

Capito Holt  
 Capps Hooley  
 Cardin Horn  
 Carson (IN) Houghton  
 Carson (OK) Hoyer  
 Castle Hulshof  
 Chabot Hunter  
 Chambliss Hyde  
 Clay Inslee  
 Clement Isakson  
 Clyburn Israel  
 Coble Issa  
 Collins Istook  
 Combest Jackson-Lee  
 Condit (TX)  
 Cooksey Jenkins  
 Costello John  
 Cox Johnson (CT)  
 Cramer Johnson (IL)  
 Crane Johnson, E.B.  
 Crenshaw Johnson, Sam  
 Crowley Jones (NC)  
 Cubin Kanjorski  
 Culberson Kaptur  
 Cummings Keller  
 Cunningham Kelly  
 Davis (CA) Kildee  
 Davis (FL) Kilpatrick  
 Davis (IL) King (NY)  
 Davis, Jo Ann Kingston  
 Davis, Tom Kirk  
 Deal Knollenberg  
 DeLay Kolbe  
 DeMint Kucinich  
 Deutsch LaHood  
 Diaz-Balart Lampson  
 Dicks Langevin  
 Dingell Lantos  
 Doolittle Largent  
 Doyle Larsen (WA)  
 Dreier Larson (CT)  
 Duncan Latham  
 Dunn Leach  
 Edwards Lewis (CA)  
 Ehlers Lewis (GA)  
 Ehrlich Lewis (KY)  
 Emerson Linder  
 Engel Lipinski  
 English LoBiondo  
 Etheridge Lowey  
 Evans Lucas (KY)  
 Everett Lucas (OK)  
 Ferguson Maloney (CT)  
 Filner Maloney (NY)  
 Fletcher Manzullo  
 Foley Mascara  
 Forbes Matheson  
 Ford Matsui  
 Fossella McCarthy (NY)  
 Frelinghuysen McCreery  
 Gallegly McHugh  
 Ganske McIntyre  
 Gekas McKeon  
 Gibbons McKinney  
 Gilchrest McNulty  
 Gillmor Meek (FL)  
 Gilman Meeks (NY)  
 Gonzalez Mica  
 Goode Millender-  
 Goodlatte McDonald  
 Gordon Miller (FL)  
 Goss Miller, Gary  
 Graham Mollohan  
 Granger Moore  
 Graves Moran (KS)  
 Green (TX) Morella  
 Green (WI) Murtha  
 Greenwood Myrick  
 Grucci Nethercutt  
 Gutierrez Ney  
 Gutknecht Northup  
 Hall (OH) Norwood  
 Hall (TX) Nussle  
 Hansen Ortiz  
 Harman Osborne  
 Hart Ose  
 Hastings (WA) Otter  
 Hayes Oxley  
 Hayworth Pallone  
 Hefley Pascrell  
 Hill Pastor  
 Hilleary Pelosi  
 Hilliard Pence  
 Hobson Peterson (MN)  
 Hoeffel Peterson (PA)  
 Holden Phelps

Pickering  
 Pitts  
 Pombo  
 Pomeroy  
 Portman  
 Pryce (OH)  
 Quinn  
 Radanovich  
 Rangel  
 Regula  
 Rehberg  
 Reynolds  
 Rodriguez  
 Roemer  
 Rogers (KY)  
 Rogers (MI)  
 Rohrabacher  
 Ros-Lehtinen  
 Ross  
 Rothman  
 Roukema  
 Roybal-Allard  
 Rush  
 Ryan (WI)  
 Ryun (KS)  
 Sanchez  
 Sandlin  
 Saxton  
 Schrock  
 Scott  
 Sensenbrenner  
 Serrano  
 Sessions  
 Shadegg  
 Shaw  
 Sherwood  
 Shimkus  
 Lampsom  
 Shows  
 Shuster  
 Simmons  
 Simpson  
 Skeen  
 Skelton  
 Smith (MI)  
 Smith (NJ)  
 Smith (TX)  
 Smith (WA)  
 Snyder  
 Solis  
 Souder  
 Spratt  
 Stearns  
 Stenholm  
 Strickland  
 Stump  
 Stupak  
 Sununu  
 Sweeney  
 Tanner  
 Tauscher  
 Tauzin  
 Taylor (MS)  
 Taylor (NC)  
 Terry  
 Thomas  
 Thompson (MS)  
 Thornberry  
 Thune  
 Thurman  
 Tiahrt  
 Tiberi  
 Toomey  
 Traficant  
 Turner  
 Udall (NM)  
 Upton  
 Velazquez  
 Walden  
 Walsh  
 Wamp  
 Watson (CA)  
 Watts (OK)  
 Weiner  
 Weldon (FL)  
 Weldon (PA)  
 Weller  
 Wexler  
 Whitfield  
 Wicker  
 Wilson  
 Wolf  
 Woolsey  
 Wynn  
 Young (AK)  
 Young (FL)

Abercrombie  
 Baldwin  
 Horn  
 Berkley  
 Brown (OH)  
 Capuano  
 Conyers  
 DeFazio  
 DeLauro  
 Doggett  
 Dooley  
 Eshoo  
 Farr  
 Fattah  
 Flake  
 Frank  
 Frost  
 Hastings (FL)  
 Hinchey  
 Honda  
 Jackson (IL)  
 Kennedy (MN)

Barrett  
 Becerra  
 Bonior  
 Clayton

Berman  
 Bishop  
 Bryant  
 Coyne  
 DeGette  
 Delahunt  
 Gephardt  
 Herger  
 Hostettler  
 Hutchinson  
 Jefferson

NAYS—61  
 Kennedy (RI)  
 Kerns  
 LaFalce  
 Lee  
 Levin  
 Lofgren  
 Luthier  
 Markey  
 McCarthy (MO)  
 McCollum  
 McDermott  
 McGovern  
 Meehan  
 Miller, George  
 Mink  
 Moran (VA)  
 Nadler  
 Napolitano  
 Oberstar  
 Obey  
 Oliver

## ANSWERED "PRESENT"—11

Hinojosa  
 Hoekstra  
 Jones (OH)  
 Menendez

## NOT VOTING—31

Kind (WI)  
 Kleczka  
 LaTourette  
 McInnis  
 Neal  
 Owens  
 Platts  
 Putnam  
 Reyes  
 Riley  
 Sanders

□ 1230

Mr. STARK, Mr. GEORGE MILLER of California, Ms. LEE, Ms. LOFGREN, Mr. WU, Mr. CAPUANO, Ms. BERKLEY, Mr. LUTHER, Ms. DELAURO, Mr. MEEHAN, Mr. MARKEY, Ms. ESHOO, Ms. MCCARTHY of Missouri, Messrs. KERNs, MORAN of Virginia, MCDERMOTT, THOMPSON of California, SHERMAN, DOOLEY of California, HASTINGS of Florida, KENNEDY of Minnesota, Mrs. MINK of Hawaii, Ms. SLAUGHTER, and Messrs. RAMSTAD, FROST, JACKSON of Illinois, and FATTAH changed their vote from "yea" to "nay."

Mr. STUPAK and Ms. ROYBAL-ALLARD changed their vote from "nay" to "yea."

Mr. PETRI, Mrs. CLAYTON, Mr. BONIOR, and Mr. WATT of North Carolina changed their vote from "yea" to "present."

Mr. GUTIERREZ changed his vote from "present" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

## ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to clause 8 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting on the additional motion to suspend the rules on which the Chair has postponed further proceedings.

## COMMENDING MILITARY AND DEFENSE CONTRACTOR PERSONNEL RESPONSIBLE FOR SUCCESSFUL BALLISTIC MISSILE TEST

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 195.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HUNTER) that the House suspend the rules and agree to the resolution, H. Res. 195, 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 321, nays 77, answered "present" 6, not voting 29, as follows:

[Roll No. 230]

## YEAS—321

Abercrombie  
 Aderholt  
 Akin  
 Andrews  
 Armye  
 Baca  
 Bachus  
 Baker  
 Ballenger  
 Barcia  
 Barr  
 Bartlett  
 Barton  
 Bass  
 Becerra  
 Bentsen  
 Bereuter  
 Berkley  
 Berry  
 Biggert  
 Bilirakis  
 Blagojevich  
 Blunt  
 Boehlert  
 Boehner  
 Bonilla  
 Bono  
 Borski  
 Boswell  
 Boucher  
 Boyd  
 Brady (PA)  
 Brady (TX)  
 Brown (SC)  
 Burton  
 Buyer  
 Callahan  
 Calvert  
 Camp  
 Cannon  
 Cantor  
 Capito  
 Capps  
 Carson (IN)  
 Carson (OK)  
 Castle  
 Chabot  
 Chambliss  
 Clement  
 Coble  
 Collins  
 Combest  
 Condit  
 Cooksey  
 Costello  
 Cox  
 Cramer  
 Crane  
 Crenshaw  
 Cubin  
 Culberson  
 Cummings  
 Cunningham  
 Davis (CA)  
 Davis (FL)  
 Davis, Jo Ann  
 Davis, Tom  
 Deal  
 DeLauro  
 DeLay  
 DeMint  
 Deutsch  
 Diaz-Balart  
 Dicks  
 Dooley  
 Doolittle  
 Doyle  
 Dreier  
 Duncan  
 Dunn  
 Edwards  
 Ehlers  
 Ehrlich  
 Emerson  
 Engel  
 English  
 Etheridge  
 Evans  
 Everett  
 Fattah  
 Ferguson  
 Flake  
 Fletcher  
 Foley  
 Forbes  
 Ford  
 Fossella  
 Frelinghuysen  
 Frost  
 Gallegly  
 Ganske  
 Gekas  
 Gibbons  
 Gilchrest  
 Gillmor  
 Gilman  
 Gonzalez  
 Goode  
 Goodlatte  
 Gordon  
 Goss  
 Graham  
 Granger  
 Graves  
 Green (TX)  
 Green (WI)  
 Greenwood  
 Grucci  
 Gutknecht  
 Hall (OH)  
 Hall (TX)  
 Hansen  
 Hart  
 Hastings (WA)  
 Hayes  
 Hayworth  
 Hefley  
 Hill  
 Hilleary  
 Hilliard  
 Hobson  
 Hoeffel  
 Holden  
 Horn  
 Houghton  
 Hoyer  
 Hulshof  
 Hunter  
 Hutchinson  
 Hyde  
 Inslee  
 Isakson  
 Issa  
 Istook  
 Jenkins  
 John  
 Johnson (CT)  
 Johnson (IL)  
 Johnson, E. B.  
 Johnson, Sam  
 Jones (NC)  
 Kanjorski  
 Keller  
 Kelly  
 Kennedy (MN)  
 Kennedy (RI)  
 Kerns  
 Kildee  
 King (WI)  
 King (NY)  
 Kingston  
 Kirk  
 Knollenberg  
 Kolbe  
 LaHood  
 Lampson  
 Langevin  
 Lantos  
 Largent  
 Larson (CT)  
 Latham  
 Leach  
 Lewis (CA)  
 Lewis (KY)  
 Linder  
 Lipinski  
 LoBiondo  
 Lowey  
 Lucas (KY)  
 Lucas (OK)  
 Maloney (CT)  
 Maloney (NY)  
 Manzullo  
 Mascara  
 Matheson  
 Matsui  
 McCarthy (NY)  
 McCreery  
 McHugh  
 McIntyre  
 McKeon  
 McKinney  
 McNulty  
 Meek (FL)  
 Meeks (NY)  
 Mica  
 Millender-  
 McDonald  
 Miller (FL)  
 Miller, Gary  
 Mollohan  
 Moore  
 Moran (KS)  
 Morella  
 Murtha  
 Myrick  
 Nethercutt  
 Ney  
 Northup  
 Norwood  
 Nussle  
 Ortiz  
 Osborne  
 Ose  
 Otter  
 Oxley  
 Pallone  
 Pascrell  
 Pastor  
 Pelosi  
 Pence  
 Peterson (MN)  
 Peterson (PA)  
 Phelps

Mollohan	Roemer	Stenholm
Moore	Rogers (KY)	Strickland
Moran (KS)	Rogers (MI)	Stump
Moran (VA)	Rohrabacher	Sununu
Morella	Ros-Lehtinen	Sweeney
Murtha	Ross	Tancredo
Myrick	Rothman	Tanner
Napolitano	Roukema	Tauscher
Nethercutt	Roybal-Allard	Tauzin
Ney	Royce	Taylor (MS)
Northup	Ryan (WI)	Taylor (NC)
Norwood	Ryun (KS)	Terry
Nussle	Sanchez	Thomas
Ortiz	Sandlin	Thompson (MS)
Osborne	Saxton	Thornberry
Ose	Schaffer	Thune
Otter	Schrock	Thurman
Oxley	Scott	Tiahrt
Pallone	Sensenbrenner	Tiberi
Pascrell	Serrano	Toomey
Pence	Sessions	Trafficant
Peterson (MN)	Shadegg	Turner
Peterson (PA)	Shaw	Upton
Petri	Shays	Walden
Phelps	Sherman	Walsh
Pickering	Sherwood	Wamp
Pitts	Shimkus	Watts (OK)
Platts	Shows	Waxman
Pombo	Shuster	Weldon (FL)
Pomeroy	Simmons	Weldon (PA)
Portman	Simpson	Weller
Price (NC)	Skeen	Wexler
Pryce (OH)	Skelton	Whitfield
Quinn	Smith (MI)	Wicker
Radanovich	Smith (NJ)	Wilson
Rahall	Smith (TX)	Wolf
Ramstad	Smith (WA)	Wu
Regula	Snyder	Young (AK)
Rehberg	Souder	Young (FL)
Reynolds	Spratt	
Rodriguez	Stearns	

NAYS—77

Ackerman	Hoekstra	Oberstar
Allen	Holt	Olver
Baird	Honda	Pastor
Baldacci	Jackson (IL)	Paul
Baldwin	Jones (OH)	Payne
Barrett	Kaptur	Rangel
Blumenauer	Kilpatrick	Rivers
Bonior	Kucinich	Rush
Brown (FL)	LaFalce	Sabo
Brown (OH)	Larsen (WA)	Sawyer
Capuano	Lee	Schakowsky
Cardin	Levin	Slaughter
Clay	Lewis (GA)	Solis
Clayton	Luther	Stark
Clyburn	Markey	Stupak
Conyers	McCarthy (MO)	Thompson (CA)
Davis (IL)	McCollum	Tierney
Doggett	McDermott	Udall (NM)
Eshoo	McGovern	Velazquez
Farr	McKinney	Visclosky
Filner	Meehan	Watson (CA)
Frank	Meek (FL)	Watt (NC)
Gutierrez	Meeks (NY)	Weiner
Hastings (FL)	Miller, George	Woolsey
Hilliard	Nadler	Wynn
Hinchev	Neal	

ANSWERED "PRESENT"—6

Crowley	Jackson-Lee	Pelosi
DeFazio	(TX)	
Dingell	Obey	

NOT VOTING—29

Berman	Hostettler	Sanders
Bishop	Israel	Scarborough
Bryant	Jefferson	Schiff
Burr	Kleczka	Spence
Coyne	LaTourette	Towns
DeGette	McInnis	Udall (CO)
Delahunt	Owens	Vitter
Gephardt	Putnam	Waters
Harman	Reyes	Watkins (OK)
Hergert	Riley	

□ 1240

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.

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

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 189, I call up the joint resolution (H.J. Res. 36) 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. SIMPSON). Pursuant to House Resolution 189, the joint resolution is considered read for amendment.

The text of House Joint Resolution 36 is as follows:

H.J. RES. 36

*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 two 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 Michigan (Mr. CONYERS) 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. 36.

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 5 minutes.

Mr. Speaker, House Joint Resolution 36 proposes to amend the United States Constitution to allow Congress to prohibit the physical desecration of the flag of the United States. The proposed amendment reads, "The Congress shall have power to prohibit the physical desecration of the flag of the United States."

The amendment itself does not prohibit flag desecration; it merely empowers Congress to enact legislation to prohibit the physical desecration of the flag and establishes boundaries within which it may legislate.

The American flag serves as a unique symbol of the ideas upon which America was founded. It is a national asset that helps preserve our unity, our freedom, and our liberty as Americans. This symbol represents our country's many hard-won freedoms, paid for with the lives of thousands of young men and women. The American people want their elected representatives to protect this cherished symbol.

Prior to the Supreme Court's ruling in 1989 in *Texas v. Johnson*, 48 States and the Federal Government had laws prohibiting desecration of the flag. Since that ruling, however, neither the States nor the Federal Government have been able to prohibit its desecration. In *Johnson*, the court, by a 5 to 4 vote, held that burning an American flag as part of a political demonstration was expressive conduct protected by the first amendment.

In response to *Johnson*, Congress overwhelmingly passed the Flag Protection Act of 1989, which amended the Federal flag statute to focus exclusively on the conduct of the actor, irrespective of any expressive message he or she might be intending to convey.

In 1990, the Supreme Court, in another 5 to 4 ruling, in *U.S. v. Eichman*, struck down that act as an infringement of expressive conduct protected by the first amendment, despite having also concluded that the statute was content-neutral. According to the Court, the Government's desire to protect the flag "is implicated only when the person's treatment of the flag communicates a message to others." Therefore, any flag desecration statute, by definition, will be related to the suppression of free speech, and, thus, run afoul of the first amendment.

Prohibiting physical desecration of the American flag is not inconsistent with first amendment principles. Until the *Johnson* and *Eichman* cases, punishing flag desecration had been viewed as compatible with both the letter and spirit of the first amendment, and both Thomas Jefferson and James Madison strongly supported government actions to prohibit flag desecration.

The first amendment does not grant individuals an unlimited right to engage in any form of desired conduct. Urinating in public or parading through the streets naked may both be done by a person hoping to communicate a message; yet both are examples of illegal conduct during which political debate or a robust exchange occurs.

□ 1245

As a result of the Court's misguided conclusions in *Johnson* and *Eichman*, however, flag desecration, or what Justice Rehnquist described as a "grunt,"