

year. That is 6.4 percent of GDP on an annual basis, the largest trade deficit in the history of our country.

This Congress is not just raising the debt ceiling, and we have raised this debt ceiling three times recently, this Congress is shooting the Moon. It is totally out of control. And these irresponsible, wanton budget policies will be borne by our children and our grandchildren. Is that the legacy we want to leave?

GITMO MENU

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

Mr. KINGSTON. Mr. Speaker, let us look at the breakfast menu: pancakes with syrup, orange juice, butter and milk or raisin bran cereal or oatmeal and a bagel and orange juice and butter. Then for lunch we have pita bread, hamburger, honey glazed chicken, and potatoes.

What am I talking about? Not the Days Inn, not the Hampton Inn, not the menu here at the Capitol; but I am talking about what prisoners will be eating today in Guantanamo Bay. This is where the Democrats say they are being subjected to cruel and unusual punishment.

I will go on with the dinner menu. We have cooked potatoes, seasoned lentils, pita bread, potato wedge, wheat bread, fresh fruit, cauliflower. I will kind of admit that making them eat cauliflower is a little bit tough on them, but we do not make them eat beets or broccoli on the other hand.

You have got also lemon pepper chicken, pasta beef, fried chicken, honey chicken, bayou chicken. This is today's menu at Guantanamo Bay. There is where Democrats are saying we are being cruel and unusually mean to prisoners, prisoners of war, prisoners of terrorism, prisoners who because of their confinement have kept us from having another 9/11 attack on American soil. This is just one of the things they will not tell you about Guantanamo Bay.

SOME WAR ON TERRORISM

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

Mr. NADLER. Mr. Speaker, this morning's New York Times reveals that a new classified assessment by the Central Intelligence Agency says Iraq may prove to be an even more effective training ground for Islamic extremists than Afghanistan was in al Qaeda's early days because it is serving as a real-world laboratory for urban combat and that Iraq, since the American invasion of 2003, had assumed the role played by Afghanistan during the rise of al Qaeda as a magnet and a proving ground for Islamic extremists from Saudi Arabia and other Islamic countries.

Mr. Speaker, we know that there were no weapons of mass destruction in Iraq. We know there was no connection between Iraq and Osama bin Laden. We know the President deceived the American people on these subjects, got us into an unnecessary war, and has now created a danger zone in Iraq, a country that was no danger, no threat to the United States and now is a training ground for more al Qaeda extremists who will be more and more endangering to the United States in terrorism.

We have created a training ground. We have created a training ground for terrorists because of the President's deception of American people. Some war on terrorism.

□ 1045

DETROIT PISTONS ARE ALIVE AND WELL

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

Mr. CONYERS. Mr. Speaker, this is not an insignificant matter I say to my colleagues.

It should be noted that the San Antonio Spurs have lost five games at home until last night, and I bring this to the attention of the gentleman from Texas (Mr. SMITH), my dear friend on the Committee on the Judiciary, that this is the first time that we have gone to seven games in 11 years, and no one has ever won their last two games in a national basketball championship on the road.

So it is with bated breath that I let everyone know that the Detroit Pistons are alive and well and, I think, up to this incredibly important athletic contest tomorrow night.

INDIVIDUAL TAX SIMPLIFICATION ACT OF 2005

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

Mr. NEAL of Massachusetts. Mr. Speaker, I have served in this House since 1988, and I have been on the Committee on Ways and Means since 1993. A lot has changed over this time, but one thing still seems to stay the same and that is the need to bring simplification to our Nation's Tax Code.

The former chairman of the Committee on Ways and Means said he was going to rip the Tax Code out by its roots so that we could start over and create a new system that was far more simple. He was unsuccessful, as have been most reformers that I have seen in my time on this committee.

Year after year, the problem gets worse. It is easy to call for simplification, but it is a lot harder to achieve it.

Last week, I introduced H.R. 2950, the Individual Tax Simplification Act of 2005, which I have done now for 6 years

in a row. It is an outstanding first step in achieving a simpler Tax Code.

My bill would eliminate, and listen to this, it would eliminate the alternative minimum tax in a revenue-neutral fashion. It would also take 200 lines from tax forms, schedules and worksheets and make capital gains much easier to calculate.

As I have indicated, this is 6 years now that we have offered this legislation, but every year that passes our Code grows more and more complex. We have an opportunity to do away with the alternative minimum tax.

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

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 330, I call up the joint resolution (H.J. Res. 10) 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 330, the joint resolution is considered read.

The text of H.J. Res. 10 is as follows:

H.J. RES. 10

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

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

The SPEAKER pro tempore. After 2 hours of debate on the joint resolution, it shall be in order to consider the amendment in the nature of a substitute printed in House Report 109-140, if offered by the gentleman from North Carolina (Mr. WATT) or his designee, which shall be considered read, and shall be debatable for 1 hour, equally divided and controlled by the proponent and an opponent.

Pursuant to section 2 of the resolution, the Chair at any time may postpone further consideration of the joint resolution until a time designated by the Speaker.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from New York (Mr. NADLER) each will control 1 hour.

Mr. NADLER. Mr. Speaker, I will control the time.

The SPEAKER pro tempore. Without objection, the gentleman from New

York (Mr. NADLER) will control the time of the gentleman from Michigan (Mr. CONYERS).

There was no objection.

The SPEAKER pro tempore. 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. 10.

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

There was no objection.

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

Mr. Speaker, I rise today in support of House Joint Resolution 10, which would amend the Constitution to grant Congress the authority to prohibit the physical desecration of the American flag.

Mr. Speaker, the American flag represents the shared history and common future of all Americans and our collective commitment to the preservation of the ideals enshrined in our Constitution. The flag flies proudly in times of peace and war, prosperity and crisis, reminding the world of our unflinching resolve to protect the freedom and equality it symbolizes.

In the early days of the Republic through contemporary times, the flag has rallied and sustained the spirit of the Nation. In World War II, it was carried onto Normandy Beach by soldiers who liberated a continent from darkness, and raised on Iwo Jima to steel the resolve of embattled Marines. During the Cold War, it affirmed the universal values of human freedom and dignity for citizens of countries whose governments ignored both.

Following the attacks of September 11, 2001, the flag was unfurled at the Pentagon and raised from the rubble at Ground Zero to unify the spirit of a shaken Nation. Unique among all American symbols, the flag captures the pride and spirit of the American people and serves as an international symbol of freedom and opportunity.

For the first two centuries of our Constitution's existence, it was permissible to protect America's preeminent symbol from desecration. In 1989, the Federal Government and 48 States had exercised this authority. However, in the same year, a closely divided Supreme Court invalidated those laws by holding that burning an American flag as part of a political demonstration was protected by the First Amendment. The Congress quickly responded to this decision, but the following year in another 5 to 4 decision, the Court struck down the Federal Flag Protection Act in *United States v. Eichman*. Since 1994, over 119 incidents of flag desecration have been reported, and the flag of the United States remains vulnerable.

Mr. Speaker, the framers of the Constitution recognized that there would be circumstances necessitating changes to the Constitution. Toward that end, they provided the people with an amendment process embodied in Article V of the Constitution. The founders recognized that the constitutional amendment process is absolutely vital to maintaining the democratic legitimacy upon which republican self-government rests. While our courts have the authority to interpret the Constitution, under our system of government, the American people should and must have the ultimate authority to amend it.

As a result, House Joint Resolution 10 does not upset the doctrine of judicial review. Rather, it utilizes a remedy envisioned by the founders to effectuate the will of the people. Moreover, House Joint Resolution 10 will not prohibit flag desecration. Rather, should the States ratify the amendment, it will enable Congress to enact legislation to establish boundaries within which such conduct may be prohibited.

The amendment process is one that should not be taken lightly. However, because of the narrowly divided Johnson and Eichman Supreme Court decisions, the constitutional amendment provides the only remaining option for the American people and their elected representatives to restore protection to our Nation's preeminent symbol.

In December 1792, James Madison asked a question: "Who are the best keepers of the People's Liberty?" While it might come as a surprise to some, he did not answer the Supreme Court. Rather, Mr. Madison answered, "The People themselves. The sacred trust can be nowhere so safe as in the hands most interested in preserving it."

All 50 State legislatures have passed resolutions calling on Congress to pass a flag protection amendment, and polls demonstrate the overwhelming majority of Americans have consistently supported a flag protection amendment.

Language identical to House Joint Resolution 10 has passed the House on four separate occasions. The Congress must act with bipartisan dispatch to ensure that this issue is returned to the hands of those most interested in preserving freedom, the people themselves.

Mr. Speaker, the flag of the United States is a critical part of America's civic identity. Millions of Americans, including we as Members of Congress, pledge daily allegiance to the flag, and our National Anthem pays homage to it. America's soldiers salute the flag of the United States in times of peace, and generations of America's soldiers have fought and died for it in times of war.

I urge my colleagues to join me in supporting this important measure that provides this unique and sacred American symbol with the dignity and protection it deserves and demands. Pass the resolution.

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

Mr. NADLER. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. CONYERS), the distinguished ranking member of the Committee on the Judiciary.

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

Mr. CONYERS. Mr. Speaker, I begin by thanking the gentleman from New York (Mr. NADLER), my colleague, who is the ranking member on the Subcommittee on the Constitution and has served us so well across the years in this regard.

I also want to commend the gentleman from Florida (Mr. HASTINGS), the minority member of the Committee on Rules, for conducting such a dispositive examination of the rule and the substance of the measure that is before us today.

Today's consideration of House Joint Resolution 10 will show whether we have the strength to remain true to our forefathers' constitutional ideals and defend our citizens' right to express themselves, even if we vehemently disagree with their method of expression.

I have been thinking about this. I have never met anyone that supports burning the American flag. Very few Americans favor burning the flag as an expression of free speech. I personally deplore the desecration of the flag in any form, but I still remain strongly opposed to this resolution because this resolution goes against the ideals that the flag represents and elevates a symbol of freedom over freedom itself. If adopted, this resolution would represent for the first time in our Nation's history that the people's representatives in this body voted to alter the Bill of Rights to limit the freedom of speech.

While some may say that this resolution is not the end of our first amendment liberties, it is my fear that it may be the beginning. By limiting the scope of the first amendment's free speech protections, we are setting a most dangerous precedent. If we open the door to criminalizing constitutionally protected expression related to the flag, which this is, it will be difficult to limit further efforts to censor such speech. Once we decide to limit freedom of speech, limitations on freedom of the press and freedom of religion may not be far behind.

It has been said that the true test of any Nation's commitment to freedom of expression lies in its ability to protect unpopular expression, such as flag desecration. Justice Oliver Wendell Holmes wrote as far back as 1929, the Constitution protects not only freedom for the thought and expression we agree with, but "freedom for the thought we hate."

This resolution is in response to two Supreme Court decisions, *Texas v. Johnson* in 1989 and the *United States v. Eichman* in 1990, two Supreme Court decisions in one bite. It is always

tempting for Congress to want to show the Supreme Court who is boss by amending the Constitution to outlaw flag-related expression.

□ 1100

But if we do, we will not only be carving an awkward exception into a document designed to last for the ages, but will be undermining the very constitutional structure that Jefferson and Madison designed to protect our rights. In effect, we will be glorifying fringe elements who disrespect the flag and what it stands for while denigrating the Constitution itself, the vision of Madison and Jefferson.

Concern about the tyranny of the majority led the framers to create an independent judiciary free of political pressure to ensure that the legislative and executive branches would honor the Bill of Rights. A constitutional amendment banning flag desecration flies in the very face of this carefully balanced structure. The fact that the Congress would consider the first-ever amendment to the Bill of Rights without so much as a hearing in this Congress makes this all the more objectionable.

Mr. Speaker, no hearings. Why not? Well, we have done this before. If Members want to find out what the debate would be like, read it from four other times that we have done this.

James Madison warned us against using the amendment process to correct every perceived constitutional defect, particularly concerning issues which inflame public passion. And, unfortunately, there is no better illustration of Madison's concern than the proposed flag desecration amendment.

History has proven that efforts to legislate respect for the flag only serve to increase flag-related protest, and a constitutional amendment will no doubt increase such protests many times over. Almost as significant as the damage this resolution would do to our own Constitution is the harm it will inflict in our international standing in the area of human rights.

Mr. Speaker, demonstrators who ripped apart Communist flags before the fall of the Iron Curtain committed crimes against their country's laws, yet freedom-loving Americans applauded their brave actions. Yet if we pass this action, we will be aligning ourselves with those autocratic regimes, such as in the former Soviet Union and Iran, and diminish our own moral stature as a protector of freedom in all of its forms.

Those who oppose this amendment to the Constitution prohibiting the physical desecration of the flag express the sentiment of many Americans. In May 2005, just last month, a majority of Americans opposed such an amendment by 63 percent to 35 percent because of its first amendment restrictions. Our veterans, citizens who have risked their lives to defend the ideals the flag represents, oppose this amendment as well. Veterans for Common Sense and

Veterans Defending the Bill of Rights, two organizations, do not want to see the first amendment unraveled and a desecration of what the flag represents.

For those who believe a constitutional amendment will honor the flag, I urge them to actually read the Supreme Court's 1989 decision in *Texas v. Johnson*. The majority wrote, and I concur, "The way to preserve the flag's special role is not to punish those who feel differently about these matters, it is to persuade them that they are wrong. We can imagine no more appropriate response to burning a flag than waving one's own, no better way to counter a flag burner's message than by saluting the flag. We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents."

I urge my colleagues to maintain the constitutional ideal of freedom and reject this resolution.

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 author of the legislation.

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

Mr. CUNNINGHAM. Mr. Speaker, 200 years of tradition was wiped out 16 years ago. For 200 years our forefathers fought to protect the flag. All 50 States had resolutions to protect the flag prior to this, and since then all 50 States have passed resolutions that they will codify this vote.

I want to tell my friends on the other side of the aisle, some will oppose this amendment. Their opposition is honorable. They are my friends and they oppose this. But I would tell the gentleman that as of May, 81 percent of the American people oppose their arguments and their views.

The military, go out to Walter Reed or Bethesda and ask those men and women what they feel and they will tell you. All of the veterans organizations, and my colleague mentioned the veterans organizations are opposed to this. This is from the Citizen's Flag Alliance and list all of the veterans organizations that support this amendment, and I include that list for the RECORD.

AMVETS (American Veterans). African-American Women's Clergy Association.

Air Force Association. Air Force Sergeants Association. American GI Forum of the U.S. American GI Forum of the U.S. Founding Chapter.

The American Legion. American Legion Auxiliary. American Legion Riders, Department of Virginia. American Merchant Marine Veterans. American War Mothers. American Wholesale Flags. Ancient Order of Hibernians. Association of the U.S. Army. Baltic Women's Council.

Benevolent & Protective Order of the Elks. Bunker Hill Monument Association, Inc. Catholic Family Life Insurance. Catholic War Veterans.

The Center for Civilian Internee Rights, Inc.

The Chosin Few.

Combat Veterans Association.

Croatian American Association.

Croatian Catholic Union.

Czech Catholic Union.

Czechoslovak Christian Democracy in the U.S.A.

Daughters of the American Colonists.

Drum Corps Associates.

Dust Off Association.

Eight & Forty (des Huit Chapeaux et Quarante Femmes).

Enlisted Association National Guard U.S. (EANGUS).

Family Research Council.

Fleet Reserve Association.

Forty & Eight (La Societe des Quarante Hommes et Huit Chevaux).

Fox Associates, Inc.

Gold Star Wives of America, Inc.

Grand Aerie, Fraternal Order of Eagles.

Grand Lodge Fraternal Order of Police.

Grand Lodge of Masons of Oklahoma.

Great Council of Texas, Order of Red Men.

Hungarian Association.

Hungarian Reformed Federation of America.

Jewish War Veterans of the USA.

Just Marketing, Inc.

Knights of Columbus.

Korean American Association of Greater Washington.

Ladies Auxiliary of Veterans of World War I.

MBNA America.

Marine Corps League.

Marine Corps Mustang Association, Inc.

Marine Corps Reserve Officers Association.

Medal of Honor Recipients for the Flag.

Military Officers Association of Indianapolis, MOAA (formally The Retired Officers Association of Indianapolis, TROA).

Military Order of the Purple Heart of the U.S.A.

The Military Order of the Foreign Wars.

Moose International.

National Alliance of Families for the Return of America's Missing Servicemen.

National Association for Uniformed Services.

National Association of State Directors of Veterans Affairs, Inc. (NASDVA).

National Center for Public Policy Research.

National Defense Committee.

National 4th Infantry (IVY) Division Association.

National Federation of American Hungarians, Inc.

National Federation of State High School Associations.

National FFA (Future Farmers of America).

National Grange.

National Guard Association of the U.S.

National League of Families of American Prisoners and Missing in SE Asia.

National Officers Association (NOA).

National Organization of World War Nurses.

National Service Star Legion.

National Slovak Society of the United States.

National Sojourners, Inc.

National Society of the Daughters of the American Revolution.

National Society of the Sons of the American Revolution.

National Twenty & Four.

National Vietnam & Gulf War Veterans.

Native Daughters of the Golden West.

Native Sons of the Golden West.

Navajo Codetalkers Association.
 Naval Enlisted Reserve Association (NERA).
 Navy League of the U.S.
 Navy Seabee Veterans of America.
 Non-Commissioned Officers Association.
 PAC Pennsylvania Eastern Division.
 Past National Commander's Organization (PANCO).
 Patrol Craft Sailors Association.
 Polish American Congress.
 Polish Army Veterans Association (S.W.A.P.).
 Polish Falcons of America.
 Polish Falcons of America—District II.
 Polish Home Army.
 Polish Legion of American Veterans, U.S.A.
 Polish Legion of American Veterans Ladies Auxiliary.
 Polish National Alliance.
 Polish National Union.
 Polish Roman Catholic Union of North America.
 Polish Scouting Organization.
 Polish Western Association.
 Polish Women's Alliance.
 Robinson International.
 Ruritan National.
 Sampson WWII Navy Vets, Inc.
 San Diego Veterans Services.
 Scottish Rite of Freemasonry—Northern Masonic Jurisdiction.
 Scottish Rite of Freemasonry—Southern Jurisdiction.
 Sons of Confederate Veterans.
 Sons of the American Legion.
 Sons of the Revolution in the State of Wisconsin.
 Sons of Union Veterans of the Civil War.
 Sportsmen's Athletic Club—Pennsylvania.
 Standing Rock Sioux Tribe.
 Steamfitters Local Union # 449.
 Team of Destiny.
 Texas Society Sons of the American Revolution.
 The General Society, Sons of the Revolution.
 The Military Order of the World Wars.
 The Orchard Lakes Schools.
 The Reserve Officers Association of the United States.
 The Retired Enlisted Association (TREA).
 The Seniors Coalition.
 The Travelers Protective Association.
 TREA Senior Citizens League.
 The Ukrainian Gold Cross.
 The Uniformed Services Association (TUSA).
 United Armed Forces Association.
 United Veterans of America.
 U.S. Coast Guard Enlisted Association.
 U.S. Marine Corps Combat Correspondents Association.
 U.S. Pan Asian American Chamber of Commerce.
 U.S.A Letters, Inc.
 U.S.S. Intrepid Association, Inc.
 U.S.C.G. Chief Petty Officers Association.
 Veterans of the Battle of the Bulge.
 Veterans of the Vietnam War, Inc.
 Vietnam Veterans Institute (VVI).
 Vietnam Veterans of America, Chapter 415.
 Vietnam Veterans of America, Chapter 566.
 VietNow.
 Virginia War Memorial Foundation.
 WAVES National.
 Women's Army Corps Veterans Association.
 Women's Overseas Service League.
 Woodmen of the World.
 63rd Infantry Division Association, USAR.
 66th Engineering TOPO Vets.
 Total Member Organizations As Of May 10, 2005: 146.

Mr. CUNNINGHAM. Mr. Speaker, in the past debates people have brought

forth trinkets, ties, gloves, and T-shirts and tried to confuse the issue with the American flag. What is the American flag? The flag is what we place over the coffins of our fallen soldiers. I would ask those individuals, if they still try this trickster debate, which of those items would you place on the casket of one of our fallen soldiers; it is not the American flag. I have a 6-year-old test. If you ask a 6-year-old what is the American flag and you hold up a tie or a T-shirt, they will say no, that is not the American flag. They know, and so do the American people.

In my district we had a group of Hispanics that were protesting over a bill that we passed on this floor years ago and it was on bilingual education, English First. There was a large protest. They started to burn the American flag in my district. A Hispanic man and woman jumped into the flames and rescued that flag. When the press asked them why, they said we value this flag and this country and we do not want anyone to desecrate it. They also pointed out that more Hispanics per capita have won the Medal of Honor and they support this flag and this country proudly.

I have another friend who was a prisoner of war for 6½ years. It took him 5 years to knit an American flag on the inside of his shirt when he was held prisoner in Vietnam. He would display this flag at his meetings until the guards broke in one day and brutally beat the prisoner of war, ripped the flag to shreds in the middle of the floor, drug the prisoner out of the cell, beat him unconscious. And when they placed him back in the cell, his friends tried to comfort him as much as they could and tend to his wounds, but he was unconscious. They went about their meetings, and a few minutes later they heard a stirring in the corner. That broken body prisoner of war had drug himself to the center of the floor and started gathering those pieces of thread so he could knit another American flag.

This is not political for us. It is a very bipartisan issue. We should get around 300 votes today, I tell my colleagues, both Republicans and Democrats.

I understand that some people oppose this, and for different reasons why, but I will tell you that they are opposed by many, many people. Members say that this violates the first amendment rights. There are a thousand ways that an individual can protest any event, and this does not take away first amendment rights but it just says please do not desecrate the flag.

Remember Mr. Giuliani and the first responders at the World Trade Center, remember how that inspired this country. It does have value. This value is part of our tradition and was part of our tradition for 200 years, and that is what the gentleman from Wisconsin (Mr. SENSENBRENNER) and the 300 Members who will support this amendment

today are saying to my colleagues that are opposed to this. We disagree with you. We do not disagree lightly, and we think it is very, very important. But when the majority of the American people support it, we will vote with it.

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

Mr. Speaker, today we are enduring the Republican rite of spring: A proposed amendment to the Bill of Rights to restrict what it calls flag desecration. Why spring? Because Members need to send out a press release extolling the need to protect the flag, as if the flag somehow needed Congress to protect it. It is easier than answering questions about the failure of this House to provide proper health care to our veterans, proper armor to save the lives of our troops, or proper support for their survivors.

Mr. Speaker, I have heard a number of speakers invoke the rescuers and heroes and first responders at Ground Zero on September 11 and the few weeks after.

Mr. Speaker, that is my district. I was there in the days after 9/11. I have seen the heroism and the self-sacrifice of the first responders. I have watched their betrayal by the Government of the United States, by the Federal and State and local governments which are not providing for their health care, which are not providing workers' comp when they cannot do their jobs because of World Trade Center health syndrome, which denies that they were present in the workers' comp proceedings after they get medals for rescuing people. That is the betrayal we should talk about. What they care about is being made whole, is having their health care taken care of and their lives restored, not this.

The flag is a symbol of our great Nation and the fundamental freedoms that have made this Nation great. If the flag needs protection at all, it needs protection from Members of Congress who value the symbol more than they value the freedoms the flag represents. Quite frankly, the crass political use of the flag to question the patriotism of those who value fundamental freedoms is a greater insult to those who died in the service of our Nation than is the burning of the flag.

I am certain we will hear speeches invoking the sacrifice of our troops in the field as a pretext for carving up the first amendment. We already have. That is a shameful exploitation of the patriotism and courage of these fine and courageous young people. It is the civic equivalent of violating the commandment against taking the Lord's name in vain.

If Members want to honor the sacrifice of our troops, protect the rights they fight for. Protect our civil liberties, and protect the rights of veterans. Playing games with the Constitution does not honor them.

People have rights in this country that supersede public opinion, even strongly held public opinion. That is why we have a Bill of Rights to protect

minorities from the majority. If we do not preserve those rights, then the flag will have been desecrated far beyond the capability of any idiot with a cigarette lighter.

Let there be no doubt that this amendment is aimed directly at ideas. Current Federal laws say that the preferred way to dispose of a tattered flag is to burn it, but there are those who would criminalize the same act of burning the flag if it was done to express political dissent.

Mr. Speaker, the fact of the matter is I have seen motion pictures, I have seen movies reflecting the War of 1812 in which the British burned our capital. I saw in those movies, actors playing British soldiers burning the flag. Did we send in the police to arrest the actors for this flag desecration? Of course not. We do not mind that because we know they do not mean it. That is to say, they are not burning the flag as an expression of disdain for our values, as an expression of their opinions on political issues of their disagreement with the administration or with the government in power. No, they are doing it as part of a play, play-acting; so the physical act does not mean anything, so we do not care.

□ 1115

But under this amendment, if someone were to do the same thing, burn the flag at the same time as he says, I disagree with the policy of whatever it is, that would be a criminal act. So what is really being made criminal? Not the act of burning the flag. What is really being made criminal is the act of burning the flag combined with the expression of a dissident, unpopular political opinion.

The act of burning the flag to dispose of it is a praiseworthy act. The act of burning the flag as part of a movie or part of a play, that is okay. I do not think anybody contemplates arresting the actors. Really, what we are getting at here is the core expression of first amendment protected ideas. We will arrest people who as part of expressing their opinion about something burn the flag. But if they burn the flag without expressing an opinion contrary to the government as part of a play or for some other reason, that will be okay. That should tell us what this amendment is about. That is why the Supreme Court said that the law was unconstitutional, because it does violate the first amendment.

The distinguished ranking member is quite correct. If we carve out this exception for the first amendment, if we make this the first time that we will limit rights protected by the Bill of Rights, it will be easier to do it in the future. Then the next amendment will come along and say that, well, if you say things that we think, that somebody at the moment thinks endangers American troops, you say the war, whatever war it is at the moment, is wrong, our President shouldn't have done it, whoever the President may be

at that moment, our troops shouldn't be in wherever they are, that is endangering our troops, we will make that illegal. That will be easier to do. That is why this amendment is so dangerous.

How many Members of Congress, used car dealers, fast-food restaurants, and other seemingly legitimate individuals and enterprises have engaged in the act of using the flag or parts of the flag for advertising, an act which our unconstitutional law defines as flag desecration? This amendment would presumably make that law constitutional once more. If ratified, I think there are more than a few people who will have to redesign their campaign materials to stay out of jail, except, of course, that probably no one will arrest them for that violation of the law because they will not be seen to be using it for dissident political speech, unless they are running on an unpopular platform, then maybe they will be. Again, that is the danger of this amendment.

As if this assault on the Bill of Rights is not enough, the Judiciary Committee once again did not even bother holding a hearing on this very significant constitutional amendment. The Subcommittee on the Constitution did not bother to consider it, to debate it, or to vote on it. Now, I know that they will say, We've held hearings in previous Congresses. Yeah, and we have rejected this amendment in previous Congresses. And this is a new Congress. There are new Members. There is no excuse for doing something or attempting to do something so significant to start tearing up the Bill of Rights without even a hearing to hear opinions on it just because prior Congresses may have held hearings.

This cavalier attitude toward the Bill of Rights is offensive and revealing. Why discuss it? Why look into it? It's only the Constitution. We're only talking about the rights of a few malcontents for whom even opponents of this amendment have contempt.

And we do have contempt for people who would burn the flag. None of us think that those people are doing something praiseworthy. We all think it is absurd and wrong, but we think their right to be wrong has to be protected. That is what America is all about. By the way, where is this epidemic of flag burning? I do not recall seeing anybody burning the flag in I do not know how many years. What is the danger we are legislating against? People have died for this great Nation and the rights which this flag so proudly represent. We are a shining beacon to the world because we allow dissent, even when that dissent is offensive or despicable. Let us not cease to be a shining beacon on the hill. Let us not diminish our liberty. Let us not destroy the way of life for which our troops have made the ultimate sacrifice.

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

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

Mr. Speaker, I have a deep respect for the arguments that have been advanced by the gentleman from New York and other opponents of this amendment. I disagree with them. And I think the vast majority of the American people disagree with them as well. There has to be a line that is drawn on what is acceptable behavior and what is not acceptable behavior. Most of our criminal code, as well as certain types of civil provisions that contain penalties, do draw the line and have a clear demarcation of what goes over the line and thus should be punished.

I think one of the reasons why we are here today as a result of both the Johnson and Eichman decisions was exemplified by a decision of the Supreme Court of my home State of Wisconsin on April 9, 1998, in the case of State of Wisconsin v. Matthew Janssen. Mr. Janssen was prosecuted for flag desecration because he defecated on the American flag. Then he left a note saying why he did it, which contained a political expression. Using the precedent that was set by the Supreme Court in the Johnson and Eichman cases, the Wisconsin Supreme Court unanimously affirmed the dismissal of the prosecution against Mr. Janssen and wrote an extensive decision that basically agrees with the arguments that were advanced by the gentleman from New York (Mr. NADLER).

But the last paragraph of that decision, I think, is very important; and I am going to read it into the RECORD. The Wisconsin Supreme Court through Justice John Wilcox said: "But in the end, to paraphrase Justice Frankfurter, we must take solace in the fact that as members of this court we are not justified in writing our private notions of policy into the Constitution, no matter how deeply we may cherish them or how mischievous we may deem their disregard," quoting the Barnette case with Justice Frankfurter dissenting. The Supreme Court of Wisconsin concluded by saying: "If it is the will of the people in this country to amend the United States Constitution in order to protect our Nation's symbol, it must be done through normal political channels."

Today, we are doing it through those normal political channels. That is why this amendment should be approved.

Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I rise in strong support of H.J. Res. 10, the flag protection amendment, and I would like to thank the distinguished gentleman from California (Mr. CUNNINGHAM) for his efforts to protect our country's most sacred symbol, the American flag. I would also like to thank our distinguished Judiciary chairman, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his leadership in this area.

I would also like to very briefly just address some of the allegations, particularly the one about not having

hearings. As has been stated, we have had a number of hearings on this in the past. The interesting thing is when one holds these hearings or had we chosen to hold hearings again this time, I might add we had experts on both sides come and testify about this, there are allegations thrown at us, oh, here we go again, why are we holding these hearings once again? So you are really damned if you do or damned if you do not.

I would also invite those who might be following this debate to listen to where the inflammatory rhetoric, which side it comes from, allegations thrown against us that this is a crass exploitation of the flag when we have not done this, that, or the other thing.

I think those of us on this side tend to want to keep this debate on a very civil level and I would encourage my colleagues to do that. Since this country's creation, nothing has represented the United States of America as honorably as has the American flag. From the top of this very Capitol building to porches all across our country, the flag is synonymous with the principles on which this country was founded and the principles on which we still stand. Each day it serves as a source of comfort and strength and holds the promise of a better future for all Americans.

However, there are those who, while claiming the very protections our country has to offer, would seek to defile it, to desecrate, to burn or otherwise destroy the very symbol that would seemingly protect their actions. Since 1994, and I want to emphasize this, there have been 119 incidents of such flag desecration, ones like the one that our distinguished chairman just indicated where somebody literally defecated on the flag. Despite the will of both the Federal and State governments to protect the flag from such abuse, the Supreme Court has struck down these efforts to protect our most sacred symbol and instead has protected these un-American acts.

Congress must act and a constitutional amendment is the only answer. If we could do this legislatively, if we could pass a statute as we have done in the past which has been struck down by the Supreme Court, we would do that. But the only way that we can protect the flag is to amend the Constitution, and that is what this is all about. Many of us believe very strongly in this. H.J. Res. 10, which has passed the House in its current form on four separate occasions, would give Congress the authority it needs to once again protect the flag. I would urge my colleagues to support this amendment.

Mr. NADLER. Mr. Speaker, I yield 6 minutes to the gentleman from Virginia (Mr. SCOTT), a distinguished member of the Committee on the Judiciary.

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman for yielding me this time. I think it is important to put this debate in context because it occurs to me that every time we con-

sider this resolution, we end up cutting veterans health care. So let us just see what we are doing this year on the health care budget for veterans. The Republican budget cuts veterans health care programs by more than \$13.5 billion over the next 5 years compared to what would be needed just to keep up with inflation. The President even proposed a \$15 billion cut and copays for a significant number of our veterans.

When the sponsor challenges us to ask wounded veterans in VA hospitals what they want us to do, I suspect that they would not be asking us to cut veterans health care at the same time we debate this resolution.

Furthermore, Mr. Speaker, just before we went on Memorial Day break and gave speeches just a few weeks ago, colleagues voted down a measure that would have offered TRICARE health coverage to National Guard members and Reservists. Reserve components make up 50 percent of our forces in Iraq and studies show that 20 percent have no health insurance. For younger Reservists it is as high as 40 percent have no health insurance coverage. How can we ask these young men and women to serve on the front line and not even provide for them the basic necessity of health care?

And so, Mr. Speaker, 25 million American veterans deserve respect and dignity and they deserve more than the debate on this constitutional amendment. We should be providing health care for our veterans, not this resolution.

Mr. Speaker, everyone here respects the flag. The question before us is not whether we respect the flag, but whether or not we ought to use the criminal code to prevent those who disagree with us to express their views. The Supreme Court has frequently considered restrictions on speech that are permissible by our government. For example, under the first amendment with respect to speech, speech may be regulated by time, place and manner, but not regulated by content.

There are, of course, exceptions. Speech may be restricted if it creates an imminent threat of violence or threatens safety or expresses a patently offensive message that has no redeeming social value, but we cannot restrict by content otherwise. The distinction: you can restrict by time, place and manner but not content.

So you can restrict the particulars of a march or a demonstration by what time it is held or where it is held or how loud the demonstration can be, but you cannot restrict what people are marching or demonstrating about. You cannot ban a particular march or demonstration just because you disagree with the message unless you decide to ban all marches. You cannot allow one political party to have a demonstration, but not the other. You cannot have a pro-war demonstration and then try to restrict an anti-war demonstration.

Speech protected by the Constitution we have to recognize will always be un-

popular. Popular speech does not need protection. It is only that speech that provokes the local sheriff into wanting to arrest you for what you said that needs protection. Of course, speech protected by the first amendment will always be unpopular.

Some have referred to the underlying resolution as the anti-flag burning amendment, and they speak about the necessity of keeping people from burning flags. In reality, the only place you ever see a flag burned is in compliance with the Federal code at flag ceremonies disposing of a worn-out flag. Ask any Boy Scout or American Legion member how to dispose of a worn-out flag and they will tell you that the procedure is to burn the flag at a respectful ceremony.

□ 1130

In fact, the only time I have seen a flag burned is at one of these ceremonies. So the proposed constitutional amendment is all about expression and all about prohibiting expression in violation of the first amendment principles. In fact, the amendment does not even use the term "burning." It uses the term "flag desecration." And by using the word "desecration," we are giving government officials the power to decide that one can burn the flag if they are saying something nice and respectful, but they are a criminal if they burn this flag while they are saying something offensive or insulting. This is an absurd distinction and is a direct contravention of the whole purpose of the first amendment, especially when the real impact of the legislation will be to have political protesters arrested because they disagree and express that disagreement of government policy.

Mr. Speaker, in addition to the violation of the spirit of the Bill of Rights, this amendment has practical problems. For example, what is a flag? Can one desecrate a picture of a flag? Can one desecrate a flag with the wrong number of stripes?

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

Mr. Speaker, I feel compelled to comment on suggestions that stealing and destroying somebody's personal property is protected if that property happens to be a flag. That is wrong. It is still theft and personal property. The other examples, there are other criminal codes that people can be prosecuted on. What this legislation is aimed at is criminalizing political speech, and we should not criminalize political speech just because we disagree with it, just because we have the votes.

So, Mr. Speaker, I hope that we would defeat this resolution, and I urge my colleagues to oppose the resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from Indiana (Mr. SODREL).

Mr. SODREL. Mr. Speaker, I appreciate the opportunity to speak in favor of this amendment.

Hampton Sides, in his book *Ghost Soldiers*, recounts the Ranger action to liberate the allied POWs from Cabanatuan in the Philippines. Most of them were survivors of the Bataan Death March. They were emaciated, sick and weak. Some of them had to be carried from the prison compound when it was taken by U.S. Army Rangers. What I will read now is the last paragraph of his narrative as told by its survivors.

“Along the way we saw an American flag set in a turret of a tank. It wasn’t much of a flag, writhing in a weak breeze, but for the men of Cabanatuan, the sight was galvanizing. Ralph Hibbs said his heart stopped for he realized it was the first Stars and Stripes he’d seen since his surrender. All the men in all the trucks stood at attention and saluted. Then came the tears. ‘We wept openly,’ said Abie Abraham, ‘and we wept without shame.’”

Some say our flag is just a piece of cloth, Mr. Speaker. Grown men, particularly combat veterans, do not typically cry at the sight of a piece of cloth. To all patriots, particularly the majority that served under it, the American flag stands for liberty. To us, desecrating our flag is not a demonstration of liberty; it is an attack on liberty. If it were merely a piece of cloth, our enemies would not trouble themselves to desecrate it.

All Americans are “endowed by their Creator with certain unalienable rights.” Among those rights enumerated in our Constitution is the right of free speech. The Constitution does not, however, afford absolute freedom of action. One cannot spray-paint a bald eagle in protest. One cannot deface the Washington Monument. And one should not desecrate our flag with impunity either.

To those who say that these actions have to be taken in context, if one burns a flag for a movie it is different from burning a flag as a protest, I would say that all actions have to be taken in context. If one takes another person’s life in process of defending oneself, it is considered in a different context than if they took another person’s life to collect a life insurance policy. All actions are always taken in context, and I trust the juries of the United States to take this amendment in proper context when it is carried out.

I would like to urge my colleagues to vote in favor of the flag protection amendment.

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

So, in other words, if one desecrates a flag to make a nice point, that is a

good context. If they desecrate it to make an unpopular point, that should be jailable. I thank the gentleman from Indiana (Mr. SODREL) for making my point.

Mr. Speaker, I yield 5 minutes to the distinguished gentlewoman from California (Ms. ZOE LOFGREN), member of the Committee on the Judiciary.

Ms. ZOE LOFGREN of California. Mr. Speaker, too often this debate has been categorized about who loves the flag. And it has caused me to think back about the great affection I feel for our flag. The fondest memory I think I have of being a mother is standing on the school yard of the elementary school with my children and joining with them and the other mothers as they saluted our flag. I remember crying, looking at our flag the first time I went to a Democratic convention and we sang the National Anthem and our flag was there. It was overwhelming, that the flag was there for our democracy.

And when we enter this Capitol and see the flag flying above it, it is an overwhelming experience to see that flag. We love it so much. And why? Because our Nation’s flag stands for the freedoms that define this country. One of those freedoms is freedom of speech. Our country is strong and free because Americans are free to express their opinions even when we do not agree with those opinions.

If enacted, this bill would for the first time in our Nation’s history modify the Bill of Rights to limit freedom of speech. As has been stated, it is clear that this amendment would only limit speech that some do not agree with.

Why are the Republican leadership of the House pushing this amendment? I think it is obvious that it would amend the first amendment. I think the majority party cannot really tolerate dissent.

I would like to read something that General Colin Powell said about this amendment when we had hearings several years ago. General Powell: “The first amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree but also to that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away.”

Jim Warner, a Vietnam veteran and prisoner of the North Vietnamese from 1967 to 1973, wrote this about the proposed amendment, and I quote this prisoner of war, this American hero: “The fact is the principles for which we fought, for which our comrades died, are advancing everywhere upon the earth while the principles against which we fought are everywhere discredited and rejected. The flag burners have lost, and their defeat is the most fitting and thorough rebuke of their principles which the human could devise. Why do we need to do more? An

act intended merely as an insult is not worthy of our fallen comrades. It is the sort of thing our enemies did to us, but we are not them, and we must conform to a different standard . . . Now, when the justice of our principles is everywhere vindicated, the cause of human liberty demands that this amendment be rejected. Rejecting this amendment would not mean that we agree with those who burned our flag or even that they have been forgiven. It would, instead, tell the world that freedom of expression means freedom even for those expressions we find repugnant.”

I think there is another reason why this amendment has been offered, and that is to divert attention from the shabby treatment of our veterans. Let us shift attention to our beloved flag; maybe the vets will not notice that Congress has not kept our promises to them.

According to the American Legion, 30,000 veterans are waiting 6 months or longer for an appointment at a veterans hospital. The Veterans of Foreign Wars estimates that as many as 220,000 men and women veterans could lose their benefits under the proposed veterans budget. Our veterans went to war to protect our Nation and to guarantee our freedoms, including freedom of speech and to ensure that those freedoms would be protected. Now we are about to undercut their sacrifice by amending the first amendment for the very first time. And to add injury to insult, we are also failing to provide the care our veterans earned with their blood and their sweat, and we are denying them what they deserve from a grateful Nation.

Some in the past have voted for this amendment assuming that the Senate will stop it, that we really will not do this bad thing to our country. I have great fear that the political landscape has changed. I think this is a sad and shameful day for our Nation.

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

Mr. Speaker, throughout the history of this Republic, the Congress has proposed constitutional amendments and sent them to the States to overturn Supreme Court decisions that were particularly onerous. The one that comes to mind as coming to the top of the list was the Dred Scott decision. That was based on constitutional grounds, and Congress proposed and the States ratified three amendments, the 13th, 14th and 15th amendment, to make sure that the mistake that was made by the Dred Scott decision would never be repeated again. There was a decision early in the country’s history under the Constitution that related to the judicial power of the United States. The 11th amendment was proposed and ratified to correct that. And the Supreme Court also decided that levying income taxes violated the provision of the Constitution on apportionment of taxes, and the 16th amendment was proposed and ratified to correct that problem.

So when there is a court decision that has resulted in consequences that the Congress and the States collectively deem are so bad that it requires an amendment to the Constitution, this Congress has not hesitated to propose an amendment to the Constitution, and the States have ratified it.

Here we have had resolutions of all 50 State legislatures asking that we propose this amendment and send it to the States for ratification, and that is because the instances of flag desecration that have occurred have been deemed by them to be over the line and that the Supreme Court of the United States was wrong in its decision and it needs correction.

I just go back to the quote that I made of the Wisconsin Supreme Court when they effectively invalidated my State's flag desecration amendment. It is up to the people through the constitutional amendment process to make the correction, and that is why we are here today.

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

Mrs. MILLER of Michigan. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise today to defend the flag of the United States of America. Throughout the history of our Nation, our flag has stood as the ultimate symbol of our freedom. From Yorktown to Fort McHenry, from Iwo Jima to Baghdad, our troops have fought behind our flag in the defense of liberty. Their dedication and their sacrifice in defense of freedom demands that we take this action today. And who can forget on September 11, 2001, when firefighters in New York pulled our flag out of the rubble of the World Trade Center and hoisted it in defiance of terror? And who can forget the flag that hangs in the American History Museum here in Washington, D.C. that was draped over the scarred Pentagon as a show of our Nation's resolve? We should not, we must not, and we cannot allow the desecration of our national symbol as some form of protest. Some things in this Nation are sacred, and the flag is the most sacred symbol of all. The flag binds our Nation together and must be protected. Let us take this action together today. Honor the service and sacrifice of those who have fought behind the flag in defense of our freedom.

And, Mr. Speaker, as was mentioned, 50 States have already passed resolutions indicating that they want to ratify this resolution we are debating today. Let the majority of Americans ratify their allegiance and pledge their allegiance to our flag.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GENE GREEN).

Mr. GENE GREEN of Texas. Mr. Speaker, I thank my colleague and classmate for yielding me this time.

I rise in support and as a cosponsor of H.J. Res. 10, an amendment to the Con-

stitution authorizing the Congress to prohibit the physical desecration of the United States flag.

Our flag represents our country as a symbol of our Nation and our veterans bravery throughout history. Our servicemen and women are courageously fighting the war on terrorism and putting their lives on the line every day to protect our Nation and the freedoms that we enjoy.

While I am a strong supporter of the first amendment rights to freedom of speech and expression, hallowed symbols like the flag deserve to be respected and protected. Those who desecrate our flag undermine that powerful symbol that really unites millions of Americans, both alive and those who have died trying to defend our Nation.

□ 1145

Flag-burning shows an ultimate contempt, and I think that is really what it is for, to show contempt and disrespect for our men and women fighting overseas now.

We have the right to protest and object to the policies of this administration or any other. The most effective protest is not to burn the flag, but political action. Go vote and organize people who agree with you to change the policies. Protest as much as we want to change those policies, but you cannot burn the flag. That is just the bottom line.

This amendment would restore historic protection for our national symbol, and that is why I am proud to support this amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. BUYER).

Mr. BUYER. Mr. Speaker, I would like to thank the chairman for his good work on the Committee on the Judiciary. I would also like to thank the gentleman from California (Mr. CUNNINGHAM) for taking up this legislation once again. I would also like to thank the American Legion and the other veterans service organizations for their work behind this legislation before the House.

The legislation before the House today would protect "Old Glory" from desecration. This is not about free speech or the ability of our citizens to express displeasure at the actions of government. That right is fully protected by the first amendment and this proposed amendment.

The Supreme Court was right in their rulings to prohibit the shouting of "fire" in a crowded theater; and, equally, the Supreme Court was wrong to permit flag-burning. The burning of the flag is conduct that Congress is justified in regulating, and that is what we are doing in this legislation.

The Stars and Stripes is a powerful symbol of our Nation and the ideals that we as a people hold dear: the freedom of American citizens, the courage of those who have defended it, and the resolve of our people to protect liberty and justice for all from enemies from

within and from without. The ideals that it embodies are very powerful and are recognized here at home, but also abroad, by friend and foe alike.

This symbol of liberty is so powerful that Congress should have the right to prohibit its willful and purposeful desecration. It is not a piece of cloth that rose from the ashes of the fallen Twin Towers or that was draped from the Pentagon in the aftermath of September 11. After that day, the flag suddenly seemed to appear everywhere, overnight, across this land, any size of fabric, even those made by schoolchildren from construction paper, I suppose, flags stuck in flowerpots, pinned on lapels, decals posted on the back windows of our automobiles and trucks. The message was the same: I am proud to be an American.

I have seen the flag on a distant battlefield, and those, like me who have seen it there, see it perhaps from a different perspective. Across the river from here is a memorial to the valiant efforts of our Marines to raise that flag on Iwo Jima. It was not just a piece of cloth that appeared in the sky on that day so many years ago, just as it is not a piece of cloth that Francis Scott Key saw over Baltimore Harbor centuries ago.

The flag was the physical embodiment of all we as Americans cherish: the triumph of liberty over totalitarianism, the freedoms we enjoy; our rights the government has an obligation to protect; and the duty we have to pass the torch of liberty to our children undimmed.

The flag is a symbol worth defending. Long may she wave. I urge the adoption of this constitutional amendment to protect the flag.

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

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

Mr. PAUL. Mr. Speaker, I rise in strong opposition to this resolution. The process may well be legal, but it is unwise.

The problem is minimal. This is more like a solution in search of a problem. We just do not need to amend the Constitution for so little a problem that we face in this regard. We are just looking for another job for the BATF to enforce this type of legislation.

It was stated earlier that this is the only recourse we have since the Supreme Court ruled the Texas law unconstitutional. That is not true. There are other alternatives.

One merely would be to use State law. There are a lot of State laws, such as laws against arson, disturbing the peace, theft, inciting riots, trespassing. We could deal with all of the flag desecration with these laws. But there is another solution that our side has used and pretends to want to use on numerous occasions, and that is to get rid of the jurisdiction from the Federal courts. We did it on the marriage issue; we can do it right here.

So to say this is the only solution is incorrect. It is incorrect. And besides, a solution like that would go quickly, pass the House by a majority vote, pass the Senate by a majority vote, send it to the President. The Schiavo legislation was expedited and passed quickly. Why not do it with the flag? It is a solution, and we should pay attention to it.

Desecration is reserved for religious symbols. To me, why this is scary is because the flag is a symbol today of the State. Why is it, our side never seems to answer this question when we bring it up, why is it that we have the Red Chinese, Cuba, North Korea, and Saddam Hussein who support the position that you severely punished those who burn a flag? No, they just gloss over this. They gloss over it. Is it not rather ironic today that we have troops dying in Iraq, “spreading freedom” and, yet, we are here trying to pass laws similar to what Saddam Hussein had with regard to the flag? I just do not see where that makes a lot of sense.

Mr. Speaker, a question I would like to ask the proponents of this legislation is this: What if some military officials arrived at a home to report to the family that their son had just been killed in Iraq, and the mother is totally overwhelmed by grief which quickly turns to anger. She grabs a flag and she burns it? What is the proper punishment for this woman who is grieved, who acts out in this manner? We say, well, these are special circumstances, we will excuse her for that; or no, she has to be punished, she burned a flag because she was making a political statement. That is the question that has to be answered. What is the proper punishment for a woman like that? I would say it is very difficult to mete out any punishment whatsoever.

We do not need a new amendment to the Constitution to take care of a problem that does not exist.

Another point: The real problem that exists routinely on the House floor is the daily trashing of the Court by totally ignoring Act I Sec. 8. We should spend a lot more time following the Rule of Law, as defined by our oath of office, and a lot less on unnecessary constitutional amendments that expands the role of the Federal Government while undermining that extension of the States.

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

However, I cannot support an amendment to give Congress new power to prohibit flag

burning. I served my country to protect our freedoms and to protect our Constitution. I believe very sincerely that today we are undermining to some degree that freedom that we have had all these many years.

Mr. Speaker, we have some misfits who on occasion burn the flag. We all despise this behavior, but the offensive conduct of a few does not justify making an exception to the First Amendment protections of political speech the majority finds offensive. According to the pro-flag amendment Citizens Flag Alliance, there were only three incidents of flag desecration in 2004 and there have only been two acts of desecration thus far in 2005, and the majority of those cases involved vandalism or some other activity that is already punishable by local law enforcement!

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

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

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

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

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

Secretary of State, former Chairman of the Joint Chiefs, and two-time winner of the Presidential Medal of Freedom Colin Powell has also expressed opposition to amending the Constitution in this manner: “I would not amend that great shield of democracy to hammer out a few miscreants. The flag will be flying proudly long after they have slunk away.”

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

One of the very first laws that Red China passed upon assuming control of Hong Kong was to make flag burning illegal. Since that time, they have prosecuted some individuals for flag burning. Our State Department keeps

records of how often the Red Chinese prosecute people for burning the Chinese flag, as it considers those prosecutions an example of how the Red Chinese violate human rights. Those violations are used against Red China in the argument that they should not have most-favored-nation status. There is just a bit of hypocrisy among those Members who claim this amendment does not interfere with fundamental liberties, yet are critical of Red China for punishing those who burn the Chinese flag.

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

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

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

We must be interested in the spirit of our Constitution. We must be interested in the principles of liberty. I therefore urge my colleagues to oppose this amendment. Instead, my colleagues should work to restore the rights of the individual states to ban flag burning, free from unconstitutional interference by the Supreme Court.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

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

Mr. PENCE. Mr. Speaker, I want to begin by commending the gentleman from California (Mr. CUNNINGHAM) for not only his extraordinary and courageous service to our Nation in uniform, but for his ongoing service to our country in bringing this important legislation to the floor of the Congress. I also want to thank the distinguished chairman of the Committee on the Judiciary on which I have the privilege of serving. The gentleman from Wisconsin (Mr. SENSENBRENNER) continues to provide leadership that reflects the values

of the overwhelming majority of the American people to this Congress. By entertaining this legislation and bringing this debate again to the floor, the gentleman from Wisconsin (Chairman SENSENBRENNER) demonstrates the quality of that leadership again.

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

Mr. Speaker, it was written long ago: "Without a vision, the people perish." That day, on Mount Suribachi, the flag was the vision that inspired and rallied our troops; and that flag, Mr. Speaker, is still that vision for every American who cherishes those who stood ready, and this day stand ready, to make the sacrifices necessary to defend freedom.

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

C.S. Lewis said: "We laugh at honor and are shocked to find traitors in our midst." Mr. Speaker, let us this day cease to laugh at honor. Let us elevate out of dishonor our unique national symbol to its rightful place. Let us pass this amendment to restore to Old Glory the modest protections of the law she so richly deserves.

Mr. NADLER. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arkansas (Mr. SNYDER).

Mr. SNYDER. Mr. Speaker, we are gathered here today to debate a constitutional amendment that would restrict the right of an American to make a foolish, foolish mistake with his or her own property. As Secretary of State Colin Powell said in a letter dated May 18, 1999 to Senator LEAHY: "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."

Mr. Speaker, my primary objection to this amendment is not the effect it will have on those who physically desecrate their flags, because the numbers

of people who physically desecrate the American flag are so small. My objection is that it will give government a tool with which to prosecute Americans with minority views, particularly at times of great national division, even if their behavior would have been perceived as patriotic if done by the majority. Unfortunately, our history has abundant examples of patriotism being used to hurt those who express views in disagreement with that of the majority. Let me share some news stories taken from the New York Times in years of great strife in America.

The first one I would like to read is from April 7, 1917. 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 from the New York Times, July 2, 1917, headline: "Boston 'Peace' Parade Mobbed. Soldiers and Sailors Break Up Socialist Demonstration and Rescue Flag. Socialist Headquarters Ransacked and Contents Burned, Many Arrests For Fighting. Riotous scenes attended a Socialist parade today which was announced as a peace demonstration. The ranks of the marchers were broken up by self-organized squads of uniformed soldiers and sailors, red flags and banners bearing Socialist 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 'The Marseillaise' with some interruptions, was forced to play 'The Star-Spangled Banner' while cheers were given for the flag."

Headline: "Forced to Kiss the Flag. One Hundred Anarchists are Then Driven from San Diego. Nearly 100 Industrial Workers of the World, all of whom admitted they are anarchists, knelt on the ground at dawn today near San Onofre, a small settlement a short distance this side of the Orange County boundary line.

□ 1200

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

What do these stories have to do with this very important and heartfelt debate today, Mr. Speaker? The decision we make today, it seems to me, is a balancing, 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 anecdotes from a time of great divisiveness in our Nation's history, a time much different from today, government, which ultimately as human beings with all of our strengths and weaknesses, may use this amendment to question the patriotism of vocal minorities and 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.

Let me give you an example. I was at a rural county fair in Arkansas several years ago where a group had a booth with great patriotic display, in addition to their handouts and signs. They had laid across the table, like a table-cloth, an American flag. I knew these people thought this to be a patriotic part of their display.

I was standing a few booths down the way and watched as one of the volunteers sat on the table, oblivious to the fact he was sitting on our American flag. I believe that his action was a completely innocent mistake, and that he did not realize such behavior is inconsistent with good flag etiquette.

I believe that had this group been a fringe group, these with views contrary to the great majority, and should we have laws prohibiting physical desecration of the flag, and had this been a time of great national division, such an action as I described would not be excused as an innocent mistake.

Instead, a minority group might be prosecuted out of anger, out of disgust,

but make no mistake, the motivation for such a prosecution would be that they hold a minority view. Mr. Speaker, I do not think our Constitution will be improved nor our freedoms protected by placing within it enhanced opportunity for minority views to be legally attacked, ostensibly because of their misuse of the flag they own, but in reality because of the views that many consider out of the mainstream.

Mr. Speaker, I urge a “no” vote on this proposed amendment.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Speaker, symbols matter. Certainly the cross has special meaning for millions of people. The menorah, the Koran, we saw that recently where false reports on desecration of the Koran led to riots and hundreds of people dying.

The statue sometimes has special meaning. The symbolic meaning of the toppling of the statue of Saddam Hussein was not lost on the Iraqi people or the other people around the world.

Buildings have symbolic value. The buildings that were destroyed or attempted to be destroyed during 9/11 were not randomly chosen. The World Trade Center symbolized the U.S. economy. The Pentagon symbolized our military might; and probably this building was also targeted because it symbolized the government.

And so for millions of Americans, the flag symbolizes the very essence of this country. It is more than fabric. It is what gives this Nation meaning. Millions have fought under this banner. Hundreds of thousands have died under the banner. Many have died on the battlefield simply protecting the flag itself, keeping it from being captured or from even hitting the ground.

And so for 200 years, this was a commonly accepted understanding of the importance of the flag, the symbolic meaning of the flag. And then came two 5–4 Supreme Court decisions in the 1980s which allowed flag desecration under the banner of free speech, which has really offended a great many people in this country. I think an overwhelming number of States, more than 80 percent of U.S. citizens, disagree with those Supreme Court decisions.

So I urge my colleagues to support H.J. Resolution 10, which states, “The Congress shall have power to prohibit the physical desecration of the flag of the United States of America.”

Mr. Speaker, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his stand on this issue and for giving me this time to express my views.

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

Mr. Speaker, I want to begin by reading excerpts of an article written in the “Retired Officer,” a veterans magazine, by a Major James Warner, who was a POW in Vietnam for 6 years. He writes as follows: “In March of 1973, when we were released from a prisoner-of-war camp in North Vietnam, we were flown to Clark Air Base in the Philippines.

“As I stepped out of the aircraft, I looked up and saw the flag. I caught my breath then as tears filled my eyes. I saluted it. I never loved my country more than at that moment. Although I had received a Silver Star medal, and two Purple Hearts, they were nothing compared to the gratitude that I felt then for having been allowed to serve the cause of freedom.

“Because the mere sight of the flag meant so much to me when I saw it for the first time after 5½ years, it hurts me to see other Americans willfully desecrate it. It hurts to see the flag burned, but I part company with those who want to punish the flag burners. Let me explain myself.”

He then goes on to talk about his experience in the POW camp. He says, “I remember one interrogation where I was shown a photograph of some Americans protesting the war by burning a flag. See, the officer said, people in your country protest against your cause. That proves you are wrong.”

“No, I said, that proves I am right. In my country we are not afraid of freedom, even if it means that people disagree with us. The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting, I was astonished to see pain compounded by fear in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him.

“We do not need,” he continues, “to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with a subversive idea of freedom? Do not be afraid of freedom, it is the best weapon we have.”

This is, as I said, from Major James Warner, who was a POW in Vietnam for 6 years who understands freedom, and therefore opposes this amendment.

Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman from New York (Mr. NADLER) for yielding me time.

Mr. Speaker, I rise today in opposition to H.J. Res. 10, which would amend the Constitution to allow Congress to pass laws banning the desecration of a flag.

I find it abhorrent anyone would burn our flag, and if I saw someone desecrating the flag, I would do what I could to stop them, at risk of injury or incarceration.

For me, 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 only 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 guaranteed freedom of speech and freedom of religion.

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

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

I love the flag for all it represents, but I love the Constitution even more. The Constitution is not just a symbol, it is the very principles on which our Nation was founded. I urge my colleagues to vote against this resolution.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. STEARNS).

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

Mr. STEARNS. Mr. Speaker, listening to it in my office earlier, it was claimed that veterans oppose this amendment. And I was a little startled by that statement.

And the veterans groups supposedly are called the Veterans for Common Sense, and Veterans Defending the Bill of Rights. These veterans groups were cited as being against this amendment.

Now, frankly, I have never heard of these groups. I am sure most of you have not heard of those groups. I am not saying they are not legitimate groups or they do not have well-meaning members. But I would contend that the vast majority of American veterans do indeed support the proposed amendment. And I cite the support of groups such as the American Legion and Veterans of Foreign Wars, whose membership combined is well over 5 million veterans.

All this proposed amendment does is protect traditional American values and jurisprudence. Before and after the ratification of the first amendment, the States prohibited the physical desecration of the American flag. Then, over the next 200 years, everyone understood that any prohibition of physically desecrating the American flag was allowable under Federal, State and common law, and understood to be consistent with free speech.

Civil libertarian jurists, such as Chief Justice Earl Warren, Justice Hugo Black, and Justice Abe Fortas wrote that the States and Federal Government have the power to protect the American flag. So it was the Supreme Court’s decision in *Texas v. Johnson* in 1989, and *U.S. v. Eichman* in 1990, that overturned two centuries of traditional and commonly accepted legal practice.

Thanks to these, what I believe are dubious decisions, we are forced to act

with this constitutional amendment. This amendment does not really restrict freedom of expression, because no idea or viewpoints would be suppressed. Anyone can still freely say that they hate America and everything for which it stands, they just cannot burn a flag to prove their point.

There are so many exceptions to free speech: Child pornography, cross burning, libel, fighting words. We are merely looking at a very extremely narrow exception to prevent the desecration of the symbol that represents so many wonderful things to so many people at home and around the world.

Mr. Speaker, I would finally point out to my colleagues that it is against Federal law to burn U.S. currency or willfully destroy U.S. mailboxes; yet we cannot protect the American flag? Mr. Speaker, I believe that we have a constitutional justification for this amendment. We also have the support of all 50 States and 80 percent of the American people. I urge my colleagues to support this amendment.

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

Mr. Speaker, the fact of the matter is, there have been thousands of amendments introduced, thousands of proposed amendments introduced to the Constitution of the United States. Only 17 have been adopted since 1791 after the Bill of Rights.

Amendments were proposed after most unpopular Supreme Court decisions. After the one-man, one-vote decision in 1960, whatever it was, where they said you had to reapportion based on population, there were amendments introduced. Amendments have been introduced after every unpopular decision of the Supreme Court.

It is deliberately difficult to amend the Constitution because the framers of the Constitution were afraid of transient majorities. They were afraid of emotion, and they deliberately wanted it to be difficult to amend the Constitution so it would not be amended very often, and only under dire necessity. What is the dire necessity here?

What is the dire necessity, that in the last 20 years, I heard someone say 119 people have burned the flag. Well, a lot more than 119 people have burned the flag. Most, however, have burned the flag to dispose of it, which is the approved method of disposing of it.

I have heard the gentleman from Florida (Mr. STEARNS) say, and others say, this has nothing to do with free speech. People can say anything they want. But it is burning the flag. But the fact is, it is very much free speech.

That is why the Supreme Court decided as it did, because burning the flag for a proper purpose, that is, to say an approved purpose, to destroy it, to destroy a tattered flag, is approved. But burning the flag to express an unpopular viewpoint, we do not agree with the administration in power about whatever, that would be made a crime.

□ 1215

So what is the real essence of the crime? Burning the flag in connection

with unpopular speech. If you burn it in connection with popular speech, we respect the flag and we dispose of this, or this connection with popular speech because you are an actor playing the British burning Washington in 1814, that is okay. So this gets at the heart of free speech.

Now, it may not be all that important right now, and it is not. We do not see any epidemic of people burning flags. We have no great emotional issue at the moment that have people marching in the streets; but as the gentleman from Arkansas (Mr. SNYDER) pointed out, at times in our history we have, and at times in our history people have been persecuted and free speech has been violated. We should not repeat that.

We should not make it easier at times of emotion in the future on issues we cannot now foresee for unpopular minorities to be bullied. We should not make it easier for unpopular minorities in the future to have their free speech trampled or to give weapons to a future government with which to trample free speech.

We all love the flag. No one is divided on that in this Chamber. But those of us who understand, I think, the meaning of liberty and the meaning of what this country stands for, perhaps in a way, I would want to say better than others, but that would be a little arrogant, but to understand that as we do, understand that the real meaning of this country is to permit free speech, to magnify free speech, to magnify free speech of those we do not agree with, of those we find obnoxious. And what this amendment does is to sacrifice that.

The cloth of the flag is not what we revere. What we revere is the idea of the flag and the Republic for which it stands. That idea is threatened by this amendment, not protected by it; and that is why it should not be approved.

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

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

Mr. Speaker, the argument that has been made against this amendment is that it infringes upon free speech guaranteed by the first amendment. As all of the people who served as Justices of the Supreme Court during the 20th century, I think everybody would recognize that the strongest first amendment absolutist was Justice Hugo L. Black. Let me read you what Justice Black said in the case of *Street v. New York*, decided in 1969:

“It passes my belief that anything in the Federal Constitution bars a State from making the deliberate burning of an American flag an offense.”

The court changed its mind twice at the end of the decade of the 1980s. I do not think that anybody’s free speech rights to express whatever they want to say about a policy, about the position of the American Government, about a stand that a candidate makes, a vote that a Congressman makes is

going to be infringed by the passage of this amendment.

What is going to be stopped is deliberately burning the symbol of our country or otherwise desecrating it. That is what this amendment seeks to prescribe. And if you want to stop it, vote “yes.” If you do not, vote “no.” I am voting “yes.”

Mr. BLUMENAUER. Mr. Speaker, the constitutional amendment to ban the desecration of the American flag has become a ritual here in Congress. Since I started in the House of Representatives this issue has come to the floor every Congress. Flag burning today is not a problem. In my years in Congress, no one back home in Oregon has ever complained about flag burning. The irony is that if this amendment becomes law more flags will be burned as psychos see this as their way to get on television.

While I do understand the outrage that most of us feel towards those who make their points by trampling on our flag, the proposed constitutional amendment is unnecessary and counterproductive. On a serious note, we should not make changes to the Bill of Rights to deal with specific circumstances every time we are offended.

No amount of rhetoric about flag burning will hide our failure to spotlight how Congress is missing the point. The most basic and important way to demonstrate our patriotism is to support our troops, our veterans, and their families. We need to focus on doing our job here.

Mr. HOYER. Mr. Speaker, I rise today in opposition to H.J. Res. 10, the proposed constitutional amendment to prohibit the physical desecration of our flag. And, in this respect, I take no pleasure in doing so: Like the vast majority of Americans, I too condemn those malcontents who would desecrate our flag—a universal symbol for democracy, freedom and liberty—to grab attention for themselves and inflame the passions of patriotic Americans. Without doubt, those misfits who desecrate our flag deserve our contempt.

Further, I fully appreciate and respect the motivations of those who offer and support this amendment, particularly the patriotic men and women who so faithfully served this Nation in our armed services and in other capacities. Their strong feelings on this issue should neither be questioned nor underestimated. They deserve our respect.

However, I respectfully disagree with them and will oppose this amendment for the reasons so eloquently articulated by Senator MITCH MCCONNELL of Kentucky. In opposing a similar amendment a few years ago, Senator MCCONNELL stated that it “rips the fabric of our Constitution at its very center: the First Amendment.” He added, “Our respect and reverence for the flag should not provoke us to damage our Constitution, even in the name of patriotism.”

Those of us who oppose this amendment do so not to countenance the actions of a few, but because we believe the question before us today is how we the United States of America—are to deal with individuals who dishonor our Nation in this manner.

I submit, Mr. Speaker, that a constitutional amendment is neither the appropriate nor best method for dealing with these malcontents. As the late Justice Brennan wrote for the Supreme Court in *Texas v. Johnson*: “The way

to preserve the flag's special role is not to punish those who feel differently about these matters. It is to persuade them that they are wrong. . . . We can imagine no more appropriate response to burning a flag than waving one's own."

Furthermore, it troubles me that this amendment, if approved, would ensconce the vile actions of a few provocateurs into the very document that guarantees freedom of speech, freedom of religion, freedom of the press, freedom of assembly, and freedom to petition the government. That document, of course, is our Constitution.

In more than 200 years, our Constitution has been amended only 27 times, and nearly all of those amendments guarantee or expand rights, liberties and freedoms. Only one amendment—prohibition—constricted freedoms and soon was repealed.

I simply do not believe that our traditions, our values, our democratic principles—all embodied in our Constitution and the Bill of Rights—should be overridden to prohibit this particular manner of speech, even though I completely disagree with it.

Free speech is often a double-edged sword. However, if we value the freedoms that define us as Americans, we should refrain from amending the Constitution to limit those same freedoms to avoid being offended.

I remind my colleagues that if we approve this amendment, we put our great Nation in the company of the oppressive regimes in China, Iran, and Cuba—all of whom have similar laws protecting their flags. Needless to say, when it comes to free speech, the United States of America is the world's leader. It does not follow China, Iran or Cuba.

Our flag is far more than a piece of cloth, a few stripes, 50 stars. Our flag is a universal symbol for freedom, liberty, human rights and decency that is recognized throughout the world. The inflammatory actions of a few misfits cannot extinguish those ideals. We can only do that ourselves. And I submit that a constitutional amendment to restrict speech—even speech such as this—is the surest way to stoke the embers of those who will push for even more restrictions.

Mr. STARK. Mr. Speaker, I rise in opposition to H.J. Res. 10, which proposes a Constitutional amendment to ban desecration of the flag, because what people do with a piece of fabric, however meaningful, is not worthy of Congressional intervention. Flag burning has as much to do with patriotism as weapons of mass destruction had to do with our invasion of Iraq.

This is not the first time the Republican Majority has sought to divert attention from otherwise pressing matters. This body could be focusing on providing health insurance to our Nation's 45 million uninsured, improving our public education system, addressing our swollen deficit, or any number of equally important issues. Instead we are mired in the issues of Terri Schiavo, steroids in professional sports and flag burning.

If we wanted to show our patriotism and support our troops there are tangible options available. We could focus, instead, on providing them with enough bulletproof vests, ensuring veterans have access to the best possible health care, and sending our troops into war only as a last resort. Perhaps if the members of this body were so concerned with a symbol of democracy, an effort could be made

by our leaders to hold themselves to the highest ethical standards.

Mr. Speaker, how patriotic do you think the American people feel when a chief negotiator of the Medicare drug bill leaves Congress to become the head of the pharmaceutical industry's lobbying group? How much pride in our democracy do Americans have when they learn that the President was planning to invade Iraq months before he bothered to tell them about it? How should the American people feel when they learn the Republican Majority votes to cut health care for millions of impoverished Americans and then boasts funding for no-bid defense contracts to Halliburton?

The Republican Majority consistently doesn't support our troops and has sold the government to the nation's wealthiest corporations; a debate about flag burning will not change these facts. Mr. Speaker, I will not vote to undermine our freedoms and make a mockery of our Constitution.

Mr. KIND. Mr. Speaker, I rise to join in this serious debate over the First Amendment and our Nation's flag, two of the most sacred institutions to this country.

America is somewhat unique in its devotion to the Nation's flag. Perhaps because we come from so many different backgrounds, cultural traditions, and ethnicities, we see the flag as a source of national unity. Like the majority of Americans, I have the utmost respect and reverence for our flag. For all of us, this reverence begins early on, when as school children we are taught the Pledge of Allegiance and recite it each day with our classmates. Or it begins when we attend a Memorial Day Parade with our parents and look in awe at the veterans, young and old, who still carry the flag with such pride. Seeing the flag treated with this reverence is a powerful lesson for our young people and makes them incredibly proud to be Americans.

The times I have been most proud of my country have been during my two trips to Iraq. Seeing our young men and women in uniform carrying out their mission under dangerous and difficult conditions is an inspiring thing. Seeing their devotion to our flag and all that it represents makes me so grateful to have grown up in this country and to have some small part in helping our troops.

I was struck, during my visits to the country, with how dedicated our servicemen and women are to helping everyday Iraqis. Our men and women in uniform appreciate the freedoms afforded to them, and are eager to see Iraqi citizens enjoy these same freedoms. Mr. Speaker, I believe one of our greatest freedoms is freedom of speech. Our forefathers, in their wisdom, made this the first amendment to the Bill of Rights. After fighting a war against Great Britain for their freedom, they made sure that future Americans would have the right to free speech and free expression.

In deference to our forefathers and out of respect for the brave patriots today who are serving overseas, I cannot in good conscience support this amendment. Burning or desecrating the American flag is an abhorrent action for which I have nothing but contempt. Much as I hate the act, it is not right to deny an American the freedom to express himself in this shameful way.

I would like to close by quoting a man who knows much of patriotism and freedom.

Former soldier and Secretary of State Colin Powell, when asked for his views on this issue, said, "The First Amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. This flag will still be flying proudly long after they have slunk away."

Mr. MORAN of Virginia. Mr. Speaker, I rise in opposition to this resolution because I disagree with this attempt to muddle our First Amendment rights.

I understand and acknowledge the passion that my friends and colleagues demonstrate today. It is disturbing to see images of someone burning the flag of the United States, particularly when we reflect upon the countless men and women who have given up their lives defending this symbol of freedom.

When I was first elected to the House, I co-sponsored a flag burning amendment. I did so for many of the same reasons that proponents of the amendment have expressed today.

And yet looking back, I realize I was moved by my heart than by my head.

History reminds us that the strength of America is derived from its basic ideals, one of the most important of which is tolerance for the full expression of ideas, even the acts that we consider obnoxious.

As our Founding Fathers originally intended, the First Amendment to the Constitution has safeguarded the freedom of expression. Tested through times of war and peace, Americans have been able to write or publish almost anything without interference, to practice their religion freely and to protest against the Government in almost every way imaginable.

It is a sign of our strength that, unlike so many repressive nations on earth, ours is a country that not only accommodates a wide-ranging public debate, but encourages it.

Mr. Speaker, a friend of mine and former Senator of Virginia, Chuck Robb, is a man who sacrificed greatly for his nation, in both the Vietnam War and in his political career. Exemplifying a "profile in courage" Senator Robb stood against public popularity when he voted against this amendment in order to defend the very freedoms that the American flag represents.

In his moving Senate floor statement, Senator Robb described how as a soldier he had been prepared to give up his life in the Vietnam War in order to protect the very freedoms that this constitutional amendment would suppress. By showing the courage to vote against this amendment, he jeopardized his political career and subsequently lost his bid for me re-election.

Not having fought in a war, I should do no less than Senator Robb did in defense of the freedom he and so many of my peers were willing to defend with their lives.

Mr. Speaker, this amendment should be defeated. In our hearts and our minds we know that flag burning is not a threat to our freedom, limiting the exercise of individual liberty is.

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

Our flag is the strongest symbol of America's character and values. It tells the story of victories won—and battles lost—in defending

the principles of freedom and democracy. These are stories of men and women from all walks of life who put their lives on hold to serve our Nation. Many of those brave Americans never returned home from distant battlefields. The flag reminds us of the sacrifices they made at Gettysburg, San Juan Hill, Iwo Jima, Normandy Beach, Korea, Da Nang, Kuwait, Afghanistan, Iraq and other places where America's men and women in uniform placed honor and duty above self. These Americans had a powerful symbol uniting them—the American flag. The American flag belongs to them as it belongs to all of us.

Critics of the amendment say it interferes with freedom of speech. They are wrong. It does not interfere with freedom of speech. Americans have access to public television; they can write letters to the editor to express their beliefs; they can speak freely at public forums; they can share their views with listeners by calling into radio stations. I meet with constituents everyday in order to best represent their interests in Washington. Americans can stand on the steps of their own City Hall or on the steps of our nation's Capitol to demonstrate their cause. Protecting the American flag from desecration does not deprive any American of the opportunity to speak clearly, openly and freely.

Let us be aware that it is speech, not action, that 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, 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.

In 1989, in the case of Texas versus Gregory Lee Johnson, the Supreme Court ruled that a state flag protection statute was unconstitutional. The court was in error. It was not the thoughts or opinions expressed by Mr. Johnson that the Texas law restricted but the manner in which he expressed his thoughts and opinions. Mr. Johnson was free to speak his mind without fear of censorship. That freedom is guaranteed by the First Amendment. But desecrating the flag is not speech; it is action and action is not protected. For example, an individual is free to speak about the need for America to conserve its environment, but the individual would not be free to express those thoughts by destroying oil derricks. There is a difference between action and speech.

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. More than 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.

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

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

Mr. SHUSTER. Mr. Speaker, I rise today to urge my colleagues to support H.J. Res. 10, the "Flag Protection Amendment." Every day we rise with dignity to salute and pledge allegiance to our Nation's flag. We do so because our flag stands for liberty, democracy, and all the sacred ideals that allow us to rise here at all.

The stars-and-stripes are recognized in almost every corner of the globe as an emblem of liberating hope. This great symbol we respect so much has cloaked the bodies of our fallen brave and graced the final moments of our presidents. On American soil, she stands tall before all other flags and is lowered in sorrow only for the greatest of patriots. She waves from our homes and churches and crowns our Nation's greatest houses of freedom, including the one in which we now deliberate.

Our flag is handled with the utmost care by those who have worked hardest to sustain and protect what she stands for, by those who have dedicated their lives to her. Let us never forget their sacrifice and remain diligent in protecting the greatest symbol of democracy and freedom from desecration.

We would never tolerate the desecration of this or any other public building. We would never tolerate the desecration of our Nation's hallowed graves or places of worship. We would never stand idly by if Lady Liberty, the Washington Monument, or the Liberty Bell were ever torn from their pedestals and dragged into the streets. Why then should we leave our Nation's most cherished and recognized symbol vulnerable and unprotected in the very land that had its birth beneath her glorious colors?

I urge my colleagues to ensure that our beloved banner will survive, unscathed, every "twilight's last gleaming." Guarantee that within our borders she will forever wave proudly "o'er the land of the free and the home of the brave." Please join me in voting for H.J. Res. 10, the "Flag Protection Amendment."

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.

At the start of the town hall meeting I host in my district, I always try to take a few moments to lead those in attendance in the pledge of allegiance. I think this is an important and valuable portion of my town hall meetings when I can express my support for and share my deep respect of both our flag and our system of government which our flag represents.

What makes America a great and free society, is our system of government and our Constitution. Our Constitution is the document that provides the basis for our great country. It is our Nation's operating manual. For over two centuries, 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.

The Constitution 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.

As a Member of Congress, I took an oath of office in which I swore ". . . that I will support and defend the Constitution of the United States." In fact, new citizens to our great nation make a similar pledge when they are sworn in as U.S. citizens. It is important to note that I am entrusted with the obligation to defend the Constitution, not the symbols, of our Nation. The Founders knew that it is our system of government that is essential to who we are as a people and what we stand for. While I deeply value the flag as a symbol of our Nation, what we need to ensure is that we protect the values and ideals of our country as contained within the Constitution.

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, and I am unaware of a flag burning epidemic in America. To me this Resolution is a solution in search of a problem.

Let me be clear, it is wrong to desecrate or defile an American flag in any way. But making it unconstitutional will not prevent these incidents from occurring. What we should do, as a government and as American citizens, is promote civic values and a greater understanding of our democracy. We should encourage civic education in our schools and communities. People who value and understand the ideals of our country will also understand and value the symbols of our great Nation.

The issue before us is whether our Constitution should be amended so that the Federal Government can prosecute the handful of Americans who show disrespect 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 values and ideals that created these freedoms.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to oppose this amendment to the Constitution. When Framers Thomas Jefferson penned the Declaration of Independence, he wrote that:

We, therefore, the Representatives of the United States of America, in General Congress, assembled, solemnly publish and declare, that these colonies are . . . free and

independent states . . . and we mutually pledge to each other our lives, our fortunes, and our sacred honor . . . our sacred honor.

My colleagues, this is what the American flag stands for—honor. But it also stands for something even more sacred—freedom. Freedom of expression as contained in the 1st Amendment and the Bill of Rights.

Congress shall make no law . . . abridging the freedom of speech.

This amendment, if passed, for the first time in our Nation's history, would cut back on the First Amendment's guarantee of freedom of expression that is the bedrock of our democracy, and one of the fundamental guarantees contained in the Bill of Rights.

In his 1859 essay *On Liberty*, John Stuart Mill recognized the public good and enlightenment which results from the free exchange of ideas. He writes:

First, if any expression is compelled to silence, that opinion for aught we can certainly know, be true . . . Secondly, though this silenced opinion be in error, it may, and very commonly does, contain a portion of the truth . . . Thirdly, even if the received opinion be not only true but the whole truth; unless it is suffered to be and actually is, vigorously and earnestly contested, it will by most of those who receive it, be held in the manner of a prejudice.

There is a distinct difference between real and forced patriotism.

Freedom cannot survive if exceptions to the First Amendment are made when someone in power disagrees with an expression! If we allow that, our right to free speech will depend on what Congress finds acceptable, precisely what the First Amendment was designed to prevent.

This amendment may provoke rather than diminish the very acts it purports to curtail. Our Nation's experiment with an amendment to the Constitution concerning Prohibition shows that a cure by amendment to the Constitution may itself incite harm of the very nature it seeks to prevent.

The flag desecration amendment is a solution in search of a problem. The expressive act, burning a flag, which this amendment attempts to curtail, is exceedingly rare. Professor Robert Justin Goldstein documented approximately 45 reported incidents of flag burning in the over 200 years between 1777 when the flag was adopted, and 1989, when Congress passed, and the Supreme Court rejected, the Flag Protection Act. About half of these occurred during the Vietnam War. Some of our great war heroes even share the spirit of my fellow Democratic colleagues in supporting efforts to preserve freedom through individual rights:

Dwight D. Eisenhower said that "Only our individual faith in freedom can keep us free."

Thomas Jefferson again said that "The price of freedom is eternal vigilance."

Finally, General Richard B. Myers USAF, Chairman of the Joint Chiefs of Staff stated that "In our profession and mine, (we are) working hard to defend our values, our way of life and our Constitution. We risk our comfort, our safety and our lives for what we believe in."

This quote says it all—our brave soldiers fighting on the battlefields see the Constitution as one of their main causes. When we trivialize the Constitution by haphazardly amending it based on personal proclivities, we frustrate the sacrifices of our troops.

This amendment would be the beginning, not the end, of the question of how to regulate a certain form of expression. It empowers Congress to begin the task of defining what the "flag" and "desecration" mean. The use of the flag as symbol is ubiquitous, from commerce, to art, to memorials, such that Congress would be in the position of defining broad rules for specific applications. Congress, the courts, and law enforcement agents would have to judge whether displaying the flag on Polo jeans is "desecration," but the Smithsonian's recent removal of two million stitches from the 188-year old flag that inspired Frances Scott Key, is not.

The United States Supreme Court has ruled consistently that flag burning is a form of speech protected by the First Amendment. In *Texas v. Johnson* (1989), the Supreme Court held it unconstitutional to apply to a protester a Texas law punishing people who "desecrate" or otherwise "mistreat" the flag in a manner that the "actor knows will seriously offend one or more persons likely to observe or discover his action." The Court found that the law made flag burning a crime only when the suspect's thoughts and message in the act of burning were offensive, thus violating the First Amendment's protections of freedom of the mind and freedom of speech. The next year, in *United States v. Eichman* (1990), the Court reviewed a Congressional statute that attempted to be neutral as to the messages that might be conveyed, prohibiting flag burning except when attempting the "disposal of a flag when it has become worn or soiled." The Court struck down this statute as another attempt to punish offensive thoughts.

To quote the legal philosopher, Lon Fuller on amending the U.S. Constitution, he stated that:

We should resist the temptation to clutter up the Constitution with amendments relating to substantive matters. We must avoid the obvious unwise of trying to solve tomorrow's problems today and the insidious danger of the weakening effect of such amendments on the moral force of the Constitution.

I continue to share the sentiment and spirit of this quote with my colleagues on the other side of the aisle because they continue to tread the unwise path of unnecessarily amending the Constitution. Mr. Speaker, for these reasons, I strenuously urge my colleagues to vote "no" on H.J. Res. 10.

Mr. OXLEY. Mr. Speaker, I stand in strong support of H.J. Res. 10, which calls for a constitutional amendment permitting Congress to protect our nation's flag.

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

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

Mr. Speaker, my hometown of Findlay, Ohio, is well known for its civic pride and spir-

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

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

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

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

I think that point was well put by Bill Holen of Littleton, Colorado, who wrote to express agreement with a recent Denver Post editorial against this proposed constitutional amendment. As he put it, "As a Vietnam veteran and one who fought honorably for this nation . . . Like Colin Powell, while I personally abhor the thought of anyone burning the American flag, the symbol under which I fought for this nation, I believe the principles embodied in the Constitution and the Bill of Rights are far more important."

I do not think there is a real need for this amendment. On that point, I agree with the Rocky Mountain News that "Flag-burning is not really a problem, as actual incidents of it are rare. It is disproportionately denounced rather than actually done. And defining desecration is tricky, especially given the widespread commercial and decorative use of the flag." And, in particular, I share that newspaper's view that "More importantly, tampering with the First Amendment opens the way to those laws of the kind that less democratic governments impose to shield themselves from criticism."

Mr. Speaker, every day, at home and abroad, our brave men and women in uniform are on guard to defend our country and our constitution from those who have no respect for either. In my opinion, anyone who thinks that burning the flag under which they serve would be an effective way to influence public opinion is grotesquely mistaken. And I think to say we need to amend the constitution in order to respond to people suffering from that delusion is to give them more importance than they deserve.

For the benefit of our colleagues, I attach the text of the newspaper editorial to which I referred earlier.

[From the Rocky Mountain News, Sept. 17, 2004]

FLAG-BURNING ISSUE A WASTE OF TIME

Today is the 217th anniversary of the signing of our Constitution. To celebrate that happy event, the White House has announced that scholar and historian Lynne Cheney, the wife of the vice president, will speak at Gunston Hall Plantation in northern Virginia.

Gunston Hall was the home of George Mason, whom the White House properly described as "Father of America's Bill of

Rights." Mason wrote the prototype of the Bill of Rights for Virginia's constitution in 1776, and it was his intransigence that led to the adoption of those rights as the first 10 amendments to the Constitution.

The anniversary comes as the Republican Senate leadership is considering, with breathtaking political cynicism, bringing back for a vote a constitutional amendment outlawing flag-burning.

The Supreme Court has ruled simply and correctly that flag-burning is political speech and as such has the absolute protection of the First Amendment. Thank you, Mr. Mason.

Flag-burning is not really a problem, as actual incidents of it are rare. It is disproportionately denounced rather than actually done. And defining desecration is tricky, especially given the widespread commercial and decorative use of the flag. More importantly, tampering with the First Amendment opens the way to those laws of the kind that less democratic governments impose to shield themselves from criticism.

Given her credentials, Lynne Cheney is the ideal person, Gunston Hall the ideal venue and Constitution Day the ideal occasion to denounce this latest attempt to undo George Mason's handiwork.

Mr. KOLBE. Mr. Speaker, today, I rise in opposition to H.J. Res. 10, proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States. Since 1990, I have voted in opposition to a Constitutional amendment banning flag desecration or flag burning. I find flag desecration disgraceful, and I get as angry as anyone does when I see or hear about such things. But, I do not believe we should amend the U.S. Constitution to deal with this matter.

Not once during the 15 years I have voted on this amendment to the Constitution has a crisis occurred with people burning flags. As a combat veteran of the Vietnam War, I know well the sacrifices that have been made by many generations of Americans to protect our freedom. We, as Americans, should honor our flag. It is a symbol of our freedom. I am immensely gratified when I see all the flags flying in the face of terrorist attacks and in support of our troops fighting overseas. They make me very proud.

However, I am not at all comfortable with changing the Bill of Rights that guarantees our freedoms. The Bill of Rights guarantees freedom of expression including dissent. Individual freedom and opportunity have built our nation into the strongest on earth where liberties are enshrined in our Constitution. The First Amendment to the Constitution protects free speech and allows us to openly debate any issue in this country. As vile as flag desecration may be, the Supreme Court has ruled that it is political speech and, therefore, protected under the First Amendment.

I remain committed to preserving freedom and opportunity. In the true spirit of America, freedom must be maintained for those with whom we agree and, yes, those with whom we disagree. I believe we, as individuals, should honor the flag as a symbol of that freedom. Applying government coercion to prevent flag desecration actually chips away at that freedom of expression.

Old Glory can withstand a few exhibitionists looking for attention. We don't have to jeopardize our freedoms to protect it. It is a symbol of what protects us.

Mrs. CUBIN. Mr. Speaker, I stand before you today in strong and wavering support of

the Flag Protection Amendment. I'm proud to be an original cosponsor of this important measure.

Our flag is more than just a piece of cloth. From Lexington to Gettysburg to Falluja, more than a million brave Americans have given their lives in defense of our flag and the American ideals it represents. We must honor their ultimate sacrifice, and the sacrifices made by the almost 60,000 veterans in my home state of Wyoming, by defending our flag with the courage and resolve they proved possible.

The Flag Protection Amendment will protect from desecration the most widely recognized symbol of freedom and democracy worldwide, one that offers hope and comfort to the students and teachers, lawmakers, and military men and women who pledge allegiance to the flag every day across the nation.

With that, I strongly urge final passage of the Flag Protection Amendment.

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

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate on the joint resolution has expired.

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

Mr. WATT. 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:

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

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 330, the gentleman from North Carolina (Mr. WATT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

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

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

Mr. Speaker, this marks the sixth consecutive term of Congress in which I have engaged in this debate. I actually, when I first came to Congress and the first time I had the opportunity to participate in this, I resented having to go through this. But over the years I have come to believe that this is a healthy debate; and if we conduct it in a dignified way, the debate actually can be good for the entire country, and people can come away with a greater understanding and appreciation of how delicate our Constitution framework is.

This is about how individuals in our country perceive patriotism, the rights of free speech, the rights of protecting the views of people who quite often they may disagree with in content, but that is what our country has been about.

So I want to start by complimenting the chairman and the ranking member for the dignified way the debate has proceeded up to this point. And I hope that this amendment in the nature of a substitute does not get us off onto a different track, because this is the second or third time I have offered the amendment in the nature of a substitute, and I did it originally for the purpose of trying to get to a higher quality of debate and forcing my colleagues and whoever may be listening to the debate to think about some of these things.

What does the first amendment mean? What rights do we owe to people in our country whose views we may disagree with? What rights do we owe to the people in our country who may express those views in ways that we disagree with?

And I am confident that everybody in this body would think that desecration of the flag, burning of the flag would not be something that we would be supporting, so that is not what this amendment is about.

My amendment simply says if we are going to do a constitutional amendment, it should not just say that Congress has the authority to pass a law that prohibits the physical desecration of the flag. Whatever we do should be subject to the first amendment to the Constitution. And the amendment under my version would read, not inconsistent with the first article of amendment to the Constitution: "The Congress shall have power to prohibit the physical desecration of the flag of the United States."

My amendment, I believe, recognizes the long-standing legacy of the Bill of Rights. In over 200 years of history, our Constitution has been amended only 27 times and the Bill of Rights has never been amended, not once has the Bill of Rights been amended; and this proposed resolution would be the first time to do that.

I understand that the proposed resolution seeks to uphold the integrity of our flag; but my amendment seeks to ensure that the principles for which the flag stands, particularly freedom of expression and freedom of speech, are also reserved.

The first amendment to the United States Constitution stands for the proposition that all voices of dissent should be heard without governmental suppression. Disrespect for the flag is offensive to every Member of this body, but this is not a debate about patriotism. It is not a debate about whether flag desecration is good or bad. It is a debate about the values that underlie our Constitution. And I think former Secretary of State Colin Powell said it best when he said these words:

"The first amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy, the Constitution, to humor a few miscreants," he said. "The flag will be flying proudly long after they have slunk away." And that is the end of his quote for my purposes today.

It is the underlying values represented by the flag, not the cloth on which the stars and bars are sewn that our Constitution protects. Those are the values my amendment would preserve.

Mr. Speaker, following the horrific acts of terrorism against our country, our citizens were repeatedly cautioned not to cower in the face of terrorism. Do not curtail our freedoms, we were told, for to do so would be to surrender our way of life, to give up and give in to the terrorists. The terrorists would win.

I think if we pass the amendment as it has been proposed, we give in to those miscreants, as Colin Powell has characterized them, those people who we disagree with. We should be protecting their rights also to free speech.

I want to put this in context. I started by saying that I used to resent this debate and I would tell you, Mr. Speaker, that I came to Congress thinking that, I guess, I thought I had a monopoly on what the meaning of the Constitution was. And there is a history to that, because I had graduated from Yale Law School, took my constitutional law from Professor Robert Bork, who became so controversial when he was nominated to the United States Supreme Court. And in that class with me was a student by the name of Duncan Kennedy who is now a professor at Harvard Law School and for whom a whole theory of law has been patterned.

In that class with me, in that constitutional law class, was a guy named Paul Gewirtz, who is now a professor of constitutional law at Yale University Law School. So it was one of those law school classes that people would die for. And we analyzed the first amendment back and forth, right and left, Bork against Duncan, Bork against Gewirtz. I mean, there were good students in the class and then there were people like me who were sitting in the back of the room hoping that nobody would ever realize that we were there and I could avoid getting involved in that high level of debate.

But I was listening and understanding that the Constitution, the first amendment had different meanings to different people. And I thought I got a good balanced view. Actually, I thought I got a good balanced view until I went back to North Carolina and went into a law firm that was generally known as a civil rights law firm.

And one day my senior law partner, a gentleman by the name of Julius Chambers, called me in and said, I

want you to go to eastern North Carolina to one of the counties in which Native Americans represent a high portion of the population, because a number of the Native Americans in that county have been charged with parading, using tomahawks, parading around; and they have been charged with resisting arrest and various other criminal offenses. And he did not tell me what they were down there demonstrating about. He just told me to go down there and represent them.

□ 1230

I went and I started my interviews with the Native Americans, and during the course of my interviews with them, it became apparent that the reason that they had these tomahawks out there and they were demonstrating and parading was that they had a desire not to have to go to school with black people. They thought that the schools that they were going to be sent to with African Americans were inferior, and they did not want to do it.

Well, I being an African American myself, swallowed very hard and said, What has my law partner gotten me into? I could not wait until the end of the day to get in my car and race back to Charlotte, North Carolina, and confront my senior law partner.

I walked in and I said, Chambers, why would you send me to this county to represent these Indians who were demonstrating against going to school with African Americans? His response taught me more about the first amendment than either Robert Bork or Duncan Kennedy or Paul Gerwitz or any of the discussions that I had participated in in law school. He simply asked me one question. He said, Do you not believe in the first amendment?

This is a difficult issue, and this is not about patriotism, and I have come to understand over the years of debate that we have had this amendment under consideration, I started out saying to people on the opposite side, people like the gentleman from California (Mr. CUNNINGHAM) and people who served their country, You are unpatriotic because you do not agree with me about my interpretation of the first amendment; the first amendment was passed to protect the right of people to demonstrate and burn flags and you are unpatriotic because you do not agree with me.

But then I started to listen to what the gentleman from California (Mr. CUNNINGHAM) was saying and what my colleagues were saying and studied this issue more. Could it be that Justice Scalia and Justice Rehnquist, two conservative jurists, could be on opposite sides of this issue and it not be a difficult issue from a constitutional perspective? That is, can you imagine the debate that was taking place in the Supreme Court? I cannot imagine that Justice Rehnquist looked at Justice Scalia and said, You are unpatriotic because you do not agree with me. I cannot imagine that Justice Scalia

looked at Justice Rehnquist and said, oh, no, you are unpatriotic because you disagree with me. They came down on opposite sides of the landmark case.

This is a difficult issue and it is all about what you think ought to be protected under the first amendment. It is not about whether you are patriotic or not.

Well, there is one thing I want for sure my colleagues to acknowledge, that this amendment, when it was first offered, started out just saying there shall be no physical desecration of the flag. For a couple of years it said that, but then the more recent versions of what we are considering today say that Congress shall have the power to prohibit the physical desecration of the flag. That means that Congress must pass a statute, which must then go to the Supreme Court ultimately to be evaluated. So, at some point, the Supreme Court is going to evaluate whether that statute complies with the first amendment or not.

In that sense, the language that I am proposing, I am going to first and foremost acknowledge, is redundant. It just specifically says that whatever we do as a Congress has got to be subject to the first amendment. That is redundant. As my colleagues know, whatever we do as a Congress is supposed to be subject to everything in the Constitution anyway, but I want to remind us that, at the same time, we protect the flag.

A principle of our Nation is also to protect speech, whatever that is; is it burning the flag, is it hollering "fire" in a crowded theater? Whatever it is, there needs to be some kind of balance. And this Congress, whether it adopts my amendment or does not adopt my amendment, is going to be subject to that anyway.

The proponents of this amendment who say that this is going to do something earth shattering or that my amendment is going to undercut their proposal, it is just not the case.

I just want to be sure that we acknowledge that whatever we do, we acknowledge it, that the first amendment is just as important as the flag. Just as important. Some people might argue that it is more important than the piece of cloth. My colleagues might argue that it is, that it is equal in value, but we at least need to come to grips with that, and that is what the Constitution, that is what the Supreme Court has been trying to do for a number of years. It is not an easy thing to do.

We have heard a lot of discussion about activist judges. This proposal encourages judges to be activists because it says you are giving Congress the right to prohibit the physical desecration of the flag. Do my colleagues think the Supreme Court is not going to exercise its constitutional responsibilities just because we said Congress can prohibit the physical desecration of the flag? It is going to have to. It is going to have to decide what that

means. It is going to have to decide how we balance this provision, this statute, statutory authority that Congress gives against the first amendment. We are not going to be able to get around the Supreme Court here.

We like to punt these things and pretend that we are doing something earth shattering here, but the Supreme Court, I hope, is still going to be there, and I believe the Supreme Court is going to wrestle with this as they have in the past.

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

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

Mr. Speaker, I have listened attentively to the arguments made by the gentleman from North Carolina (Mr. WATT) in support of his amendment, and he said that his amendment is redundant. It is redundant, but it also is a gutting amendment to the base text of the constitutional amendment that we are debating today.

This substitute amendment should be rejected because it would constitutionally ratify the Supreme Court's decision in *Texas v. Johnson* and *United States v. Eichman*, rather than empower Congress to pass legislation to protect the flag from physical desecration.

In *Johnson* and *Eichman*, the Supreme Court held that flag desecration is expressive conduct protected by the first amendment. These decisions effectively invalidated the laws of 48 States and the Federal Government. In addition, based on these precedents, any law that prohibits the physical desecration of the flag will be struck down as an unconstitutional suppression of free expression, thus defeating the goal of our efforts to provide protection for the flag.

A constitutional amendment must be passed if the flag is to receive legal protection. Under the Watt substitute, the flag would not receive such protection because the Court would simply strike down as inconsistent to the first amendment any implementing legislation enacted into law.

Adoption of the substitute would not only render H.J. Res. 10 ineffective, but it would also constitutionally codify the Supreme Court decisions that a vast majority of the American public were erroneously decided, and which did not exist for the first 200 years of the Constitution's existence.

In other words, if the Watt amendment is passed and then a constitutional amendment is passed and ratified by the States, the Supreme Court can, in the future, recognize that it made a mistake, and that is why this amendment should be rejected.

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

Mr. WATT. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from North Carolina (Mr. WATT) has 11 minutes remaining.

Mr. WATT. Mr. Speaker, I yield myself 1 minute just for the purpose of responding to this.

I do not agree at all with my chair, as much as I respect him, that this codifies anything. What it does is that it codifies and reaffirms and acknowledges the state of affairs that exists right now, that in the final analysis the Supreme Court is the ultimate arbiter of the Constitution and laws of our country. After we pass my amendment or the underlying amendment, the Supreme Court is still going to be the ultimate arbiter of that, and so my amendment neither does that or does not do it.

His amendment does not do it. If the Supreme Court changes its mind, the composition of the Supreme Court changes, and they decide that burning a flag is prohibited, is not protected under the first amendment, then that is going to be the last word on it. We do not have any way to go on that.

So I do not think I can agree with him that I am doing anything different than preserving the state of affairs.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. SCOTT), my good friend.

Mr. SCOTT of Virginia. Mr. Speaker, let me just begin by saying our flag does not need protection from an occasional protester, we call them miscreants I think, who cannot see how ridiculous it is to try to protest by destroying the symbol of his right to protest. If he cannot see how ridiculous that is, obviously we do not need much protection from him.

Contrary to what has been suggested on the floor, the underlying amendment does not regulate conduct. Without the Watt amendment, it clearly regulates message.

Now, as the gentleman from North Carolina, sponsor of the amendment, points out, the underlying amendment does not repeal the first amendment. Even if we adopt this constitutional amendment, the first amendment will still be there, and so the amendment is, in fact, redundant, but it makes it clear and reminds people that it is still there.

What he seeks to clarify is whether or not it is indeed the message that is being criminalized rather than the conduct, whether or not those who support government policy, for example, and burn a flag without offending anybody, apparently they will be okay. But if you are a war protester who burns a flag, you can be arrested, and if you are a veteran, so disgusted with veterans health care, and burn the flag in protest, are we making him a criminal? Or if you are a member of a fringe political organization who burns his own flag on his own property, in private, can they be arrested if somebody finds out?

The question is whether or not we are criminalizing the message or the conduct. So the Watt amendment makes it clear that we are still protecting freedom of speech. The message, that will

be clear, that we if we do not support the Watt amendment we just ought to acknowledge it is indeed the message, not conduct, which is the target of the underlying amendment.

□ 1245

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. GOODLATTE).

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

I rise in strong opposition to the Watt substitute and in support of H.J. Res. 10, which would amend the Constitution to give Congress the authority to prevent the physical desecration of the American flag. The gentleman from North Carolina (Mr. WATT) says that the Bill of Rights has never been amended. It may be that the words have never been changed, but the United States Supreme Court on many, many, many occasions has amended the first amendment and other provisions in the Bill of Rights by changing the meaning of those words. This is one of those such occasions.

For 200 years, many Supreme Court Justices opined that flag desecration laws which were in effect in 49 States were not in violation of the first amendment of the Constitution. This is in defiance of the will of the overwhelming majority of the American people, the will of the overwhelming majority of the State legislatures, and as we will see later today, the will of the overwhelming majority of the United States Congress.

Clearly, free speech goes beyond the written or spoken word to include other forms of expression, including the wearing of symbols and other actions. However, not all actions constitute free speech, and I am hardly alone in asserting that flag desecration is not speech to be protected under the first amendment. In 1989, the United States Supreme Court in *Texas v. Johnson* unilaterally invalidated flag protection laws in 48 States and the District of Columbia, overturning 100 years of Federal and State precedent, banning the physical desecration of the American flag. When that occurs, and when the people and the Congress believe that is wrong, it is a constitutional amendment that corrects the error of the Supreme Court.

Following this decision for the first time in our Nation's history, an overwhelming 49 State legislatures petitioned Congress to send a flag desecration amendment to the States for ratification. The physical desecration of the American flag constitutes an assault on the most deeply shared experiences of the American people. Our flag is more than a piece of cloth; it is a symbol of our freedom. It represents the sacrifices of those who gave their lives to win and preserve freedom.

There have been those who have gone unarmed into battle carrying the flag, and many have died to keep the flag from falling into the hands of our enemies. To burn a flag in front of a veteran or someone else who has put his

or her life on the line for their country is an act not deserving protection.

Our Nation is unique in the world because our citizens represent a variety of heritages, religions, ethnicities, and political viewpoints. Indeed, we debate our differences openly and vigorously; yet we can always look to the flag and remember that we share certain core values that bind us together as a people.

For over 200 years, our flag has flown proudly over our Nation, a visible promise of our commitment to the preservation and expansion of democracy. However, symbols, like values, are eroded gradually. Each time they are desecrated, their symbolism is diminished. We must act now to protect one of our Nation's most sacred symbols because the Supreme Court has struck down Congress' effort to protect the flag by statute. It is now necessary to amend the Constitution to give Congress the authority to protect the flag.

Supreme Court Justices as varied as William Rehnquist, Warren Burger, and Hugo Black have all recognized the appropriateness of these desecration statutes that were struck down by the Court.

I urge my colleagues to support H.J. Res. 10.

Of course, words or other forms of expression do not have to be correct in order to be protected. And clearly, free speech goes beyond the written or spoken word to include other forms of expression, including the wearing of symbols and other actions. Not all actions constitute free speech, and I am hardly alone in asserting that flag desecration isn't free speech to be protected under the First Amendment.

"I believe that the states and federal government do have the power to protect the flag from acts of desecration and disgrace," wrote former Chief Justice Earl Warren. This view is shared by many past and present justices of the U.S. Supreme Court across the ideological spectrum, including Hugo Black, Abe Fortas, Byron White, John Paul Stevens, Sandra Day O'Connor and current Chief Justice William Rehnquist. These eminent men and women haven't taken a merely political stance based upon "shallow assumptions" or "perilously sloppy thinking." Rather, they rely upon well-established principles.

"Surely one of the high purposes of a democratic society," wrote Rehnquist, "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." Free speech isn't the right to do anything you want to do anytime you want to do it. Rather, it's a precious liberty founded in law—a freedom preserved by respect for the rights of others.

To say that society isn't entitled to establish rules of behavior governing its members is either to abandon any meaningful definition of civilization or to believe that civilization can survive without regard to the feelings or decent treatment of others. To burn a flag in front of a veteran or someone else who has put his or her life on the line for their country is a despicable act not deserving protection.

It's well-established that certain types of speech may be prevented under some cir-

cumstances, including lewd, obscene, profane, libelous, insulting or fighting words. When it comes to actions, the proscriptions may be even broader. That's where I have voted to put flag desecration—back where 48 state legislatures thought it was when they passed laws prohibiting it.

This amendment doesn't, in any way, alter the First Amendment. It simply corrects a misguided court interpretation of that amendment. As Justice Rehnquist eloquently observed in concluding his dissent: "Uncritical extension of constitutional protection to the burning of the flag risks the frustration of the very purpose for which organized governments are instituted . . . The government may conscript men into the Armed Forces where they must fight and perhaps die for the flag, but the government may not prohibit the public burning of the banner under which they fight." I am proud to play a part in trying to right that wrong.

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

Mr. Speaker, I am going to filibuster because I am waiting for some Members who would like to speak on this.

Let me respond to the comments of the gentleman from Virginia (Mr. GOODLATTE) that the Supreme Court has amended the Bill of Rights on a number of occasions. It did not amend the language of the Bill of Rights. It amended the interpretation of the Bill of Rights.

On a number of those occasions I have been really unhappy about the way the Supreme Court ruled and took away a right that I thought I had. I suspect if there were ever anybody in this institution who would be, should be railing against the Supreme Court, either the current Supreme Court or Supreme Courts throughout history, it might be the members of the Congressional Black Caucus who would have the highest standing and right to do that because in a number of cases the Supreme Court has ruled in ways that were absolutely counter to our interest.

I just want my colleagues to understand that this document that our drafters crafted for us has survived so much the test of time, the comings and goings of members of the Supreme Court differing in interpretations, as the gentleman from Virginia (Mr. GOODLATTE) said. If you want to look at it, they rewrote the Bill of Rights, but never changed the words.

I do not think that every time you get a Supreme Court decision that you disagree with in this country the way to resolve or to express your disagreement is to come to the Congress of the United States and propose that we amend the entire constitutional framework that we are operating under. I do not think that is the way to do it. Sometimes you win; sometimes you lose. Sometimes you have a progressive Supreme Court; sometimes you have a conservative Supreme Court. That does not mean that you do not go back and try to statutorily do what you think that you need to do to amend statutes, but amending our Constitution is an entirely different thing.

So one side of me says this is not a good idea to be amending the Constitution in this way. The other side of me really says this amendment has been made out to be a lot more than it really is because by saying that Congress can pass a statute that prohibits the physical desecration of the flag does not give us any more authority than we now have. We can pass a statute right now that prohibits the physical desecration of the flag.

The question is what would the United States Supreme Court say about that statute once it worked its way through the process and up to the United States Supreme Court. And if we pass this amendment, having amended for the first time in 200 years our Bill of Rights, gone through the whole process, the Supreme Court is still going to have the same right to do that.

This is a great, great discussion vehicle. As I said, I used to resent coming here and engaging in this debate every year or every 2 years. It always comes right before July 4. Somebody is always trying to make a political point. Democrats used to be saying Republicans were unpatriotic. Republicans used to be saying Democrats are unpatriotic. Now people are going whichever way they want to go. This is not a Republican or a Democratic amendment; this is a constitutional amendment. Democrats and Republicans have to exist in our constitutional framework. We have got to operate within our system. That is what I think this is about.

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

Mr. DAVIS of Alabama. Mr. Speaker, I am a little ashamed to confess my mother is around the age of the gentleman from North Carolina (Mr. WATT). My mother used to tell me stories when she was a young woman in the segregated South that she would drive through parts of rural and western Alabama and that she would see crosses burned. My grandmother used to tell me stories that after Brown v. Board of Education, she remembers riding through parts of rural Alabama and seeing crosses burned.

The interesting thing about that is the burning of those crosses did not keep a single black child out of a public school. The burning of those crosses, frankly, did nothing to slow down the march of justice in this country over the 40-or-so years I have been around. I think that is relevant to this debate today.

Mr. Speaker, 15 years ago the U.S. Supreme Court would not let Congress ban flag-burning. And here we stand 15 years later in a country that is still deeply patriotic, a country that is still full of love of Americans toward each other. Frankly, I would submit in this last 4 or 5 years we have seen a rising tide of patriotism. We feel a greater faith in each other and a greater faith in our fighting forces now than we ever

have. I wish advocates of this amendment understood we have won this battle. Those of us who believe in this country, those of us who believe in its decency, and those of us who believe in its power, we have won. Within our borders, we have won.

The people who would burn flags, just like the people who would burn crosses, have lost. And not only have they lost; they have been thrashed. They have been banished to the margins. They are not a legitimate part of our political debate. They are not acceptable viewpoints to most of us.

I wish we understood that every time we think about saying that one kind of speech is so obnoxious or so offensive that we ought to get rid of it, every time we even let ourselves think that, we would be so much better off if we trust in our better angels, because the best angels in our nature tell us that flag burners are wrong. They tell us that the instinct behind them is wrong and we have prevailed.

There is a reason we have had this 230-year constitutional tradition. It is because we have been strong enough and powerful enough and our values have been deep enough to withstand even the worst of ideas.

I thank the gentleman for offering this amendment and for calling us back to an understanding that even this august institution is limited by the United States Supreme Court, and that even the best values that we pronounce in this Chamber are limited by our Constitution.

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

Mr. PEARCE. Mr. Speaker, I rise in opposition to the Watt amendment and support H.J. Res. 10.

It is interesting that we are hearing about freedom of speech right now. I was interested because yesterday in my district the ACLU, which holds itself as the arbiter of all freedom of speech in the Nation and in the world, actually shut down all comments from their own local chapter because one person was speaking out on an issue that they did not want him to speak on with their name hooked onto it. So the ACLU yesterday in the Second Congressional District of New Mexico actually said no freedom of speech is allowed if you are an ACLU officer.

□ 1300

Freedom of speech, we have also seen it compromised in our schools. We can talk about certain religions in schools, but we cannot talk about Christian religions in school and we find that the American public is saying, Why? Why can we not defend this sacred symbol of our freedom? It is not a difficult issue. When I see these World War II veterans coming to me with tears in their eyes knowing they are in the last year or two of their lives and saying, Why can't we do this finally, it is not a complicated issue. They do not see things in the complex legal arguments on the

floor of this House or in the Supreme Court.

Mr. Speaker, we do recognize that symbols do mean more than what they actually stand for. Look at the debate right now in Guantanamo Bay. It is being said by the same people who want the freedom of speech to desecrate the symbol of our flag that we should not have the freedom to desecrate the Koran or even allege that it has been desecrated.

Mr. Speaker, it is time that we recognize that a symbol is more important than the actual fabric that it is made of. It is time for us to pass this constitutional amendment, to reject the substitute amendment, and to bring clarity to this issue where 50 States have passed resolutions asking us to get clarity. It is time for the Congress to speak in the way that the majority of Americans would have them to speak. I support the amendment.

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

Mr. Speaker, the major argument that we have heard against the base amendment and in favor of the Watt substitute is that if we do not pass the Watt substitute, we will be amending the Bill of Rights for the first time in the history of this country. That is not true. In the Dred Scott decision, Chief Justice Taney claimed that the fifth amendment's due process clause, which he interpreted to include a substantive right to the protection of property, prohibited restrictions on slave ownership. The three amendments that were passed during the Civil War, the 13th, 14th and 15th amendments, corrected that gross constitutional misinterpretation and it slammed the door shut so tightly that that issue never has been raised again; and our country has been much, much better for it.

In a similar manner, House Joint Resolution 10 seeks to correct two Supreme Court precedents that repudiated 2 centuries of jurisprudence. The time to correct those two precedents is today. We must vote against the Watt substitute amendment which guts the thrust of House Joint Resolution 10 and then pass House Joint Resolution 10 by a two-thirds majority to send it to the other body.

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

The SPEAKER pro tempore (Mr. BASS). Pursuant to House Resolution 330, the previous question is ordered on the joint resolution and on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

The question is on the amendment in the nature of a substitute offered by the gentleman from North Carolina (Mr. WATT).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. WATT. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 129, nays 279, not voting 25, as follows:

[Roll No. 293]

YEAS—129

Abercrombie	Grijalva	Olver
Ackerman	Gutierrez	Owens
Allen	Hastings (FL)	Pallone
Andrews	Hinchey	Pastor
Baird	Holt	Paul
Baldwin	Honda	Payne
Berman	Hooley	Pelosi
Blumenauer	Inslee	Price (NC)
Boucher	Israel	Royer-Allard
Brady (PA)	Jackson (IL)	Ruppersberger
Brown, Corrine	Jefferson	Rush
Butterfield	Johnson, E. B.	Ryan (OH)
Capps	Jones (OH)	Sabo
Capuano	Kaptur	Sánchez, Linda
Cardin	Kennedy (RI)	T.
Carnahan	Kilpatrick (MI)	Sanchez, Loretta
Carson	Kind	Sanders
Clay	Larsen (WA)	Schakowsky
Cleaver	Larson (CT)	Schiff
Clyburn	Leach	Scott (VA)
Conyers	Lofgren, Zoe	Slaughter
Cooper	Lowey	Solis
Costa	Maloney	Spratt
Cummings	Matheson	Stark
Davis (AL)	Matsui	Tanner
Davis (CA)	McCollum (MN)	Tauscher
Davis (IL)	McDermott	Thompson (CA)
DeFazio	McGovern	Thompson (MS)
Delahunt	McKinney	Tierney
DeLauro	McNulty	Towns
Dicks	Meehan	Udall (CO)
Dingell	Meek (FL)	Udall (NM)
Doyle	Meeks (NY)	Van Hollen
Emanuel	Millender	Velázquez
Engel	McDonald	Visclosky
Eshoo	Miller (NC)	Wasserman
Etheridge	Miller, George	Schultz
Evans	Moore (KS)	Watson
Farr	Moran (VA)	Watt
Fattah	Nadler	Waxman
Filner	Napolitano	Weiner
Gilchrest	Neal (MA)	Wexler
Gonzalez	Oberstar	Woolsey
Green, Al	Obey	Wu

NAYS—279

Aderholt	Cardoza	Forbes
Akin	Case	Ford
Alexander	Castle	Fortenberry
Baca	Chabot	Fossella
Bachus	Chandler	Foxx
Baker	Chocola	Franks (AZ)
Barrett (SC)	Coble	Frelinghuysen
Barrow	Cole (OK)	Galligan
Bartlett (MD)	Costello	Garrett (NJ)
Bass	Cox	Gerlach
Bean	Cramer	Gibbons
Beauprez	Crenshaw	Gillmor
Berkley	Crowley	Gingrey
Berry	Cubin	Goode
Biggert	Cuellar	Goodlatte
Bilirakis	Culberson	Gordon
Bishop (GA)	Cunningham	Granger
Bishop (NY)	Davis (FL)	Graves
Bishop (UT)	Davis (KY)	Green (WI)
Blackburn	Davis (TN)	Green, Gene
Blunt	Davis, Jo Ann	Gutknecht
Boehlert	Davis, Tom	Hall
Boehner	Deal (GA)	Harman
Bonilla	DeGette	Harris
Bono	Dent	Hart
Boozman	Diaz-Balart, L.	Hastings (WA)
Boren	Diaz-Balart, M.	Hayes
Boswell	Doolittle	Hayworth
Boustany	Drake	Hefley
Bradley (NH)	Dreier	Hensarling
Brady (TX)	Duncan	Herger
Brown (OH)	Edwards	Higgins
Brown (SC)	Ehlers	Hobson
Burgess	Emerson	Hoekstra
Burton (IN)	English (PA)	Holden
Buyer	Everett	Hostettler
Calvert	Feeley	Hoyer
Camp	Ferguson	Hulshof
Cannon	Fitzpatrick (PA)	Hunter
Cantor	Flake	Hyde
Capito	Foley	Inglis (SC)

Issa	Michaud	Schwartz (PA)
Istook	Miller (FL)	Schwarz (MI)
Jenkins	Miller (MI)	Scott (GA)
Jindal	Miller, Gary	Sensenbrenner
Johnson (CT)	Mollohan	Serrano
Johnson (IL)	Moore (WI)	Sessions
Johnson, Sam	Moran (KS)	Shadegg
Jones (NC)	Murphy	Shaw
Kanjorski	Musgrave	Shays
Keller	Myrick	Sherman
Kelly	Neugebauer	Sherwood
Kennedy (MN)	Northup	Shimkus
Kildee	Norwood	Shuster
King (IA)	Nunes	Simmons
King (NY)	Nussle	Simpson
Kingston	Ortiz	Skelton
Kirk	Osborne	Smith (NJ)
Kline	Otter	Smith (WA)
Knollenberg	Pascarella	Snyder
Kolbe	Pearce	Sodrel
Kucinich	Pence	Souder
Kuhl (NY)	Peterson (MN)	Stearns
LaHood	Peterson (PA)	Strickland
Langevin	Petri	Stupak
Lantos	Pitts	Sullivan
Latham	Platts	Sweeney
LaTourette	Poe	Tancredo
Lee	Pombo	Taylor (MS)
Levin	Porter	Taylor (NC)
Lewis (CA)	Price (GA)	Terry
Lewis (KY)	Pryce (OH)	Thornberry
Linder	Putnam	Tiaht
Lipinski	Radanovich	Tiberi
LoBiondo	Rahall	Turner
Lucas	Ramstad	Upton
Lungren, Daniel	Regula	Walden (OR)
E.	Rehberg	Walsh
Lynch	Reichert	Wamp
Mack	Renzi	Waters
Manzullo	Reyes	Weldon (FL)
Markey	Reynolds	Weldon (PA)
Marshall	Rogers (AL)	Weller
McCarthy	Rogers (KY)	Westmoreland
McCotter	Rogers (MI)	Whitfield
McCrary	Rohrabacher	Wicker
McHenry	Ros-Lehtinen	Wilson (NM)
McHugh	Ross	Wilson (SC)
McIntyre	Rothman	Wilson (SC)
McKeon	Royce	Wolf
McMorris	Ryan (WI)	Wynn
Melancon	Ryun (KS)	Young (AK)
Menendez	Salazar	Young (FL)
Mica	Saxton	Young (FL)

NOT VOTING—25

Barton (TX)	Doggett	McCaull (TX)
Becerra	Frank (MA)	Murtha
Bonner	Gohmert	Ney
Boyd	Herseth	Oxley
Brown-Waite,	Hinojosa	Pickering
Ginny	Jackson-Lee	Pomeroy
Carter	(TX)	Rangel
Conaway	Lewis (GA)	Smith (TX)
DeLay	Marchant	Thomas

□ 1328

Messrs. NEUGEBAUER, KOLBE, FLAKE, CROWLEY, LANTOS, COSTELLO, KUCINICH, and Ms. GRANGER changed their vote from "yea" to "nay."

Ms. ZOE LOFGREN of California and Mr. JEFFERSON changed their vote from "nay" to "yea."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Mr. BECERRA. Mr. Speaker, on Wednesday, June 22, 2005, I was unable to cast my floor vote on rollcall No. 293. The vote I missed was on agreeing to the Watt of North Carolina substitute amendment.

Had I been present for the vote, I would have voted "yea" on rollcall number 293.

Stated against:

Mr. GOHMERT. Mr. Speaker, on rollcall No. 293, I was unavoidably detained. Had I been present, I would have voted "nay."

The SPEAKER pro tempore (Mr. BASS). The question is on the engross-

ment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

□ 1330

MOTION TO RECOMMIT OFFERED BY MR. TAYLOR OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore (Mr. BASS). Is the gentleman opposed to the resolution?

Mr. TAYLOR of Mississippi. In its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Taylor of Mississippi moves to recommit H.J. Res. 10 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

Page 3, line 8, insert "SECTION 1." before "The Congress".

Page 3, line 9, strike the closing quotation marks and the period that follows.

Page 3, after line 9 insert the following:

"SECTION 2. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 3. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 4. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States Government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 5. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 6. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 7. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts.

"SECTION 8. Total receipts shall include all receipts of the United States Government except those derived from borrowing. Total outlays shall include all outlays of the United States Government except for those for repayment of debt principal.

"SECTION 9. Sections 2 through 8 of this article shall take effect beginning with fiscal year 2008 or with the second fiscal year beginning after its ratification, whichever is later."

Mr. TAYLOR of Mississippi. Mr. Speaker, given the nature of this motion, I ask unanimous consent that the Clerk read it again.

The SPEAKER pro tempore. Is there objection to the unanimous consent request of the gentleman from Mississippi?

Mr. SENENBRENNER. Mr. Speaker, reserving the right to object, would the gentleman restate the unanimous consent request.

Mr. TAYLOR of Mississippi. Mr. Speaker, I ask unanimous consent, given the gravity of this motion, that the Clerk read the motion again since, apparently, no one on this floor, other than I, know what is in it.

The SPEAKER pro tempore. Is there objection to the Reading Clerk reading the motion to recommit again?

There was no objection.

The SPEAKER pro tempore. The Clerk will proceed.

The Clerk read the motion to recommit.

POINT OF ORDER

Mr. SENENBRENNER. Mr. Speaker, I make a point of order against the motion to recommit.

The SPEAKER pro tempore. The gentleman will state the point of order.

Mr. SENENBRENNER. Mr. Speaker, the motion to recommit is not germane to the original text of the House Joint Resolution 10.

House Joint Resolution 10 proposes an amendment to prohibit the physical desecration of the flag of the United States. The material proposed to be inserted in the motion to recommit, sections 2 and following, has nothing to do with the subject of prohibiting the physical desecration of the flag and, thus, is not germane under the rules of the House.

The SPEAKER pro tempore. Does any Member wish to be heard on the point of order?

Mr. TAYLOR of Mississippi. Mr. Speaker, what we are talking about today is a fairly simple thing. The text of the original bill is to give the 50 States the legal authority to, on a state-by-state basis, prevent the desecration of the flag, a symbol of our country. There is something a heck of a lot more serious going on than the desecration of the flag: it is the desecration of our Nation.

In the last 4 years alone, the national debt has increased by \$2.1 trillion. We have taken money out of the Social Security trust fund, \$632 billion out of that trust fund, and used it to run the country, leaving nothing there but an IOU. Money has been taken out of the Federal Employees Retirement System, now a total of \$614 billion.

Mr. Speaker, if any business in America had taken that money out of the employees' trust fund—

The SPEAKER pro tempore. The gentleman from Mississippi will suspend.

The gentleman needs to confine his remarks to the point of order.

The gentleman may proceed.

Mr. TAYLOR of Mississippi. Mr. Speaker, the point of order is, why would we take the time to protect the symbol of our country if we will not take the time to protect the financial future of our country as well? That is my point.

The SPEAKER pro tempore. Does any Member wish to be heard on the point of order?

If not, the Chair is prepared to rule. The gentleman from Wisconsin makes a point of order that the instructions contained in the motion to recommit offered by the gentleman from Mississippi are not germane.

One of the central tenets of the germaneness rule, clause 7 of rule XVI, is that one individual proposition is not germane to another individual proposition. The Chair finds that H.J. Res. 10, by proposing a constitutional amendment relating to flag desecration, presents a single, individual proposition.

The Chair also finds that the instructions contained in the motion to recommit offered by the gentleman from Mississippi, by proposing a constitutional amendment relating to the budget of the United States, constitutes a different individual proposition.

Therefore, the Chair concludes that the instructions contained in the motion to recommit are not germane to H.J. Res. 10.

The point of order is sustained and the motion is not in order.

PARLIAMENTARY INQUIRY

Mr. TAYLOR of Mississippi. Mr. Speaker, what is the procedure to appeal the ruling of the Chair? I would like the ability to speak to that, please.

The SPEAKER pro tempore. The ruling of the Chair may be appealed.

Mr. TAYLOR of Mississippi. Mr. Speaker, I am appealing the ruling of the Chair, and I would like to speak to that point.

The SPEAKER pro tempore. The question is, shall the decision of the Chair stand as the judgment of the House.

MOTION TO TABLE OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I move to table the appeal.

Mr. TAYLOR of Mississippi. Mr. Speaker, is that debatable?

The SPEAKER pro tempore. It is nondebatable. The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. TAYLOR of Mississippi. Mr. Speaker, it is my understanding under the rule passed by the Committee on Rules that the minority is guaranteed a motion to recommit.

The SPEAKER pro tempore. Is the gentleman asking for a recorded vote?

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 194, not voting 17, as follows:

[Roll No. 294]

AYES—222

Aderholt	Barrett (SC)	Bilirakis
Akin	Bartlett (MD)	Bishop (UT)
Alexander	Bass	Blackburn
Bachus	Beauprez	Blunt
Baker	Biggert	Boehlert

Boehner	Harris	Pearce	Israel	Michaud	Schiff
Bonilla	Hart	Pence	Jackson (IL)	Millender-	Schwartz (PA)
Bono	Hastings (WA)	Peterson (PA)	Jefferson	McDonald	Scott (GA)
Boozman	Hayes	Pickering	Johnson, E. B.	Miller (NC)	Scott (VA)
Boustany	Hayworth	Pitts	Jones (OH)	Miller, George	Serrano
Bradley (NH)	Heffley	Platts	Kanjorski	Mollohan	Sherman
Brady (TX)	Hensarling	Poe	Kaptur	Moore (KS)	Skelton
Brown (SC)	Herger	Putnam	Kennedy (RI)	Moore (WI)	Slaughter
Brown-Waite,	Hobson	Pombo	Kildee	Moran (VA)	Smith (WA)
Ginny	Hoekstra	Porter	Kilpatrick (MI)	Murtha	Snyder
Burgess	Hostettler	Price (GA)	Kind	Nadler	Strickland
Burton (IN)	Hulshof	Pryce (OH)	Kucinich	Napolitano	Solis
Buyer	Hunter	Putnam	Langevin	Neal (MA)	Spratt
Calvert	Hyde	Radanovich	Lantos	Pallone	Stark
Camp	Inglis (SC)	Ramstad	Larsen (WA)	Pascarella	Thompson (CA)
Cannon	Issa	Regula	Larson (CT)	Price (NC)	Thompson (MS)
Cantor	Istook	Rehberg	Lee	Rahall	Tierney
Capito	Jenkins	Reichert	Levin	Reyes	Towns
Castle	Jindal	Rohrabacher	Lipinski	Pelosi	Udall (CO)
Chabot	Johnson (CT)	Ros-Lehtinen	Lofgren, Zoe	Peterson (MN)	Udall (NM)
Chocola	Johnson (IL)	Rogers (AL)	Lowey	Rush	Van Hollen
Coble	Johnson, Sam	Rogers (KY)	Ryan (WI)	McKinney	Velázquez
Cole (OK)	Jones (NC)	Rogers (MI)	Ryan (KS)	McNulty	Viscosky
Cox	Keller	Rohrabacher	Sabo	McCormick (MN)	Wasserman
Crenshaw	Kelly	Ros-Lehtinen	Saxton	McDermott	Royal-Allard
Cubin	Kennedy (MN)	Royce	Schwarz (MI)	Ruppersberger	Schultz
Culberson	King (IA)	Sessions	Sensenbrenner	McIntyre	Watson
Cunningham	King (NY)	Shadegg	Shay	Ryan (OH)	Watt
Davis (KY)	Kingston	Shaw	Shays	Salazar	Waxman
Davis, Jo Ann	Kirk	Saxton	Shay	Meehan	Weiner
Davis, Tom	Kline	Schwarz (MI)	Saxton	Meek (FL)	Sánchez, Linda
Deal (GA)	Knollenberg	Sensenbrenner	Schwarz (MI)	Meeks (NY)	Wexler
DeLay	Kolbe	Sessions	Sensenbrenner	Melancon	Sanchez, Loretta
Dent	Kuhl (NY)	Shadegg	Sessions	Sanders	Woolesy
Diaz-Balart, L.	LaHood	Shaw	Shay	Menendez	Wynn
Diaz-Balart, M.	Latham	Saxton	Saxton	Shakowsky	
Doolittle	LaTourette	Schwarz (MI)	Schwarz (MI)		
Drake	Leach	Sensenbrenner	Sensenbrenner		
Dreier	Lewis (CA)	Shay	Shay		
Duncan	Lewis (KY)	Saxton	Saxton		
Ehlers	Linder	Schwarz (MI)	Schwarz (MI)		
Emerson	LoBiondo	Sensenbrenner	Sensenbrenner		
English (PA)	Lucas	Shay	Shay		
Everett	Lungren, Daniel	Saxton	Saxton		
Feeney	E.	Schwarz (MI)	Schwarz (MI)		
Fitzpatrick (PA)	Mack	Sensenbrenner	Sensenbrenner		
Flake	Manzullo	Sessions	Sessions		
Foley	Marchant	Shay	Shay		
Forbes	McCotter	Saxton	Saxton		
Fortenberry	McCrery	Schwarz (MI)	Schwarz (MI)		
Fossella	McHenry	Sensenbrenner	Sensenbrenner		
Foxx	McHugh	Sessions	Sessions		
Franks (AZ)	McKeon	Shay	Shay		
Frelinghuysen	McMorris	Saxton	Saxton		
Gallegly	Mica	Schwarz (MI)	Schwarz (MI)		
Garrett (NJ)	Miller (FL)	Sensenbrenner	Sensenbrenner		
Gerlach	Miller (MI)	Sessions	Sessions		
Gibbons	Miller, Gary	Shay	Shay		
Gilchrest	Moran (KS)	Saxton	Saxton		
Gingrey	Murphy	Schwarz (MI)	Schwarz (MI)		
Gohmert	Myrick	Sensenbrenner	Sensenbrenner		
Goode	Neugebauer	Sessions	Sessions		
Goodlatte	Northup	Shay	Shay		
Granger	Norwood	Saxton	Saxton		
Graves	Nunes	Schwarz (MI)	Schwarz (MI)		
Green (WI)	Nussle	Sensenbrenner	Sensenbrenner		
Gutknecht	Osborne	Sessions	Sessions		
Hall	Paul	Shay	Shay		

NOES—194

Abercrombie	Carnahan	Edwards
Ackerman	Carson	Emanuel
Allen	Case	Engel
Andrews	Chandler	Eshoo
Baca	Clay	Etheridge
Baird	Cleaver	Evans
Baldwin	Clyburn	Farr
Barrow	Conyers	Fattah
Bean	Cooper	Filner
Becerra	Costa	Ford
Berkley	Costello	Frank (MA)
Berman	Cramer	Gonzalez
Berry	Crowley	Gordon
Bishop (GA)	Cuellar	Green, Al
Bishop (NY)	Cummings	Green, Gene
Blumenauer	Davis (AL)	Grijalva
Boren	Davis (CA)	Gutierrez
Boswell	Davis (FL)	Harman
Boucher	Davis (IL)	Hastings (FL)
Brady (PA)	Davis (TN)	Higgins
Brown (OH)	DeFazio	Hinchey
Brown, Corrine	DeGette	Holden
Butterfield	Delahunt	Holt
Capps	DeLauro	Honda
Capuano	Dicks	Hooley
Cardin	Dingell	Hoyer
Cardoza	Doyle	Inslee

NOT VOTING—17

Barton (TX)	Herseth	Ney
Bonner	Hinojosa	Oxley
Boyd	Jackson-Lee	Pomeroy
Carter	(TX)	Rangel
Conaway	Lewis (GA)	Smith (TX)
Doggett	McCaull (TX)	Thomas

□ 1355

Mr. KENNEDY of Rhode Island and Ms. LORETTA SANCHEZ of California changed their vote from “aye” to “no.”

Mr. PICKERING changed his vote from “no” to “aye.”

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. TAYLOR of Mississippi. Mr. Speaker, I have a parliamentary inquiry.

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

Mr. TAYLOR of Mississippi. Mr. Speaker, I take it from what just occurred is that I will not be able to offer the amendment to require a balanced budget amendment to the Constitution.

Now, is that the net effect of that vote that just occurred? Because I do have a follow-up.

The SPEAKER pro tempore. The motion to recommit was ruled out of order.

Mr. TAYLOR of Mississippi. Mr. Speaker, having read the rule, it said that the minority was to be given a motion to recommit. If that motion to recommit was ruled out of order, does the minority still have the right to offer another motion to recommit?

The SPEAKER pro tempore. A Member opposed to the bill may offer a proper motion to recommit.

MOTION TO RECOMMIT OFFERED BY MR. TAYLOR
OF MISSISSIPPI

Mr. TAYLOR of Mississippi. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. TAYLOR of Mississippi. Mr. Speaker, I am opposed to the bill in its present form.

The SPEAKER pro tempore. The Clerk will report the motion.

The Clerk read as follows:

Mr. Taylor of Mississippi moves to recommit H.J. Res. 10 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendments:

Page 3, line 8, insert "SECTION 1." before "The Congress".

Page 3, line 9, strike the closing quotation marks and the period that follows.

Page 3, after line 9 insert the following:

"SECTION 2. The receipts (including attributable interest) and outlays of the Federal Old-Age and Survivors Insurance Trust Fund shall not be counted as receipts or outlays of the United States.

"SECTION 3. Congress shall enforce and implement this Article by appropriate legislation.

"SECTION 4. Sections 2 and 3 of this Article shall take effect beginning with the first fiscal year beginning at least 180 days after its ratification."

POINT OF ORDER

Mr. SENSENBRENNER. Mr. Speaker, I make a point of order against the motion.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. SENSENBRENNER. Mr. Speaker, this motion is also not germane under House rule XVI, clause 7, because it is one individual proposition attempting to amend another individual proposition.

The base constitutional amendment relates to flag desecration. The amendment proposed in the motion to recommit relates to the Old Age Survivors and Disability Trust Fund and is a separate proposition.

□ 1400

The SPEAKER pro tempore (Mr. BASS). Does the gentleman from Mississippi (Mr. TAYLOR) wish to be heard on the point of order?

Mr. TAYLOR of Mississippi. Yes, Mr. Speaker.

Mr. Speaker, the underlying bill is to prevent the desecration of the flag, the trampling of our flag, the misuse of our flag. The amendment that I have offered is to prevent the wholesale theft and desecration of the Social Security trust fund.

In the past 4 years alone, this Congress, of which I am a part, has taken \$632 billion out of the Social Security trust fund that we promised the citizens we would set aside just for Social Security payments and used to run the country.

The President has gone all around the country saying we have a crisis, that by 2017 we will be out of money.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. TAYLOR) will suspend.

The gentleman needs to confine his remarks to the point of order, and not to debate the substance of the motion to recommit.

Mr. TAYLOR of Mississippi. The point of order is to my colleagues, if you think it is wrong to desecrate the flag, I would hope that you would think it is wrong to misspend money taken out of people's wallets that we promised to spend on their Social Security and to protect that money in the Constitution.

The SPEAKER pro tempore. The Chair is prepared to rule on the point of order.

As in the case of the previous motion, the Chair must adhere to the principle that, to a joint resolution embodying a single individual proposition, an amendment proposing a different proposition, even of the same class, is not germane.

The motion is not in order.

Mr. TAYLOR of Mississippi. Mr. Speaker, I appeal the ruling of the Chair.

The SPEAKER pro tempore. The question is: Shall the decision of the Chair stand as the judgment of the House.

MOTION TO TABLE OFFERED BY MR.
SENSENBRENNER

Mr. SENSENBRENNER. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) to lay the appeal on the table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. TAYLOR of Mississippi. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 222, noes 190, not voting 21, as follows:

[Roll No. 295]

AYES—222

Aderholt	Cannon	Fitzpatrick (PA)	Hefley	McHenry	Royce
Akin	Cantor	Flake	Hensarling	McHugh	Ryan (WI)
Alexander	Capito	Foley	Herger	McKeon	Ryun (KS)
Bachus	Castle	Forbes	Hobson	McMorris	Sabu
Baker	Chabot	Fortenberry	Hoekstra	Mica	Saxton
Barrett (SC)	Chocola	Fossella	Hostettler	Miller (FL)	Schwarz (MI)
Bartlett (MD)	Coble	Fox	Hulshof	Miller (MI)	Sensemanbrenner
Bass	Cole (OK)	Frank (MA)	Hunter	Miller, Gary	Sessions
Beauprez	Crenshaw	Franks (AZ)	Hyde	Moran (KS)	Shadegg
Biggert	Cubin	Frelinghuysen	Inglis (SC)	Murphy	Shaw
Bilirakis	Culberson	Gallegly	Istoek	Musgrave	Shays
Bishop (UT)	Cunningham	Garrett (NJ)	Jenkins	Myrick	Sherwood
Blackburn	Davis (KY)	Gerlach	Jindal	Neugebauer	Shimkus
Blunt	Davis, Jo Ann	Gibbons	Johnson (CT)	Northup	Shuster
Boehlert	Davis, Tom	Gilcrest	Johnson (IL)	Norwood	Simmons
Boehner	Deal (GA)	Gillmor	Johnson, Sam	Nunes	Simpson
Bonilla	DeLay	Gingrey	Jones (NC)	Nussle	Smith (NJ)
Bono	Dent	Gohmert	Keller	Osborne	Sodrel
Boozman	Diaz-Balart, L.	Goode	Kennedy (MN)	Otter	Souder
Boustany	Diaz-Balart, M.	Goodlatte	Kennedy (PA)	Paul	Stearns
Bradley (NH)	Doolittle	Granger	King (IA)	Pearce	Sullivan
Brady (TX)	Drake	Graves	King (NY)	Peterson (PA)	Sweeney
Brown (SC)	Dreier	Green (WI)	Kingston	Petri	Tancredo
Brown-Waite,	Duncan	Gutknecht	Kirk	Pickering	Taylor (NC)
Ginny	Ehlers	Hall	Kline	Pitts	Terry
Burgess	Emerson	Harris	Knollenberg	Platts	Thornberry
Burton (IN)	English (PA)	Hart	Kolbe	Poe	Tiahrt
Buyer	Everett	Hastings (WA)	Kuhl (NY)	Pombo	Tiberi
Calvert	Feeney	Hayes	LaHood	Porter	Turner
Camp	Ferguson	Hayworth	Latham	Price (GA)	Upton
			LaTourette	Pryce (OH)	Walden (OR)
			Leach	Putnam	Walsh
			Lewis (CA)	Radanovich	Wamp
			Lewis (KY)	Ramstad	Weldon (FL)
			Linder	Regula	Weldon (PA)
			LoBiondo	Rehberg	Weller
			Lucas	Reichert	Westmoreland
			Lungren, Daniel	Renz	Whitfield
			E.	Reynolds	Wicker
			Mack	Rogers (AL)	Wilson (NM)
			Manzullo	Rogers (KY)	Wilson (SC)
			Marchant	Rogers (MI)	Wolf
			McCotter	Rohrabacher	Young (AK)
			McCrary	Ros-Lehtinen	Young (FL)

NOES—190

Abercrombie	Dingell	Marshall
Ackerman	Doyle	Matheson
Allen	Edwards	Matsui
Andrews	Emanuel	McCarthy
Baca	Engel	McCullom (MN)
Baird	Eshoo	McDermott
Baldwin	Etheridge	McGovern
Barrow	Evans	McIntyre
Bean	Farr	McKinney
Becerra	Fattah	McNulty
Berkley	Filner	Meehan
Berman	Ford	Meek (FL)
Berry	Gonzalez	Meeks (NY)
Bishop (GA)	Gordon	Melancon
Bishop (NY)	Green, Al	Menendez
Blumenauer	Green, Gene	Michaud
Boren	Grijalva	Millender
Boswell	Gutierrez	McDonald
Boucher	Harman	Miller (NC)
Brady (PA)	Hastings (FL)	Miller, George
Brown (OH)	Higgins	Mollohan
Brown, Corrine	Hinchey	Moore (KS)
Butterfield	Holden	Moore (WI)
Capps	Holt	Moran (VA)
Capuano	Honda	Nadler
Cardin	Hooley	Napolitano
Cardoza	Hoyer	Neal (MA)
Carnahan	Inslee	Oberstar
Carson	Israel	Obey
Case	Jackson (IL)	Olver
Chandler	Jefferson	Ortiz
Clay	Johnson, E. B.	Owens
Costello	Jones (OH)	Pallone
Costello	Kanjorski	Pascrill
Crowley	Kaptur	Pastor
Cuellar	Kennedy (RI)	Pelosi
Cummins	Kildee	Peterson (MN)
Davis (AL)	Kilpatrick (MI)	Price (NC)
Davis (CA)	Kilpatrick	Rahall
Davis (FL)	Kind	Reyes
Davis (IL)	Kucinich	Ross
Davis (TN)	Langevin	Rothman
Davis (WA)	Lantos	Royal-Allard
Davis (CT)	Larsen	Ruppersberger
Lee	Lipinski	Ryan (OH)
Levin	Lofgren, Zoe	Salazar
Lipinski	Lynch	Sánchez, Linda
Lofgren, Zoe	Maloney	T.
Lynch	Dicks	Sánchez, Loretta
Maloney	Markey	Sanders
Markey		Schakowsky

Schiff	Strickland	Visclosky
Schwartz (PA)	Stupak	Wasserman
Scott (GA)	Tanner	Schultz
Scott (VA)	Tauscher	Waters
Serrano	Taylor (MS)	Watson
Sherman	Thompson (CA)	Watt
Skelton	Thompson (MS)	Waxman
Slaughter	Tierney	Wexler
Smith (WA)	Towns	Woolsey
Snyder	Udall (CO)	Wu
Solis	Udall (NM)	Wynn
Spratt	Van Hollen	
Stark	Velázquez	

NOT VOTING—21

Barton (TX)	Hinojosa	Payne
Bonner	Jackson-Lee	Pomeroy
Boyd	(TX)	Rangel
Carter	Lewis (GA)	Smith (TX)
Conaway	McCaull (TX)	Thomas
Cox	Murtha	Weiner
Doggett	Ney	
Herseth	Oxley	

□ 1418

So the motion to table was agreed to. The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. TAYLOR of Mississippi. Mr. Speaker, in the interests of moving things along, I ask unanimous consent to engage the gentleman from Wisconsin (Mr. SENSENBRENNER) in about a 3-minute colloquy.

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

There was no objection.

The SPEAKER pro tempore. The gentleman from Mississippi (Mr. TAYLOR) is recognized for 3 minutes.

Mr. TAYLOR of Mississippi. Mr. Speaker, to the gentleman from Wisconsin, you have, using the power of the majority, blocked the vote on a constitutional amendment to balance the budget and the constitutional amendment to vote to protect the Social Security trust fund.

Now, I have additional motions at the desk. The next one would be a constitutional amendment to protect the Medicare trust fund. Would it be your intention to object to that as well and prevent a vote on this House floor?

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. TAYLOR of Mississippi. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, the points of order that the gentleman from Wisconsin has been raising have been pursuant to House rules, and we should not be waiving the rules relative to the germaneness of motions to recommit.

Should the gentleman from Mississippi offer more nongermane motions to recommit, then I think it is incumbent upon me, as the manager of the bill, to raise a point of order, should the rules of the House be violated by the motion to recommit, as they have been in the past.

Mr. TAYLOR of Mississippi. Mr. Speaker, reclaiming my time, I would remind the Members of this body that this bill came to the floor waiving all points of order.

The Medicare prescription drug bill that is going to increase the national

debt by \$1.5 billion came to the floor waiving all points of order.

We have acquired \$2.1 billion worth of new debt in just the past 4 years, waiving all points of order.

But if the gentleman is going to insist on not allowing a vote to protect the constitutional amendment to balance the budget, not allowing a vote to protect the Social Security trust fund, and not allowing a vote to protect the Medicare trust fund, I see no further reason other than to point out that I really thought the Republican majority meant it when they passed the Contract with America, that they said they would balance the budget.

I gave you an opportunity to do just that. I hope the Speaker will give us an opportunity in the near future for you guys to live up to your promises.

The SPEAKER pro tempore. The question is on the joint resolution.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 286, nays 130, not voting 18, as follows:

[Roll No. 296]

YEAS—286

Aderholt	Clyburn	Goodlatte	Abercrombie
Akin	Coble	Gordon	Ackerman
Alexander	Cole (OK)	Granger	Allen
Andrews	Costa	Graves	Baldwin
Baca	Costello	Green (WI)	Becerra
Bachus	Cox	Green, Gene	Berman
Baird	Cramer	Gutknecht	Blumenauer
Baker	Crenshaw	Hall	Boucher
Barrett (SC)	Crowley	Harman	Brady (PA)
Barrow	Cubin	Harris	Butterfield
Bartlett (MD)	Cuellar	Hart	Capuano
Bass	Culberson	Hastert	Cardin
Bean	Cunningham	Hastings (WA)	Carson
Beauprez	Davis (FL)	Hayes	Case
Berkley	Davis (KY)	Hayworth	Clay
Berry	Davis (TN)	Hefley	Cleaver
Biggert	Davis, Jo Ann	Hensarling	Conyers
Bilirakis	Davis, Tom	Herger	Cooper
Bishop (GA)	Deal (GA)	Higgins	Cummings
Bishop (NY)	Delahunt	Hobson	Davis (AL)
Bishop (UT)	DeLay	Holden	Davis (CA)
Blackburn	Dent	Hostettler	DeFazio
Blunt	Diaz-Balart, L.	Hulshof	DeGette
Boehlert	Diaz-Balart, M.	Hunter	DeLauro
Boehner	Doolittle	Hyde	Dicks
Bonilla	Doyle	Inglis (SC)	Dingell
Bono	Drake	Issa	Dreier
Boozman	Duncan	Istook	Ehlers
Boren	Edwards	Jefferson	Emanuel
Boswell	Emerson	Jenkins	Engel
Boustany	English (PA)	Jindal	Eshoo
Bradley (NH)	Etheridge	Johnson (CT)	Evans
Brown (OH)	Everett	Johnson (IL)	Farr
Brown (SC)	Feeney	Johnson, Sam	Fattah
Brown, Corrine	Ferguson	Jones (NC)	Filner
Brown-Waite,	Fitzpatrick (PA)	Kanjorski	Flake
Ginny	Foley	Kaptur	Frank (MA)
Burgess	Forbes	Keller	Gilchrest
Burton (IN)	Ford	Kelly	Gonzalez
Buyer	Fortenberry	Kennedy (MN)	Green, Al
Calvert	Fossella	Kildee	Kilpatrick
Camp	Foxx	King (IA)	Grijalva
Cannon	Franks (AZ)	King (NY)	Gutierrez
Cantor	Frelinghuysen	Kingston	Hastings (FL)
Capito	Gallegly	Kirk	Hinchey
Capps	Garrett (NJ)	Kline	Barton (TX)
Cardoza	Gerlach	Knollenberg	Conaway
Carnahan	Gibbons	Kuhl (NY)	Doggett
Castle	Gillmor	LaHood	Bonner
Chabot	Gingrey	Langevin	Boyd
Chandler	Gohmert	Lantos	Brady (TX)
Chocola	Goode	Larson (CT)	Carter

Latham	Ortiz	Shaw
LaTourette	Osborne	Sherman
Lewis (CA)	Otter	Sherwood
Lewis (KY)	Pallone	Shimkus
Linder	Pascarella	Shuster
Lipinski	Pearce	Simmons
LoBiondo	Pence	Skepton
Lucas	Peterson (MN)	Smith (NJ)
Lungren, Daniel E.	Peterson (PA)	Smith (WA)
Lynch	Pickering	Sodrel
Mack	Pitts	Souder
Manzullo	Platts	Spratt
Poe	Pombo	Stearns
Marchant	Porter	Strickland
Marshall	Price (GA)	Stupak
McCarthy	Pryce (OH)	Sullivan
McCotter	Putnam	Sweeney
McCrery	Radanovich	Tancredo
McGovern	Rahall	Taylor (MS)
McHenry	Ramstad	Taylor (NC)
McHugh	Regula	Terry
McIntyre	Rehberg	Thompson (MS)
McKeon	Reichert	Thornberry
McMorris	Renzi	Tiaht
McNulty	Reyes	Tiberi
Melancon	Reynolds	Towns
Menendez	Mica	Turner
Mica	Rogers (AL)	Upton
Michaud	Rogers (KY)	Walden (OR)
Miller (FL)	Rogers (MI)	Walsh
Miller (MI)	Rohrabacher	Wamp
Miller, Gary	Ros-Lehtinen	Weldon (FL)
Mollohan	Ross	Weldon (PA)
Moran (KS)	Rothman	Weller
Murphy	Roybal-Allard	Westmoreland
Murtha	Ruppersberger	Whitfield
Musgrave	Ryan (WI)	Wicker
Myrick	Ryun (KS)	Wilson (NM)
Neal (MA)	Salazar	Wilson (SC)
Neugebauer	Sanchez, Loretta	Wolf
Northup	Saxton	Wynn
Norwood	Scott (GA)	Young (AK)
Nunes	Sensenbrenner	Young (FL)
Nussle	Sessions	

NAYS—130

Hoekstra	Paul
Holt	Payne
Honda	Pelosi
Hooley	Petri
Hoyer	Price (NC)
Inslee	Royal-Allard
Israel	Rush
Jackson (IL)	Ryan (OH)
Johnson, E. B.	Sabo
Jones (OH)	Sánchez, Linda T.
Kennedy (RI)	Sanders
Kilpatrick (MI)	Schakowsky
Kolbe	Schiff
Kucinich	Schwartz (PA)
Larsen (WA)	Schwartz (MI)
Leach	Scott (VA)
Lee	Serrano
Levin	Shadegg
Lofgren, Zoe	Shays
Lowey	Slaughter
Maloney	Snyder
Markay	Matheson
Matheson	Solis
Matsui	Stark
McCormick	Tanner
McDermott	Tauscher
McKinney	Thompson (CA)
Meehan	Tierney
Meek (FL)	Visclosky
Meeks (NY)	Wasserman
Millender	Schultz
McDonald	Van Hollen
Miller (NC)	Velázquez
Miller, George	Watson
Moore (KS)	Watson
Moore (WI)	Watt
Moran (VA)	Wexler
Nadler	Weiner
Napolitano	Wolfe
Oberstar	Woolsey
Oberstar	Wu

NOT VOTING—18

Conaway	Jackson-Lee
Doggett	(TX)
Bonner	Lewis (GA)
Boyd	Herseth
Brady (TX)	Hinojosa
Carter	McCaul (TX)

Ney
Oxley

Pomeroy
Rangel

Smith (TX)
Thomas

□ 1440

So (two-thirds having voted in favor thereof) the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. CONAWAY. Mr. Speaker, I was detained and unable to cast a vote on H.J. Res. 10 on June 22, 2005. I was in Brownwood, Texas attending the funeral of Lance Corporal Mario Castillo, a Marine from the 11th District of Texas. Please let the RECORD reflect that had I been here, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF H.R. 2985, LEGISLATIVE BRANCH APPROPRIATIONS ACT, 2006

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 334 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 334

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 2985) making appropriations for the Legislative Branch for the fiscal year ending September 30, 2006, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. All points of order against provisions in the bill for failure to comply with clause 2 of rule XXI are waived. Notwithstanding clause 11 of rule XVIII, no amendment to the bill shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose

of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

(Mr. LINCOLN DIAZ-BALART of Florida asked and was given permission to revise and extend his remarks.)

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, H. Res. 334 is a structured rule that provides for the consideration of H.R. 2985, the fiscal year 2006 Legislative Branch Appropriations Act, as well as five amendments. The rule provides for one hour of general debate equally divided and controlled by the chairman and ranking minority member on the Committee on Appropriations. It also provides for one motion to recommit with or without instructions.

Mr. Speaker, the legislation before us today appropriates \$2.87 billion for the operations of the legislative branch of government. The bill is fiscally sound and includes a modest 1.7 percent increase from the last fiscal year. It provides over a billion dollars for the operation of this House of Representatives.

□ 1445

This includes funds for Members' representational allowances, leadership, and committee offices. These funds will help our Members fulfill their duties to legislate, represent their constituencies, and oversee the executive branch. These funds are very important in that they provide for that possibility, which is constitutionally mandated, Mr. Speaker, oversight of the executive branch. The Constitution grants Congress broad powers that include the oversight power. This includes getting to know what the executive branch is doing, how programs are being administered, by whom and at what cost, and whether officials are obeying the law and complying with legislative intent.

For the Capitol Police, the bill appropriates over \$239 million. Also included is an Inspector General for the Capitol Police to help them with their financial management.

The bill also includes an important piece of legislation, H.R. 841, the Continuity in Representation Act of 2005. As we all know, on September 11, 2001, Flight 93 was headed toward Washington, D.C. If it were not for the truly heroic acts of the passengers on that flight, we could have been facing a situation where Congress would not have been able to function.

We have to do everything possible, Mr. Speaker, to prevent this from being a possibility even in the future. H.R. 841 would accelerate elections in case of a terrorist attack on the House of Representatives, in case such a terrorist attack left the House with over 100 vacancies. It provides for the expedited special election of new Members to fill seats left vacant in extraordinary circumstances.

The House of Representatives passed this bill earlier this year by an overwhelming bipartisan margin of 329-68. In the 108th Congress, the House passed a similar bill, H.R. 2844, by a vote of 306-97. However, each time the Senate has failed to consider this vital piece of legislation. I think it is time that we have legislation that can handle such a horrible possibility and does not leave our constitutional duty to legislate and oversee in limbo.

Mr. Speaker, H.R. 2985 was introduced by Chairman LEWIS and reported out of the Appropriations Committee on June 20 by voice vote. It is a good bill, essential to our continued ability to legislate, to our power of oversight, and to the continuity of our government. I would like to thank the chairman and the ranking member of the Appropriations Committee for their leadership on this important issue, as well as the subcommittee. I urge my colleagues to support both the rule and the underlying legislation.

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

Ms. MATSUI. Mr. Speaker, I thank the gentleman from Florida for yielding me this time, and I yield myself such time as I may consume.

(Ms. MATSUI asked and was given permission to revise and extend her remarks.)

Ms. MATSUI. Mr. Speaker, we are here to debate the rule governing the debate for the fiscal year 2006 legislative branch appropriations measure. Through this bill, we will fund the operations for our institution and the many supporting bodies that we rely upon, such as the Library of Congress, the Government Accountability Office, and the Congressional Budget Office.

While I will ultimately support the underlying bill, I would first like to address a few aspects of the rule about which I have serious concerns, specifically, the committee's addition of legislative language providing for the continuity of Congress. One of the results of September 11, and we all agree, is that we need a mechanism to allow States to replace Members of Congress in the event of a major disaster. However, adding continuity language in the manner we are today is inappropriate.

While I am pleased that the Rules Committee voted to allow debate on the Baird amendment to remove this language from the bill, I am disappointed that this language was included in the bill at all. Legislation that will have a major impact on the representation of the American people, as this language unquestionably will, should be completely and thoroughly debated in an atmosphere conducive to debate. This proposal should be addressed in the same way any other authorizing legislation would be and as it was when the House passed this measure earlier this year in a stand-alone bill.