy, the American flag should be treated with respect and care. We should not consider the flag as mere "personal property," which can be treated any way we see fit, including physically desecrating it as a form of political protest.

The American flag is a source of inspiration wherever it is displayed, and a symbol of hope to all nations struggling to build democracies. As a proud member of the House Armed Services Committee, I deeply admire those who have fought and died to preserve our freedoms in Iraq, Afghanistan, and around the world throughout our history. These men and women have bravely defended our flag and the fundamental principles for which it stands. They deserve to know that their government treasures the flag and all it represents as much as they do.

Before being overturned by the Supreme Court in 1989, 48 states and the District of Columbia passed laws protecting the flag. Over the last few years, all 50 states have passed resolutions calling on Congress to pass a Constitutional amendment, which is the only way to restore the power of states and Congress to implement the will of the people.

For these reasons I, as well as a great number of Americans, believe that our flag should be treated with dignity and deserves protection under the law. With Flag Day on June 14, I can think of no better way to honor the enduring symbol of our democracy than adopting this resolution today. I urge my colleagues to join me in supporting H.J. Res. 4 to allow Congress to prohibit desecration of the American flag.

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

□ 1630

The SPEAKER pro tempore (Mr. THORNBERRY). All time for general debate has expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE
OFFERED BY MR. WATT

Mr. WATT. Mr. Chairman, I offer an amendment in the nature of a substitute.

The SPEAKER pro tempore. Is the gentleman from North Carolina (Mr.

WATT) the designee of the gentleman from Michigan (Mr. CONYERS)?

Mr. WATT. Yes, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will designate the amendment in the nature of a substitute.

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

Amendment in the nature of a substitute offered by Mr. WATT:

Strike all after the resolving clause and insert the following:

SECTION 1. CONSTITUTIONAL AMENDMENT.

The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

“ARTICLE—

“Not inconsistent with the first article of amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States.”

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the amendment and claim the time.

The SPEAKER pro tempore. Pursuant to House Resolution 255, the gentleman from North Carolina (Mr. WATT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have not been involved in the debate up to this point on the proposed constitutional amendment, but I want to commend the chairman of the Committee on the Judiciary and my colleagues who have conducted this debate up to this point on the quality of the debate. This is always a debate which I think has the capacity to bring out the best of the Members of our body. It does not always do that because there are strongly held positions, and sometimes emotion overtakes the day and we see the debate deteriorate. There have been instances when that has happened today, but by and large, I think this has been a high-quality debate, and I want to compliment my colleagues for maintaining the high quality of that debate.

I was, at one point, the ranking member on the Subcommittee on the Constitution, occupying the position now held by the gentleman from New York (Mr. NADLER); and during my time in service as the ranking member of that subcommittee, I realized that the quality of the debate on this proposed constitutional amendment was not the kind of quality that I really wanted to be involved in.

What I saw was that Members who supported the proposed constitutional amendment would come to the floor and they would claim that Members who opposed the constitutional amendment were somehow unpatriotic; and Members who opposed the proposed constitutional amendment and were on

the opposite side from the proponents of the amendment would come to the floor, and they would accuse the other side of being somehow unpatriotic. And I would have to admit that when I first became a party to this debate, I was a part of that name-calling process.

I thought that anybody who really supported the first amendment to the Constitution had to respect, even if they did not admire or like, they had to respect the right of people who wanted to express themselves in opposition to various kinds of injustices that were taking place in our society by expressing themselves verbally, expressing themselves through political action, expressing themselves by even burning or desecrating the American flag.

I thought it was a fairly simple proposition because I was not listening very carefully to the people who were on the other side of that debate, and I was not honoring the strong positions and commitments that they held to the fact that the flag was somehow different and that burning or desecrating the flag was somehow different than other kinds of free speech that citizens could engage in.

And then I started to listen to what the other side was saying, and I started to study this issue with a little more intensity, and I concluded that it could not possibly be the case that you could have a five-person majority on a United States Supreme Court that had nine members, and the court was split five people on one side and four people on the other side, and this not be a very, very difficult issue.

Can Members imagine that Justice Scalia supports the position that I am advocating here that when one burns the flag, they are engaging in protected speech; yet Justice Rehnquist, somebody who I think most people think is pretty close philosophically to Justice Scalia, takes exactly the opposite position.

I tried to imagine during the course of that debate whether Justice Scalia ever looked at Justice Rehnquist and said, “You are unpatriotic”; or on the other hand, whether Justice Rehnquist looked at Justice Scalia and said, “You are unpatriotic.”

So I started to listen to my good friend, the gentleman from California (Mr. CUNNINGHAM), and the gentleman from Texas (Mr. SAM JOHNSON) and what he was saying, and I said, those Members believe as vigorously in the position they are asserting as the Members on our side believe in the position we are asserting, and we could have a high-quality debate about this flag burning amendment if we honored each other’s positions and opinions and really came in and talked about the merits of this proposed constitutional amendment as opposed to calling each other unpatriotic.

So I decided I would offer an amendment which simply says, not inconsistent with the first article of amendment to this Constitution, the Con-

gress shall have power to prohibit the physical desecration of the flag of the United States.

I thought that if we framed the issue in that context, we could really have an honest debate not only about what the physical desecration of the flag might consist of, but we could have an honest debate about what is or is not protected by the first amendment.

Now, I should say straight off that my opinion is that adding to the underlying proposed constitutional amendment, which itself says the Congress shall have the power to prohibit the physical desecration of the flag of the United States, simply adding to that that whatever statutory act we take as a Congress must be consistent with the first amendment to the Constitution, I pretty much assumed was a given. And a number of my colleagues who have supported the underlying proposed constitutional amendment have said, we do not want to do harm to the first amendment, we are not trying to cut off speech. So it seems to me that at some point, even if we pass the underlying proposed constitutional amendment that we are debating here, the one that says that Congress shall have the power to prohibit the physical desecration of the flag of the United States, that at some point the Supreme Court is going to be called upon to make that constitutional amendment reconciled with the first amendment, which says that this Congress shall make no law that tramples on the right of free speech.

So it may be that the amendment that I am offering here is kind of a redundancy. I am just basically saying that whatever we do as a Congress to prohibit the physical desecration of the flag must be done consistently with the first amendment to the Constitution, not anything revolutionary here.

Well, what does the first amendment mean? I thought I knew what the first amendment meant. I had a good law school education from what they tell me is one of the best law schools in the country, Yale University. Some of my colleagues will differ about whether it is the best or the second best or in the top 10 or in the top 30, but most people agree that it is at least one of the good universities, one of the good law schools in the country; and I will tell Members, Mr. Robert Bork was my constitutional law professor. We had some free-wheeling discussions in that class about what the first amendment meant. I thought once I got out of law school, I understood fully what the first amendment was all about.

And then I went back to North Carolina, and I went into the practice of law, and one day my senior law partner, a gentleman by the name of Julius Chambers, came to me and said, I want you to go down to eastern North Carolina and represent some Native Americans who have been charged with parading and threatening with a tomahawk in a demonstration that has taken place out there. They have been

charged with resisting arrest and all of the things that people get charged with when the police do not like what they are out there parading about, and these Native Americans had been arrested, four or five of them had been arrested. And my senior law partner sent me to eastern North Carolina to defend them against the criminal charges.

I did not know much more about those criminal charges until I got down to eastern North Carolina, and I sat down with my clients, and as I started to talk to them about what they were demonstrating about, they looked at me and they said, well, we did not want to go to school with black people. So we were out there demonstrating against going to school with black people. So I kind of swallowed hard and finished that day of activity, and I went back to my law office in Charlotte and I confronted my senior law partner and said, Julius, why would you send me down to eastern North Carolina as a black man to defend people who were out there demonstrating against going to school with black people?

□ 1645

Julius Chambers looked me straight in the eye, and he told me that day what the first amendment was all about. He simply said to me, "Don't you believe in the first amendment?"

Those are words that I have never forgotten. That same law firm represented the Ku Klux Klan when they wanted the right to demonstrate and it was unpopular.

This is a difficult issue, and there are patriots on both sides of this issue. This is not about whether one side has a monopoly on patriotism or the other side has a monopoly on patriotism. This is a difficult issue because we love the flag and the one kind of common theme that I was able to gather from all of this discussion over all these years because we have been debating this constitutional amendment for 5 or 6 or 7 or 8 or 9 years. Ever since I have been here, it seems like, we have this constitutional amendment.

But the one thing that I think we all have agreed upon is that none of us like people who burn the flag. We are all patriots. There are 435 of us in this body. Every single one of us represents over 600,000 people. Can you imagine 600,000 people sending somebody to this Congress who was not patriotic? This, my friends, is not about whether you are a patriot or not. It is about your idea of what the first amendment truly means. It could not be that you could have Justice Brennan, Justice Marshall, Justice Blackmun, Justice Scalia and Justice Kennedy saying that this is protected speech when you burn the flag in certain contexts and they be not patriotic. These men are not unpatriotic. And it could not be that Justice Rehnquist and Justice Stevens and Justice White and Justice O'Connor are out to lunch on this issue, either. This is a difficult issue.

And I think the important thing here is that we should not minimize the difficulty of the issue and we should not minimize each other because some of us happen to be on one side of this issue and some of us happen to be on the other side.

I value the first amendment, not that the people on the other side do not value it, too. I am sure they do. But in the process of having the Congress draft and pass a law to prohibit the physical desecration of the flag, the last thing I want is for us to do it in such a way that violates the first amendment to the Constitution. That amendment has been there for years and years and years and it has served us well. Nobody has tested this new amendment that is being offered here today which says the Congress shall have power to prohibit the physical desecration of the flag. Who knows what the United States Supreme Court might read into that. But what I can tell you is that our first amendment has served this country well. And people have fought and died for the right of people to express themselves. Maybe they do not like them expressing themselves by burning the flag, but it is considered by some people protected speech. And it cannot be, even in current day, more recent times, that Colin Powell, the Secretary of State, who happens to believe that this proposed constitutional amendment is unnecessary and ill advised, surely we would not dare to call him unpatriotic.

Whatever we do, my colleagues, I simply implore us to do it consistent with the first amendment to the Constitution. And if we are able to do that, then I think we will have served our country well. What I suspect is that Congress wants to just, let's pass this amendment and leave the difficult part, which is crafting something that really prohibits the physical desecration of the flag without trampling on the first amendment, to a future time. Let us just finesse that issue. This proposed amendment in the nature of a substitute does not allow us to finesse it. What it says is that whatever we do when it comes time to start drafting our statute that prohibits the physical desecration of the flag must be done consistent with the first amendment to the Constitution.

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

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

Mr. Speaker, the gentleman from North Carolina (Mr. WATT) graduated from one of the finest law schools in the country. His speech just concluded and his amendment showed that he learned his constitutional law well from Professor Robert Bork, who is one of the outstanding constitutional scholars in the country. The only difference between the Watt substitute amendment and the constitutional amendment introduced by the gentleman from California (Mr.

CUNNINGHAM) is the words "not inconsistent with the first article of amendment to this Constitution."

What his amendment does is constitutionally codify the Johnson and Eichman decisions that said that flag desecration is protected free speech by the first amendment to the United States Constitution. So the gentleman from North Carolina's qualifying phrase is legislative sleight of hand that will prevent any future Supreme Court from deciding they made a mistake in the Johnson decision and in the Eichman decision. For that reason and for that reason alone, this amendment should be rejected, because it does the exact opposite to what the gentleman from California and his cosponsors are attempting to do in House Joint Resolution 4. It writes into the Constitution Supreme Court decisions that a vast majority of the American public believe were erroneously decided.

Never before has Congress tried to do this. I just thank the Lord that they have not. Because if someone tried to constitutionally codify the separate but equal decisions of the United States Supreme Court in the late 1890s, *Brown v. Board of Education* would never have been possible and would never have been constitutional. That is one of the things that has given minorities in this country the opportunity for education, to be able to graduate from high school and go to a good college and go to the top law schools in the country. So I think that we should hit this amendment head-on. We should vote for it or vote against it, patriots all; but we should not attempt to put into the Constitution the effect of the United States Supreme Court decisions, two of them, in fact, that have brought us to this point here.

Let me repeat. The Watt substitute amendment puts into the Constitution the Johnson and the Eichman decisions that state that physical desecration of the American flag is conduct that is protected by the first amendment to the United States Constitution.

Vote "no" on the Watt substitute amendment and pass the resolution.

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

Mr. WATT. Mr. Speaker, I am proud to yield 5 minutes to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I rise in support of the amendment offered by the gentleman from North Carolina (Mr. WATT). His amendment is an attempt to clarify how the underlying legislation will affect the first amendment as well as the rest of the Constitution. It changes the proposed constitutional amendment to read, "Not inconsistent with the first article of amendment to this Constitution, Congress shall have the power to prohibit the physical desecration of the flag of the United States."

So under the Watt amendment, a person could not be prosecuted just for the expression of opinion, or whether or not the sheriff is offended by that opinion; and, in other words, you should

not pass a law that provides for the criminal prosecution for someone who burns a worn-out flag while criticizing the administration at an anti-war rally if that same legislation allows someone to burn a worn-out flag if they say something nice about the administration while at a flag retirement ceremony sponsored by war supporters. The fact is that many consider peace rallies as vulgar and would like to throw the participants in jail. The fact is in many communities, the Bill of Rights is the only thing between those protesters and the jailhouse.

We should acknowledge that the ultimate purpose of the proposed amendment is to stifle political expression we find offensive. And while I agree that we should all respect the flag, I do not think it is appropriate to use the criminal code to enforce our views on those who disagree with us or to stifle political expression for those who happen to offend us.

The Watt amendment would make the proposed amendment consistent with the ideals of the Bill of Rights. It says that Congress could pass a law prohibiting the physical desecration of the flag so long as it is consistent with the first amendment. And so the underlying amendment is either consistent with the rest of the Constitution or it trumps the rest of the Constitution. Either the underlying amendment will override the first amendment or it will not. At least we ought to be honest and answer the question.

The Watt amendment says the underlying amendment will not override the first amendment and that any legislation passed under it has to be consistent with the first amendment. On the other hand, if the Watt amendment is defeated, then that action suggests that legislation passed under the constitutional amendment may not be consistent with the first amendment. And if it overrides the first amendment on speech, what else does it override? Does it override the first amendment in terms of religion? If you were to pass a statute establishing a national prayer for the protection of the flag, that would be inconsistent with the establishment clause. But does this constitutional amendment override the establishment clause? What about the equal protection clause? Can you pass a law that says some people can burn the flag but other people cannot, in violation of the equal protection clause? Will this legislation trump that? Or will the rest of the Constitution remain as it is?

My view is that this amendment is superfluous, that the rest of the Constitution is there. The chairman suggests that it codifies present law and, if so, if it does codify present law, this amendment as it is, you ought to say so. You ought to say whether or not it is consistent with the free speech provision of the first amendment, you can pass the law, or whether or not it is consistent with the rest of the Constitution, you can pass the law. It does not say so.

□ 1700

So I think we are stuck with the present law. The Watt amendment forces us to address the question.

Now, remember, as the gentleman from North Carolina (Mr. WATT) has pointed out, the underlying amendment does not prohibit anything, it just says that Congress may pass a law regarding the desecration of the flag. The real question is what standard are we going to use to judge what constitutes desecration and whether or not it has to be consistent with the speech provisions of the first amendment and the rest of the Constitution or not. This is what the Watt amendment is aimed at determining.

Mr. Speaker, I do not think we ought to repeal the Bill of Rights, and therefore, I urge my colleagues to support the Watt amendment.

Mr. WATT. Mr. Speaker, I yield 3 minutes to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise in support of the amendment from my very able colleague from North Carolina. At the outset, Mr. Speaker, I want to talk about what it is that is really the strength of our system, and I would define it this way: The strength of our system is nothing less than its capacity to absorb the worst impulses in our character.

Now, my very able colleague from Wisconsin mentioned *Brown v. Board of Education*. The day the Supreme Court issued the ruling in *Brown v. Board of Education*, there were crosses burned in this country. There were crosses that were burned on the day that Martin Luther King was assassinated. There are bigots who paint swastikas on synagogues in our country. There were thugs who called our soldiers war criminals and who waived the Vietcong flag in their face when they came back from Vietnam.

There is no constitutional amendment to regulate the cross burners or the bigots who paint swastikas on synagogues. There is no constitutional amendment to regulate or prescribe the enemies of our democracy who would call our soldiers war criminals. The reason is because we have frankly concluded that we do not need one. We count on our values and we count on the best angels in our nature to overwhelm the worst of us. We do not count on amendments, we count on the best angels in our nature.

If we pass this amendment without the Watts substitute, let us make it clear what we are doing. We would be singling out one class of speech, one uniquely obnoxious viewpoint, and we would be saying that this idea is somehow so corrosive, so dangerous, that we cannot count on our values to trump it.

Mr. Speaker, I am frankly not prepared to give the idiocy and the stupidity of flag burning this kind of power. We do not need an amendment

to underscore our commitment to the flag and the values behind it any more than we need an amendment to suppress the other enemies of our political character. I trust the system that we have, and I think it is that, frankly, for which our veterans have fought.

We have heard a lot of talk today about whether our veterans have fought for a symbol or whether they fought for a flag. I would submit to you, as one Member's opinion, I think they fought for a system, and I trust that system. Whether it yields a 5-4 Supreme Court decision or a 9-0 Supreme Court decision, I trust that system to address that issue.

I will say in conclusion, Mr. Speaker, that this first amendment of ours has always been unique because it is this amendment that has somehow stood as a barrier to our temporary impulses, it has stood as a barrier to the temporary ways that we would react to things, and it has served us well. If we are going to change the way we look at flag burning, it ought to be done through our courts, our highest courts. If we are going to tinker with the edges of the first amendment, it ought to be done by our Court, our highest Court.

I ask my colleagues to vote for the Watts substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, there is a difference between the Court decisions on flag desecration and the Court decisions on burning crosses and painting swastikas on synagogues. On the one hand, the Court has said that flag desecration is protected by the first amendment as free speech or free political expression. The Supreme Court has never struck down an anticross-burning law or a hate crime law that makes it a crime to paint a swastika on a synagogue as political expression protected by the first amendment to the United States Constitution.

That is why we are here debating this constitutional amendment, because there are a lot of us that believe that the Supreme Court was wrong when they decided that desecrating the flag was political expression protected by the first amendment.

Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I would say to my colleagues on the other side of this issue, if you do not have an outlet for civil unrest, burn a French flag; but do not try to do it in France, because you will end up in jail.

As my friend on the other side that offered this substitute said, we all have different opinions on this particular issue. We feel very, very strongly, as the gentleman does on that side. But I will tell my friend the reason I think he is wrong, and that is that for 200 years we had tradition in this country that States had penalties for those that desecrated the flag, and in one 5-4 decision, that was changed.

Now, 80 percent, up to 86 percent sometimes when they take polls, of the

American people disagree with the gentleman. All 50 States, not 40, not 30, but all 50 States have passed resolutions saying that they will ratify this position, which says that my friend's opinion is wrong.

I will say that 100 percent of the veterans organizations, those men and women that fought to keep this country free, support this. They are out in this city campaigning for this amendment, and they are going to score this vote, every single one of them, because they feel so strongly and say that my friend is wrong in his opinion.

Yes, he does have the right to that opinion. But I would say that when some people have said that it does no harm, listen to what it did to the gentleman from Texas (Mr. JOHNSON) when he was a POW and the Vietnamese told him they were burning the American flag. It was disheartening. That does affect us.

Mr. WATT. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Speaker, I would like to thank my colleague on the Committee on the Judiciary for his brilliant presentation on behalf of opposing this amendment.

Mr. Speaker, I came to the floor simply to say that despite the fact that the debate has been about the first amendment, we really do have another issue that has not been talked about a lot, and the issue is this: There are those who would use this particular amendment to try and send a message to the veterans that they care more about them than some of us, that they are more patriotic than some of us.

We are all patriotic. We all say the Pledge of Allegiance to the flag. We all sing "My Country 'tis of Thee." And some of us add to that our support for veterans by putting our money where our mouths are. We do not support the cuts that are being proposed by the opposite side of the aisle. We have stood up on this floor relative to this budget time and time again asking our Republican friends, please do not cut the veterans.

I am patriotic. I support the veterans. I may be against this amendment, but I will be there at appropriations fighting for them. The folks on the opposite side of the aisle will not.

Mr. Speaker, I rise in opposition to the proposed constitutional amendment and in support of the Watt substitute which is intended to harmonize the proposed amendment with the protections of the First Amendment.

It seems to me that the substitute that Congressman WATT is proposing is a common sense amendment that Members can and should support, whatever their position on the need for, or desirability of a flag desecration amendment.

Mr. Speaker, I believe that flag desecration is an act that deserves condemnation. Nonetheless, I strongly oppose the proposed constitutional amendment. The amendment is dangerous and should not be approved.

Yet, at a minimum, if we are going to adopt the proposed flag desecration amendment, I

believe that we should reaffirm that our intention is not to limit the protections of the First Amendment. We should not start down the road toward narrowing the scope of the First Amendment to our Constitution.

Yet, Mr. Speaker, unfortunately, I fear that the Watt substitute will not receive the support that it deserves because the process of considering this resolution is not about the law. It's about politics. In my view, the underlying flag desecration resolution is really political theater of the worst kind.

While the Resolution no doubt is calculated to win favor with veterans organizations, and may well satisfy some of them, decimating our Constitution is the wrong way to honor our veterans. Thus, the need for the Watt substitute.

The reality is that many of the Republicans who will speak so fervently this afternoon about the need for this Resolution are the same Members of Congress who voted for a House Republican Budget Resolution that would have cut appropriations for Veterans health care over ten years by a total of \$6.2 billion below the level needed to maintain purchasing power at the 2003 level.

Just so that the Republicans, who could not see fit to provide a child tax credit to millions of low income workers, nonetheless could provide more than \$1 trillion in tax cuts over ten years, principally to the wealthy, to those who need it least.

The original House Budget resolution would have cut veterans programs by \$28 billion over ten years. As all of us know, the Budget Resolution Conference Agreement that ultimately was adopted provides for an unspecified \$128 billion cut over ten years in discretionary spending with \$7.6 billion in additional unspecified cuts to take place in FY 2004 alone. So the risk to veterans programs is real, and the appropriations process will reflect it.

Mr. Speaker, our veterans need help, not just flag-waving. The best way that Congress can honor veterans is to ensure that programs designed to protect Veterans and provide them with desperately needed assistance are properly funded.

Mr. Speaker, the issue before us is not one of patriotism. It's one of priorities. We have veterans who now wait six months before they can see a doctor in the VA health system. Our veterans wait years before they can even get a decision on their VA disability claims. Is this how we honor our veterans? Is this how we honor their service and their sacrifice?

Mr. Speaker, we will know that this House is serious about honoring our veterans, when we focus our attention on Democratic proposals to reduce the waiting times for our veterans to see a doctor, and reduce the handling time for VA disability claims.

H.J. Res. 4 will merely serve to dishonor the Constitution and to betray the very ideals for which so many veterans fought, and for which so many members of our armed forces made the ultimate sacrifice.

Adopting this resolution will encourage further departures from the First Amendment and diminish respect for our Constitution. Once we start down the road to limiting speech on the basis of content, it is virtually certain that further restrictions of our First Amendment liberties would follow.

Mr. Speaker, freedom of expression is at the very heart of our democracy. It is our First

Amendment and the robust exchange of views that it promotes that distinguishes our country from countries that fear political dissent and imprison dissenters for expressing their views.

Mr. Speaker, the proposed cure of a Constitutional Amendment is far worse than the disease it is intended to address. Our Constitution is a great document that has protected us from oppression for over 200 years. We ought not to tinker with it when such tinkering clearly is not required. I urge my colleagues to support the Watt substitute and reject the dangerous, ill-considered underlying base bill.

Mr. WATT. Mr. Speaker, I yield 30 seconds to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, let me just remind the Members of this House that just 74 short days ago in this same room we stood in the People's House and stripped the veterans' budget by about \$30 billion. That is \$30 billion. We cut 20,000 VA nurses. Where was the patriotism when we lost 6.6 million outpatient visits? Where were you waving your flag as you voted to drop over 160,000 veterans from the VA health care?

Mr. Speaker, we can talk the talk; we need to walk the walk. Let us support the veterans, not with our discussion of the flag, but with service to our VA veterans.

Mr. WATT. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I think the gentleman from Alabama (Mr. DAVIS) hit the nail on the head that this is about our system. I have the utmost confidence in our system. This is not really about those two Supreme Court opinions, because a different composition of the Supreme Court may well say that flag burning is not prohibited, that it is protected speech or is not protected speech. The first amendment will continue to say what it says.

But I respect the system under which we operate that allows the Supreme Court to be the ultimate arbiter of whether we have violated the first amendment or not.

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

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

Mr. Speaker, this debate here and now is not on the appropriation for the Department of Veterans Affairs; it is on whether or not the Congress can pass the constitutional amendment reversing two Supreme Court decisions and prohibiting the physical desecration of the American flag.

The gentleman from California (Mr. CUNNINGHAM), who is a veteran, and I am not, stated the position of every veterans organization in the country: They are for this.

The vote at hand is going to be on the Watts substitute amendment. As I stated in my earlier argument, what this substitute amendment does is constitutionally codify the Johnson and the Eichman decisions, which state

that flag desecration is protected free speech under the first amendment of the United States Constitution.

Mr. WATT. Mr. Speaker, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from North Carolina.

Mr. WATT. Mr. Speaker, I appreciate the chairman yielding, because the chairman has made that point several times. Does the chairman understand that future Supreme Courts may, in fact, have a completely different interpretation of that, and that my amendment does not say anything about those decisions? It just respects the system under which we are operating.

Mr. SENSENBRENNER. Mr. Speaker, reclaiming my time, what it does do is, in order to prevent flag desecration, it requires the Supreme Court of the United States to admit it made a mistake and expressly overrule both the Johnson and Eichman decisions. The Supreme Court of the United States does not overrule previous decisions very often. It did it in *Brown v. The Board of Education*. But not very often in other major areas, particularly in the interpretation of constitutional law, does the Supreme Court of the United States do it.

The way to hit this issue is head on. If you do not like this amendment, vote "no," but do not adopt the Watts substitute amendment, which merely tosses the ball back to the Supreme Court, which twice has told us that flag desecration is constitutionally protected.

The only way to reverse what the Supreme Court has done for sure is to defeat the Watts substitute amendment and pass the underlying bill introduced by the gentleman from California (Mr. CUNNINGHAM).

Mr. Speaker, I ask for a "no" vote on the substitute, a "yes" vote on passage of the constitutional amendment.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of the substitute to H.J. Res. 4, a resolution proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the American flag, offered by my colleague The Honorable MELVIN WATT. I urge my colleagues to reject H.J. Res. 4 as it is presently written, and to support the substitute.

H.J. Res. 4, states, "The following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purpose as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification: Article—'The Congress shall have power to prohibit the physical desecration of the flag of the United States.'." (emphasis added).

The amendment to the Constitution proposed in H.J. Res. 4 is a severe abridgement of the freedom of expression protected by the First Amendment of the United States Constitution. If ratified, H.J. Res. 4 would, for the first time in our Nation's history, modify the Bill of Rights to limit freedom of expression.

This Constitutional amendment is a response to a pair of Supreme Court decisions,

Texas v. Johnson, and *United States v. Eichman*, two cases in which the Court held that state and federal government efforts to prohibit physical "desecration" of the flag by statute were content-based political speech restrictions and imposed unconstitutional limitations on that speech.

In *Texas v. Johnson*, Gregory Johnson was arrested for burning the U.S. flag during a protest at the Republican National Convention in Dallas. His acts were deemed a violation of Texas's "Venerated Objects" statute that outlawed "intentionally or knowingly" desecrating a "national flag." The Supreme Court found that Johnson's conduct constituted symbolic expression and was, therefore, protected by the First Amendment. The Court determined that because Mr. Johnson's guilt depended on the content of his expressive conduct and was restricted because of that content, the Texas law was an unconstitutional violation of the First Amendment.

After the Johnson ruling Congress passed the Flag Protection Act. Under that Act, criminal charges were brought against protesters in Seattle and Washington, D.C. In both cases, the federal district courts relied on Johnson, striking down the Flag Protection Act as unconstitutional when applied to political protesters. The Supreme Court concluded that Congress' attempt to protect the flag was related to "the suppression of free expression" that gave rise to an infringement of First Amendment rights.

The substitute proposed by Mr. WATT is designed to protect American's right to express their opinions and views in a way that is consistent with the First Amendment, and also consistent with Supreme Court precedent.

Freedom of speech and freedom of expression are fundamental components of our democracy. Limiting the ability of American citizens to voice their opinions about their government, through flag desecrations or otherwise, is a violation of the principles of our democracy that are symbolized in the American flag. The ability of American citizens to speak their views, especially when those views are unpopular, against the status quo, or even considered outrageous, is an affirmative social good. It is those dissenting views that often bring about social changes, legal changes, and government changes that benefit all Americans. For example, I shudder to image that America would be today if the "unpopular" views of Dr. Martin Luther King, Jr. were silenced.

The substitute offered by my colleague Mr. WATT protects all First Amendment Free Speech including those expressions that are critical of our local, state, and Federal governments. I proposed an Amendment to H.J. Res. 4, to protect Americans' right to speak out against their governments, even if they express themselves by desecrating the flag. I support Mr. WATT's substitute because it protects American's rights to voice unpopular views.

I join many Americans in the belief that some desecrations of the flag are distasteful and offensive. However, my offense at some expressions of free speech is outweighed by my respect for the First Amendment. I may disagree with some how some Americans express their views by destroying the American flag. But I will not trample on the First Amendment to silence a voice with which I do not agree. H.J. Res. 4 places limits on the manner

in which some American may express their dissent with Government activity. This is an unacceptable limit on the content of the dissent itself.

Mr. WATT's substitute to H.J. Res. 4, ensures that every American can voice their opinions in a way that is consistent with the First Amendment to the United States Constitution, including speech that is critical of our local, State, and Federal governments.

Mr. Speaker, I reject H.J. Res. 4 as it is presently written. I support Mr. WATT's substitute to H.J. Res. 4, and urge my colleagues to support the substitute to protect the First Amendment freedoms of all Americans.

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

The SPEAKER pro tempore (Mr. THORNBERRY). Pursuant to House Resolution 255, the previous question is ordered on the amendment in the nature of a substitute and on the joint resolution.

The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WATT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 129, nays 296, not voting 8, as follows:

[Roll No. 233]

YEAS—129

Abercrombie	Hinchey	Nadler
Ackerman	Hoeffel	Neal (MA)
Allen	Holt	Oberstar
Baldwin	Honda	Obey
Ballance	Hooley (OR)	Olver
Becerra	Inslee	Otter
Bell	Israel	Owens
Blumenauer	Jackson (IL)	Paul
Boucher	Jackson-Lee	Payne
Brady (PA)	(TX)	Pelosi
Brown (OH)	Jefferson	Price (NC)
Brown, Corrine	Johnson, E. B.	Rangel
Capps	Jones (OH)	Royal-Allard
Capuano	Kaptur	Rush
Cardin	Kennedy (RI)	Ryan (OH)
Carson (IN)	Kilpatrick	Sabo
Case	Kind	Sanchez, Linda
Clay	Klecza	T.
Clyburn	Kucinich	Sanchez, Loretta
Cummings	Lampson	Sanders
Davis (AL)	Larsen (WA)	Schakowsky
Davis (IL)	Leach	Schiff
DeFazio	Lee	Scott (VA)
DeLauro	Lofgren	Serrano
Dicks	Lowey	Slaughter
Dooley (CA)	Majette	Solis
Emanuel	Maloney	Spratt
Engel	Markey	Stark
Eshoo	Matheson	Tanner
Etheridge	Matsui	Tauscher
Evans	McCarthy (MO)	Thompson (CA)
Farr	McCullom	Thompson (MS)
Fattah	McDermott	Tierney
Filner	McGovern	Towns
Ford	McNulty	Udall (CO)
Frank (MA)	Meehan	Udall (NM)
Frost	Meeks (NY)	Van Hollen
Gilchrest	Millender-	Velazquez
Gonzalez	McDonald	Visclosky
Greenwood	Miller (NC)	Waters
Grijalva	Miller, George	
Hastings (FL)	Moore	
Hill	Moran (VA)	

Maloney	Payne	Solis	Capps	Hastings (WA)	Meeks (NY)	Shays	Tancredo	Visclosky
Markey	Pelosi	Stark	Capuano	Hayes	Menendez	Sherman	Tanner	Vitter
Matheson	Petri	Tanner	Cardoza	Hayworth	Mica	Sherwood	Tauscher	Walden (OR)
Matsui	Price (NC)	Tauscher	Carson (IN)	Heffley	Michaud	Shimkus	Tauzin	Walsh
McCarthy (MO)	Rangel	Thompson (CA)	Carter	Hensarling	Millender-	Shuster	Taylor (MS)	Wamp
McCullum	Royal-Allard	Tierney	Case	Hill	McDonald	Simmons	Taylor (NC)	Waters
McDermott	Rush	Udall (CO)	Castle	Hinchey	Miller (FL)	Simpson	Terry	Watson
Meehan	Ryan (OH)	Udall (NM)	Chabot	Hinojosa	Miller (MI)	Skelton	Thomas	Watt
Meeks (NY)	Sabo	Van Hollen	Chocola	Hobson	Miller (NC)	Slaughter	Thompson (CA)	Waxman
Miller (NC)	Sanchez, Linda	Velazquez	Clay	Hoefel	Miller, Gary	Smith (MI)	Thompson (MS)	Weiner
Miller, George	T.	Visclosky	Clyburn	Hoekstra	Miller, George	Smith (NJ)	Thornberry	Weldon (FL)
Moore	Sanders	Waterson	Coble	Holden	Mollohan	Smith (TX)	Tiabrt	Weldon (PA)
Moran (VA)	Schakowsky	Waterson	Cole	Holt	Moore	Snyder	Tiberi	Weller
Nadler	Schiff	Watson	Collins	Honda	Moran (KS)	Solis	Tierney	Whitfield
Oberstar	Scott (VA)	Watson	Cooper	Hooley (OR)	Moran (VA)	Souder	Toomey	Wicker
Obey	Serrano	Waxman	Costello	Hostettler	Murphy	Spratt	Towns	Wilson (NM)
Olver	Shadegg	Weiner	Cox	Houghton	Murtha	Stark	Turner (OH)	Wilson (SC)
Owens	Shays	Woolsey	Cramer	Hoyer	Musgrave	Stearns	Turner (TX)	Wolf
Pastor	Slaughter	Wu	Crane	Hulshof	Myrick	Stenholm	Udall (CO)	Woolsey
Paul	Snyder		Crenshaw	Hunter	Nadler	Strickland	Udall (NM)	Wu

NOT VOTING—8

Carson (OK)	Herger	Smith (WA)
Conyers	Larson (CT)	Wexler
Gephardt	Ryan (WI)	

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. THORNBERRY) (during the vote). Members have 2 minutes remaining in this vote.

□ 1754

Ms. LORETTA SANCHEZ of California and Mrs. NAPOLITANO changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

SUPPORTING THE GOALS AND IDEALS OF PEACE OFFICERS MEMORIAL DAY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 231.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Indiana (Mr. SOUDER) that the House suspend the rules and agree to the resolution, H. Res. 231, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 422, nays 0, not voting 11, as follows:

[Roll No. 235]

YEAS—422

Abercrombie	Bell	Boucher	Gibbons	Maloney	Sanchez, Loretta	JOBs AND GROWTH PLAN
Ackerman	Bereuter	Boyd	Gilcrest	Manzullo	Sanders	(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)
Aderholt	Berkley	Bradley (NH)	Gillmor	Markley	Sandlin	Mrs. BLACKBURN. Mr. Speaker, I suppose I should not be surprised by the latest tactics Democrats are employing to convince Americans that the jobs and growth plan ignores working families, but today I think most of
Akin	Berman	Brady (PA)	Gingrey	Marshall	Saxton	
Alexander	Berry	Brady (TX)	Gonzalez	Matheson	Schakowsky	
Allen	Biggert	Brown (OH)	Goode	Matsui	Schiff	
Andrews	Bilirakis	Brown (SC)	Goodlatte	McCarthy (MO)	Scroch	
Baca	Bishop (GA)	Brown, Corrine	Goss	McCarthy (NY)	Scott (GA)	
Bachus	Bishop (NY)	Brown-Waite,	Granger	McCullum	Scott (VA)	
Baird	Bishop (UT)	Ginny	Graves	McCotter	Sensenbrenner	
Baker	Blackburn	Burgess	Green (TX)	McCrery	Serrano	
Baldwin	Blumenauer	Burns	Green (WI)	McDermott	Sessions	
Ballance	Blunt	Burr	Grijalva	McGovern	Shadegg	
Ballenger	Boehlert	Burton (IN)	Gutierrez	McHugh	Shaw	
Barrett (SC)	Boehner	Buyer	Gutknecht	McInnis		
Bartlett (MD)	Bonilla	Calvert	Hall	McIntyre		
Barton (TX)	Bonner	Camp	Harman	McKeon		
Bass	Bono	Cannon	Harris	McNulty		
Beauprez	Boozman	Cantor	Hart	Meehan		
Becerra	Boswell	Capito	Hastings (FL)	Meek (FL)		

Carson (OK)	Herger	Smith (WA)	Cardin	Gordon	Ryan (WI)
Conyers	Larson (CT)	Wexler	Carson (OK)	Greenwood	Smith (WA)
Gephardt	Ryan (WI)		Conyers	Herger	Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1803

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. LARSON of Connecticut. Mr. Speaker, I regret that I could not be present today, Tuesday, June 03, 2003, to vote on rollcall vote Nos. 230, 231, 232, 233, 234, and 235 due to a family medical emergency.

Had I been present, I would have voted:

"No" on rollcall vote No. 230 on S. 222—Zuni Indian Tribe Water Rights Settlement Act of 2003;

"No" on rollcall vote No. 231 on S. 273—Grand Teton National Park Land Exchange Act;

"Yea" on rollcall vote No. 232 on S. 7563—To designate the Federal building and United States courthouse located at 46 East Ohio Street in Indianapolis, Indiana, as the "Birch Bayh Federal Building and United States Courthouse";

"Yea" on rollcall vote No. 233 on the amendment in the nature of a substitute to H.J. Res. 4 offered by Congressman WATT;

"Yea" on rollcall vote No. 234 on final passage of H.J. Res. 4—Constitutional Amendment to Prohibit Desecration of the Flag; and

"Yea" on rollcall vote No. 235 on H. Res. 231—Supporting the goals and ideals of Peace Officers Memorial Day.