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	Traficant
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
Hinchey	Neal	

ANSWERED ''PRESENT''—6

Crowley	Jackson-Lee (TX)	Pelosi
DeFazio	Obey	
Dingell		

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)
Herger	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,''

now receives first amendment protection similar to that of the pure political speech that the first amendment speech clause was created to enhance.

In the years since the Johnson and Eichman rulings were handed down, 49 States have passed resolutions calling upon Congress to pass a constitutional amendment to protect the flag and send it back to the States for ratification. Although a constitutional amendment should only be approached after much reflection, the Supreme Court's conclusions in Johnson and Eichman have left the American people with no other alternative but to amend the Constitution to provide Congress the authority to prohibit the physical desecration of the American flag.

In a compelling dissent from the Johnson majority's conclusion, Chief Justice Rehnquist, joined by Justices O'Connor and White stated: ''The American flag, then, throughout more than 200 years of our history, has come to be the visible symbol embodying our Nation. It does not represent the views of any particular political party, and it does not represent any particular political philosophy. The flag is not simply another 'idea' or 'point of view' competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with almost mystical reverence, regardless of what sort of social, political, or philosophical beliefs they may have.''

Mr. Speaker, this proposed amendment is bipartisan legislation supported by Americans from all walks of life because they know the importance of this cherished national symbol. I urge my colleagues to support this important constitutional amendment.

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

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

Mr. Speaker, if one does not have much to do today, this is a great way to spend the afternoon, discussing for the fifth time whether the Congress should amend the Constitution with reference to flag desecration. Now, the answer has been ''no'' all of these other times. So I ask the House rhetorically, why does not the other body take this measure up first, for once, instead of us? Is there some protocol not known to the ranking member of the committee? There are many other things that could be done in the interest of furthering the democratic spirit of the United States.

Now, on behalf of everybody in the House, I would like to be the first to assert the boilerplate language so that my colleagues will not all have to repeat it again. I deplore desecration of the flag in any form, but I am strongly opposed to this resolution because it goes against the ideals and elevates a symbol of freedom over freedom itself.

I would like unanimous consent to say that for everybody that is going to want to say that, to make sure that everybody understands that those who oppose this measure are patriotic and are not by implication, direct or otherwise, supporting any kind of desecration of the flag. We do not do that. That is not what we are here for.

So that leaves two other points to be made, the same ones made before. The first is Justice Oliver Wendell Holmes. This is 1929: ''The Constitution protects not only freedom for the thought and expression we agree with, but freedom for the thought we hate.'' Okay, got that? All right. That is five times in my career that we go through this.

Then the final point that should be made is that, in 1989, the Supreme Court said that all the State laws in the country banning flag-burning and making it illegal are themselves illegal. Then the Congress tried to do it. And the Supreme Court, not the most progressive part of the Federal system, said, no, you cannot do it, Congress.

And now, for the fifth time, we do not even agree on it ourselves. We do not want to do it. Basically, the legislative body of the United States of America does not want to make an amendment to our Constitution appropriate to accomplish what State laws tried and what Justice Oliver Wendell Holmes talked about, and many others.

In effect, what we are trying to do is not to punish those who feel differently about these matters. The better course is to persuade them that they are wrong. We can imagine no more appropriate response to burning a flag than waving our own flag; no way to counter a flag-burner's message than by saluting the flag. We do not consecrate the flag by punishing its desecration because, in doing so, we dilute the freedom that this cherished emblem represents.

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

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

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

Mr. CUNNINGHAM. Mr. Speaker, I do not believe that the primary threat to our country comes from a bomb, or hostile nation. I do believe that the threat to this Nation comes from within, from those that would taint the values of this country of religion and our beliefs and our flag. Mr. Speaker, 23 nations, 23 civilizations have been destroyed from within for this very type and form of demagoguery; degradation of values.

Mr. Speaker, this is not political to us that support the flag. I have lists here of every single ethnic group in the United States, gender groups, children, senior citizens that support the amendment.

The other side just stated, there is not much to do today, if one wants to listen to this, to trivialize the event. To us, to every single veterans' group, to 80 percent of the American people, 49 States that had laws on the books was overruled of 200 years of history, 200 years of tradition, by a one-vote margin in our courts. Is it wrong because nine people in a 5 to 4 decision decided otherwise? Yes. That is why we are here today. We believe that it is wrong.

It is not hard to make this decision when one knows what their values are, and one cannot rule by ''but.'' People say, well, I deplore the burning of the American flag, but. It is not hard to make the decision when one knows their values and what they are by deed heart; mind.

I have in this folder literally hundreds of letters from third graders, from fourth graders, from fifth graders about what the flag means to them. This is more than just a piece of cloth. It is something that our children, our grandchildren, our grandparents have thought and talk about what it means to them. To watch somebody burn the American flag represents a destruction of those values, of those ideas and of those thoughts. That is why we are opposed to it.

I was witness to a young Hispanic that was protesting proposition 187. He was opposed to the proposition. But in his midst, there was a group of Hispanics that turned to burn the American flag. This young Hispanic grabbed the flag and protected it and was beaten by the group that was burning the American flag.

If we take a look at our Nation, every ethnic group stood behind this flag, every veterans' group. Mr. Speaker, 372 Members of this body, 372, voted for this amendment, and it will pass today. But yet, there is a group out there that would fight against it.

Mr. Speaker, if one has nothing more to do, watch us today? I hear that in disgust.

Mr. Speaker, as an example of what the flag means, I was overseas and there was a friend of mine that was a prisoner of war for 7 years. It took him 5 years to knit an American flag on the inside of his shirt, and he would share that flag with his comrades until the Vietnamese guards broke in, and they saw the POW without his shirt. They ripped the flag to pieces, and they threw it on the ground. They took him out, and they beat this POW for hours, and they brought him back, unconscious to the point where his comrades thought that he was not going to survive. His comrades comforted him as much as they could, and they went about their work. A few moments later, they saw this broken, bodied POW crawl to the center of the floor and watched him as he started gathering those bits of thread to knit another flag.

Mr. Speaker, we are not here just to waste time. This is what this country stands for, its flag, whether it is the right to be able to say a prayer, to honor our flag, or to honor our traditions.

Mr. CONYERS. Mr. Speaker, I hope that my distinguished friend from California, I hope that his moving plea is

taken over to the other body, which every year turns back this work.

Mr. Speaker, I yield 4 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), the distinguished ranking member of the subcommittee.

□ 1300

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would say to my esteemed and honorable friend, the gentleman from California (Mr. CUNNINGHAM), his cause is extremely noble. I honor him as I honor those who have served in the United States military and those who sit as Americans with the privilege and freedom of pledging allegiance to the flag of the United States, a nation representing the freest persons in the world.

Humbly I say in debate that I love America and I love the flag. I come from a generation that required the pledge of allegiance every single morning, and through the process of the Committee on the Judiciary, I have come to understand the value of the Constitution of the United States and the privileges that are given.

Might I say that I also stand here as an American who did not come to this Nation free. I realize the importance of changing laws, for this Constitution declared me as three-fifths of a person, and the early history of this flag had slavery.

In spite of all of that, in a tumultuous civil rights movement, I can frankly say, I love America. But I am warned and cautious about what America stands for. I believe that America stands for freedom of expression, freedom of choices, freedom of the ability to express one's religion, and, as well, to express one's opposition.

In the last 20 years, I do not think any one of us could count a time that we have seen a flag-burning. I would simply say that the very moving story of my colleague suggested that, in fact, there might be question as to whether or not desecrating a flag includes sewing it into one's pocket.

This Constitution and the symbol of the flag represents who we are as a nation. The flag is a symbol. This legislation which would require, an amendment to the Constitution of the United States counter what our Constitution stands for. If we just think about it, it counters what the flag stands for freedom and justice.

Let me read very briefly the words of a veteran, a constituent of mine who writes to urge us to oppose House Joint Resolution 36, the proposed constitutional amendment to outlaw desecration of the United States flag.

He agrees with other veterans, such as General Colin Powell and Senator John Glenn, that ''. . . such legislation is an unnecessary intrusion and a threat to the rights and liberties I chose to defend during my military service. Those who favor the proposed amendment say they do so in honor of the flag, but in proposing to unravel the first amendment, they desecrate what the flag represents and what I swore to defend and risked dying for when I took my military oath of office, the Constitution and the principles of liberty and freedom.''

Mr. Speaker, that is why I am here on the floor of the House, not to desecrate the flag or disrespect it, but to defend the principles of liberty and freedom. Do we need language to tell us how cherished and precious our flag is? Do we need to deny someone else their right to the opposition?

I am reminded of the tenets of Christianity. It is not by the word we speak, but by our deeds. And if, in fact, our deeds are honoring the flag of the United States, then it will counter those deeds of someone else who we believe dishonors that flag, because we have the right to express our freedom and our beliefs, and they likewise have the right to express theirs.

I call upon this Congress, though I know this House has repeatedly voted three or four times on this particular resolution and it has not prevailed, but the Supreme Court, with which I have agreed and disagreed, twice has said the rules to eliminate the desecration of the symbol of the flag take away the rights under this Constitution and the principles we hold so dear.

I would much rather defend, if I was given the privilege, the gentleman's right to speak in opposition to me, as opposed to upholding a cloth which I believe stands brightly and boldly on its own without intrusion by legislation which denies the privilege of the rights of freedom and dignity.

I submit for the RECORD the letter to which I referred earlier, as follows:

HOUSTON, TX,
June 6, 2001.

Hon. SHEILA JACKSON LEE,
Cannon House Office Building, House of Representatives, Washington, DC.

REPRESENTATIVE JACKSON LEE: As your constituent, I strongly urge you to oppose HJ Res. 36/SJ Res. 7, the proposed constitutional amendment to outlaw desecration of the United States flag. I agree with other veterans such as General Colin Powell and Senator John Glenn that such legislation is an unnecessary intrusion and a threat to the rights and liberties I chose to defend during my military service. Those who favor the proposed amendment say they do so in honor of the flag. But in proposing to unravel the First Amendment, they desecrate what the flag represents, and what I swore to defend—and risked dying for—when I took my military oath of office: the Constitution and its principles of liberty and freedom.

While flag burning is rare, it can be a powerful and important form of speech. As a patriotic American, I may be deeply troubled by the content of this political speech.

However, it is a far worse crime against this country and dishonors veterans that Congress annually attempts to take away our right to freedom of expression.

Again, I urge you to oppose HJ Res. 36/SJ Res. 7. Of the gallant Americans who fought and died in the service of our country within the last 200 years, I tell you this: They did not die defending the flag. They died defending our freedom and the ideals upon which our country was founded. Don't cheapen their sacrifice by supporting this misguided amendment.

I look forward to hearing your thoughts on this proposed constitutional amendment.

Respectfully,

CHARLES A. SPAIN, Jr.

Mr. Speaker, I rise, once again, in opposition to this amendment to the Constitution to prohibit physical desecration of the flag of the United States because it is unnecessary and is a flagrant chilling of free speech protected by the First Amendment.

Supporters of this constitutional amendment are responding to the 1989 and 1990 Supreme Court decisions that struck down state and federal statutes that barred flag desecration on constitutional grounds that they chilled our First Amendment right to free speech and expression. The Court was right then, and we should follow its example today.

Mr. Speaker, make no mistake about it: this amendment compromises the Bill of Rights, which is fundamental to our freedom of speech and expression. These are, perhaps, our most basic tenets and pillars of our American democratic system.

In *West Virginia Board of Education* v. *Barnette,* 319 U.S. 624 (1943), esteemed Justice Jackson wrote the following warning for those in government who would seek to force their thoughts upon the citizenry: ''If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion or other matters of opinion or force citizens to confess by word or act their faith therein.'' Id., at 642. The resolution on the floor today amends the Bill of Rights for the first time in 210 years, and would set a dangerous precedent by opening the floodgates for the restructuring of our democracy by eroding the basic tenets of freedom and liberty that define our Nation.

Furthermore, this amendment would open the door to excessive litigation because the wording is vague on its face. For example, the amendment fails to define ''flag'' and ''desecration'' which are at the very heart of the amendment. These alone are reason enough to strike down the amendment on vagueness grounds.

Supporters of this amendment to constrain speech and dissent based on its content have read *United States* v. *Eichman,* 496 U.S. 310 (1990), as meaning that sweepingly general language is somehow less of an affront to free speech than specific prohibitions like those in the repealed ''Flag Protection Act of 1989.'' The opposite is true: the amendment is overbroad, giving Congress the power to criminalize political and expressive acts of speech and expression that fall short of flag burning. Thus, the amendment we discuss today will result in a sweeping abridgment of the whole Bill of Rights. This body cannot be responsible for such a reckless act.

Mr. Speaker, I believe that our flag is a symbol of our freedom, our liberty, and our system of justice. I personally find flag burning and desecration to be offensive and disgraceful. But I stand with the Supreme Court in my belief such conduct falls within the scope of the First Amendment, the lynchpin of our democracy. So while it hurts to watch a few individuals who publicly desecrate our flag, the fact that we allow such speech is what makes us free and what makes us great as a nation.

If we are truly concerned about honoring the flag and the millions of Americans who have fought under it for the freedom that it represents, we must, above all else, protect the

Constitution and the Bill of Rights, and oppose such efforts to diminish the historical precedent that they represent. As one of our nation's greatest patriots, Colin Powell, recently stated about this amendment, ''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.''

Mr. Speaker, our flag is a symbol of our freedom, not freedom itself. I encourage my colleagues to avoid the unwise path of unnecessarily amending the Constitution, and I urge them to vote ''no'' on H.J. Res. 36.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership in pushing for this amendment to be argued and debated today on the floor of the House.

I also want to thank the principal sponsor of this constitutional amendment, the gentleman from California (Mr. CUNNINGHAM), who spoke with such emotion and so eloquently just a few moments ago. No one is more qualified in actually putting his life on the line for his country than the gentleman from California (Mr. CUNNINGHAM). I want to thank him for that.

The flag is the most powerful symbol of the ideals upon which America was founded. It is a national asset that helps to protect and preserve our unity, our freedom, and our liberty as Americans.

As our country has grown and welcomed those from diverse religious and cultural backgrounds, the flag's power to unify our Nation has become even more evident, bringing together all Americans, young and old, to champion those principles upon which this country was built, principles for which our servicemen and women have fought and died, and principles that have moved so many individuals throughout history to leave their homes and families and travel to America to build a new life. A symbol that binds a nation together, as our flag does, already fulfills a unique role in our democratic process.

Since 1994, however, there have been at least 86 reported incidences of flag desecration. These incidences have occurred in 29 States. They have occurred here in the District of Columbia. They have occurred in Puerto Rico. Since the U.S. Supreme Court ruled in Texas v. Johnson that burning an American flag as part of a political demonstration was expressive conduct protected by the first amendment to the United States Constitution, the States have been powerless to prevent the physical desecration of this most valued symbol.

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

Later that year, however, in another five to four ruling in the U.S. Supreme Court, United States v. Eichman, they struck down that act as an infringement of expressive conduct protected by the first amendment.

Because of the Johnson and Eichman decisions, the only remedy left to Congress to protect the flag from acts of desecration is a constitutional amendment. Many would argue that we should not amend the Constitution for this purpose. This is the only way that we can protect the flag.

The amendment before the House would restore to Congress the authority to prohibit the physical desecration of the flag. The amendment, as the chairman stated, 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. Work on a statute will come at a later date, after the amendment is ratified by three-fourths of the States.

Vigilant protection of freedom of speech and, in particular, political speech is central to our political system. Until the Johnson and Eichman cases, however, punishing flag desecration had been viewed as compatible with both the letter and the spirit of the first amendment.

The first amendment freedoms do not extend and should not be extended to grant an individual an unlimited right to engage in any form of desired conduct under the cloak of free expression. Both State and Federal criminal codes are full of examples of conduct that is prohibited in our country, regardless of whether it is cloaked in the first amendment.

Furthermore, obscenity laws, libel and slander laws, copyright laws, and even perjury laws, they all reflect the fact that some forms of expression and sometimes even the content of that expression may be regulated and even prohibited without violating the first amendment.

We cannot burn our draft cards. We cannot burn money. There are many acts we cannot perform. The flag protection amendment simply reflects society's interest in maintaining the flag as a national symbol by protecting it from acts of physical desecration. It will not interfere with an individual's ability to express his or her ideas, whatever they may be, by any other means.

This amendment has been approved by this Chamber twice and enjoys the support of a supermajority of the House of Representatives. It is supported by a majority of the United States Senators and 49 out of 50 State legislatures, which have passed resolutions calling on Congress to pass the amendment and send it back to the States for ratification.

Perhaps, most importantly, the amendment is supported by an overwhelming majority of the American people. It is time for Congress to answer their calls to preserve and protect the one symbol that embodies all that our Nation represents.

For the veterans who risked their lives for our country and our freedoms, for our children who view our flag with admiration and devotion, and for every American who believes that our flag deserves protection, I urge my colleagues to support this important amendment.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as she may consume to the gentlewoman from California (Ms. LOFGREN), an able member of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Speaker, I think all of us have had this experience walking into the Capitol, especially at night when we are in session, and we see our beautiful American flag flying over the Capitol of the freest country in the world, and it is so moving it is almost hard to keep walking by.

I think no matter where one comes down on this amendment, there is not a single Member of Congress who thinks it is good or right to deface or in any way dishonor the flag of the United States. If we felt that, we would not be elected to Congress. We would not be here serving the Nation in the freest legislative body in the world.

Every day, we start our legislative session with these words: ''I pledge allegiance to the flag of the United States of America and to the Republic, for which it stands, one Nation, under God, with liberty and justice for all.''

The flag stands for something. It stands for the freest country in the world. Our country is free for a lot of reasons. It is free because brave men and women went out and heard the call to protect us, to take up arms, and to protect us over the decades and centuries when our country was attacked by those who would not allow us to have our freedom.

But we are also free because we live under the rule of law. One of the most important aspects of that is the first amendment. Let me just refresh our memory on what the first amendment says.

It says: ''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 of the right of the people peaceably to assemble and to petition the government for a redress of grievances.''

The Supreme Court, which has been the interpreter of our Constitution since the beginning of our Republic, has said that destruction or wrongdoing towards our flag is protected by the first amendment. These are not liberal, wild-eyed justices, but Justice Scalia, probably the most conservative member of the Supreme Court, signed the opinion saying that flag-burning is protected by the first amendment.

All of us, when we became Members of this body, took an oath of office. We

said: ''I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and in this case domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office in which I am about to enter,'' and then we say, ''so help me God.''

I am not going to turn my back on the Constitution today.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. TRAFICANT).

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

Mr. TRAFICANT. Mr. Speaker, the Old Glory Condom Corporation lost the decision. They were not allowed to sell red, white, and blue condoms, so they appealed. They said their red, white, and blue condoms were a patriotic symbol, and, yes, Members guessed it, the U.S. Trademark Office of Appeals agreed. The panel said the Old Glory condom is not unconstitutional. One can wear it.

If that is not enough to constipate our veterans, two men from Columbus, Ohio, were recently charged with burning a gay pride flag during a parade. Think about it. It is illegal to burn leaves and trash in America. It is illegal to damage a mailbox. Now it is illegal to burn a gay pride flag. And it is completely legal and patriotic to wear a red, white, and blue condom.

Beam me up, Mr. Speaker. I think if American citizens want to make a political statement, they should burn their brassieres, burn their boxer shorts, but leave Old Glory alone, period.

I support this resolution. It is about time. A people that do not honor and respect their flag do not honor and respect their neighbors nor their country. This is more than about a flag. The gentlewoman from California is right, we pledge allegiance to the flag and to the Nation for which the flag stands; the flag, which our veterans carried in the war, those who were shot down, only to have it picked up by somebody else, surely to be shot down again. It should not be treated like an Old Glory condom.

□ 1315

I also urge this House to take up H.R. 2242 that would make June 14, Flag Day, a national holiday. I think the flag should be set apart, and it is certainly not going to violate anybody's first amendment rights to do so.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK), a senior member of the Committee on the Judiciary.

Mr. FRANK. Mr. Speaker, the remarks of the gentleman from Ohio give us a chance to deal with the common misapprehension and misunderstanding that somehow we have more rights to burn a flag than we have to burn other things. That simply is not true; and indeed, presumably the person who burned a gay pride flag had burned someone else's gay pride flag. It is entirely legal, I am sure, for someone to burn their own gay pride flag. It is not legal to burn someone else's flag. If, in fact, we burn someone else's American flag, we are guilty of theft, destruction of property, vandalism; and that, of course, can be punished.

We had an incident described where someone disrupted the funeral of a man who had been shot by a police officer and burned a flag. That was a violation of law on many counts. So we are not here advocating a policy whereby we can burn a flag when we cannot burn anything else. Yes, there are many cities and States and communities that have laws against burning in certain seasons. No, the flag is not an exemption to that. So let us put that to rest. It is not a case where we have more protection to burn other things. Any law against vandalism, disturbing the peace, theft, destruction of someone else's property, that applies whether it is a flag or anything else.

What we are opposed to, those who oppose this amendment, is the notion that because some people seek to express views that almost all of us find terribly obnoxious, in the most offensive possible way, namely, by burning a flag, that we should make it illegal. And here is why: first, this takes what I would have thought was a very unconservative position. It takes a very expansive view of government. What it says is, that which the Government does not prohibit it condones.

We are told that if we do not make it illegal for people to burn the flag, we are somehow allowing that and maybe even showing it is okay. No, I hope we live in a society in which we make laws to protect people from being interfered with by others; but we do not take the view that whatever the Government does not outlaw, it is somehow condoning. That is an extraordinarily expansive view of government that would erode liberty. So we ought to be clear that the absence of a law that says something is illegal is in no sense an approval of it.

People who say, yes, but still this is so offensive, burning a flag, desecrating a flag to express oneself, that we have to make it illegal. Okay, this is then the theory. The theory is that if we do not make it illegal to destroy or desecrate a particular symbol, we are devaluing that symbol. The problem with that is that it does not go far enough. The flag is a very dear symbol to many Americans; perhaps to most it is the most important symbol. But are there not people in this society who we admire because they think some other symbol is more important? What about religious symbols? Must people be told in their hierarchy of symbolic value that State comes above church; that the embodiment of the Government somehow is entitled to more protection than the embodiment of their religious faith?

The Supreme Court did not just say we could burn a flag; it said also that we could burn a cross. There was a Supreme Court decision in which a conviction was overturned of someone who burned a cross. Now, once again, it had better have been his cross on his property. We cannot go burning someone else's cross. But the Supreme Court said the symbolic act of burning a cross is constitutionally protected.

What we will do today if we ratify this amendment, or send it for ratification, is to say we will protect the American flag but not the cross. Because once we have put forward the principle that, if the Government thinks something is terrible it should outlaw it, then what do we say to people who think it is terrible to burn a cross? The cross is a symbol of a powerful religion, a religion that has, undoubtedly, had more impact on humanity than any other; and people who burn it are turning this profound religious symbol of all of man's best instincts, of man's tribute to the best in the universe, people are turning it into a symbol of racism, because the burning of the cross has become associated with racism.

Now, the Supreme Court said that is okay. Do those of us who support that decision think it is okay? No, we think it is despicable. But we think it is a mark of a free society that despicable people are allowed to express themselves in despicable ways, as long as they have not taken anybody else's property or otherwise injured anybody. We do not simply punish expression. But for those who want to ratify this amendment, do we now get an amendment that overturns the decision that says it is okay to burn a cross? Or do we say that we, the Government of the United States, protect the flag because that is a symbol of our Nationhood, but the cross, that symbol of some of the most profound values human beings are capable of conceiving, it is okay to burn that? It is not only okay to burn that, it is okay to take that wonderful symbol and turn it into a reminder of the worst aspect of American history: racism.

So that is what we are dealing with today. We have a choice of saying that we will continue the situation in which we believe in limited government, in which government intervenes when one individual's rights are threatened by another, in which we protect private property and we prevent disruption of the peace, but in which we say if some individual, choosing to be as vile as can be and give offense by his or her means of expression, chooses to burn his or her own flag on his or her own property, that we are going to penalize that criminally. But if that individual decides to burn a cross to symbolize racism, if that individual decides to destroy or deface any other symbol, no matter how profound, that is okay.

It seems to me that leaves us in an untenable position. Because either we believe that what an individual does to express himself or herself is not a matter for the law, or we say we value this one symbol but we devalue all the others. I think we are better off as a society letting people express themselves as freely as possible and having the rest of us argue against it. The alternative is to set the principle that if the Government does not outlaw something, it is somehow condoning it. And if it does not outlaw the desecration of a particular symbol, it somehow devalues that symbol.

I think that will do more damage because it will leave more valuable symbols in fact devalued by being excluded from this new form of protection. So I hope the amendment is defeated.

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

Mr. BACA. Mr. Speaker, I stand in support of H.R. 36, to give Congress the power to outlaw flag burning.

As a veteran, this issue is very important and close to my heart. As we look at it not only as a veteran but as we look at what has been said right now, people have talked about the constitutional amendment dealing with expression, freedom of expression, the right to liberty. We also have the right to interpret, when we look at the Constitution, to examine what our forefathers, who wrote the legislation sometime ago, actually meant. And sometimes there is time for a change, and this is a time for a change that we have to realize.

As a symbol, many of our veterans have fought for our country. Because of the sacrifices they have made, we enjoy peace and freedom today. Because of that symbol many individuals have died. When we look at someone who has been buried and the flag is turned over to the family, it is that symbol that is turned over. When I turn around and look at the flag behind me, it is that symbol I salute. When I attend a service, it is that symbol I salute. When I see the changing of the colors, it is that symbol, it is what America is. It is what this country was founded on.

To everyone who has fought for us, from the beginning to now, in each and every one of our wars, it is a form of expression. It is one we should have. We should never ever desecrate the flag.

When we look at many of the veterans that are willing to sacrifice and stand up and fight for us, what have they done? Are we going to say that they have gone out and fought in every war and that we do not realize there is a symbol? When someone fell with that flag and someone else picked it up and they charged, why did they do that? Because it is a symbol of freedom, freedom of expression for our area.

We must stand up and protect the flag. And let me tell my colleagues, anyone who desecrates the flag, shame on us, shame on them. It is time for a change. We have to make the change to protect what America was built on; those freedoms that are very important to us. That flag is part of that freedom and that symbol and represents every American, every individual in this country.

Mr. CONYERS. Mr. Speaker, I am pleased to yield such time as he may consume to the gentleman from New York (Mr. NADLER), the ranking member on the Subcommittee on the Constitution of the Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, I rise in opposition to this misguided constitutional amendment and urge my colleagues to vote against it.

We are faced today with a choice that will be, for many Members of this body, a difficult one. The choice, put simply, is between a symbol, a revered symbol, and the fundamental values it represents. The flag of the United States is a symbol. It is a symbol that has the power to move people deeply. When we see the picture of the flag being raised by the Marines over Mt. Suribachi or when we see it draped over a casket or when we see it being carried in the streets as a symbol of the fight for social justice, as it was by Dr. King and so many other courageous individuals over the years who fought to ensure that America would one day live up to its promise, it is hard not to be moved.

Indeed, Mr. Speaker, as we stand here today debating what would be the very first amendment to the Bill of Rights, I feel humbled to look at the flag hanging behind you in this Chamber and know that a very heavy responsibility weighs on every Member of this House.

We have heard and will hear many moving arguments about the sacrifices made for the flag, of the people who died for the flag, the soldiers, of the importance of the flag to so many Americans. But the real significance of the flag is those important values, the fundamental freedoms, and the way of life it represents. That is why so many have sacrificed so much. Not for the peace of colored cloth, but for those values. And we dishonor their sacrifice, we ensure that those sacrifices were made in vain if we now start down the road to undermine the freedoms the flag represents, allegedly to protect the flag.

Let us not revere the symbol over what it represents. Let us not render our flag a hollow symbol. It has been said that the sin of idolatry is the sin of elevating the symbol over the substance. The substance we are talking about is liberty and freedom of expression. It is that that we must protect, and it is that which this amendment jeopardizes.

Mr. Speaker, veterans, General Colin Powell, religious leaders, and many other Americans understand how important our freedom of expression really is, even if that expression is sometimes politically unpopular, even if it may offend people, even if it makes people angry, even if it costs votes. If those who came before us were willing to place their lives, their fortunes, and their sacred honor for those freedoms, I think we can risk some votes to secure their continuance.

We have debated this amendment many times. We all know the arguments. It might be easy to trivialize the question we have debated so many times, but this is serious business because we are talking about amending the first amendment, the queen of the amendments that have protected our freedoms since the beginning of our Nation.

If any Member has any doubts about whether this amendment is about protecting the flag or is really about constraining freedom of expression, they should ask themselves, what is the difference between burning an old tattered flag, which U.S. law and the American Legion tell us is the appropriate, respectful way to dispose of a flag, and burning it at a protest rally? There is only one difference, and that is the opinion, the political opinion, the message being conveyed, and we are criminalizing the message.

We have all seen, I would assume everyone in this Chamber has watched movies over the years, and we have seen movies in which actors play enemy soldiers, Nazi soldiers, Chinese Communist soldiers in Korea; and during that movie they desecrate the American flag, they tear it to bits or trample upon it or spit upon it or burn it. No one suggests we ought to arrest the actors. No one suggests the actors have committed a crime because they are playing a role. The only crime this amendment seeks to create is not for those actors to destroy the flag in some future movie, it is for someone to burn the flag or otherwise disrespect it in the course of a political protest.

That is why the Supreme Court, quite rightly, said we cannot make that illegal because it is the core political speech that we would be making illegal. It is not the flag at issue; it is the opinion being expressed.

Do my colleagues know current Federal law makes it a crime to use the flag in advertising, including political advertising? That is current law because Congress thought it was disrespectful to use the flag in advertisements. If this amendment passes, that law will be enforceable. Now it is not because it is unconstitutional. Yet I would venture to say that most Members of this Congress have violated that law by using the flag in political ads. Is it the intent of the sponsors to crack down on that form of flag desecration?

Mr. Speaker, our freedoms are more important than any one individual who wants to make a point by burning a flag. Our country has survived those few individuals who want to burn the flag.

□ 1330

Our country will rise above it in the future.

The real damage to the flag is that too many people may be willing to

desecrate our Bill of Rights to make a political point. That is something that will be very hard for this Nation to rise above, and that is why this amendment must be defeated.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, I rise today to pledge my enthusiastic support for the flag protection amendment. I will be darned if I am going to accept the technicalities that we talk about and we have heard this afternoon.

I know the law is technical, but we are bogged down in technicalities. There is a breeze, a gentle breeze going through these Chambers today. Seven hundred thousand brave men and women gave their lives since the beginning of this Republic. We ought to seize back the responsibilities given to us by the voters. We should never kowtow to any other branch of government, regardless of their decision.

The Supreme Court is not absolute. Only God is absolute on any decision. The fact that we quote Justice Scalia makes me stronger in my conviction that we must pass this.

This is not just any other symbol to my colleagues and brothers. I am sorry. This is not just any other symbol. This is the symbol of democracy, Mr. Speaker. We are here to uphold that symbol. I am proud to stand with those who support this resolution.

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

Mr. SNYDER. Mr. Speaker, at the end of this month I have a law review article coming out in a University of Arkansas at Little Rock Law Review on the congressional oath of office. It is a rambling discussion probably guaranteed to put the reader to sleep, but it pulls together some of the history of the Congressional oath of office. I intend to distribute it to all Members next month and seek out their thoughts and criticisms.

In the course of that research, I ran across some vignettes from history that I think are relevant to this debate today. Let me share with you some news stories taken from the New York Times in years of great strife worldwide.

The first one I would like to read is from April 7, 1917. Headline: Diners 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 Rector's last night following the playing of the ''Star Spangled Banner.'' Frederick S. Boyd, a former reporter on the New York Call, a Socialist newspaper, was dining with Miss Jessie Ashley and Miss May R. 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 beaten severely when Albert Dasburg, a 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 Magistrate Corrigan in Night Court 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. Boyd was found guilty of disorderly conduct and was 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 broke 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.

From April 5, 1912. Headline: Forced to Kiss the Flag. 100 Anarchists Are Then Driven from San Diego.

Nearly 100 industrial workers of the world, all of whom admitted they were anarchists, knelt on the ground and kissed the folds of an American flag at dawn today near San Onofre, a small settlement a short distance this side of the Orange County boundary line.

The ceremony, which was most unwillingly performed, was witnessed by 45 deputy constables and a large body of armed citizens of San Diego.

And the last one from March 26, 1918: 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 lighted downtown street and forced to kiss the American flag tonight under pain of being hanged from nearby telephone poles.

What do these stories have to do with this very important and heartfelt debate today so ably conducted by the chairman and ranking member?

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, although they are already quite rare.

On the other side of the 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 anecdotes from a time of great divisiveness in our Nation's history, a time much different from today, 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, except for the fact that the flag is carried by those speaking for an unpopular minority.

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.

Mr. Speaker, I urge a ''no'' vote on this proposed amendment and for the same reasons a ''no'' vote on the substitute.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Mississippi (Mr. SHOWS).

Mr. SHOWS. Mr. Speaker, I rise today in support of House Joint Resolution 36, which would outlaw the physical desecration of the American flag.

Our flag represents the cherished freedoms Americans enjoy to the envy of other Nations. To our Nation's veterans and military retirees, it is a constant reminder of the ultimate sacrifice they have made. Destroying our flag is an affront to all Americans, but to veterans and military retirees it is much more than that. Our veterans and military retirees have put their lives on the line for our country, and the American flag is one thing they can hold and say, ''This is what I have defended with my life.''

My father was a prisoner of war in World War II, captured at the Battle of the Bulge. He fought to protect our democratic freedoms. If I did not vote for this resolution today, he would whip me, and I am 54 years old.

Mr. Speaker, he did not fight to let Americans destroy the very symbol of

their very freedoms that he was willing to die for. Destroying the flag is tantamount to physically assaulting those heroes who would lay down their lives for their country. It is against the law for one American to assault another, and so should it be against the law for one American to assault an entire class of American heroes.

Mr. Speaker, we need to honor America's heroes and pass the resolution.

Mr. CONYERS. Mr. Speaker, I yield 8 minutes to the gentleman from New York (Mr. ACKERMAN).

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

Mr. ACKERMAN. Mr. Speaker, the Founding Fathers must be very puzzled looking down on us today. Instead of seeing us dealing with the very real challenges that face our Nation, they see us laboring again under this compulsion to amend the document that underpins our democracy. They see a house of dwarfs trying to give this government a great new power at the expense of the people and, for the first time, to stifle dissenters and the way in which they dissent.

The threat must be great, they must be saying, to justify changing the Bill of Rights for the first time and decreasing rather than increasing the rights of the people. They see our beloved Bill of Rights being eroded into the Bill of Rights and Restrictions.

What is the threat? What is the threat, Mr. Speaker? I ask again, what is the threat? Is our democracy at risk? What is the crisis to the Republic? What is the challenge to our way of life? Where is our belief system being threatened? Are people jumping from behind parked cars, waving burning flags at us, trying to prevent us from getting to work and causing America to grind to a halt?

Mr. Speaker, do we really believe that we are under such a siege because of a few lose cannons? Do we need to change our Constitution to save our democracy, or are we simply offended?

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 worshipped as pagans would, rather than to be kept as the beloved symbol of our freedom that is to be cherished.

These rare but vile acts of desecration that have been cited by those who would propose changing our founding document do not threaten 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 and we are not threatened. My colleagues, we are offended; and to change our Constitution because someone offends us is in itself unconscionable.

Mr. Speaker, the courts have said that the flag stands for the right to burn the flag. The Nazis and the Fascists and the Imperial Japanese Army combined could not diminish the constitutional right of even one single American. Yet, in an act of cowardice, we are about to do what they could not.

Mr. Speaker, where are the patriots? Where are the patriots? Whatever happened to fighting to the death for the rights of someone with whom we disagree? We now choose, instead, to react by taking away the right to protest. Even a despicable low-life malcontent has a right to disagree, and he has the right to disagree in an obnoxious fashion if he wishes. That is the true test of free expression, and we are about to fail that test.

Real patriots choose freedom over symbolism. That is the ultimate contest between substance and form. Why does the flag need protecting? Is it an endangered species? Burning one flag or burning 1,000 flags does not endanger it. It is but a symbol. But change just one word of the Constitution of this great Nation, and it and we will never be the same.

We cannot destroy a symbol. Yes, people have burnt the flag, but, Mr. Speaker, it still exists. There it is, hanging right in back of us. It represents our beliefs.

Poets and patriots will tell us men have died for the flag, but that language itself is symbolic language. People do not die for symbols. They fight and they die for freedom. They fight and they die for democracy. They fight and they die for values. To fight and die for the flag is to fight and die for the cause in which we believe. Today some would have us change all of that.

We love and we honor and respect our flag for that which it represents. It is different from all other flags. I notice in the amendment that we do not make it illegal to burn someone else's flag in someone else's country, and that is because our flag is different.

□ 1345

No, not because of the colors or the shape or the design. They mostly have stars and some have stripes and scores and dozens are red, white, and blue.

Our flag is unique because it represents our unique values. It represents tolerance for dissent. This country was founded by dissenters that others found obnoxious.

What is a dissenter? In this case it is a social protester who feels so strongly about an issue that he would stoop so low as to try to get under our skin, to try to rile us up to prove his point, and to have us react by making this great Nation less than it was.

How do we react? Dictators and dictatorships make political prisoners of those who burn their Nation's flags, not democracies. We tolerate dissent and dissenters, even the despicable dissenters.

What is the flag, Mr. Speaker? The American flag? Yes, it is a piece of cloth. It is red, it is white and blue. It has 50 stars and 13 stripes. But if we pass this amendment and desecrators decide to start a cottage industry and make flags with 55 stars and burn them, will we rush to the floor to amend the Constitution again?

If they add a stripe or two and set it ablaze, surely it would look like our flag, but is it? Do we rush in and count the stripes before we determine whether or not we are constitutionally offended? What if the stripes are orange instead of red? How do we interpret that? What mischief do we do here? If it is a full color, full-sized picture of a flag that they burn, is it a crime to desecrate a symbol of a symbol? What are we doing?

Our beloved flag represents this great Nation, Mr. Speaker. We love our flag because there is a republic for which it stands, made great by a Constitution that we have sworn to protect, a Constitution given to our care by giants and about to be nibbled to death by dwarfs.

Mr. Speaker, I call upon the patriots of the House to rise and to defend the Constitution, to resist the temptation to drape ourselves in the flag and to hold sacred the Bill of Rights. Defend our Constitution. I urge the defeat of this ill-conceived amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Illinois (Mr. HYDE), the distinguished former 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 do not intend to ascribe cowardice or lack of patriotism to people who disagree with me, although I listened to the last speaker ask, where are the patriots? I could direct him to some. Try BOB STUMP who lied about his age so he could enlist in the Navy in World War II. There are plenty of patriots around. I have earned the right to stand here and debate this issue because I fought in combat in the South Pacific in World War II. I like to think I am almost as patriotic as the gentleman named ACKERMAN.

I heard rights, rights, rights. Not one word about responsibility. Responsibility. But that is part of this debate. This is a good debate. We ought to once in a while look at our core principles and see if there is anything that distinguishes us from the rest of the world.

We look around this Chamber and we see the splendid diversity of America. We see men and women whose great grandparents came from virtually every corner of the globe. What holds this democratic community together? A common commitment to certain moral norms. That is the foundation of our democratic experiment.

Human beings do not live by abstract ideas alone. Those ideas are embodied in symbols. And what is a symbol? A symbol is more than a sign. A sign conveys information. A symbol is much more richly textured. A symbol is material reality that makes a spiritual reality present among us. An octagonal

piece of red metal on a street corner is a sign. The flag is a symbol. Vandalizing a No Parking sign is a misdemeanor, but burning the flag is a hate crime, because burning the flag is an expression of contempt for the moral unity of the American people that the flag symbolically makes present to us every day.

Why do we need this amendment now? Is there a rash of flag burning going on? Certainly not. But we live in a time of growing disunity. Our society is pulled apart by the powerful centrifugal force of racism, ethnicity, language, culture, gender, and religion. Diversity can be a source of strength, but disunity can be a source of peril. If you stop and think, the world is torn by religious and ethnic divisions that make war and killing and death and terror the norm in so many countries: Ireland, the Middle East, the Balkans, Rwanda. Look around the globe and see what hate can do to drive fellow human beings apart.

This legislation makes a statement that needs to be made, that our flag is the transcendent symbol of all that America stands for and aspires to be and hence deserves special protection of the law.

We Americans share a moral unity expressed so profoundly in our country's birth certificate, the Declaration of Independence. ''We hold these truths to be self-evident,'' Jefferson wrote. The truth that all are equal before the law. We share that, across race, gender, religion. The truth that the right to life and liberty is inalienable and inviolable. The truth that government is intended to facilitate and not impede the people's pursuit of happiness.

Adherence to these truths is the foundation of civil society, of democratic culture in America.

And what is the symbol of our moral unity amidst our racial, ethnic, and religious diversity? Old Glory, the stars and stripes.

In seeking to provide constitutional protection for the flag, we are seeking to protect the moral unity that makes American democracy possible. We have spent the better part of the last 30 years telling each other, shouting to each other, all the things that divide us. It is time to start talking about the things that unite us, that make us all, together, Americans. The flag is the embodiment of the unity of the American people, a unity built on those ''self-evident'' truths on which the American experiment rests, the truths which are our Nation's claim to be a just society.

Let us take a step toward national reconciliation, and toward constitutional sanity, by adopting this amendment. The flag is our connection to the past and proclaims our hopes and aspirations for the future.

Too many Americans have marched behind it, too many have come home in a box covered by the flag, too many parents and widows have clutched the flag to their hearts as the last remembrance of their beloved to treat that flag with anything less than reverence and respect.

One hundred eighty-seven years ago during the British bombardment of Baltimore, Francis Scott Key looked toward Fort McHenry in the early dawn and asked his famous question. To his joy he saw our flag was still there. And how surprised he would be to learn our flag is even planted on the Moon.

But, most especially, it is planted in the hearts of every loyal American. Four Supreme Court justices agreed with us. A ton of professors agree with us. This is not a settled issue. Five to four Supreme Court justices come down on the side of the flag.

Mr. CONYERS. Mr. Speaker, I am pleased to 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. I thank the gentleman for yielding me this time.

Mr. Speaker, I do not think what we are doing here today is a contest between who is the most patriotic. I do not think that is it at all. Nobody here in the debate is unpatriotic. But I think the debate is possibly defining patriotism.

But I am concerned that we are going to do something here today that Castro did in Cuba for 40 years. There is a prohibition against flag burning in Cuba. And one of the very first things that Red China did when it took over Hong Kong was to pass an amendment similar to this, to make sure there is no desecration of the Red Chinese flag. That is some of the company that we are keeping if we pass this amendment.

A gentleman earlier on said that he fears more of what is happening from within our country than from without. I agree with that. But I also come down on the side that is saying that the threat of this amendment is a threat to me and, therefore, we should not be so anxious to do this. I do not think you can force patriotism.

I also agree with the former speaker who talked about responsibility. I agree it is about responsibility. But it also has something to do with rights. You cannot reject rights and say it is all responsibility and therefore we have to write another law. Responsibility implies a voluntary approach. You cannot achieve patriotism by authoritarianism, and that is what we are talking about here.

I think we all agree with respect to the flag and respect for our country. It is all in how we intend to do this. And also this idea about veterans, because you are a veteran that you have more wisdom. I do not think so. I am a veteran, but I disagree with other veterans. Keith Kruel, who was a past national commander of the American Legion had this to say:

''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.' A patriot cannot be created by legislation.''

He was the national commander of the American Legion. So I am not less patriotic because I take this different position.

Another Member earlier mentioned that this could possibly be a property rights issue. I think it has something to do with the first amendment and freedom of expression. That certainly is important, but I think property rights are very important here. If you have your own flag and what you do with it, there should be some recognition of that. But the retort to that is, oh, no, the flag belongs to the country. The flag belongs to everybody. Not really. If you say that, you are a collectivist. That means you believe everybody owns everything. Who would manufacture the flags? Who would buy the flags? Who would take care of them? So there is an ownership. If the Federal Government owns a flag and you are on Federal property, even, without this amendment, you do not have the right to go and burn that flag. If you are causing civil disturbances, that is handled another way. But this whole idea that there could be a collective ownership of the flag, I think, is erroneous.

The first amendment, we must remember, is not there to protect noncontroversial speech. It is to do exactly the opposite. So, therefore, if you are looking for controversy protection it is found in the first amendment. But let me just look at the words of the amendment. Congress, more power to the Congress. Congress will get power, not the States. That is the opposite of everything we believe in or at least profess to believe in on this side of the aisle.

To prohibit. How do you prohibit something? You would need an army on every street corner in the country. You cannot possibly prevent flag burning. You can punish it but you cannot prohibit it. That word needs to be changed eventually if you ever think you are going to get this amendment passed.

Physical desecration. Physical, what does it mean? If one sits on it? Do you arrest them and put them in jail? Desecration is a word that was used for religious symbols. In other words, you are either going to lower the religious symbols to the state or you are going to uphold the state symbol to that of religion. So, therefore, the whole word of desecration is a word that was taken from religious symbols, not state symbols. Maybe it harks back to the time when the state and the church was one and the same.

I urge a ''no'' vote on this amendment.

Mr. Speaker, loyalty and conviction are admirable traits, but when misplaced both can lead to serious problems.

More than a decade ago, an obnoxious man in Dallas decided to perform an ugly act: the

desecration of an American flag in public. His action violated a little-known state law prohibiting desecration of the flag. He was tried in state court and found guilty.

As always seems to be the case, though, the federal government intervened. After winding through the federal system, the Supreme Court—in direct contradiction to the Constitution's 10th Amendment—finally ruled against the state law.

Since then Congress has twice tried to overturn more than 213 years of history and legal tradition by making flag desecration a federal crime. Just as surely as the Court was wrong in its disregard for the Tenth Amendment by improperly assigning the restrictions of the First Amendment to the states, so are attempts to federally restrict the odious (and very rare) practice of Americans desecrating the flag.

After all, the First Amendment clearly states that it is Congress that may ''make no laws'' and is prohibited from ''abridging'' the freedom of speech and expression. While some may not like it, under our Constitution state governments are free to restrict speech, expression, the press and even religious activities. The states are restrained, in our federal system, by their own constitutions and electorate.

This system has served us well for more than two centuries. After all, our founding fathers correctly recognized that the federal government should be severely limited, and especially in matters of expression. They revolted against a government that prevented them from voicing their politically unpopular views regarding taxation, liberty and property rights. As a result, the founders wanted to ensure that a future monolithic federal government would not exist, and that no federal government of the United States would ever be able to restrict what government officials might find obnoxious, unpopular or unpatriotic. After all, the great patriots of our nation—George Washington, Thomas Jefferson, Patrick Henry, and Benjamin Franklin—were all considered disloyal pests by the British government.

Too often in this debate, the issue of patriotism is misplaced. This is well addressed by Keith Kruel, an Army veteran and a past national commander of the American Legion. He has said that, ''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.' . . . A patriot cannot be created by legislation.''

Our nation would be far better served that if instead of loyalty to an object—what Mr. Kruel calls the ''golden calf''—we had more Members of Congress who were loyal to the Constitution and principles of liberty. If more people demonstrated a strong conviction to the Tenth Amendment, rather than creating even more federal powers, this issue would be far better handled.

For more than two centuries, it was the states that correctly handled the issue of flag desecration in a manner consistent with the principle of federalism. When the federal courts improperly intervened, many people understandably sought a solution to a very emotional issue. But the proposed solution to enlarge the federal government and tread down the path of restricting unpopular political expression, is incorrect, and even frightening.

The correct solution is to reassert the 10th Amendment. The states should be unshackled from unconstitutional federal restrictions.

As a proud Air Force veteran, my stomach turns when I think of those who defile our flag. But I grow even more nauseous, though, at the thought of those who would defile our precious constitutional traditions and liberties.

Loyalty to individual liberty, combined with a conviction to uphold the Constitution, is the best of what our flag can represent.

Mr. SENSENBRENNER. 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. I thank the gentleman for yielding me this time.

Mr. Speaker, after surviving the bloodiest battlefield since Gettysburg, a brave platoon of Marines trudged up Mount Suribachi on Sulfur Island with a simple task, to raise the flag above the devastation below. When the flag was raised by Sergeant Mike Strank and his platoon, history records that a thunderous cheer rose from our 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 that without a vision, the people perish. The flag, Mr. Speaker, was the vision that inspired and rallied our troops at Iwo Jima. The flag is still the vision for all Americans who still cherish those who stood ready to make the necessary sacrifices.

Mr. Speaker, by adopting this flag protection amendment, we will raise Old Glory yet again. We will raise her above the decisions of a judiciary wrong on both the law and the history. And in some small way, we will raise the flag above the cynicism of our times, saying to my generation of Americans those most unwelcome of words, ''There are limits.'' To say to my generation of Americans, out of respect for all those who serve beneath it and some who died within the sight of it, that there are boundaries necessary to the survival of freedom.

□ 1400

C.S. Lewis said, ''We laugh at honor, and we are shocked to find traitors in our midst.'' Leave us this day to cease to laugh at honor, to elevate to dishonor of our unique national symbol to some sacred right, and let us pass this amendment to restore Old Glory the modest protections of the law that those who venerate her so richly deserve.

Vote yes to the resolution and raise the American flag to her Old Glory again.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from Indiana (Ms. CARSON) who, previous to her congressional experience, worked in the field of labor with my late father.

Ms. CARSON of Indiana. Mr. Speaker, I certainly thank the honorable gentleman from Michigan (Mr. CONYERS) for yielding me time. I did have the benefit of working for his father as an international representative when John was still running around trying to find out whether or not he was going to Congress. So it is a pleasure to come, Mr. Speaker, to the floor and benefit from all of this historic and intellectual dialogue that preceded me.

I come here today to exercise a constitutional right granted to me as a citizen of the United States, and that is freedom of speech. I have a great deal of reverence for the United States flag. I wave it at my residence every opportunity, and am very saddened by those flags that are often lowered over capitols and buildings in commemoration of some fallen hero, if you will.

My adoration and respect, however, does not exceed my commitment to the integrity of the first amendment of the United States Constitution. Many of us learned in our educational experience of Patrick Henry, who said, ''I may not agree with the words that you say, but certainly would defend your right to say it.'' As I recall, Patrick Henry was in fact one of the signers of the Constitution.

One of my first and foremost commitments as a Member here is on behalf of our country's veterans. My name, Julia Carson, is derived from a Korean War Marine, 100 percent service-connected veteran, who struggles now to even gain any type of mobility. I am very supportive of veterans and recognize their interests in preserving this flag. My son, Sam Carson, is a former member of the United States Marine Corps.

So, as a ranking member of the Committee on Veterans' Affairs Subcommittee on Oversight and Investigation, I am working hard to address the needs of our veterans, to assure that the fight for freedom does not go unappreciated or uncompensated.

Great Americans such as Vietnam veteran and former Senator Kerry, former head of the Joint Chiefs of Staff and our current Secretary of State, the Honorable Colin Powell, have expressed their opposition to this amendment. These are great men who served this country with distinction.

General Powell has stated, ''If they are destroying a flag that belongs to someone else, that is a prosecutable crime. But if it is a flag they own, I really don't want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead.''

These men feel that in spite of their own commitment to the integrity of the American flag, they do not want their personal views to infringe on the rights of free speech of other Americans.

Francis Scott Key wrote, and we all recall that tune, ''O'er the ramparts we watch'd, were so gallantly streaming. And the rockets' red glare, the bombs bursting in air, gave proof through the night that our flag was still there. O

say, does that star spangled banner yet wave, o'er the land of the free and the home of the brave?''

It does still wave, Mr. Speaker, despite House Resolution 36. Our flag will still be there. The constitutional amendment proposed here today is totally unnecessary. That is why I am going to vote against it.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the distinguished 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, it is a tremendous honor for me to be here today to support the protection of our American heritage, a symbol and a reminder of our cherished freedom, the American flag. The flag is a symbol of the birth of this great Nation and the many wars fought to win our freedom.

I spent 7 long years as a POW in Vietnam, half of that in solitary confinement. I think you heard the gentleman from California (Mr. CUNNINGHAM) relate earlier the story of Mike Christian, who was beaten for making a flag. He sewed that flag to remind himself of home and the freedom that it stands for. It was a symbol and great comfort to all of us. As POWs, we would pledge allegiance and salute it each day. That tiny, tiny flag sewn together meant so much to us, far, far away from home, more than words can describe.

I stand here today to honor all our military men and women who have fought throughout the years for this great Nation.

How about the Marine memorial, the Iwo Jima Memorial? Does that not mean something to you? I think that flag meant something to those boys that put it up there.

The Middlekauff Ford dealership in Plano, Texas built a huge flagpole and put an oversized flag on it. Do you know what? Some of the people said, It makes too much noise when the wind blows. It keeps us awake at night.

Do you know what Rick Middlekauff said? He said, ladies and gentlemen, that is the sound of freedom. And he left it up there, and they quit griping about it.

It is something that I think that we must respect. We must treat it with respect and protect it from desecration.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I rise today as a proud and patriotic American to oppose this resolution. Here is what some of the veterans have said about this amendment.

Jack Heyman, Fort Myers Beach, Florida, a Korean War veteran, said, ''I know of no American veteran who put his or her life on the line to protect the sanctity of the flag. That is not why we fulfilled our patriotic duty. We did so and still do to protect our country and our way of life and to ensure that our children enjoy the same freedoms for which we fought.''

Mr. Heyman's great grandfather was a Pennsylvania Regular during the Civil War; his father served in the Navy during World War I; his brother fought in World War II; and one of his children served in the Army following the Vietnam War.

Bill McCloskey, a Vietnam War veteran from Bethesda, Maryland, said, ''Ultimately, Americans and our representatives on Capitol Hill must realize that when a flag goes up in flames, only a multi-colored cloth is destroyed. If our freedoms are lost, the true fabric of our Nation is frayed and weakened.''

Brad Bustany, West Hollywood, California, a Gulf War veteran, said, ''My military service was not about protecting the flag; it was about protecting the freedoms behind it. The flag amendment curtails free speech and expression in a way that should frighten us all.''

And how will Congress begin defining what the flag and desecration even mean? Our flag is ubiquitous. It is found in such places as commerce, art and memorials. Will Congress bar display of the flag on brand-name apparel, defining it as desecration? Will flag bathing suits be desecration, and thus prohibited? How will Congress enforce such an amendment? Where will this begin and where will it end?

Freedom of speech, even when it hurts, and it does hurt many of us, is the truest test of our dedication to the principles that our flag represents. Punishing desecration of the flag deludes the very freedom that makes this emblem so precious, so revered, and worth revering.

I urge my colleagues to vote no on this amendment and yes to upholding our Constitution and our democracy.

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

Mr. GOODLATTE. Mr. Speaker, I would like to thank the chairman of the Committee on the Judiciary for yielding me this time and for his leadership on this issue as we once again try to set the record straight.

This has been a great debate, but I have been appalled by some on the other side who have suggested that the flag amendment is going to change the Bill of Rights to our Constitution. It does nothing of the sort.

Our Founding Fathers wrote the Bill of Rights, including the first amendment, exactly right; and this amendment does not change that in any way. What did change the first amendment was a misinterpretation of that amendment by a 5 to 4 decision of the Supreme Court. One vote changed 200 years of American history. One vote changed 48 States' and the Federal Government's flag protection antidesecration laws, and all we are trying to do is set the record straight. We have been asked to do that by 49 State legislatures; 80 percent of the American people in poll after poll show their support for this amendment, and this is a bipartisan effort.

The U.S. Supreme Court has historically shared our view. Such great champions of civil liberty and free expression as Hugo Black and Earl Warren when they served on the Supreme Court made clear their beliefs that flag desecration was not protected by the first amendment. As Justice Black stated, ''It passes my belief that anything in the Federal Constitution bars making the deliberate burning of the American flag an offense.''

So we are simply setting the record straight. As Chief Justice William Rehnquist said in his dissenting opinion, ''Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people, whether it be murder, embezzlement, pollution or flag burning.''

Burning the flag is not speech deserving protection. It is a despicable act. I urge my colleagues to support this constitutional amendment.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, I might say, the people of New York would be proud of you up there today.

Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) very much. The gentleman has served the State of Michigan in such an exemplary way for so many years. And I might say about him too, I used to live in the State of Michigan, even though it did not change my accent.

This bill is not about one's freedom of speech; it is about one's respect for our country and the rights provided by it.

As a veteran of the U.S. Army and serving 29 years in the Army National Guard, I do not have to be told about the need to respect our flag. But there are many out there who take this symbol for granted. It seems as though they fail to recognize what has been sacrificed over the past 225 years of our existence.

The flag not only serves as a sacred symbol of the principles upon which our Nation was founded, it also represents the many sacrifices our veterans have made throughout the history of our Nation to protect our precious freedoms and preserve our democracy.

I fully support one's right to express himself or herself freely, but when it comes to Old Glory and displaying such a gross disrespect for something as precious as our national symbol of freedom, I feel it is necessary for Congress to draw the line.

In this country, whatever idea a flag burner wants to communicate, can be expressed just as effectively in many other ways. Burning our flag communicates nothing but a lack of respect. We should not protect such horrendous behavior, when our forefathers, our

veterans and many patriotic citizens of our great land sacrificed and fought to protect the freedom it symbolizes.

This amendment to protect our flag is an appropriate and powerful ''thank you'' to every veteran who fought and died to defend this flag and the country for which it stands. This flag is a national asset.

The SPEAKER pro tempore (Mr. QUINN). The time of the gentleman from Tennessee has expired.

Mr. CONYERS. Mr. Speaker, I yield 1 additional minute to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Mr. Speaker, that is very gracious of the gentleman from Michigan (Mr. CONYERS), knowing the gentleman does not necessarily agree with my position totally, but he has always been fair as one of the great leaders in the House of Representatives.

□ 1415

This flag is a national asset, and I strongly believe it deserves our unquestioned respect and protection.

I pledge my full support for this amendment, and I hope that my colleagues will vote to support its passage.

I have heard from a lot of veterans at home, but not just veterans. I have heard from people from all walks of life. Mr. Speaker, we have a lot to be proud of in this country. We celebrated our 200th birthday in 1976. I would ask my colleagues, do they know what the average longevity of the great democracies of the past is? It is 200 years. We celebrated our 200th birthday in 1976. But if we want to celebrate our 300th birthday, we have to rededicate and recommit ourselves.

Mr. Speaker, what I said a while ago is the way I feel. Yes, one can protest. Yes, one can disagree. Yes, one can feel strongly on a particular issue. But one does not have to burn ''Old Glory.'' One can show one's protest, one can show one's frustration in other ways. Support this amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PLATTS).

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

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

Mr. Speaker, on behalf of my constituents and my late father, Judge Platts, an Army veteran who felt very strongly about protecting the American flag from desecration, I rise in full support of this proposal.

House Joint Resolution 36 is important for many reasons. The American flag is of great importance not only to the men and women of the United States of America but also to the citizens of the world.

Every time we raise or lower the many flags flown all over the world, we have given thanks and shown appreciation not only to our veterans who fought and gave their lives to ensure the freedoms we know today but to the many citizens who work daily to preserve those freedoms. Desecration of this commanding symbol, whether it is by burning, tearing, or other mutilation, undermines the powerful sense of patriotism that Americans feel whenever they see the red, white and blue. To many, desecrating the American flag not only destroys the cloth, it also destroys the memories and destroys the memories and devotion thousands of veterans and others carry with them throughout their daily lives.

In this day of world conflict, we must remember that the Stars and Stripes has been a force that holds communities together. Mr. Speaker, I agree with the gentleman from California (Mr. CUNNINGHAM) that ''The American flag is a national treasure. It is the ultimate symbol of freedom, equal opportunity, and religious tolerance. Amending our Constitution to protect the flag is a necessity.''

Mr. Speaker, I look to our Founding Fathers and how they treated the flag as to whether they thought the first amendment should protect burning the flag, desecrating the flag. When they went into battle, a soldier would carry the flag; and if that soldier fell, another soldier would put down their weapon and pick up the flag. That is a pretty clear indication that they did not intend the first amendment to protect desecration of the flag.

Mr. Speaker, I urge a ''yes'' vote and hope that we will have a very strong bipartisan vote in favor of this proposal.

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

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

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

Mr. Speaker, I rise in strong support of this proposed constitutional amendment. The need for such an amendment arises from a Supreme Court that has persistently stated that we must tolerate flag desecration as protected speech. Clearly, I believe the Supreme Court has it wrong.

The flag is a unique symbol that merits our special recognition. I find it ironic that the Federal Government can compel men and women into the Armed Forces where they may die under the flag but, evidently, may not prohibit the desecration of the very symbol for which they fight.

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.

Mr. Speaker, I believe the flag is a unique symbol. When those who have given the last full measure of devotion are given the respect they deserve, we honor them by draping their coffin with the flag. They honor our country with their sacrifice, and we honor them with the flag.

Moreover, Mr. Speaker, I find the words of the Pledge of Allegiance telling. Just last week, President Bush had the opportunity to visit Ellis Island and to lead the crowd in the Pledge of Allegiance, just as so many immigrants have done before: ''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 to the flag itself, not only to the Republic. The ''and'' separates the two phrases so that we pledge our devotion both to the flag and to our Republic.

Mr. Speaker, some argue that the ideals of the flag are the only things that matter. I find the words of the pledge enlightening, and I respectfully disagree.

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?

Mr. Speaker, I urge my colleagues to support the proposed amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in support of House Joint Resolution 36 proposing a constitutional amendment that would grant Congress the power to prohibit the physical desecration of the United States flag.

The American flag is a revered symbol of our country and of the principles of freedom and liberty we hold dear. I know for America's war veterans the flag is valued as a symbol of the sacrifices they and their fellow servicemen made to defend our land. Indeed, hundreds of thousands of servicemen gave their lives defending our country, and we must never forget the price they paid for the freedoms we enjoy.

As a member of the House Committee on Armed Services, it is our priority to restore our military's readiness and strength and also ensure that our veterans are treated with the respect and gratitude that is due them. That includes standing with them to defend the honor due to our national colors.

Mr. Speaker, I urge my colleagues to join me in support of this resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. BROWN).

Mr. BROWN of South Carolina. Mr. Speaker, I rise in support of this important piece of legislation and I applaud the gentleman from California (Mr. CUNNINGHAM) for his tireless advocacy on this issue.

Justice John Paul Stevens, speaking for the Supreme Court minority opinion in the United States v. Eichman in 1990 stated, ''Thus, the government may, indeed, it should, protect the

symbolic value of the flag without regard to the specific content of the flag burner's speech. It is, moreover, equally clear that prohibition does not entail any interference with the speaker's freedom to express his or her ideals by other means. It may well be true that other means of expression may be less effective in drawing attention to those ideas, but that is not itself a sufficient reason for immunizing rising flag burning. Presumably, a gigantic fireworks display or a parade of nude models in a public park might draw even more attention to a controversial message, but such methods of expression are nonetheless subject to regulation.''

There is a lot of talk about free speech, but passage of this will not prevent anyone from saying anything more than our law already does. If one does not like what the country is doing, or if one is upset about anything at all, one can stand on the street corner and say whatever comes to one's mind, and that right is protected. It is part of what makes this country great that we have this freedom; that, despite differences of opinion, we still manage to move on and respect what other people have to say.

But while we enjoy this freedom of speech today, there are still certain things we cannot do or say by law. We have laws against libel, slander, perjury, obscenity and indecent exposure in public. Just as it is within the realms of the Federal Government to limit this kind of conduct, it is also right for it to regulate a clear attack on its sovereignty and dignity by protecting our flag.

To me, our flag represents not only the sacrifices of those who came before us, but also the hope for our future generations. It is both the past and the present which makes us a great people and what so many Americans have fought so hard to preserve.

I am privileged to serve on the Veterans' Affairs Committee and to have such constructive interaction with so many current and retired members of our Armed Forces. We have more than 350,000 veterans in the State of South Carolina, many of whom are in my district. If I can go back home and tell them anything, I would say that I voted to make sure that their sacrifices were not forgotten. That the flag that serves as our national symbol of unity—and a symbol of what so many of their brethren gave their lives for—shall be revered, not desecrated.

Again, I urge you all to vote for this legislation.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from New York (Mr. GRUCCI).

Mr. GRUCCI. Mr. Speaker, I rise today as an original cosponsor of the flag protection amendment, and I ask all of my colleagues to join 250 cosponsors and support the passage of H.J. Res. 36, this important measure.

The American flag embodies the hopes, sacrifices, and freedoms of this great Nation and its people. The American flag is more than just a symbol, it is the fabric that binds our Nation, its citizens, and those brave individuals who have sacrificed to preserve our unity and our independence.

I remember June 29 of last year when I was joined by more than 75 Long Island veterans and high school students and we called upon our Federal officials to pass a similar measure. The meaning of the American flag could easily be seen in the eyes of these veterans. It is in the eyes of our children, who every day look upon our flag as they recite the Pledge of Allegiance as they start each and every school day.

There is not a place, a setting, or an event where the American flag is flown where its true meaning is not understood. To those in need, when they see the Stars and Stripes, they know America has arrived to help. To our neighbors around the world, the flag means an ally is not far away. Our flag is the symbol of America's compassion, perseverance, and values. The American flag is America. It is a part of the tapestry that makes America so great.

Mr. Speaker, I call upon my colleagues to, once again, in overwhelming numbers, support and pass H.J. Res. 36, the flag protection amendment.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time.

I rise today in opposition to H.J. Res. 36, which would amend the Constitution to allow Congress to pass laws banning the desecration of the flag. I find it absolutely abhorrent that anyone would burn our flag, and that is why I voted for the Flag Protection Act of 1989, which the Supreme Court overturned in a 5-to-4 decision in 1990.

If I saw someone desecrating the flag, I would do what I could to stop them at risk of personal injury or even incarceration. For me, that 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 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.

Mr. Speaker, 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 at the time was Chairman of the Joint Chiefs of Staff and is now the Secretary of State. General Powell wrote that it was a mistake to amend the Constitution, ''that great shield of democracy, to hammer a few miscreants.''

When I think about the flag, I think about the men and women who died defending it and the families they left behind.

□ 1430

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. CONYERS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

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

Mr. Speaker, I think we have had a very vigorous debate that talks about the pros and cons of the flag protection constitutional amendment. I believe that all of the arguments that have been sincerely placed against this amendment really do not have merit and should be ignored, and this amendment should be passed.

First, we have had the argument that this amendment amends the Bill of Rights. It does no such thing. There is no statement in the text of the amendment that the first amendment is modified in any way, amended in any way, or repealed in any way.

Secondly, we have heard the argument that this should be protected free speech under the Constitution of the United States. But what we are talking about here is not speech, we are talking about actions and burning or otherwise desecrating the flag of the United States of America.

Nobody is right to express themselves on any issue facing our country, on any candidate for office, on the performance or voting record of any incumbent officeholder this way. No one is in any way diminished by this constitutional amendment. What this constitutional amendment does is to give Congress the power to prohibit actions, not speech, that desecrates the flag of the United States of America.

Some also believe that the right to free speech is unlimited as a result of the first amendment. That is not the case at all. No one can shout ''fire'' in a crowded theater. No one can issue defamatory statements, whether verbally or in writing, without being called to account. There are limits on free speech, and 80 percent of the American people believe that a flag desecration constitutional amendment is a limit that we ought to have, not on speech but on actions.

Then we have heard that the Supreme Court of the United States, on a five-to-four decision, has said that this is protected political expression. We have heard that we should not amend the Constitution because we disagree with a Supreme Court decision.

Our Constitution has been amended 17 times since the Bill of Rights was ratified in 1791. Three of those 17 amendments overturned Supreme Court decisions that two-thirds of the Congress and three-quarters of the

State legislatures decided were not good law.

The 11th amendment construing the judicial power of the United States overturned such a Supreme Court decision. The 14th amendment granting equal protection under the law in the eyes of both the Federal and State government overturned the Dred Scott decision. The sixteenth amendment, which allowed the Congress to impose an income tax, overturned a decision that said that the Federal income tax violated the constitutional prohibition on not having proportional allocation of taxes among the States.

So when the Supreme Court is wrong, one of the remedies that the Congress and the States have is to amend the Constitution of the United States to correct the errors of the Supreme Court.

Those nine people across the street, in a co-equal branch of government, are entitled deference to their decisions, but they are not infallible, and they do make mistakes. In the case of both the Johnson and the Eichman case, they have made a mistake.

One of the checks and balances that the Framers of the Constitution placed on the judicial branch of government is to authorize the Congress and the States to amend the Constitution of the United States. This should not be done lightly, and it has not been done lightly.

But given the fact that the Supreme Court twice has said that any statute, Federal or State, proposing criminal penalties for the physical desecration of the flag of the United States of America is unconstitutional, the only alternative we have as a nation is for us today, by a two-thirds vote, to approve this amendment for the other body to follow suit and three-quarters of the States to ratify this amendment.

Today we have an opportunity to correct a wrong of the Supreme Court. The House should do the right thing, Mr. Speaker, and pass this constitutional amendment.

Mr. GEPHARDT. Mr. Speaker, I would like to express my support in protecting the sanctity of our Nation's greatest symbol of freedom and liberty: the American flag. Regretfully, prior obligations to my constituents in St. Louis keep me from being present to debate this bill on the floor. I therefore submit this statement for the record.

In 1989, the U.S. Supreme Court struck down a Texas statute that provided criminal sanctions for the burning of an American flag. In a 5–4 decision, the Court provided that the desecration of the flag was an act of free expression, a freedom protected under the first amendment of our Constitution.

On behalf of all the men and women who fought and died for this nation, for their families, and for all Americans, I join my colleagues in supporting H.J. Res. 36, the Flag Protection Constitutional Amendment. My support of this amendment is consistent with my votes cast in favor of past successful attempts in the House of Representatives to protect this American treasure.

I often meet with the many veterans from my district, those who served our Nation courageously in World War II, Korea, and Vietnam. To them, the flag symbolizes their struggle and triumph, flying as a constant reminder of their bravery and our gratitude. I believe the desecration of our flag jeopardizes that symbolic value, and undermines the courage that we must forever salute.

I support this amendment not as a Republican or Democrat, but as an American. I call on all members, from both sides of the aisle, to join together in a bipartisan fashion to support this amendment and keep the symbol of our American dream alive.

Mr. BLUMENAUER. Mr. Speaker, the purpose of our constitution should be to establish the structure of government and to protect the fundamental rights of citizens. We have amended the constitution only 17 times since the establishment of the Bill of Rights in 1791. The proposed amendment is not a fundamental right or an alteration of the structure of government. Abandoning that principle leads us to a slippery slope, which potentially cheapens the process of amendments and could weaken the constitutional framework.

I also oppose this amendment because of the same reasons some of my friends support it: because I respect the flag of the United States of America. I find it abhorrent, distasteful, and sad when it is desecrated. Since I've been in Congress, to my knowledge, there has not been a single flag burning in my community, and probably in my whole state. Certainly no one has brought it to my attention. I will guarantee you the second we raise the act of expression of political protest by burning the flag to status of a crime, we will have explosion of instances where in fact the flag is burned. Perversely, the reaction to this amendment would lead to what supporters want to avoid, the desecration of the American flag.

Because its not needed, because it's contrary to the principles of the Constitutional action, and because, sadly, it would encourage desecration of our flag, I oppose the amendment and urge my colleagues to do likewise.

Mr. BARCIA. Mr. Speaker, once again, I rise today in support of the Constitutional Amendment prohibiting the physical desecration of the flag. I believe our Nation's flag is the centerpiece of our Nation's sovereignty and a symbol that separates the United States from other nations. It is important to remember the ideals our flag represents—freedom, democracy, and national pride. And one must also remember the men and women, who loved the freedom and liberty the flag represents so much, they were willing to risk their lives defending it and the values it embodies.

I am proud to once again to be an original cosponsor of this legislation to amend the Constitution to prohibit the desecration of the flag—which the brave men and women of our armed forces have repeatedly fought to defend. All too often desecration of the flag is used as a vehicle to voice differing opinions between American citizens and our government. Our brothers, fathers, sisters and mothers fought and died for our flag in the name of free speech. I believe the right to deface that symbol of freedom is not what they were fighting to protect. Let our nation be unified in the fact that there are some things too important to defile, too important to sully, and chief among them is our flag.

From the hands of Betsy Ross, through the eyes of Francis Scott Key during the bombardment of Fort McHenry, to the raising at Iwo Jima, our flag has represented the hopes and beliefs of generations of Americans. It symbolizes resolve. It symbolizes freedom. It symbolizes democracy. It symbolizes America, and it deserves to be protected.

Mr. Speaker, I urge my colleagues to support this Constitutional Amendment.

Mr. YOUNG of Florida. Mr. Speaker, I rise today in support of House Joint Resolution 36, legislation I have cosponsored to amend the Constitution of the United States to authorize Congress to prohibit the physical desecration of the flag of the United States.

Ol' Glory has served to remind American citizens of our soldiers who fought for freedom, liberty, and democracy here on our own shores and throughout the world since the Continental Congress adopted the Flag Resolution of 1777. The very sight of the American flag flying high has the ability to rouse unparalleled pride and patriotism not only in the people of the United States of America but in freedom loving people throughout the world. Countless men and women have put the good of our country ahead of their own lives to protect the sanctity of liberty and democracy, which our flag represents. We must never allow ourselves to forget that the flag that flies here in this chamber, above this great building, and throughout our nation is a reminder of the enduring values for which these American service men and women fought and may have died.

Not only does our great flag symbolize the tireless struggle of our armed services for democracy both here and abroad, but it also serves as a bright beacon of hope to oppressed people throughout the world who dream of living under a democratic government as great and as resilient as out own. The American flag flies for all Americans, regardless of race, creed, or religion. It is a symbol of the American dream, of honor, justice, and equality. The flag is a commitment to our children and grandchildren that they will have the same freedoms, liberties, and opportunities that we have. The Stars and Stripes inspires pride in the accomplishments of our noble country, and it should be regarded with respect and admiration for the important role it plays in the lives of Americans. When the desecration of Ol' Glory is used as a protest, far more than a single flag is being violated. The devotion of American citizens to our great nation is being battered. Many Americans have died defending our flag and what it represents.

Mr. Speaker, may the American flag forever soar proudly above our glorious nation. May it always be a source of courage and inspiration for those who carry it into battle, a symbol of hope for the downtrodden of foreign lands, and a reminder that we are the land of the free only because we are the home of the brave.

Mr. SWEENEY. Mr. Speaker, I rise today in support of House Joint Resolution 36—The Flag Protection Constitutional Amendment.

In doing so, I rise to defend and protect the very symbol of our nation's unyielding promise of hope and opportunity.

I rise to defend the memory of countless Americans, both men and women, who sacrificed their lives fighting for their country in time of war so that the values and ideals represented by our nation's symbol could be protected.

I rise to defend the integrity and the mission of our men and women in the armed forces today, who stand in defense of our Nation's Flag on American * * * as well as foreign soil around the world, so that the very symbol of their commitment to those American values will not be compromised.

The desecration, destruction and disrespect of our nation's Flag are contemptible acts against our nation's principles.

The protection of our National Symbol from desecration is an essential part of preserving our Nation's sense of duty, citizenship and allegiance to a community fabric unlike that of any other nation.

We must protect our Constitution from those seeking to distort it while cloaking themselves in a disguise of free speech. The American people cry out for us to do so. Forty-nine state legislatures have appealed to this Congress to pass a Flag protection constitutional amendment.

In conclusion, Mr. Speaker, I remind my colleagues that this a nation that promises more than just life, liberty and the pursuit of happiness. It is a nation that offers as its foundation of principles the dignity, respect and self-sacrifice for the ideals upon which it was built.

I urge passage of this resolution because it is the right thing for the Flag, and because it is the right thing for the United States of America.

Mr. KLECZKA. Mr. Speaker, the American flag is a visible symbol of all the elements that make our nation great. A strong military, a system of checks and balances, a government by and for the people. Underlying these ideals is the Constuition and the Bill of Rights, perhaps the most perfect document yet created by man in pursuit of a fair and just government.

Central to the Constitution are the rights and freedoms delineated in the Bill of Rights, which has yet to be amended, although over 200 years have passed since these tenets were drafted. Every American is familiar with the first of these amendments, which states unequivocally that Congress shall make no law respecting an establishment of religion or abridge the freedom of speech.

As former Commander of the American Legion Keith A. Kreul states, ''Our nation was not founded on devotion to symbolic idols, but on principles, beliefs and ideals expressed in the Constitution and the 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.''

The freedom to publicly voice one's dissent of their government is a quality that separates our great nation from others. The United States of America has a long and proud history of providing this right to its citizens, and I do not believe that the voice of freedom should be muzzled. The amendment to the Constitution before us today, which would allow Congress to prohibit the desecration of our flag, effectively says that we are afraid of a very small number of people who choose—under the rights granted them in the Constitution—to defile this cherished symbol.

While the desecration of our flag generates an almost universal reaction of disgust by Americans, 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.

There have been only a very small number of incidents of flag burning over the course of our history. In fact, between 1777 and 1989, there were only 45 reported incidents, and in the years since, fewer than 10 incidents have been reported annually. This hardly merits the first ever change to the Bill of Rights, much less any action that could restrict our most coveted freedom.

This resolution is essentially a solution in search of a problem. I oppose this proposed amendment, which diminishes the flag's value by taking away from the freedoms that it represents.

Mr. FILNER. Mr. Speaker, we all love, cherish and respect our flag. Our flag is a symbol of our great nation, a symbol of our fundamental values of freedom, liberty, justice and opportunity.

And it is those values we must protect.

I stand today with Jim Warner, a Vietnam veteran and former prisoner of war, who said: ''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.''

I stand today with the San Diego Union-Tribune, my hometown paper, which has editorialized against ''the drastic step of amending the Constitution because of the abhorrent conduct of that lone demonstrator and the handful of others who seek attention from time to time by burning the flag.''

Compromising the Bill of Rights, which has stood the test of time, is not the action needed to ensure the strength of our nation. We must do that through proper education of our children—nurturing their love and patriotism of our country—and respect for our flag and national symbols.

We can choose the easy path and simply make a law and outlaw an action. Or we can take the difficult and correct path of guiding our citizens back to the ideals of our founding fathers. The more difficult path puts true meaning back into our respect for the flag.

I choose the more meaningful path, the one that will guarantee that our flag will fly proudly—and our Bill of Rights will continue unchanged—for generations to come.

Mr. SMITH of New Jersey. Mr. Speaker, as Chairman of the Veterans' Affairs Committee, I rise today to join with the vast majority of American citizens who support an amendment to the Constitution to protect the Flag of the United States from physical desecration. It was just over 12 years ago that the Supreme Court, in a narrow 5-to-4 decision, ruled that all Federal and State statutes prohibiting the physical desecration of the flag were unconstitutional.

The flag of the United States of America needs to be protected as a sign of our freedom. I believe that flag desecration is a slap in the face to the millions of American veterans who fought and died to protect the flag, and the democracy and liberty for which it symbolizes.

Over the years of our Republic's existence, countless men have marched into battle under the banner of Old Glory. Many have died or risked their lives to prevent the flag of their unit from falling into enemy hands. The number of accounts of heroism to protect the flag in the heat of battle are so numerous that they cannot be counted. But let me recount just one true tale of such bravery.

Many of my colleagues have seen the movie, Glory, which tells the story of the 54th Massachusetts Colored Infantry—an African American unit which fought at Fort Wager, South Carolina, in July 1863. One soldier who saw action in this battle was Sergeant William Carney, a 23-year-old ex-slave. During the action, the color bearer of the 54th Massachusetts was wounded. Dropping his weapon, Sergeant Carney picked up the flag before it hit the ground. He marched forward with his unit. However, in the subsequent engagement, the 54th Massachusetts suffered staggering casualties in a frontal assault on a fortified position, and his unit was forced to pull back.

Sergeant Carney, at great risk to his safety, retrieved the flag so it would not fall into Confederate hands. Crossing a marsh in waist-high water, he was shot in the chest, and in his right arm. Yet still he held onto the flag. He was then shot in the leg. Still, he clenched the flag tightly to his chest, protecting it from harm and capture. Another bullet grazed his head. A passing soldier from a different unit offered to relieve him, but he refused, saying ''No one but a member of the 54th will ever carry these colors.'' Sergeant Carney, bleeding from multiple gunshot wounds, returned the flag to his camp, telling his comrades, ''Boys, I only did my duty. Our flag never touched the ground.''

William Carney was later awarded the Medal of Honor for his extraordinary heroism under enemy fire. He was the first African American in American history to earn the nation's highest honor for bravery in combat.

To this very day, military units still field a color guard to honor the flag.

The flag has served, and continues to serve, as a source of inspiration, courage, and purpose. I ask my colleagues: how can we justify allowing the flag to be blatantly desecrated or burned, when so many of our brave soldiers have died, been wounded, or took enormous risks to protect the flag from harm? What could we possibly say to these persons, now that the Supreme Court has allowed the flag to be desecrated? That their sacrifice was in vain? That they were stupid and silly to have ever taken such risks? That they sweated, ducked bullets, and bled to protect the flag from harm so some social miscreant could just trash it a few years later?

How can a symbol continue to be so enduring, and function to inspire such deeds of heroism, when we allow it to be desecrated? My colleagues, I submit that if we do not take action to protect our flag, it will simply become one more element in the ongoing coarsening of our society. If we do not respect the flag, it will send a subtle, yet powerful, message that nothing is worth respecting. Flag burning is not free speech. It is an act of hatred and nihilism. It is not a call for reform. It is a disgrace. The right to dissent does not include the right to desecrate. To desecrate the flag crosses a line of ugliness.

I know people the world over who cherish the American flag and the hope it has held for people in different crises around the globe. Freedom is not free. The cherished freedoms, rights, and liberties we all enjoy today were purchased only through the enormous sacrifices of the men and women in our military today—veterans, past and present. If we allow

our flag to be desecrated, and fail to protect it, we dishonor their sacrifice and their service.

Mr. Speaker, the Court was wrong in deciding the Texas v. Johnson case. It was wrong one year later when it reaffirmed this position in another 5-to-4 decision in United States v. Eichman. The amendment to the constitution we are now considering, H. J. Res. 36, will overturn both decisions of the Court and grant the Congress the authority to enact constitutionally-permitted language to protect the flag.

The Supreme Court's 5-to-4 rulings on flag burning were most unfortunate and an erroneous interpretation of what our forefathers, and we as a people, define as free speech. The opponents of this amendment have tried to depict this as an infringement on the first amendment rights of all Americans. This is simply false.

Mr. Speaker, I yield to no one in my support of the first amendment. As Vice Chairman of the International Relations Committee and Co-Chairman of the Helsinki Commission, I have continually fought for the expansion of these freedoms throughout the world. I have worked for the release of countless prisoners of conscience whose only crime has been that they wanted to express political or religious ideas that their governments opposed.

I have worked just as hard to insure that these same freedoms—freedom of conscience, freedom of speech, and freedom of religion—continue to be strongly protected here in the United States.

However, Mr. Speaker, no right is unlimited.

There are those who claim that any limitation of the right to free speech is an intolerable infringement upon our rights guaranteed to us in the Bill of Rights. Upon single examination this proves to be totally false.

In a unanimous 1942 Supreme Court decision, Chaplinsky v. New Hampshire, the Court said:

> . . . it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or ''fighting'' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality.

Mr. Speaker, there is also an important distinction to be drawn between the freedom to express an idea and the freedom to use any method to express that idea. While one has a right to express virtually any idea in a public forum, the means of expression can be regulated. As Justice Stevens pointed out in his dissent:

> Presumably a gigantic fireworks display or a parade of nude models in a public park might draw even more attention to a controversial message, but such methods of expression are nevertheless subject to a regulation.

In his dissent in Texas v. Johnson, Justice Stevens said that the Court was wrong in asserting that the flag burner was prosecuted for expressing a political idea. Rather, Stevens went on to say, he ''was prosecuted because of the method he chose to express his [idea].''

And again, Justice Stevens stated:

> It is moreover, equally clear that the prohibition [against flag desecration] does not entail any interference with the speaker's freedom to express hie or her ideas by other means.

As Oliver Wendell Holmes asserted years ago, no one has the right to shout fire in a crowded movie theater.

Mr. Speaker, despite some of the claims made here today, it is constitutionally permissible to regulate both the content and the means of expression of free speech, provided that it is done only in certain very narrow and well-defined circumstances and only if an overriding public interest is threatened. Let me emphasize that the circumstances must be narrow, well defined and justified in the public interest.

Mr. Speaker, prohibiting the physical desecration of the flag is both a narrow and well-defined restriction. Despite arguments to the contrary, it is not the first step toward curtailing political dissent, nor is it impossible to define. This argument represents at best a gross distortion of the effect of this amendment.

This leaves only the question of whether the protection of the flag serves a purpose worthy of special consideration. On this point, as Chairman of the House Veterans' Affairs Committee, I join with the overwhelming majority of the American public who say, emphatically, yes.

Since the creation of the American flag, it has stood as a symbol of our sacred values and aspirations. Far too many Americans have died in combat to see the symbol of what they were fighting for reduced to just another object of public derision. Simply put, it is a gross insult to every patriotic American to see the symbol of their country publicly desecrated. They will not tolerate it, and neither will I.

Mr. Speaker, the amendment to the Constitution we are considering today will restore the flag to its proper position as a symbol of our Nation, without restricting the freedom of expression for any of our citizens. I would hope that all of my colleagues would join with me in support of this amendment.

Mr. MURTHA. Mr. Speaker, I'm proud to have joined with Congressman DUKE CUNNINGHAM in introducing this Constitutional Amendment to prohibit the desecration of the American Flag.

The American Flag is recognized around the world as a symbol of freedom, equal opportunity, and religious tolerance.

Many thousands of Americans fought and suffered and died in ways too numerous to list in order to establish and preserve the rights we sometimes take for granted, rights which are symbolized by our Flag. It is a solemn and sacred symbol of the many sacrifices made by our Founding Fathers and our Veterans throughout several wars as they fought to establish and protect the founding principles of our great Nation.

Most Americans, Veterans in particular, feel deeply insulted when they see our Flag being desecrated. It is in their behalf, in their honor and in their memory that we have championed this effort to protect and honor this symbol.

We are a free Nation. No one would disagree that free speech is indeed a cherished right and integral part of our Constitution that has kept this Nation strong and its Citizens free from tyranny. Burning and destruction of the flag is not speech. It is an act. An act that inflicts insult—insult that strikes at the very core of who we are as Americans and why so many of us fought—and many died—for this country.

There are, in fact, words and acts that we as a free Nation have deemed to be outside the scope of the First Amendment—they include words and acts that incite violence; slander; libel; and copyright infringement. Surely among these, which we have rightly determined diminish rather than reinforce our freedom, we can add the burning of our Flag—an act that strikes at the very core of our national being.

No, this is not a debate about free speech. Our flag stands for free speech and always will.

Over 100 years ago some words were written that most of us remember reciting in school. They sum up what we vote on today:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Let us join today in overwhelmingly passing this amendment to revere, preserve and protect our Flag, the symbol of our country, the embodiment of our principles, and the emblem of our people.

Mr. SIMMONS. Mr. Speaker, I rise today in strong support of House Joint Resolution 36, the Constitutional Amendment to prohibit flag desecration.

Our flag is the strongest 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. Any many of them traded their lives for it. Gettysburg, San Juan Hill, Iwo Jima, Korea, Da Nang, Persian Gulf—our men and women had one common bond: the American flag.

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

Supreme Court Justice Paul Stevens reminded us of the significance of our flag when he wrote:

> A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas . . . . So it is with the American flag. It is more than a proud symbol of courage, the determination, and the gifts of a nation that transformed 13 fledgling colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other peoples who share our aspirations.

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 in to radio stations. Americans can stand on the steps of the nation's capitol building to demonstrate their cause.

They do not need to desecrate 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 desecration, 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 310–114, and will rightfully pass it again this year.

Mr. Speaker, I am proud to be an original cosponsor of H.J. Res. 36 and ask that my colleagues join me in supporting this important resolution that means so much to so many.

Mr. COLLINS. Mr. Speaker, I rise today to offer my strong support for House Joint Resolution 36, which I have cosponsored, and thank my colleague, Mr. Cunningham, for his continued effort to protect this important symbol of our freedom, the United States flag.

The vast majority of my constituents in Georgia's Third District have contacted me and stated that they share this belief that among the countless ways to show dissent, the desecration of the flag should not be one of them.

Opponents of this amendment state that it would reduce our First Amendment freedoms. This is simply not so. Rather this amendment would serve to restore the protection our flag had been accorded over most of our nation's history.

The American flag represents not only our freedom but serves as a constant reminder of the ideals embodied in our Declaration of Independence that countless Americans have served to defend, preserve and protect over our nation's 225 year history.

In the Declaration of Independence, the founders acknowledged that we are created equal and that we have been endowed by our Creator with certain rights to life, liberty and the pursuit of happiness.

These are the ideals for which countless Americans have fought, bled and died and it is these ideals upon which our Constitution is founded. It is these ideals which we are elected to preserve. Today, we can renew our affirmation of these principles, so clearly stated in the Declaration of Independence, by preserving the most visible symbol of our Republic.

Upon three separate occasions, this House has rightfully voted to protect our nation's flag. Today, the United States House of Representatives will again affirm its commitment to protect this symbol of our great nation.

For the thousands of Americans who have fought and died for their country, the flag is more than a piece of cloth.

Mr. STARK. Mr. Speaker, I rise today in strong opposition to H.J. Res. 36 ''The Flag Protection Constitutional Amendment.'' This constitutional amendment would undermine the very principles for which the flag stands—freedom and democracy.

The First Amendment to the Constitution reads as follows: ''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 a redress of grievances.''

By writing the First Amendment, our nation's founders made sure that the Constitution protected the right of all citizens to object to the workings of their government. Freedom of expression is what makes the United States of America so strong and great—it is the bedrock of our nation and has made our democracy a model for the rest of the world.

The Supreme Court has twice upheld a citizen's right to burn the flag as symbolic speech protected by the Constitution. If this Flag Protection Amendment were enacted, it would be the first time in our history that the Bill of Rights was amended to limit American's freedom of expression.

Whlie the idea of someone burning or destroying an American flag is upsetting, the consequences of taking away that right are far more grave. Once we start limiting our citizens' freedom of expression, we walk down a dark road inconsistent with our history and our founding principles. Our government's toleration of criticism is one of our nation's greatest strengths.

This amendment isn't a matter of patriotism, it is a matter of protecting the rights of all of our citizens, particularly the right to dissent. Let us uphold our commitment to freedom and democracy. Let us uphold our commitment to the principles upon which our nation has flourished for over 200 years. Vote no on this amendment.

Mr. GRAVES. Mr. Speaker, it is an honor to rise today to support House Joint Resolution 36. The flag protection Constitutional amendment. I also want to extend my appreciation to our veterans and the men and women in our armed forces for their service to our nation and their vigilance and sacrifice in both times of peace and war.

The American flag embodies many different things to different people. To me, the flag represents the many men and women in our Nation's history who have selflessly served and died defending our country and its freedoms. Mr. Speaker, it is our obligation as Americans to defend this nation, its heritage, and its honor. Our flag embodies the struggles, the victories, and the bonds that unite our Nation and its people. Today, I will continue to support a Constitutional amendment that will honor those men and women who have died in service to our country by prohibiting the physical desecration of our national colors.

Today, we have an opportunity to renew our allegiance to the American flag. Together, we stand collectively to honor its glory and its vibrant colors that continue to wave through the skies that blanket the dreams and hopes of our beloved America. America truly is the land of the free and the home of the brave, and I am honored that we can share and enjoy the peace and the prosperity of this great nation. Mr. Speaker, I ask my colleagues to join me in supporting House Joint Resolution 36.

Mrs. ROUKEMA. Mr. Speaker, I rise in strong support of the Flag Protection Amendment.

Why are we here today. The Congress of the United States has already acted to pass flag protection legislation. However, a majority of the Supreme Court—by the narrowest of margins—has ruled that Congress does not possess the authority to legislate in this important area. It has twice overturned laws that prohibit flag burning. In both cases, the decision has been handed down by a narrow margins of 5 to 4.

I happen to disagree with the Court. So do such distinguished constitutionalists as Justices Stevens and White. They hold that burning of the U.S. flag is not an expression protected by the First Amendment. Instead, they believe that flag burning is an action, and a repugnant one. Therein lies the distinction. Burning a flag is conduct, not speech.

Still, we need to pass this Constitutional amendment today and begin the process of ratification. Only then, can Congress honor its responsibility to protect this sacred national symbol.

I believe strongly in this amendment, although I believe it to be an issue on which patriotic Americans of good faith can, and do, have legitimate differences. Many assert that burning a flag endangers no one. Using that standard, one would then assume that we would not see the inherent violation of decency of throwing blood on the U.S. Capitol, painting a swastika on a synagogue, or defacing a national monument. These actions also endanger no one. And, yet, laws have been wisely enacted to prohibit these actions. How can we not protect our country's most treasured symbol from such actions?

The American flag was created to honor our country. Let us pass this Constitutional amendment created to protect the honor of our flag.

Support this joint resolution. Support the amendment. Protect the flag.

Mr. KIND. Mr. Speaker, again we are brought together to debate the rights of a free people against the honor and meaning of our national flag—to debate the necessity of providing legal protection to the most honored and recognized symbol of freedom in the world. This is not a matter to be approached carelessly, and I appreciate this opportunity to reaffirm my faith in the Constitution and the Wisdom of our Nation's founders.

If there is one bright shining star in our Constitutional constellation, it is the First Amendment of the Bill of Rights. That 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. But here we are yet again in the 107th Congress debating an amendment that would seriously weaken the First Amendment and Freedom of expression in this country.

There are few things that evoke more emotion, passion, pride or patriotism than the American flag; I recognize that. But I am forced to question the need for a Constitutional amendment to remedy a problem that doesn't seem to exist, or provide legal protection to something that doesn't seem endangered. As a matter of occurrence, the recorded incidence of public flag desecration is extremely rare. While this explanation, on its

face, is not sufficient to oppose to this amendment, it illustrates an inherent respect for the flag and a recognition of what it means to American history and the individuals who gave their life in protection of the freedoms and way of life we cherish everyday. To attempt to enforce this understanding through legal means serves to undermine this self-realization and only encourage the proliferation of such acts because of the attention some people crave.

Now I want to be clear. I am going to oppose this amendment, not because I condone or I do not feel repulsed by the senseless act of disrespect that is shown from time to time against one of the most cherished symbols of our country, the American flag. But because I recognize that our constitution can be a pesky document sometimes. It challenges us, and it reminds us that this democracy of ours requires a lot of hard work. It was never meant to be easy. Our democracy, rather, is all about advanced citizenship. It is about the rights and liberties embodied in the Constitution that will put up a fight against what we believe and value most in our lives. We have to recognize that free speech means exactly that, free speech. It is the right of anyone in this nation to peaceably express his or her beliefs about the government directly to the government without fear of tyrannical retaliation. As stated by Vietnam veteran and former prisoner of war James H. Warner on this matter, ''rejecting this amendment would . . . tell the world that freedom of expression means freedom, even for those expressions we find repugnant.''

This protection of freedom is what advanced citizenship is about. This is the challenge of the Constitution, and yes, the Supreme Court has ruled on numerous occasions that the repulsive disrespect and the idiotic act of desecrating the American flag is freedom of expression protected under the First Amendment. As former Supreme Court Justice Jackson said in the Barnette decision, and I quote: ''Freedom to differ cannot just be limited to those things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the very heart of the existing order.''

On this matter, I also agree with the statements of former General and current Secretary of State Colin Powell. When asked for his views on the amendment before us, Secretary Powell stated, ''. . . 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. This flag will be flying proudly long after they have slunk away. . . .''

In another opinion I urge my colleagues to hear, former Senator, and American hero, John Glenn stated in his opposition to this amendment before the Senate Judiciary Committee in the 106th Congress, ''That commitment to freedom is encapsulated and encoded in our Bill of Rights, perhaps the most envied and imitated document anywhere in this world. The Bill of Rights is what makes our country unique. It is what has made us a shining beacon of hope, liberty, of inspiration to oppressed peoples around the world for over 200 years . . .''

We must cherish the history and meaning of bill of rights and realize the impact of our actions here today. Are a few acts of senseless desecration the motivation for passing this amendment to the Constitution? There are other ways of dealing with content neutral acts. If someone steals my flag, they can be prosecuted for theft and trespassing. If they steal my flag and burn it, they can be prosecuted for theft, trespass, and criminal damage to property. If they burn it on a crowded subway station, they can also be prosecuted for inciting a riot, reckless endangerment, criminal damage to property and theft. There are other ways that this type of conduct can be prosecuted, but if someone buys a flag, goes down in their basement and, because they do not like the government, decides to desecrate it or burn it, are we going to obtain search warrants and arrest warrants to go in and arrest that person and prosecute them? We do not need to do that.

Make no doubt about it, this amendment will do nothing less than amend the First Amendment of the Bill of rights for the first time in our Nation's history. And it sets a precedent that the fundamental protections afforded to the American people, the freedoms that portray what America is, do not really protect all that is claimed. It is for these reasons that I encourage my colleagues to oppose this amendment and not change 212 years of history in this country.

Mr. HAYES. Mr. Speaker, America is the land of the free, home of the brave. But the liberty we enjoy did not come without a price. Many Americans have made the ultimate sacrifice so that we may live in peace and freedom. They died nobly for us. Now it is our responsibility as Americans to live nobly in their memory.

One of the first and foremost ways we can honor our fallen heroes is to protect the American flag. The brave men and women who died for the fight of freedom deserve to be honored by the flying of the stars and stripes. Our flag represents the freedoms we enjoy, the spirit of democracy, and the sacrifices of all those who have worked to make this nation what it is today. I am honored to support this measure that protects the great symbol of the United States of America.

Our nation's veterans, active duty and reserve forces draw their strength not from America's great material wealth. Rather, these individuals draw their strength from the belief that there are some causes that are worth dying for, a conviction rooted in principle and represented by our flag. The patriots that have fought for our freedoms knew in their hearts that their cause was righteous, that making the ultimate sacrifice for freedom, liberty, and justice was worth the risk.

Thus, we as a Congress have the opportunity to do what is right. We have a responsibility to honor the memory of those who have died for our freedom and to say to those who live, ''we will not let your sacrifice be in vain.'' The American flag and the principles for which it flies are deserving of honor and protection. Today we need to pass this legislation and send a clear message that we will not tolerate desecration of the American flag.

Mr. OXLEY. Mr. Speaker, I stand in strong support of H. J. Res. 36, which calls for a constitutional amendment to allow Congress to heed the overwhelming majority of our constituents and protect our nation's flag.

Old Glory is not just another piece of cloth—nor is it a political tool for one side or another to use in debate. Our flag is the most visible symbol of the nation, a unifying force in times of peace and war. Americans from both sides of the political spectrum back the action we are taking today in sending this issue to the states. Since the Supreme Court invalidated state flag protection laws in 1989, 49 state legislatures have passed resolutions petitioning Congress to propose this amendment.

Mr. Speaker, my hometown of Findlay, Ohio, is known as Flag City USA. Main Street and other major downtown thoroughfares are lined with flags in a patriotic salute to our great nation. Arlington, Ohio, which I am also privileged to represent, enjoys the designation Flag Village USA. The messages I receive from Findlay, Arlington, and throughout the Fourth Ohio District are clear: the American people favor the protection of Old Glory by staggering margins.

I am proud to be an original cosponsor of DUKE CUNNINGHAM's joint resolution, and recognize him for his longstanding, unwavering leadership on this issue. I urge my colleagues to support their constituents and vote in favor of sending this amendment to the states.

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.

As the Denver Post put it just last month,

> 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 Denver Post's editorial on this subject:

FLAG AMENDMENT SHOULD DIE

Monday, June 25, 2001.—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 freed 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.

Mr. BUYER. Mr. Speaker, I rise in support of this 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.

I have seen our flag on a distant battlefield. I understand what it represents . . . the physical embodiment of everything that is great and good about our Nation. It represents 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 no coincidence that when foreigners wish to criticize America, they burn the American flag. I am sure we all remember the searing images of the flag of our Embassy in Iran which was torn from its pole and burned on the street. They burned the flag because it is not just some piece of cotton or nylon with pretty colors. Old Glory is the embodiment of all that is America . . . the freedoms of the Constitution, the pride of her citizens, and the honor of her soldiers, not all of whom made it home.

Across the river from here is a memorial to the valiant efforts of our soldiers 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 a symbol worth defending. I urge the adoption of the flag protection amendment.

Mr. CRENSHAW. Mr. speaker, I rise today in support of H.J. Res. 36, which would give the Congress the power to prevent the desecration of our Nation's flag.

The American flag is a national treasure and our Nation's ultimate symbol of freedom. The American flag represents all that unites us as one nation under God. It is a constant reminder of the ideals we share—patriotism, loyalty, love of country. Because of its significance, we should seek to provide the flag some measure of protection.

The measure we are considering today includes a simple phrase: ''Congress shall have the power to prohibit the physical desecration of the flag of the United States.'' This clear and concise statement will return to the American people a right and responsibility which the Supreme Court took away a little more than a decade ago. It will empower Congress to restore legal protection for the flag that existed under Federal law and the laws of 48 States prior to the Court's ruling.

Millions of Americans have fought and died in defense of the United States and the flag which represents our Nation. Allowing persons the legal protection to desecrate the flag dishonors our Nation's veterans who served defending our way of life. Many of the nearly 150,000 veterans which live in the five counties which make up my district have expressed their strong support for this measure.

I support this resolution for many reasons, including the fact that I want to make sure that we honor the sacrifice of veterans. I want our young people to know that with liberty comes civic responsibility. I want to restore a sense of pride in our Nation and its rich history. I urge my colleagues to join me in supporting this resolution.

Mr. DINGELL. Mr. Speaker, I rise today to express my outrage at a deplorable and despicable act which disgraces the honor of our country—the burning of the U.S. flag. Behind the Speaker hangs our flag. It is the most beautiful of all flags, with colors of red, white, and blue, carrying on its face the great heraldic story of 50 States descended from the original 13 colonies. I love it. I revere it. And I have proudly served it in war and peace.

However, today I rise in opposition to H.J. Res. 36, the flag amendment, which for the first time in over 200 years would amend our Bill of Rights.

Mr. Speaker, throughout our history, millions of Americans have served under this flag during wartime; some have sacrificed their lives for what this flag stands for: our unity, our freedom, our tradition, and the glory of our country. I have proudly served under our glorious flag in the Army of the United States during wartime, as a private citizen, and as an elected public official. And like many of my colleagues, I treasure this flag and fully share the deep emotions it invokes.

But while our flag may symbolize all that is great about our country, I swore an oath to uphold the great document which defines our country, the Constitution of the United States. The Constitution is not as visible as is our wonderful flag, and oftentimes we forget the glory and majesty of this magnificent document—our most fundamental law and rule of order. This document defines our rights, liberties and the structure of our government. Written in a few short weeks and months in 1787, it created a more perfect framework for government and unity, and defined the rights of the people in this great republic.

The principles spelled out in this document define how an American is different from a citizen of any other nation in the world. And it is because of my firm belief in these principles—the same principles I swore an oat to uphold—that I must oppose this amendment. If this amendment is adopted, it will be the first time in the entire history of the United States that we have cut back on our liberties as Americans as defined in the Bill of Rights.

Prior to the time the Supreme Court spoke on this matter, and defined acts of physical desecration to the flag under certain conditions as acts of free speech protected by the Constitution, I would have happily supported legislation which would protect the flag. While I have reservations about the propriety of these decisions, the Supreme Court is, under our great Constitution, empowered to define Constitutional rights and assure the protection of all the rights of free citizens in the United States.

Today, we are forced to make a difficult decision. There is regrettably enormous political pressure for us to constrain rights set forth in the Constitution to protect the symbol of this nation. This vote is not a litmus test of one's patriotism. What we are choosing today is between the symbol of our country and the soul of our country.

When I vote today, I will vote to support and defend the Constitution in all its majesty and glory, recognizing that to defile or dishonor the flag is a great wrong; but recognizing that the defense of the Constitution, and the rights guaranteed under it, is the ultimate responsibility of every American.

I urge my colleagues to honor our flag by honoring a greater treasure to Americans, our Constitution. Vote down this bill.

Mr. GEKAS. Mr. Speaker, it unifies our soldiers in the midst of battle and provides the direction and morale they need to protect our freedom. It unifies our citizens in times of trouble and gives us reason to reflect on and celebrate our freedom. It is our American flag and for these reasons and more it is a symbol—perhaps the ultimate symbol—of our freedom.

That freedom has not come easily and has not always grown peacefully, but throughout 200 years of history, our flag has always held the value and meaning of the United States and continues to command respect and admiration around the world.

Freedom is America's greatest and most recognized attribute. It is symbolized by our flag and evident in the way our flag is treated and handled. If we afford our flag our deepest respect, we are cherishing our freedom and praising our nation. When we fail to recognize the significance of our flag, we will fail to recognize the significance not only of our freedom, but also of the potential for freedom around the world.

Let us recognize the thoughtful objections of our opponents and their concern for such an amendment offending the first amendment freedoms. We note that protecting the flag—the symbol of our country—truly protects and respects all our freedoms.

We can not take our freedom for granted. We must teach our children and our future leaders the importance of our freedom and the American flag. Millions of soldiers have fought for our flag and for all that it symbolizes. Many of them have died and many more have been injured. We can not forget that their courage and sacrifice was not only to guarantee their freedom, but also to guarantee our freedom. Furthermore, they did not fight so that we could allow the flag to lose its symbolic importance and deserving respect—the opposite, in fact. They fought to strengthen the value that America holds and that the flag represents.

Some nations have a unifying symbol that originates from their royalty such as a crown or scepter. Other nations have a unifying symbol such as a crest, cross, or other religious symbol. The United States' unifying symbol is her flag, and that originates from nowhere but our unending desire to uphold our freedom

and to spread freedom to all peoples in all nations. From Fort McHenry to Iwo Jima, from Hawaii to Maine, from the Earth to the Moon and beyond the bounds of our solar system, this flag has always stood and continues to stand as our strongest unifying symbol—a symbol of history's greatest and freest nation.

It is time for the value we hold in the American flag to be reflected in our laws. By doing so, we are formally addressing the significance of the flag and the significance of denigrating our flag. Even more importantly, we are formally addressing the significance of freedom.

Mr. FRELINGHUYSEN. Mr. Speaker, I rise today in support of our American flag, and as a proud original cosponsor of House Joint Resolution 36 to prohibit the physical desecration of our most cherished national symbol.

The American flag is probably the most recognizable symbol in the world. Wherever it flies, it represents freedom. Millions of Americans who served our nation in war have carried our flag into battle. They have been killed or injured just for wearing it on their uniform, because our flag represents freedom and liberty, the most feared powers known to tyranny. Where there is liberty, there is hope. And hope extinguishes the darkness of hatred, fear and oppression.

America is not a perfect nation. But to the world, our flag represents that which is right in our nation. To Americans, it represents what Chief Justice Charles Evans Hughes referred to as our ''National unity, our national endeavor, our national aspiration.'' It is a remembrance of past struggles in which we have persevered to remain as one nation under God, indivisible, with liberty and justice for all. Those who would desecrate our flag and all it represents show no respect for the brave men and women for whom the ideals and honor of this nation were dearer than life.

Mr. Speaker, this bill will not make individuals who desecrate our flag love our nation or those who sacrificed to secure the freedoms we have today. But, by protecting our flag, we will give Americans a unified voice for decrying these reprehensive acts.

I urge my colleagues to support this amendment.

Mr. FORBES. Mr. Speaker, I rise in strong support of Housing Joint Resolution 36, which would allow Congress to take action to protect the American flag from desecration.

In fact, one of my very first acts upon being sworn in just last month was to cosponsor this important resolution. Some very respected people have called the flag a mere piece of cloth. But, I have spoken to many of the men and women who fought and had comrades die for that piece of cloth and all that it symbolizes. To those patriots, it is much more than just another piece of cloth.

A quick review of America's history of jurisprudence indicates that our nation has a long tradition of protecting the flag. It was not until recently, in 1989, that a closely divided Supreme Court reinterpreted our Constitution to allow for the physical desecration of the flag. Congress has tried to restore the interpretation that gave some protection to the flag. But it is only through a Constitutional amendment that we will be able to do so without fear that the courts will again erase our good work.

It is important to note, Mr. Chairman, that this is simply a first step on a long road that we take today to protect the flag. Even once the Congress passes this resolution and it is ratified by the states, this language only gives Congress the authority to pass a law to protect the flag. That will be the appropriate time to debate the specifics of how we will protect the flag. Items such as what constitutes desecration and how do we prosecute the offenders will be better discussed then. Today, we merely seek to give Congress the authority to have that debate.

So, I urge my colleagues to stand with the men and women who have patriotically served their country under the American flag and to support this resolution. If for no other reason, we should protect the flag out of respect for those individuals who sacrificed so much so that we might even have this debate today. But, we should also do so out of our own sense of patriotism and pride.

Mr. GILMAN. Mr. Speaker, as a proud American, World War II Veteran, and as a Member of Congress; I rise in strong support of H.J. Res. 36, the Flag Protection Amendment of which I am a cosponsor.

Mr. Speaker, Texas v. Johnson, and its progeny decided by the United States Supreme Court in 5–4 decisions holds that it is permissible under the 1st Amendment to burn or desecrate our Flag, the symbol of our great nation. That is outrageous. Those cases present clear examples and beg for a Constitutional Amendment to preserve the honor and integrity of ''Old Glory.'' Let it be known by Constitutional Amendment that those who seek to desecrate or burn the American Flag will be required to suffer the consequences.

Mr. Speaker, in the 106th Congress, a resolution to propose an anti-desecration amendment to the United States Constitution passed in the House by a vote of 305 to 124. Regrettably our colleagues in the Senate failed to achieve the required ⅔ votes necessary to sustain the amendment.

Mr. Speaker, ''Old Glory,'' is more than a symbol of our great nation. It is the foundation of our great nation! Our flag, atop masts throughout our Nation and throughout the world is a beacon of liberty, freedom and democracy. It adorns the uniforms of our dedicated men and women of the Armed Services, we honor our flag by saluting it at sports events, we ''pledge allegiance to the flag of the United States of America . . .,'' we fly it at half-mast to show our respect for our fallen great Americans, and it adorns their caskets as well. We vividly recall a young John Fitzgerald Kennedy, Jr., saluting his slain father, President John Fitzgerald Kennedy, as the flag draped caisson made its way to Arlington National Cemetery, or our flag being placed on the moon, or atop the highest peaks in the world, that were conquered by proud Americans.

Mr. Speaker, to say that the desecration of our flag is protected by the First Amendment is to forget that freedom of expression is not absolute. As Chief Justice Rehnquist stated in his eloquent and patriotic dissent in Texas v. Johnson, which I urge my colleagues and all Americans to read, and which I will enter into the Congressional Record, there are the categories of the lewd and obscene, the profane, the libelous, and the ''fighting words''—those words which their very utterance inflict injury or tend to incite an immediate breach of the peace, that do not enjoy 1st Amendment protection. Just as one cannot yell 'fire' in a crowded theater, and claim immunity under the First Amendment's freedom of speech; one must never be able to desecrate our flag and claim immunity under the First Amendment!

Mr. Speaker, during World War II, when those courageous Marines placed our flag atop a makeshift flag pole atop Mt. Suribachi, Iwo Jima, at the cost of more than 6,000 lives of our brave Marines, President Roosevelt, in saluting their courage, stated, ''when uncommon valor was a common virtue.'' I urge that all those who believe that the American Flag can be desecrated in the name of the First Amendment go and walk through the hallowed grounds in Arlington, Virginia, where the Iwo Jima Memorial is situated honoring those brave Marines on that day. To see our flag flying in the breeze makes us all proud to be Americans!

Mr. Speaker, I urge my colleagues to fully support H.J. Res. 36, protecting the honor and integrity of our flag.

Mr. NETHERCUTT. Mr. Speaker, I rise to express my support for this proposed Constitutional Amendment.

Our founding fathers' war-time soliloquies championed freedom in opposition to tyranny and oppression. However, in deciding to revolt and in establishing a government based on liberal beliefs, the founding fathers were aware of the dangerous tendencies of excessive liberty—including freedom of expression. On numerous occasions the Supreme Court has maintained that certain forms of speech are not protected—that freedom and liberty are not license.

Those who desecrate the flag often claim they do so for at least one of two reasons. First, they are advocating the destruction of government. This argument makes it very easy to support the proposed amendment, and the Supreme Court has held that this is not protected speech.

Second, perpetrators of this act claim to be supporting ideals of America's past that have disappeared. This claim is also an invalid justification. The flag not only represents the current state of America, but it also represents the past. It is America in its totality. It is a symbol of the collective expression of all our policies, the wars we have fought and the justification for so many honorable deaths. These deaths were in defense of many ideals, one of which is not unrestricted freedom of speech. What the flag stands for cannot be divided in parts at one's convenience and used to protest something pertaining to one or even several areas of our society. It is an expression of the whole. When a flag is destroyed, the perpetrator destroys all the ideals the flag represents.

This Congress has the power to set a new precedent. There is substantial public support for this initiative. The Greek philosopher Plato wrote in his famous work Republic, ''Extreme freedom can't be expected to lead to anything but a change to extreme slavery, whether for a private individual or for a city.'' I believe that respect for our national symbol is a minimal restriction on excessive political and artistic expression in our nation. I urge my colleagues to support this Constitutional Amendment.

Mr. PUTNAM. Mr. Speaker, I rise today to request the support of this body for the passage of H.J. Res. 36—the Flag Protection Amendment. This legislation will clarify once and for all that the language of Title 4 United States Code, section 8, ''No disrespect should

be shown to the flag of the United States of America; the flag should not be dipped to any person or thing'' is the law of the land, as well as the sentiment of most Americans.

Some opponents of this legislation say that we cannot infringe on the First Amendment and the right to free speech. Others argue that the wording of the First Amendment is sacred, and we must not adjust the Bill of Rights to include this protection. But, I ask you to take a moment and think about the Founding Fathers. How could they have known that one day this would be in question? How could they have imagined that the flag of the country they pledged their lives, fortunes and sacred honor to bring into being would be burned as an act of ''speech'' by people who enjoy the protections of the Nation they sacrificed so much to build? There is no evidence they thought desecrating the flag would be speech, protected by the First Amendment. They would have known, and we must recognize, that destroying the flag is an action, not speech.

Mr. Justice White in the 1974 Supreme Court case of Smith v. Goguen said, ''There would seem to be little question about the power of Congress to forbid the mutilation of the Lincoln Memorial or to prevent overlaying it with words or other objects. The flag is itself a monument, subject to similar protection.''

Mr. Speaker, I am fortunate to have many veterans residing in my district. While thinking of what I was to say to you today, my thoughts turned to them. We are a nation standing strong today because those heroes kept our flag flying in spite of the hardship and sacrifice of war. The flag gave them strength when they were far from home. Our history is full of testimony that the image that kept our troops moving forward and prisoners enduring their captivity was the red, the white, and the blue. Surely the flag is as much a monument to their sacrifice as any tablet of stone or plaque of bronze; and should it not, then, as Justice White suggested receive the same protection as other monuments?

By adding this amendment to the Constitution, we are not taking away the freedoms that our flag symbolizes, rather we are protecting our most compelling monument to those who died—and lived—to make those freedoms possible. I urge you to vote ''yes'' to H.J. Res. 36.

Mr. KERNS. Mr. Speaker, I rise today as we consider an important piece of legislation to protect the symbol of freedom known around the world—the United States flag. Our American flag is more than just fabric and stitching. It represents the sacrifices made by generations of Americans to ensure the liberties that we enjoy each day. The fundamental principles of freedom, opportunity, and faith are woven into old glory. On porches and main streets throughout Indiana and our great nation, Americans display the stars and stripes as a symbol of their patriotic pride for our country. From the revolutionary war to modern times, the United States flag has been and continues to serve as the primary symbol of freedom and justice in the world. As a national treasure, I believe that our flag deserves our highest respect. For this reason, I ask my colleagues to support this legislation to protect the great symbol of freedom—the United States flag.

Mr. HOLT. Mr. Speaker, I rise today in opposition to this amendment.

Just as everyone here today, I view the American flag with a special reverence, and I am deeply offended when people burn or otherwise abuse this precious national symbol.

When I was in school, not only did we pledge allegiance to the flag every morning, but we were also honored to be selected to raise or lower the flag in front of my school.

Each one of us took on this task with the utmost seriousness and respect.

I believe that we should still be teaching young people to respect the flag and what it represents.

Our Constitution is the document that provides the basis for our great country. For two centuries and a decade, the Constitution—the greatest invention of humans—has allowed our diverse people to live together, to balance our various interests, and to thrive.

It has provided each citizen with broad, basic rights.

It doesn't fly majestically in front of government buildings. We do not pledge allegiance to it each day. Yet, it is the source of our freedom.

It tells us that we are free to assemble peacefully. We are free to petition our government; we are free to worship without interference; free from unlawful search and seizure; and free to choose our leaders. It secures the right and means of voting.

It is these freedoms that define what it is to be an American.

In its more than 200 years, the Constitution has been amended only 27 times. With the exception of the Eighteenth Amendment, which was later repealed, these amendments have reaffirmed and expanded individual freedoms and the specific mechanisms that allow our self-government to function.

This Resolution before us today would not perfect the operation of our self-government. It would not expand our citizen's rights.

Proponents of this constitutional amendment argue that we need to respect our flag.

I believe that the vast majority of Americans already respect our flag.

The issue before us is whether our Constitution should be amended so that the Federal Government can prosecute the handful of Americans who show contempt for the flag.

To quote James Madison, is this a ''great and extraordinary occasion'' justifying the use of a constitutional amendment?

The answer is no; this is not such an occasion.

I oppose this amendment because I believe that while attempting to preserve the symbol of the freedoms we enjoy in this country, it actually would harm the substance of these freedoms.

Mr. LEVIN. Mr. Speaker, I do not approve of people burning the U.S. flag. The flag serves as a proud symbol of our country, denoting truth, freedom and democracy. But as offensive as flag desecration is, I do not believe we can protect the flag by weakening the constitution.

One of this country's most cherished principles is that of free speech as found in the First Amendment. As Justice Oliver Wendell Holmes once wrote, ''The Constitution protects not only freedom for the thought and expression we agree with, but freedom for the thought we hate, the conduct and action we seriously dislike.''

Should this amendment be approved, it could open a Pandora's box prohibiting other activities. Who is to say restrictions won't be placed on desecrating religious symbols or texts, or even the Constitution and Declaration of Independence? The possibilities are limitless and all would stand in opposition to what the founding fathers intended by giving citizens the right of freedom of speech.

Mr. Speaker, I would never condone burning the American flag. But carving out exceptions to the First Amendment is a slippery slope we should not venture down.

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

AMENDMENT IN THE NATURE OF A SUBSTUTUTE OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Speaker, I offer an amendment in the nature of a substitute.

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 of North Carolina:

Strike all after the resolving clause and insert the following:

That 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.''.

The SPEAKER pro tempore. Pursuant to House Resolution 189, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 30 minutes.

Is the gentleman from Wisconsin (Mr. SENSENBRENNER) opposed to the amendment in the nature of a substitute?

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the amendment in the nature of a substitute.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) will be recognized in opposition.

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

Mr. WATT of North Carolina. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GREEN), outside of the debate on this amendment, to speak on general debate.

Mr. GREEN of Texas. Mr. Speaker, I thank my colleague and classmate, the gentleman from North Carolina, for yielding time to me.

Like our system goes here in Congress, I have a markup going on in the Committee on Energy and Commerce on the energy bill, and have been running back and forth. I appreciate the courtesy of the gentleman, my colleague, in yielding time to me.

Mr. Speaker, I rise today in support of the resolution and as a proud cosponsor of the original resolution to