the median case scenario. It could be even shorter if things are worse.

What are the Republicans doing? What we are doing is we are spending right now in 1995 about $400 per month per beneficiary on Medicare. That will go up in the year 2000 to about $550 per month, per beneficiary. That is for one person over the age of 65 who is getting the benefits of Medicare.

I say to my colleagues, ''Now you have really got to believe that that cup is completely half empty all of the time and that we must have Federal Government bureaucrats who are going to solve all these problems for us, if you don't believe that the private sector with $550 month can deal with Medicare.''

WOMEN MUST HAVE SAME HEALTH CARE RIGHTS AS MEN DO

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, today, many of us are introducing a bill to protect women's health and the constitutional right to choose. It saddens me that this bill is necessary.

Mr. Speaker, I am one of the few Members who was here when Roe versus Wade came down and we started finally getting politics out of doctors' offices and medical schools, and we said to politicians, ''Really women need some advances in their health care, and they don't need political opinions. We would like medical opinions, the same kind men get.''

Well, we made those terrific gains, and now we see the extremism coming back in this whole new primary era, and what is the battleground? The battleground once is women's health and trying to roll us back.

Mr. Speaker, this bill is saying we will not go back. It codifies the gains that we have, and we hope every Member who believes women should be full and equal citizens and have the same health care rights that men should have will join us in saying to the extreme right: ''No, no, you don't play in women's health care. Keep your politics somewhere else.''

We hope many of you will join us in this bill.

PERMISSION FOR COMMITTEE ON INTERNATIONAL RELATIONS AND COMMITTEE ON SCIENCE AND THEIR SUBCOMMITTEES TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. SOLOMON. Mr. Speaker, I ask unanimous consent that the following committees and their subcommittees be permitted to sit today while the House is meeting in the Committee of the Whole under the 5-minute rule: The Committee on International Relations and the Committee on Science.

It is my understanding the minority has been consulted and that there is no objection to these requests.

The SPEAKER pro tempore (Mr. DUNCAN). Is there objection to the request of the gentleman from New York?

Mr. WISE. Reserving the right to object, Mr. Speaker, the gentleman is correct. The Democrat leadership has been consulted, has not objections to these requests.

Mr. Speaker, I withdraw my reservation of objection.

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

There was no objection.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 79, CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 173 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 173

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 79) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States. The joint resolution shall be debatable for one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except one motion to recommit. The motion to recommit may include instructions only if offered by the minority leader or his designee. If including instructions, the motion to recommit shall be debatable for one hour equally divided and controlled by the proponent and an opponent.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from California [Mr. BEILENSON], 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. SOLOMON asked and was given permission to revise and extend his remarks, and to include extraneous matter.)

Mr. SOLOMON. Mr. Speaker, this rule provides a fair and reasonable way to consider the proposed constitutional amendment to allow Congress and the States to prohibit the physical desecration of the flag of the United States of America.

Let me go through the steps we will follow and Members in their offices should pay attention.

First there is the 1 hour of general debate on this rule that we are taking up right now, which is equally divided between the majority side and the minority side, half and half. After voting on the rule, there will then be an hour of general debate on the proposed constitutional amendment.

That time also is equally divided between the chairman and ranking minority member of the Committee on the Judiciary, who happen to be on different sides of the issue: again equal time, half and half. Then the rule allows for a motion to recommit which may include instructions if offered by the minority leader or his designee.

If the motion to recommit includes instructions, it may be debated for a full hour under the terms of this rule, not 10 minutes, a full hour. That hour would be controlled by a proponent and an opponent. That hour would be controlled by a proponent and an opponent. This would be the opportunity for the minority to offer an amendment or a substitute and have it voted on in the House.

For the record, I should note that in the full Committee on the Judiciary markup only one amendment was offered, only one, and we should remember that the proposed constitutional amendment before us is only one sentence. It is a simple concept.

The proposed amendment says, and I quote, ''The Congress and the States shall have power to prohibit the physical desecration of the flag of the United States of America.''

That is all the amendment does; it speaks to principle, not to detail.

Now, while short and simple, this proposed amendment to the Constitution carries great significance for me, and for many veterans, and for large numbers of patriotic citizens across this Nation. It is terribly, terribly important.

I want to express my special thanks to the chairman of the Committee on the Judiciary, the distinguished gentleman from Illinois [Mr. HYDE], and the subcommittee chairman, the gentleman from Florida [Mr. CANADY], who have really carried this in the Committee on the Judiciary. I thank the other Committee on the Judiciary members for all their work in moving this amendment to restore the Constitution to what it was, and that is exactly what we are doing, restoring it to what it was before the Supreme Court made what I consider to have been a very, very bad decision back in 1989.

As we begin this historic debate, I would like to provide some background on how we got to where we are now.

Prior to the Supreme Court decision in Texas versus Johnson back in 1989, 48 States, and one has to remember this, 48 States and the Federal Government had laws on the books prohibiting the desecration of that flag behind you, Mr. Speaker. In the Johnson case the Supreme Court held that the burning of an American flag as part of a political demonstration was expressive conduct protected by the first amendment to the Constitution.

In response to the Johnson decision, Congress passed the Flag Protection

Act of 1989 under suspension of the rules by a record vote of 380 to 38, 380 to 38. That means a vast majority of this Congress, representing the vast majority of the American people, voted for that bill.

□ 1040

Then in 1990, in the case of the United States versus Eichman, the Supreme Court, in another 5-to-4 decision, struck down that statute, ruling that it infringed on expressive conduct protected by the first amendment.

Within days, the House responded by scheduling consideration of a constitutional amendment identical to the one we have on the floor here today. That amendment received support from a substantial majority of the House, but fell short of the necessary two-thirds vote for a constitutional amendment. The vote was 254 to 177. We needed 290, and we did not get it.

Since that time, 49 States have passed resolutions calling on the Congress of the United States to pass an amendment to protect the flag of the United States from physical desecration and send it back to the states for ratification. I invite all of you to come over here and look. Your State, every State but the State of Vermont, has memorialized this Congress to pass the identical constitutional amendment.

Ladies and gentleman, that is what we are here today for. None of us undertake this lightly. I certainly do not. The Constitution is a document that has stood the test of time for over 200 years, and our Founding Fathers wisely made it very difficult to amend. It is almost impossible to amend the Constitution. It has only been done a very few times over 200 years.

Our goal is not really to change the Constitution, and for some of the Members that worry about freedom of speech, I think you ought to pay attention. Our goal is to restore the Constitution to the way it was understood for the first 200 years of our Nation's history, until 1989. Had the Supreme Court not suddenly read into the Constitution by a very close 5-to-4 vote, something that was never there before, we would not even be here today. We would not be debating this issue. But the Supreme Court did take away the right of the people, acting through their elected representatives, to protect that flag, and today we propose to restore the right of the people to protect our American flag.

Mr. Speaker, this is not an idea that just a few people dreamed up. We are responding to the will of the overwhelming majority of the American people by restoring to the States and the Congress the power to protect the flag of this Nation.

Some of the opponents of this proposal have tried to make it sound as if there is some kind of a threat to freedom of speech. But I will note that the power to protect the flag was used judiciously for over 200 years. For 200 years no one thought it denied them anything. They thought it protected the flag. Well, 200 years later, 80 percent of the American people still want that flag protected. In a recent poll by Gallup, 80 percent of the American people said they want this amendment. That is why we are here today, to do just that, to protect Old Glory.

Mr. Speaker, I could go on, but we have other speakers who want to speak on this important issue. I ask a yes vote on this fair rule, and a yes vote on the constitutional amendment that will follow later on this afternoon.

Mr. Speaker, for the RECORD, I include the following report showing the number of open rules in the 103d Congress and 104th Congress.

THE AMENDMENT PROCESS UNDER SPECIAL RULES REPORTED BY THE RULES COMMITTEE,[1] 103D CONGRESS V. 104TH CONGRESS

[As of June 27, 1995]

Rule type	103d Congress		104th Congress	
	Number of rules	Percent of total	Number of rules	Percent of total
Open/Modified-open [2]	46	44	31	72
Modified Closed [3]	49	47	11	26
Closed [4]	9	9	1	2
Totals:	104	100	43	100

[1] This table applies only to rules which provide for the original consideration of bills, joint resolutions or budget resolutions and which provide for an amendment process. It does not apply to special rules which only waive points of order against appropriations bills which are already privileged and are considered under an open amendment process under House rules.

[2] An open rule is one under which any Member may offer a germane amendment under the five-minute rule. A modified open rule is one under which any Member may offer a germane amendment under the five-minute rule subject only to an overall time limit on the amendment process and/or a requirement that the amendment be preprinted in the Congressional Record.

[3] A modified closed rule is one under which the Rules Committee limits the amendments that may be offered only to those amendments designated in the special rule or the Rules Committee report to accompany it, or which preclude amendments to a particular portion of a bill, even though the rest of the bill may be completely open to amendment.

[4] A closed rule is one under which no amendments may be offered (other than amendments recommended by the committee in reporting the bill).

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS

[As of June 27, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 38 (1/18/95)	O	H.R. 5	Unfunded Mandate Reform	A: 350–71 (1/19/95).
H. Res. 44 (1/24/95)	MC	H. Con. Res. 17	Social Security	A: 255–172 (1/25/95).
		H.J. Res. 1.	Balanced Budget Amdt.	
H. Res. 51 (1/31/95)	O	H.R. 101	Land Transfer, Taos Pueblo Indians	A: voice vote (2/1/95).
H. Res. 52 (1/31/95)	O	H.R. 400	Land Exchange, Arctic Nat'l. Park and Preserve	A: voice vote (2/1/95).
H. Res. 53 (1/31/95)	O	H.R. 440	Land Conveyance, Butte County, Calif	A: voice vote (2/1/95).
H. Res. 55 (2/1/95)	O	H.R. 2	Line Item Veto	A: voice vote (2/2/95).
H. Res. 60 (2/6/95)	O	H.R. 665	Victim Restitution	A: voice vote (2/7/95).
H. Res. 61 (2/6/95)	O	H.R. 666	Exclusionary Rule Reform	A: voice vote (2/7/95).
H. Res. 63 (2/8/95)	MO	H.R. 667	Violent Criminal Incarceration	A: voice vote (2/9/95).
H. Res. 69 (2/9/95)	O	H.R. 668	Criminal Alien Deportation	A: voice vote (2/10/95).
H. Res. 79 (2/10/95)	MO	H.R. 728	Law Enforcement Block Grants	A: voice vote (2/13/95).
H. Res. 83 (2/13/95)	MO	H.R. 7	National Security Revitalization	PQ: 229–100; A: 227–127 (2/15/95).
H. Res. 88 (2/16/95)	MC	H.R. 831	Health Insurance Deductibility	PQ: 230–191; A: 229–188 (2/21/95).
H. Res. 91 (2/21/95)	O	H.R. 830	Paperwork Reduction Act	A: voice vote (2/22/95).
H. Res. 92 (2/21/95)	MC	H.R. 889	Defense Supplemental	A: 282–144 (2/22/95).
H. Res. 93 (2/22/95)	MO	H.R. 450	Regulatory Transition Act	A: 252–175 (2/23/95).
H. Res. 96 (2/24/95)	MO	H.R. 1022	Risk Assessment	A: 253–165 (2/27/95).
H. Res. 100 (2/27/95)	O	H.R. 926	Regulatory Reform and Relief Act	A: voice vote (2/28/95).
H. Res. 101 (2/28/95)	MO	H.R. 925	Private Property Protection Act	A: 271–151 (3/2/95)
H. Res. 104 (3/3/95)	MO	H.R. 988	Attorney Accountability Act	A: voice vote (3/6/95)
H. Res. 103 (3/3/95)	MO	H.R. 1058	Securities Litigation Reform	
H. Res. 105 (3/6/95)	MO			A: 257–155 (3/7/95)
H. Res. 108 (3/7/95)	Debate	H.R. 956	Product Liability Reform	A: voice vote (3/8/95)
H. Res. 109 (3/8/95)	MC			PQ: 234–191 A: 247–181 (3/9/95)
H. Res. 115 (3/14/95)	MO	H.R. 1159	Making Emergency Supp. Approps.	A: 242–190 (3/15/95)
H. Res. 116 (3/15/95)	MC	H.J. Res. 73	Term Limits Const. Amdt	A: voice vote (3/28/95)
H. Res. 117 (3/16/95)	Debate	H.R. 4	Personal Responsibility Act of 1995	A: voice vote (3/21/95)
H. Res. 119 (3/21/95)	MC			A: 217–211 (3/22/95)
H. Res. 125 (4/3/95)	O	H.R. 1271	Family Privacy Protection Act	A: 423–1 (4/4/95)
H. Res. 126 (4/3/95)	O	H.R. 660	Older Persons Housing Act	A: voice vote (4/6/95)
H. Res. 128 (4/4/95)	MC	H.R. 1215	Contract With America Tax Relief Act of 1995	A: 228–204 (4/5/95)
H. Res. 130 (4/5/95)	MC	H.R. 483	Medicare Select Expansion	A: 253–172 (4/6/95)
H. Res. 136 (5/1/95)	O	H.R. 655	Hydrogen Future Act of 1995	A: voice vote (5/2/95)
H. Res. 139 (5/3/95)	O	H.R. 1361	Coast Guard Auth. FY 1996	A: voice vote (5/9/95)
H. Res. 140 (5/9/95)	O	H.R. 961	Clean Water Amendments	A: 414–4 (5/10/95)
H. Res. 144 (5/11/95)	O	H.R. 535	Fish Hatchery—Arkansas	A: voice vote (5/15/95)
H. Res. 145 (5/11/95)	O	H.R. 584	Fish Hatchery—Iowa	A: voice vote (5/15/95)
H. Res. 146 (5/11/95)	O	H.R. 614	Fish Hatchery—Minnesota	A: voice vote (5/15/95)

SPECIAL RULES REPORTED BY THE RULES COMMITTEE, 104TH CONGRESS—Continued

[As of June 27, 1995]

H. Res. No. (Date rept.)	Rule type	Bill No.	Subject	Disposition of rule
H. Res. 149 (5/16/95)	MC	H. Con. Res. 67	Budget Resolution FY 1996	PQ: 252–170 A: 255–168 (5/17/95)
H. Res. 155 (5/22/95)	MO	H.R. 1561	American Overseas Interests Act	A: 233–176 (5/23/95)
H. Res. 164 (6/8/95)	MC	H.R. 1530	Nat. Defense Auth. FY 1996	PQ: 225–191; A: 233–183 (6/13/95)
H. Res. 167 (6/15/95)	O	H.R. 1817	MilCon Appropriations FY 1996	PQ: 223–180 A: 245–155 (6/16/95)
H. Res. 169 (6/19/95)	MC	H.R. 1854	Leg. Branch Approps. FY 1996	PQ: 232–196 A: 236–191 (6/20/95)
H. Res. 170 (6/20/95)	O	H.R. 1868	For. Ops. Approps. FY 1996	PQ: 221–178 A: 217–175 (6/22/95)
H. Res. 171 (6/22/95)	O	H.R. 1905	Energy & Water Approps. FY 1996	
H. Res. 173 (6/27/95)	C	H.J. Res. 79	Flag Constitutional Amendment	

Codes: O-open rule; MO-modified open rule; MC-modified closed rule; C-closed rule; A-adoption vote; PQ-previous question vote. Source: Notices of Action Taken, Committee on Rules, 104th Congress.

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

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

Mr. Speaker, I thank the gentleman from New York, the distinguished chairman of the Committee on Rules, for yielding the customary 30 minutes of debate time to me.

Mr. Speaker, we strongly oppose this closed rule for considering House Joint Resolution 79, which proposes, as you all know, an amendment to the Constitution that seeks to protect the flag of the United States from desecration. This is a controversial and important resolution, and it deserves a more open and fair procedure for its consideration that that which has been granted by our Republican colleagues on the Committee on Rules.

The rule provides for 1 hour of debate on the amendment as proposed by the Committee on the Judiciary, and provides as well, as the rules of the House actually require, for a motion to recommit with or without instructions, which in this instance is debatable for 1 hour, instead of the usual 10 minutes. As I noted, and is always the case with a proposed amendment to the Constitution of the United States, this is an important and serious question, and it is thus deserving of more than passing consideration.

We sought in the Committee on Rules to modify this closed rule by proposing that a number of amendments be made in order, so that Members would have the opportunity to vote for protecting the flag, both through an alternative amendment to the Constitution, and also through legislation that would seek to achieve the same ends without the necessity of a constitutional amendment. All were defeated on straight party line votes.

We sought first to make in order the substitute constitutional amendment offered by the gentleman from Texas [Mr. BRYANT] that would provide Congress and the States the authority to prohibit the burning, trampling, or rending of the flag, and also provide that Congress determine what constitutes the flag of the United States. Without this amendment, the terms of House Joint Resolution 79 are so open-ended that they give no guidance as to its intended constitutional scope or parameters. The resolution would, in fact, give enormous authority to State legislatures and the Congress in determining the crucial terms desecration and flag. It would also grant open-ended authority to State and Federal governments to prosecute dissenters who use the flag in a manner deemed inappropriate. Mr. BRYANT's substitute is an effort to cure many of the defects in the writing of House Joint Resolution 79. It would also have allowed Congress to adopt a single uniform definition ever of the term ''U.S. flag'' rather than leaving the definition to 50 different State legislatures.

Unfortunately, Mr. Speaker, even though the chairman of the Committee on the Judiciary requested in writing and again orally yesterday at the Committee on Rules that at least one substitute amendment be made in order, and despite the promise of the Committee on Rules chairman that such a substitute would be in order, we were denied that request. Instead, Mr. Speaker, we were told that the majority is giving the minority the right to offer the substitute in the motion to recommit.

I would remind my colleagues that the motion to recommit is not a gift from the majority. It has since 1909 been a protection for the minority. In fact, the majority would have been prevented under the standing rules of the House from even bringing up the rule for consideration if they denied the minority the motion to recommit. We should have been allowed the promised substitute, as well as the motion to recommit, which we should have been able to construct on our own. This is a serious denial of our rights. It is especially significant because we are being denied this right during a serious change in our Constitution.

The majority on the committee also denied the gentleman from Colorado [Mr. SKAGGS] the opportunity to offer his amendment, which consisted of the text of House Concurrent Resolution 76 and expresses respect and affection for the flag of the United States, and states our abiding trust in the freedom and liberty which the flag symbolizes. We felt the House should have been able to consider this thoughtful proposal as an alternative to amending the Constitution.

Mr. Speaker, the committee also refused to make in order the amendment by the gentleman from Arkansas [Mr. THORNTON] consisting of the text of H.R. 1926, which provides for the protection of the flag by statute, rather than through a constitutional amendment.

Lastly, the majority also turned down our request for an open rule for House Joint Resolution 79, another example of broken promises by the Republican majority that we seem to be seeing more and more often these days.

Mr. Speaker, as Members certainly are aware, this is a troubling and a difficult question, and it is not completely clear how Congress can or should go about the perfectly proper business of successfully and constitutionally prohibiting the highly offensive act at which this proposed amendment is directed.

Those of us who served in previous Congresses have, the great majority of us, voted for legislation to outlaw desecration of the flag. We deeply regret the Supreme Court has struck down those statutes, holding that such Federal and State laws infringed upon an individual's right to free speech and expression as protected under the First Amendment to the Constitution. Many of us feel that this act of desecration is not in fact an expression of an idea or thought, and that protecting the flag should not, therfore, be held unconstitutional. It seems to most of us no one would have lost any freedom under those laws except that of burning the flag. Americans would have been just as free as they had been before to express themselves in speech or in writing or demonstrating on behalf of or against any idea or issue.

However, this proposed amendment to our Constitution would, for the first time in our Nation's history, modify the Bill of Rights to limit the freedom of expression, and is thus wrong, we believe, as a matter of principle. This is unpopular expression, but it deserves protection, no matter how much we may deplore it. That is the test of our commitment to freedom of expression, that it protects not just freedom for the thought and expression we agree with, but, as has often been said, freedom for the thought we hate.

Second, and of great relevance, we believe there is no compelling case to be made that there is a need for this amendment. We thankfully see no great need for it. Infuriating as these instances of contempt for a symbol we all love are, they do not happen often. As the gentleman from Colorado [Mr. SKAGGS] testified at the Committee on Rules, only three such incidents occurred in 1993 and 1994. Indeed, studies indicate that from 1777 through 1989, there are only 45 reported incidents of flag burning. There have been very few and isolated instances of flag burning in the past several years, and, frankly, there is every reason to leave well enough alone. Let these misfits who

desecrate our flag remain in obscurity, where they deserve to be.

Finally, Mr. Speaker, such an amendment, even though it seeks to remedy an act truly abhorrent to all of us in this Chamber, trivializes the Constitution. We do not amend the Constitution very often, and for good reason. When we do, the reasons should be compelling and necessary to resolve a truly important question.

In general, we reserve our Constitution, this great, basic document upon which all of our laws are based, to be the repository of the fundamental principles underlying the Governance of this great Nation. This matter of flag burning, important as it is, does not rise to such a level of constitutional consideration. It does not resolve any great matter that cries out for resolution.

In addition, its passage would open a Pandora's box of litigation. The terms of the resolution concerning what is desecration and what is the flag are too vague and give no guidance to the states. It could well lead to 50 separate State laws, defining both the flag and the act of desecration in different ways, so that an act that is entirely lawful in one State may result in imprisonment were it to be performed in another.

Mr. Speaker, this is a difficult matter for Members to resolve in a proper manner, and it is for that reason exactly that we are so seriously concerned that the majority party is not allowing this House the opportunity to consider other possible alternative means to the end desired by all of us. So we urge your opposition to this unnecessarily restrictive rule.

I end with two quotes which Members may find helpful, as I have. The first is from Charles Fried, who served with distinction as Solicitor General under President Reagan, and who said when he testified against a similar proposed amendment in 1990:

> The flag, as all in this debate agree, symbolizes our Nation, its history, its values. We love the flag because it symbolizes the United States, but we must love the Constitution even more, because the Constitution is not a symbol. It is the thing itself.

And this, finally, Mr. Speaker, from a letter to the editor of my local newspaper a couple weeks ago from a woman named Carla O'Brian.

> America cannot be harmed by the destruction of its symbols, but it can be damaged by abridging the freedom for which so many have died, even if this very freedom allows a sensation seeker to burn the flag. Those who seek to dishonor this country by trampling on symbols are only difficulties honoring themselves. Like a child throwing a tantrum, their goal is to draw media attention and their actions should be fittingly dealt with. Let's not make constitutional martyrs out of these people in the name of patriotism. Instead, give them the treatment they really deserve. Ignore them.

Mr. Speaker, I urge a ''no'' vote on the previous question, and I reserve the balance of my time.

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

Mr. Speaker, I would have to just disagree with the gentleman. You know, the flag of the United States is the most important symbol we have. It is what makes us all Americans, regardless of where we came from, what country the immigrants who came to this country came from.

Mr. Speaker, having said that, I yield 2 minutes to the gentleman from Florida [Mr. DIAZ-BALART], a truly great American, serving on the Committee on Rules with me.

Mr. DIAZ-BALART. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, I recognize the seriousness of this subject. Any time that we are proposing to amend the Constitution of the United States, it is a serious subject that merits and requires treatment with the utmost consideration and seriousness. Precisely I think because we are such a diverse nation, multiethnic nation, in fact, we are a multilingual nation, the symbol, the environment of our sovereignty, the symbol of our Nation, the symbol of our national unity, I think deserves protection.

There should certainly be no bar to protection of that symbol of our Nation and our national unity and that environment of our sovereignty itself. There should be no bar to protection by Congress or the States to that most important symbol of our national unity.

What we are proposing with this constitutional amendment is precisely to eliminate the prohibition against the protection of that enshrinement of our sovereignty. That is what we are seeking to do. So that is why it is so important.

I commend the chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], for having brought forth this amendment. I think it is appropriate and important, and I would say that it is compelling and I would say that it is necessary, precisely because of our diversity and because of the great not only ethnic, but linguistic diversity and reality of our Nation.

So, with respect to the arguments of the gentleman from California [Mr. BEILENSON], I would disagree with him. I would say that it is precisely compelling that we go forth and propose this amendment and let the States decide, because this is a symbol that deserves our protection and should not be prohibited. That protection should not be prohibited. That is what we are doing today.

Mr. BEILENSON. Mr. Speaker, I yield 3½ minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Speaker, I am very disturbed about the free speech aspects, but not of the constitutional amendment, but of the rule. I do not think that this pattern of shutting us up and stopping substantive debate ought to go forward without comment

A pattern has very clearly developed, no matter what the intentions of the chairman of the Committee on Rules. And I do not question his intentions, but unfortunately I am not governed by his intentions, but by the actions he is required to take within the context of the whole House.

We have had a pattern of more restrictive rules for debate recently than in any previous time. We just debated the military authorization bill under the most restrictive terms in my 15 years in Congress. We were told we did not have time to debate fundamental issues in that bill, and then we adjourned on Thursday afternoon, I believe, with hours to go when we were still in session on a Friday. We have had these rules where you get a fixed time, and quorum calls take away the chance of Members to offer important amendments.

Today it is almost a mockery when we are discussing free speech, and this is a difficult issue, and I have great admiration for the patriotism that drives many with whom I disagree, but to debate this under so restrictive a situation. No amendment was allowed. The Committee on Rules used its discretion to say no to any alternative.

It then had the inconvenient fact that the minority is entitled, entitled, to the motion to recommit. And what do they do? They even played with that, because the motion to recommit is usually available to any member on the minority side in descending order, the ranking member of the committee on down. They said only if it is the minority leader or his designee. Apparently some ploy to try to engage the minority leader.

Why was it not the usual recommit? That does not say the minority leader or his designee. We in the past have said OK, look, here is our major amendment, and you use the recommit, frankly, for strategic or tactical purposes. You engage in debate. You have always had the right on the recommittal motion to come up with something and suggest it and come forward with it. And that has been taken away.

It is unseemly in the defense of the great American flag, symbolic of the freest nation in the world, to come forward in the legislative body with debate under such restrictive terms. I think this is a very grave error.

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

Mr. FRANK of Massachusetts. I am glad to yield to the gentleman from Michigan, the ranking minority member, who has always been victimized by this undemocratic rule.

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

Mr. CONYERS. Mr. Speaker, I thank my colleague from Massachusetts for yielding.

Mr. Speaker, the gentleman from Massachusetts has made the case ably. I would like to just reiterate that the rule on a constitutional amendment

before us permits no amendments to be offered, despite the fact that numerous alternatives, both statutory and constitutional, were granted. Instead, the Committee on Rules is making merely in order a motion to recommit, which is more a procedural tactic as it has been used in the House.

So the promise on opening day, that the Committee on Rules chairman promised, that 70 percent of the bills would be brought up under open rules, has not occurred. As a matter of fact, almost the opposite has occurred; 62 percent of all the legislation has been brought to the floor under closed or restrictive rules.

The irony is this is on a constitutional amendment designed to restrict free rights of the first amendment of the United States.

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

Mr. Speaker, I hate to take the time of the body when we really should be debating the issue of the constitutional amendment, but I would say to my good friend who mentioned it before, rule XI(4)(b) applies if offered by the minority leader or a designee. The gentleman perhaps ought to read that.

And let me just say to the other gentleman that the last time the ERA was brought before the House, it was brought on a suspension of the rules. That means no motion to recommit, no amendments, no anything. And I would just say the press does not agree with his assessment of the Rules Committee. They say we have had 72 percent open rules since January.

□ 1100

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Sanibel, FL [Mr. GOSS], a very distinguished Member of this body, and a member of the Committee on Rules who has been a leader on this effort.

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

Mr. GOSS. Mr. Speaker, I certainly thank the distinguished chairman of the Committee on Rules, the gentleman from New York [Mr. SOLOMON], who is also the author of this very, very important amendment.

I am pleased to rise in support of what I think is a very fair and responsible rule, especially relative to how we have dealt with this in the past and also in support of the underlying legislation. This rule works within the time constraints that we have been given, and I think it ensures the careful, structured, scrutiny of what we are about here.

Equally important, this rule does provide the minority with a chance to offer a substitute. I do not understand the problem on that. We have a motion to recommit there, and we will have debate, and we are going to debate the alternative for the same amount of time—the full hour—that we are going to give to the Solomon proposal. So I think that is a pretty good deal. Each side gets the same amount of time. I commend the chairman for this very fair approach, and I frankly think all Members should support it.

With respect to the amendment itself, I am generally very hesitant to support changes to the Constitution. Our Founding Fathers exhibited, I think very uncanny long-sightedness in establishing the framework for the greatest democracy on Earth. But their tremendous forethought also allowed them to recognize that there might be times when the American people would want to join together and seek to make measured changes to the living document that the Constitution is. It has actually happened 27 times, a very small number to be sure, but most of those 27 amendments established and reinforced bedrock principles of our free society.

I venture to guess that even those who strongly oppose today's proposed amendment would agree that the American people have thus far used the awesome power of amending the Constitution in a very wise and judicious way. There is no reason to doubt that this time will be any different.

There is much misinformation about what this legislation does and does not do. In my view, simply put, it takes back from the nine individuals of the Supreme Court, who are not accountable, and it gives to the people, all the people in their States, in their home communities, wherever, it gives them the decision on how best to treat the flag. In sum, I trust the people of our country more than the Supreme Court on this matter, which is close to the heart of every American.

Mr. BEILENSON. Mr. Speaker, I yield 30 seconds to the gentleman from Texas [Mr. COLEMAN].

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

Mr. COLEMAN. Mr. Speaker, originally as a cosponsor of the legislation, my name was placed on that as a matter of fact, and it was a mistake for it to have been done so. I know it is too late to withdraw the name because the bill has been reported, but I would simply say that in speaking, in planning to vote against the present proposal, I tried to honor and defend what the flag stands for, and that is freedom.

I thank the gentleman for permitting me to make this statement prior to the time that we have any recorded votes on either the rule or the constitutional amendment.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Mississippi [Mr. MONTGOMERY].

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

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, as one of the chief sponsors of this bill, along with my good friend, the gentleman from New York [Mr. SOLOMON], I rise in strong support of the legislation and support the rule.

Mr. Speaker, I have made the point several times over the past few weeks that this is a bipartisan effort. This is not Democrat or Republican. It is a matter of protecting the single most recognized symbol of freedom and democracy in the world.

We tried in 1990 to simply pass a law to protect the flag. Most of us voted for it. But the Supreme Court ruled it unconstitutional. That means the only way that we can achieve this goal is by a constitutional amendment.

This amendment will not infringe on anyone's first amendment rights. We are the most tolerant country on Earth when it comes to dissent and criticism of our Government. But I really draw the line on the physical desecration of this great flag. I think the American people agree. In fact, the gentleman from New York [Mr. SOLOMON], has a folder that shows 49 of our States have passed resolutions in support of our efforts.

Each session of the House of Representatives, when we are opening session, we start off, as you know, Mr. Speaker, with a prayer and the Pledge of Allegiance. Every time we have a group of students that are in the gallery from elementary school on up, they proudly join in, and you will see it this week. They will join in. You will hear their young voices ring out: I pledge allegiance to the flag of the United States of America. They know the pledge, and they know what the flag means to our country.

They do not understand why anyone should be allowed to desecrate the flag. Mr. Speaker, neither do I.

The flag has rallied our troops in battle, and it has brought us together in times of national tragedy because it holds such an emotional place in our lives. And I am emotional, too. It is worthy of the protection we seek in this legislation .

Now, our Founding Fathers never dreamed someone would desecrate the flag. If they had, the protection would have been written into the Constitution 219 years ago.

Mr. Speaker, over a million Americans have died in defense of this flag. We owe it to them to adopt this amendment. God bless our great country.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to the gentleman from Seneca, SC [Mr. GRAHAM], a 6-year veteran of the Armed Forces, with 4 years overseas, a great American.

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

Mr. GRAHAM. Mr. Speaker, I would like to echo what my good friend from Mississippi has just said. I would like to encourage Members to support this rule.

I know that many of the colleagues in this body are concerned about adopting this rule and approving the amendment, that it will harm the Bill of Rights and the right to free speech. I

do not question their patriotism. One cannot be in this body without being an American patriot. We all disagree at times on many issues. So I understand the right to disagree. I certainly respect that.

But let me say that the Bill of Rights and free speech issues and desecrating the flag in my opinion are not related. I would like to encourage every one in this Nation, conservative, liberal, and moderate, to speak out loudly if they feel the Government is wronging them or that we are off track. Speak loudly, speak boldly. Do it in constructive form, write, call, protest, take to the streets, tell everybody how you feel and in a manner that will encourage them to listen.

Burning the flag, in my opinion, does not legitimize one's position or allow anybody to listen to you. If you feel the need to burn something, burn your Congressman in effigy, burn me, do not burn the flag. If you cannot yell fire in the movie for public safety concerns, you should not be able to burn the flag because of national concerns.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes and 15 seconds to the gentleman from Texas [Mr. DOGGETT].

Mr. DOGGETT. Mr. Speaker, this is a debate about desecration. And goodness knows, we have had a significant amount of desecration in this country. Not desecration of the flag. In fact, you can go all the way across the 50 States these days and you will see few, if any, Americans now or at any other time in our recent past, even since this decision, who think so little of this country that they would dare desecrate this flag.

There are, of course, a handful of the super rich in this country who have regularly desecrated their citizenship by repudiating that citizenship so they could burn any sense of patriotism and burn the American treasury at the same time. And, of course, this amendment does nothing about that desecration, just as our Republican colleagues have sat around on their hands throughout this session of Congress and have rejected the notion of effectively doing something about those who desecrate their American citizenship.

But I must say in this rules debate, what really troubles me is the desecration that goes on in this body every day and is going on today with this very rule. And that is the desecration of the rules of the House of Representatives. You would think that someone who proposes to give the House of Representatives the job, along with this Congress, of protecting Old Glory would be concerned about protecting the dignity of its own rules.

We sat here on the first day of this Congress and heard about reform, about revolution, about opening the House of Representatives to do truly the people's business. And what have we got? Certainly not reform.

The chairman of the Committee on Rules stood on this floor and told us, we will have at least 70 percent open rules. Do we have an open rule today to consider something as important as how we protect Old Glory? No, sir, we do not.

Why is it that there is such fear, if we are so proud of Old Glory, why is there such fear of having true openness? And the same thing is true with regard to the way the rules of this House are being desecrated today and every day of this session by those who refuse to abide by the rule that they serve on a limited number of subcommittees and committees. Thirty Republican Members of this House today desecrate that rule, as they have desecrated this rule for an open House.

Mr. SOLOMON. Mr. Speaker, there is an old saying going on around here, ''GERRY SOLOMON has the longest memory in the House of anybody.'' I will not comment any further.

Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. KIM], one who came to this country, a great American and a very respected Member.

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

Mr. KIM. Mr. Speaker, I cannot quite understand the argument, talking about the flag burning issue. I rise today in support of this rule and flag burning constitutional amendment. Many, many people have come to this great country in search of American dream, myself included. To these people to become an American citizen is the ultimate dream. To these people, the American flag is the essence of what being an American is all about. How would you like to see somebody burning the symbol of hope, symbol of dream?

I have been hearing this argument that this amendment is a direct attack on freedom of speech under the Constitution. I do not buy this argument. I understand it is illegal for anybody to run around naked in a public place trying to express their freedom of speech. I place burning the American flag in the same category. I do not buy this argument that burning the flag occurs only less than six times a year. I do not care if it is once in a century, that should not be allowed.

I have also heard this argument about some alternatives should be allowed. What kind of alternatives are we talking about? It is going to either allow or not allow, simple as that, up or down vote. I do not see any other argument about we should allow more alternatives.

I personally am more insulted by watching someone burn our flag than watching someone running around naked trying to express their freedom of speech. Therefore, I call on my colleagues to support this rule. It is OK. Pass this much-needed constitutional amendment.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

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

Mr. TRAFICANT. Mr. Speaker, I support the Constitution. I support the first amendment. My comments are not to demean the intentions of anybody in the House. I support this rule, and I support this bill. I want to talk about a few facts.

In America today, it is illegal in many cities to kiss or hug in public. It is illegal to burn leaves. It is illegal to rip that little tag off the back of those newly bought pillows. You cannot rip those tags off. It is actually a Federal law, my colleagues, to desecrate or violate a mailbox. First amendment rights do not apply to a mailbox. But in America, my colleagues, it is absolutely legal to burn the flag.

Desecrate the flag. You can defecate and urinate on Old Glory to make a political statement, but you cannot touch a mailbox. My colleagues, when did we start pledging allegiance to the mailboxes of our country?

I do not mean to make light of this. But a Congress of the United States that will allow the same flag that was carried into battle after battle on the shoulders of fighting personnel, military personnel, knowing full well they would be slain and also knowing someone else would grab that flag, take that flag on into battle, try and mount that flag to preserve our great freedoms, knowing full well that their successor may be slain, a Congress that will allow that same flag to be burned by a dissident is out of touch. We have gotten so fancy there is no common sense left.

□ 1115

Mr. Speaker, I support the first amendment. Damn it, if we could set a mailbox aside, we can set the flag apart. Let the flag alone. If Members want to burn something dissident, they should burn their bra, burn their underwear, burn their money, and see how many will make that statement. However, the Congress of the United States has to say ''You cannot violate Old Glory.''

This is not about the flag, this debate today; it is about respect, it is about pride, it is about values, and there is only one reason why flags are violated in America, only one; the Congress of the United States, the Congress of the United States allows the flag to be violated. Statutes are not going to work. Members know it. Let us not politically posture. Laws are not going to address it. It will take a constitutional amendment. I support that constitutional amendment, and I applaud the leaders for bringing it forward. Burn your bra, burn your pantyhose, burn your BVD's, see how many burn their money, but let the flag alone.

Mr. SOLOMON. Mr. Speaker, let me just say amen to the previous speaker. He is a great American.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Miami, FL, Ms.

ILEANA ROS-LEHTINEN, another extremely important Member of this body. I know she speaks from her heart on this issue.

Ms. ROS-LEHTINEN. Mr. Speaker, the American flag is a sacred symbol of freedom and justice, not just in the United States, but throughout the world.

I know this in a very special way. I was born under a different flag. After a brutal dictatorship took control of Cuba, the land of my birth, I journeyed to freedom and came to the United States as a refugee.

I remember well that day when I raised my right hand and swore allegiance to this great country.

All of us who came to this country as refugees from a brutal tyranny know how much the American flag means for lovers of liberty and democracy.

And we know jut how great and important are the American values that have led so many American soldiers, sailors, marines and airmen over the centuries, to pick up our flag and march into battle against those who threaten our freedom.

This year we have celebrated the 50th anniversary of the final year of World War II.

One of the memorable occasions of that war, was when the marines climbed to the top of Mount Surabachi, to raise the American flag.

Six thousand, eight hundred and fifty-five men gave their lives to place that flag on that mountain, and their sacrifice can never be forgotten.

We have heard a lot from those who oppose protecting our flag from desecration and dishonor.

We have heard words, and legalisms, and theories, and all the sort of things you find in books. I respect those words taken from books.

Consult the book of America's heroes—patriotic young men who gave their lives for us. Put down your law books, and drive over to Arlington Cemetery, and gaze at the long rows of headstones of our fallen heroes.

Then drive over to the Iwo Jima memorial, and stand there in silent tribute to America's heroes. Feel the wonder of what they have done for us.

See beyond the cold bronze and the polished granite, and see those young men who were out there, thousands of miles from their loved ones, surrounded by the temporary graves of thousands of their fellow marines, and surrounded by field hospitals, where thousands more other marines lay wounded.

See those young men, and then feel what they were feeling that day, knowing that any at a moment their lives could be taken.

And then think about what it was that they felt that day about the American flag.

Then you will understand this issue.

Men have died under that flag.

Those who served with them, those who loved them, and those who honor their memory today must stop those who dishonor them by burning or desecrating the American flag.

And we can put a stop to this, by supporting an amendment to protect this sacred symbol from abuse.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentleman from Colorado [Mr. SKAGGS], a former Marine and Vietnam veteran.

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

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

Mr. Speaker, I would say to the gentleman from New York [Mr. SOLOMON], the chairman, he and I were proud to serve our country in uniform. We were proud to serve under our Nation's flag. One of the reasons for the pride that the gentleman and I share was that we believed in a country that was strong enough to tolerate diversity and dissent, and to rise above it, because our freedoms and our values are stronger than the occasional jerk that wants to treat the American flag in a disrespectful way.

Today, we are debating an amendment to the Constitution that, for the first time in the history of this country, will diminish our freedom of expression. I think it is ironic, maybe poetic, that the rule proposed for this debate itself shuts down freedom of expression in this House. There is no justification for this, absolutely none. Not even a substitute allowed in the regular order. This rule is a shame. It is shameful. It should not be allowed.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute the gentleman from Wisconsin [Mr. SENSENBRENNER], a gentleman who came with me to this body 17 years ago. He is a member of the Committee on the Judiciary, and would like to rebut what was just said.

Mr. SENSENBRENNER. Mr. Speaker, I rise in support of this rule. Back in 1983, I would bring to the attention of my Democratic colleagues, the equal rights amendment was brought up on the floor with the support of most of them, under suspension of the rules.

There were no amendments allowed, there was no motion to recommit, and because I was the manager on the Republican side, in fairness, I yielded half of my time to Republican supporters of the ERA, but the Democrats did not yield any of their time to Democratic opponents of the ERA, so the split in the 40 minutes that we had to debate that important constitutional amendment was split 3 to 1 for the supporters, because of the unfairness of the folks on the other side of the aisle.

Mr. Speaker, this rule is fair. It will allow for an extensive debate. I think that, given what the other side did with another important constitutional amendment, maybe they ought to take up a collection to build a statue to the gentleman from New York [Mr. SOLOMON], because of the fair rules that he puts together.

Mr. BEILENSON. Mr. Speaker, I yield 1 minute to the gentlewoman from California [Ms. LOFGREN].

Ms. LOFGREN. Mr. Speaker, today I am wearing an American flag tie that my son picked out for me, and American flag earrings that my 13-year-old daughter picked out for me for the Fourth of July. I love the flag, and when I see the flag flying here over the Capitol, I choke up.

However, we are talking not just about the symbol of our country today, we are talking about the Constitution that governs our country. The first amendment says ''Congress shall make no law abridging the freedom of speech.'' The Bill of Rights has served our country for 204 years. An hour of debate to discuss amending the Bill of Rights is not good enough.

Mr. SOLOMON. Mr. Speaker, I yield 1½ minutes to my good friend from Puyallup, WA [Mr. TATE], another freshman Member of this body which is really changing the face of this country.

Mr. TATE. Mr. Speaker, I rise in strong support of H.R. 79, the Flag Protection Act. The purpose of this amendment is simple: To empower States and Congress to provide constitutional protection for the symbol of our Nation and all for which she stands.

When you think of our national flag, Mr. Speaker, you think of our national heritage, our history, our culture; you think of the principles it embodies.

America ultimately stands on the principle of freedom. Her soldiers have died on battlefields, her leaders have resisted foreign threats, and she herself has endured the risk of internal destruction rather than give up the ideal. All America is and all that she hopes to be can be found in this principle.

The American flag is the symbol of that freedom. Its colors represent peace, liberty, and the blood her people have spilled. Its stars represent her parts, the 50 States of which 49 have urged us to pass this amendment. Taken as a whole, the flag represents America and the best of her traditions and hopes.

Yet that freedom does not come without responsibility. Those who would dream her dreams must also share in her burdens. The right to free speech carries with it a corresponding responsibility to respect others and exercise that right in an appropriate manner.

H.R. 79, Mr. Speaker, seeks to protect the symbol of the American Dream. If that hope of freedom can be freely desecrated, the freedom of our future will not long stand. I urge my colleagues to support the rule and pass the Flag Protection Act.

Mr. BEILENSON. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. MANTON].

Mr. MANTON. Mr. Speaker, I thank the gentleman from California for yielding me time.

Mr. Speaker, as a Democrat, a former Marine, like our chairman, the gentleman from New York [Mr. SOLOMON], and our good colleague, the gentleman

from Colorado [Mr. SKAGGS], and as an original cosponsor of House Joint Resolution 79, I rise in strong support of this rule to provide for the consideration of this proposed amendment to the U.S. Constitution which would permit Congress and the States to prohibit the physical desecration of the American flag.

Mr. Speaker, I fully appreciate the comments many of my colleagues in opposition to this proposed amendment have made regarding the first amendment.

I, too, hold dearly the protections and privileges guaranteed to all Americans under the Bill of Rights, and in particular the first amendment right to free speech. The Bill of Rights is the foundation upon which this great Nation was built.

But it is that greatness and resiliency of the Constitution and this Nation that are symbolized by the American flag. The desecration of the American flag is not just a simple expression of free speech. It is a profound and brutal attack on the very soul and history of our country.

Old Glory has carried Americans to war and shrouded those who gave the ultimate sacrifice in the defense of freedom and liberty. The American flag that is carefully folded and passed on to the family of a fallen hero is more than just a symbol. It embodies who we are as a nation.

On June 14, 1915, President Woodrow Wilson paid high tribute to the American flag when he said:

> The flag is the embodiment, not of sentiment, but of history. It represents the experiences made by men and women, the experiences of those who do and live under that flag.

The American flag is a unique and important part of America. Let us pay tribute to the flag, to this Nation and to our Constitution by passing this rule and this amendment today.

Mr. SOLOMON. Mr. Speaker, I will say to the gentleman who just spoke that he may be a Democrat but he is a good marine and a good American.

Mr. Speaker, I yield 1 minute to the very distinguished gentleman from Maryland, Mr. ROSCOE BARTLETT.

(Mr. BARTLETT of Maryland asked and was given permission to revise and extend his remarks.)

Mr. BARTLETT of Maryland. Mr. Speaker, I carry always with me a copy of the Constitution, and one of the previous speakers mentioned the first amendment, which has, of course, several very important protections in it: ''Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or of the right of the people peaceably to assemble.''

Obviously, these are very important rights that are guaranteed to us, but we have recognized as a country that there are some limits to these. For instance, the right of free speech will not permit you to get up in a crowded motion picture theater and yell ''fire, fire'' when there is not a fire. I think that this proposed amendment, which protects our flag against desecration, is at least the equivalent of denying the person the right to yell ''fire, fire'' in a crowded theater.

This flag is a symbol of this great Republic. It stands for the whole history of our country. I think there is just no reasonable rebuttal to this very important amendment which four out of five Americans support.

Mr. BEILENSON. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Texas [Mr. BRYANT].

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

Mr. BRYANT of Texas. Mr. Speaker, I thank the gentleman from California for yielding time to me.

Mr. Speaker, there is always an abundance in this House Chamber, and I guess in every body in America, of people who are willing to come down here and do the easy parts.

□ 1130

The easy part is to stand up here and make a patriotic speech that articulates our shared sentiments about the flag. We have heard 8 or 10 of them already. Everybody agrees with them. But the hard part that a real patriot, I say to the gentleman from New York [Mr. SOLOMON], would believe to be his obligation is to write law that will protect our public and last for the long term.

What you have brought to us today with a rule that says we cannot amend it except with a motion to recommit is not a workable proposal. I fear that many of the Members who in a well-meaning fashion have come up here and spoken about it do not realize what it does.

What does it do? It says that all 50 States can define what a flag is and all 50 States can define what desecration is as well as the Federal Government and the District of Columbia. That means, of course, that a citizen has no way of knowing from one State to the next what desecration of the flag is or even what a flag is.

You probably have not bothered to check, but the current statute that defines what a flag is defines it as a 48-star flag; the other 2 stars were added by Executive order.

I asked the gentleman from Florida [Mr. CANADY], the chairman of the subcommittee, during debate in the full committee would it be a desecration of a flag if you desecrated a 49-star flag and his answer was, ''That will depend upon the enactment passed by the Congress and the States.''

We have tried to bring an amendment to the floor here today. We asked permission to bring an amendment to the floor today here and it will have to be offered as part of the motion to recommit now that says the Congress can pass a law defining what a flag is and making it against the law to burn, to trample, to soil or rend a flag. It makes it clear exactly what the flag is and what desecration is. Instead, we have been brought one out here that no one can interpret.

Is it desecration of the flag to wear a flag on the back of your coat? Is it desecration of the flag to wear it on the seat of your pants? On a tie? Is it desecration of the flag for the Olympic team to wear a uniform that has a flag emblazoned across the shoulders? What about a Hell's Angel or a protester who wears the same thing? Nobody knows.

We tried to bring an amendment to the floor to your proposal that says very clearly what it is, the flag is what the Congress says it is and desecration is burning, trampling, soiling, or rending. But you would not let us offer that amendment. It will, however, be offered as part of the motion to recommit.

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

Mr. BRYANT of Texas. I will yield to you on your time as much as you want to, but I have very little time so I do not want to use it up yielding.

Mr. SOLOMON. The gentleman's amendment is in order.

Mr. BRYANT of Texas. I ask for regular order, Mr. Speaker, I will be happy to yield to the gentleman on his own time.

The easy part is to come down here and make great speeches, extolling the flag and talking about patriotism. Everybody agrees with those. But the hard part is writing legislation that will last for the ages and it will not subject our public to accidentally breaking laws they do not intend to break. Why would you not let us offer that amendment on the floor?

Well, we will offer it as part of the motion to recommit. I commend it to the Members to vote for the motion to recommit, vote for one that will work.

Mr. SOLOMON. Mr. Chairman, I yield 1 minute to the gentleman from Tennessee [Mr. QUILLEN], the chairman emeritus of the Committee on Rules and one of the longest serving Members of this body.

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

Mr. QUILLEN. Mr. Speaker, in 1967, I was an original cosponsor of a bill to make desecration of the American flag a Federal offense, punishable by up to 1 year in prison and up to a $1,000 fine. That bill passed both Houses almost unanimously and was signed into law by the President.

By 1989, 48 States and the Federal Government had laws on the books prohibiting the desecration of our beloved American flag. And as we all know, in 1989 the Supreme Court struck down a Texas statute which prevented flag burning, and declared such an outrageous act an expression of speech protected by the first amendment.

In response to that decision, another Federal law was enacted banning flag desecration, which the Supreme Court ruled unconstitutional.

Since then, 49 of our 50 States have passed resolutions calling on the Congress to pass an amendment to the Constitution to protect the flag of the United States from physical desecration and to send it back to the States for swift ratification. It is clear that the States want us to act on this issue.

I support this rule for House Joint Resolution 79, proposing a constitutional amendment authorizing Congress and the States to prohibit the physical desecration of the flag. It would be a shame and a disgrace if we sit idly by and let our beloved American flag—the greatest symbol of liberty and freedom—continue to be disrespected and desecrated. Our flag is a part of the soul of America, not merely a piece of cloth.

I would challenge the Members of this body to remember that our freedom is not without cost—it comes with the high price of the sacrifice of human life. From the shores of Iwo Jima to the sands of Desert Storm, American men and women have given their lives for what the flag represents. If our flag is worth dying for, it is worth protecting. I urge all of the Members of this body to support this rule and this measure.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to a Member from my home State, the gentleman from Hamburg, NY [Mr. QUINN].

Mr. QUINN. Mr. Speaker, as an original cosponsor of House Joint Resolution 79, it is with great pride that I rise to urge my colleagues to support the rule for its consideration.

This amendment gives Congress and the States the power to enact legislation prohibiting the physical desecration of the flag of the United States.

Forty-nine States have passed resolutions calling on Congress to propose this constitutional amendment. A recent Gallup survey found that 79 percent of those asked would vote for a constitutional amendment and that 81 percent belived they should have the right to vote on the issue.

Mr. Speaker, let us give the American people what they want and what our flag deserves.

The American flag represents this great Nation and is something to be revered—not destroyed or mutilated or treated with disrespect. This amendment helps to preserve a symbol of our country—a united nation where values transcend political party, ethnic group or socio-economic class and reflects pride in the principles of democracy and freedom upon which this country was founded.

Mr. Speaker, I want to thank the chairman of the Rules Committee for bringing this rule and his leadership on this important issue and once again I would urge my colleagues to support the rule and ask that they vote ''yes'' on final passage.

Mr. SOLOMON. Mr. Speaker, I yield 2 minutes to the gentleman from Buies Creek, NC [Mr. FUNDERBURK], one of the outstanding new Members of this body who is changing the outcome of votes this year since he arrived in January.

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

Mr. FUNDERBURK. Mr. Speaker, I am proud to support the Solomon anti-flag desecration amendment, House Joint Resolution 79.

Many years ago the distinguished jurist, Felix Frankfurter, was asked, ''What is America?'' Mr. Justice Frankfurter noted:

> We are nothing more than the symbols we cherish. We live by our symbols because a civilization that does not nurture and cherish its symbols is in danger of withering away. The ultimate foundation of a free society is the binding tie of cohesive sentiment.

That is why we honor the flag. It is the tie which binds us together. We remember that tie every time we see it draped on the coffin of a soldier or sailor who gave his life fighting to preserve our freedoms.

For 6 years I lived in a communist country where I saw people cry and salute when they saw the U.S. flag. They venerated our flag as a symbol of freedom from tyranny and they considered it an inexplicable sign of weakness for us to tolerate desecration of our most cherished symbol.

A few years ago, the Supreme Court sent America a very clear message; desecrating the flag, they said, is somehow an act of free speech protected by all of the force of the U.S. Constitution. Now it is up to us to send a response to the Supreme Court. It is time to send, as one U.S. Senator put it, ''A We the People response'', that there should be no tolerance for those who deliberately dishonor the flag and all of the precious things that it stands for.

Opponents of this amendment argue that the Constitution permits absolute freedom of speech. They declare that if freedom of expression is not protected absolutely, it is by definition diminished. But history can lead us to the opposite conclusion. When every conceivable outrage is permitted in the name of free speech, law and order soon breaks down and the rights of every citizen are threatened. 2,500 years ago Socrates warned that, ''Excessive freedom leads to anarchy and anarchy leads to tyranny''.

As we enter this fight, we must remember that the Constitution of the United States belongs not to the U.S. Congress, not to the Supreme Court, not to the media; it belongs to all of the American people. Let the people in the States decide. Let the people decide because, after all is said and done, it is their flag.

Mr. BEILENSON. Mr. Speaker, I yield 1½ minutes to the gentleman from Massachusetts [Mr. OLVER].

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

Mr. Speaker, I rise to oppose this rule. Is it not ironic that this closed rule that we are dealing with today comes on a constitutional amendment that is designed to restrict the free speech rights of the first amendment of the U.S. Constitution? Is it not even more ironic that tomorrow we are going to be dealing with the Republican budget resolution, the final budget resolution which will be on the floor and that budget resolution makes cuts in veterans' medical care and benefits, a resolution that cuts $32 billion out of veterans' programs over the next 7 years.

Under that resolution by the year 2002, more than half of the veterans who presently are served by the VA health care system, more than half of them will not be served. Thousands of beds will be closed, rationing of their health care will be imposed, and the prescription drug payments will be increased dramatically.

Is it not ironic that those people who have served the flag, served this Nation the most, will see those kinds of cuts, and it is going to be covered up by this particular debate.

Mr. Speaker, our flag generates the most intense national pride and reverence. Our flag is in no danger whatsoever of losing that position of pride and reverence. As such, anyone who burns or tramples the flag contemptuously as a part of dissent defeats their very cause. The proposed amendment that we have before us would be the first amendment adopted to the Bill of Rights to restrict free speech. It is not necessary, the flag is not in danger, but the adoption of this amendment endangers every American citizen's free speech rights.

Mr. BEILENSON. Mr. Speaker, I yield myself the balance of my time to close if I may.

Mr. Speaker, I include the following data on floor procedure for the RECORD:

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPLIED BY THE RULES COMMITTEE DEMOCRATS

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 1*	Compliance	H. Res. 6	Closed	None.
H. Res. 6	Opening Day Rules Package	H. Res. 5	Closed; contained a closed rule on H.R. 1 within the closed rule	None.
H.R. 5*	Unfunded Mandates	H. Res. 38	Restrictive; Motion adopted over Democratic objection in the Committee of the Whole to limit debate on section 4; Pre-printing gets preference.	N/A.
H.J. Res. 2*	Balanced Budget	H. Res. 44	Restrictive; only certain substitutes	2R; 4D.
H. Res. 43	Committee Hearings Scheduling	H. Res. 43 (OJ)	Restrictive; considered in House no amendments	N/A.
H.R. 2*	Line Item Veto	H. Res. 55	Open; Pre-printing gets preference	N/A.
H.R. 665*	Victim Restitution Act of 1995	H. Res. 61	Open; Pre-printing gets preference	N/A.

FLOOR PROCEDURE IN THE 104TH CONGRESS; COMPLIED BY THE RULES COMMITTEE DEMOCRATS—Continued

Bill No.	Title	Resolution No.	Process used for floor consideration	Amendments in order
H.R. 666*	Exclusionary Rule Reform Act of 1995	H. Res. 60	Open; Pre-printing gets preference	N/A.
H.R. 667*	Violent Criminal Incarceration Act of 1995	H. Res. 63	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 668*	The Criminal Alien Deportation Improvement Act	H. Res. 69	Open; Pre-printing gets preference; Contains self-executing provision	N/A.
H.R. 728*	Local Government Law Enforcement Block Grants	H. Res. 79	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 7*	National Security Revitalization Act	H. Res. 83	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 729*	Death Penalty/Habeas	N/A	Restrictive; brought up under UC with a 6 hr. time cap on amendments	N/A.
S. 2	Senate Compliance	N/A	Closed; Put on Suspension Calendar over Democratic objection	None.
H.R. 831	To Permanently Extend the Health Insurance Deduction for the Self-Employed.	H. Res. 88	Restrictive; makes in order only the Gibbons amendment; waives all points of order; Contains self-executing provision.	1D.
H.R. 830*	The Paperwork Reduction Act	H. Res. 91	Open	N/A.
H.R. 889	Emergency Supplemental/Rescinding Certain Budget Authority	H. Res. 92	Restrictive; makes in order only the Obey substitute	1D.
H.R. 450*	Regulatory Moratorium	H. Res. 93	Restrictive; 10 hr. Time Cap on amendments; Pre-printing gets preference	N/A.
H.R. 1022*	Risk Assessment	H. Res. 96	Restrictive; 10 hr. Time Cap on amendments	N/A.
H.R. 926*	Regulatory Flexibility	H. Res. 100	Open	N/A.
H.R. 925*	Private Property Protection Act	H. Res. 101	Restrictive; 12 hr. time cap on amendments; Requires Members to pre-print their amendments in the Record prior to the bill's consideration for amendment, waives germaneness and budget act points of order as well as points of order concerning appropriating on a legislative bill against the committee substitute used as base text.	1D.
H.R. 1058*	Securities Litigation Reform Act	H. Res. 105	Restrictive; 8 hr. time cap on amendments; Pre-printing gets preference; Makes in order the Wyden amendment and waives germaneness against it.	1D.
H.R. 988*	The Attorney Accountability Act of 1995	H. Res. 104	Restrictive; 7 hr. time cap on amendments; Pre-printing gets preference	N/A.
H.R. 956*	Product Liability and Legal Reform Act	H. Res. 109	Restrictive; makes in order only 15 germane amendments and denies 64 germane amendments from being considered.	8D; 7R.
H.R. 1158	Making Emergency Supplemental Appropriations and Rescissions	H. Res. 115	Restrictive; Combines emergency H.R. 1158 & nonemergency 1159 and strikes the abortion provision; makes in order only pre-printed amendments that include offsets within the same chapter (deeper cuts in programs already cut); waives points of order against three amendments; waives cl 2 of rule XXI against the bill, cl 2, XXI and cl 7 of rule XVI against the substitute; waives cl 2(e) od rule XXI against the amendments in the Record; 10 hr time cap on amendments. 30 minutes debate on each amendment.	N/A.
H.J. Res. 73*	Term Limits	H. Res. 116	Restrictive; Makes in order only 4 amendments considered under a ''Queen of the Hill'' procedure and denies 21 germane amendments from being considered.	1D; 3R
H.R. 4*	Welfare Reform	H. Res. 119	Restrictive; Makes in order only 31 perfecting amendments and two substitutes; Denies 130 germane amendments from being considered; The substitutes are to be considered under a ''Queen of the Hill'' procedure; All points of order are waived against the amendments.	5D; 26R
H.R. 1271*	Family Privacy Act	H. Res. 125	Open	N/A
H.R. 660*	Housing for Older Persons Act	H. Res. 126	Open	N/A
H.R. 1215*	The Contract With America Tax Relief Act of 1995	H. Res. 129	Restrictive; Self Executes language that makes tax cuts contingent on the adoption of a balanced budget plan and strikes section 3006. Makes in order only one substitute. Waives all points of order against the bill, substitute made in order as original text and Gephardt substitute.	1D
H.R. 483	Medicare Select Extension	H. Res. 130	Restrictive; waives cl 2(1)(6) of rule XI against the bill; makes H.R. 1391 in order as original text; makes in order only the Dingell substitute; allows Commerce Committee to file a report on the bill at any time.	1D
H.R. 655	Hydrogen Future Act	H. Res 136	Open	N/A.
H.R. 1361	Coast Guard Authorization	H. Res 139	Open; waives sections 302(f) and 308(a) of the Congressional Budget Act against the bill's consideration and the committee substitute; waives c1 5(a) of rule XXI against the committee substitute.	N/A.
H.R. 961	Clean Water Act	H. Res 140	Open; pre-printing gets preference; waives sections 302(f) and 602(b) of the Budget Act against the bill's consideration; waives c1 7 of rule XVI, c1 5(a) of rule XXI and section 302(f) of the Budget Act against the committee substitute. Makes in order Shuster substitute as first order of business.	N/A.
H.R. 535	Corning National Fish Hatchery Conveyance Act	H. Res. 144	Open	N/A.
H.R. 584	Conveyance of the Fairport National Fish Hatchery of the State of Iowa	H. Res. 145	Open	N/A.
H.R. 614	Conveyance of the New London National Fish Hatchery Production Facility.	H. Res. 146	Open	N/A.0
H. Con. Res. 67	Budget Resolution	H. Res. 149	Restrictive; Makes in order 4 substitutes under regular order; Gephardt, Neumann/Solomon, Payne/Owens, President's Budget if printed in Record on 5/17/95; waives all points of order against substitutes and concurrent resolution; suspends application of Rule XLIX with respect to the resolution; self-executes Agriculture language.	3D;1R
H.R. 1561	American Overseas Interests Act of 1995	H. Res. 155	Restrictive; Requires amendments to be printed in the Record prior to their consideration; 10 hr. time cap; waives cl 2(1)(6) of rule XI against the bill's consideration; Also waives sections 302(f), 303(a), 308(a) and 402(a) against the bill's consideration and the committee amendment in order as original text; waives cl 5(a) of rule XXI against the amendment; amendment consideration is closed at 2:30 p.m. on May 25, 1995. Self-executes provision which removes section 2210 from the bill. This was done at the request of the Budget Committee.	N/A
H.R. 1530	National Defense Authorization Act FY 1996	H. Res. 164	Restrictive; Makes in order only the amendments printed in the report; waives all points of order against the bill, substitute and amendments printed in the report. Gives the Chairman en bloc authority. Self-executes a provision which strikes section 807 of the bill; provides for an additional 30 min. of debate on Nunn-Lugar section; Allows Mr. Clinger to offer a modification of his amendment with the concurrence of Ms. Collins.	36R; 18D; 2 Bipartisan
H.R. 1817	Military Construction Appropriations; FY 1996	H. Res. 167	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; 1 hr. general debate; Uses House passed budget numbers as threshold for spending amounts pending passage of Budget.	.....
H.R. 1854	Legislative Branch Appropriations	H. Res. 169	Restrictive; Makes in order only 11 amendments; waivers sections 302(f) and 308(a) of the Budget Act against the bill and cl. 2 and cl. 6 of rule XXI against the bill. All points of order are waived against the amendments.	5R; 4D; 2 Bipartisan
H.R. 1868	Foreign Operations Appropriations	H. Res. 170	Open; waives cl. 2, cl. 5(b), and cl. 6 of rule XXI against the bill; makes in order the Gilman amendments as first order of business; waives all points of order against the amendments; if adopted they will be considered as original text; waives cl. 2 of rule XXI against the amendments printed in the report. Pre-printing gets priority (Hall) (Menendez) (Goss) (Smith, NJ).	N/A
H.R. 1905	Energy & Water Appropriations	H. Res. 171	Open; waives cl. 2 and cl. 6 of rule XXI against the bill; makes in order the Shuster amendment as the first order of business; waives all points of order against the amendment; if adopted it will be considered as original text. Pre-printing gets priority.	N/A
H.J. Res. 79	Constitutional Amendment to Permit Congress and States to Prohibit the Physical Desecration of the American Flag.	H. Res. XXX	Closed; provides one hour of general debate and one motion to recommit with or without instructions; if there are instructions, the MO is debatable for 1 hr.	N/A

*Contract Bills, 67% restrictive; 33% open. **All legislation, 62% restrictive; 38% open. ****Restrictive rules are those which limit the number of amendments which can be offered, and include so called modified open and modified closed rules as well as completely closed rules and rules providing for consideration in the House as opposed to the Committee of the Whole. This definition of restrictive rule is taken from the Republican chart of resolutions reported from the Rules Committee in the 103rd Congress. ****Not included in this chart are three bills which should have been placed on the Suspension Calendar. H.R. 101, H.R. 400, H.R. 440.

Mr. BEILENSON. Finally, Mr. Speaker, as I said at the very outset, this is a controversial, important and difficult question to resolve. It deserves a more open and fair procedure for its consideration than that which was granted by our Republican colleagues on the Committee on Rules.

Mr. Speaker, I urge my colleagues to defeat the previous question. If the previous question is defeated, I shall offer a substitute amendment to the rule. The alternative rule will allow 2 hours of general debate and make in order the Bryant substitute, the Skaggs substitute, and the Thornton substitute, with each substitute debatable for 1 hour. At this point, I include the rule I intend to offer in the RECORD; as follows:

AMENDMENT IN THE NATURE OF A SUBSTITUTE TO H. RES. 173

Strike all after the resolving clause and insert in lieu thereof the following:

That upon the adoption of this resolution the Speaker may, pursuant to clause 1(b) of Rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the joint resolution (H.J. Res. 79) proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States. The first reading of the joint resolution shall be dispensed with. General debate shall be confined to the joint resolution and shall not exceed two hours equally divided and controlled by the Chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five

minute rule and shall be considered as read. No amendment shall be in order except the following amendments in the nature of a substitute printed in section 2 of this resolution: (1) an amendment in the nature of a substitute offered by Representative Bryant of Texas or his designee; (2) an amendment in the nature of a substitute offered by Representative Skaggs of Colorado or his designee; and (3) an amendment in the nature of a substitute offered by Representative Thornton of Arkansas or his designee. The amendments in the nature of a substitute shall be considered as read, are each debatable for one hour equally divided and controlled by the proponent and an opponent thereto and are not subject to amendment. All points of order are waived against the amendments in the nature of a substitute printed in this resolution. At the conclusion of the consideration of the joint resolution for amendment the Committee shall rise and report the joint resolution to the House with such amendment as may have been adopted. The previous question shall be considered as ordered on the joint resolution and any amendment thereto to final passage without intervening motion except one motion to recommit with or without instructions.

SEC. 2.

(1) 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—

''SECTION 1. The Congress and the States shall have power to prohibit the burning, trampling, soiling, or rending of the flag of the United States.

''SECTION 2. For the purpose of this article of amendment, the Congress shall determine by law what constitutes the flag of the United States, and shall prescribe procedures for the proper disposal of a flag.''.

(2) Strike the resolving clause and all that follows and insert the following:

''Whereas freedom and liberty protected by the Constitution are fundamental and precious rights of each American;

Whereas the flag of the United States is an historic and revered symbol of that freedom and liberty;

Whereas generations of Americans have fought with valor under the flag to protect the sacred values it represents;

Whereas all the people of the United States, and their representatives in Congress, should show respect and affection for the flag;

Whereas the flag has been a source of inspiration for freedom-seeking people around the world;

Whereas deeply held respect and affection for the flag have caused many to propose an amendment to the Constitution to protect the flag from desecration; and

Whereas an amendment to the Constitution, expanding the powers of government to prohibit offensive behavior, would entail a limitation on freedoms previously protected under the First Amendment: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress of the United States expresses deep respect and affection for the flag of the United States, and states its abiding trust in the freedom and liberty which the flag symbolizes.''

(3) Strike the resolving clause and all that follows and insert the following:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Flag Protection Act of 1995''.

SEC. 2. FLAG PROTECTION.

Each copy of the flag of the United States that is intended to be displayed as a flag and is made after the date of the enactment of this Act shall belong to the people of the United States and be held in trust for them by the Government of the United States. The United States therefore has a property interest in each such copy, and such copies are subject to rules and regulations made under section 3 of article IV of the Constitution of the United States. On this basis, the Secretary of the Treasury is authorized to make rules for the use and disposition of such copies. Such rules shall allow for the sale and transfer of the rights to possess and use such copies. Any damage to or destruction of such a copy that is in violation of such rules is a depredation against the property of the United States for the purposes of section 1361 of title 18, United States Code.

Mr. BEILENSON. Mr. Speaker, I urge Members to vote against the previous question and against the rule.

Mr. SOLOMON. Mr. Speaker, I yield myself the balance of my time to close debate on this rule.

Mr. Speaker, we have heard a lot of criticism of this rule. I would welcome Members to come over and look at the CONGRESSIONAL RECORD of 1983 when the equal rights amendment was brought before this body under suspension of the rules, 40 minutes of debate, no motion to recommit, no amendments allowed, no substitutes allowed. We have not done that.

Let me tell what we have done. We are debating a rule now that has 1 hour of debate, and it is equally divided. Those in opposition have half an hour, we have half an hour. Then we go into the general debate on the constitutional amendment. That is equally divided. Both sides have equal time. Then we go into what is allowed in the motion to recommit, and that is any germane amendment, any germane substitute that the opponents would care to offer.

I have just heard my good friend, the gentleman from California [Mr. BEILENSON], say that his motion to defeat the previous question would make in order 3 kinds of substitutes. One is a constitutional amendment that was offered by the gentleman from Texas [Mr. BRYANT], who never bothered to come to the Committee on Rules in defense of his amendment, never bothered to even come up there.

□ 1145

Among the other two, one is a sense-of-Congress resolution by the gentleman from Colorado [Mr. SKAGGS] that is not germane to a constitutional amendment. It is simply a sense of Congress. The other is a statute. But you cannot allow substitutes in the form of statutes to a constitutional amendment.

So, Mr. Speaker, what we are allowing is what is allowed under the rules of the House: the Bryant amendment in whatever form he cares to offer it, as an amendment, as a substitute, as a motion to recommit. That is in order and that will be immediately brought to the floor, if he cares to ask for it, after the one hour of general debate.

Ladies and gentlemen, what we have before us today is a simple one-sentence amendment that has been asked for by 49 States; every State but Vermont. It simply says the Congress and the States shall have power to prohibit the physical desecration of the flag of the United States of America.

Pay attention to that, because that is not a constitutional amendment that bans physical desecration of the flag. It does not do that at all. What it does is empower the 50 States, one at a time, to pass a law which would provide for criminal penalties for those that would physically desecrate the American flag. Or the Congress could pass such a law.

That is what we are doing. If we pass this today, we will then send it out to the States to be ratified by those States. Three-quarters of the States have to ratify it. That is all we are asking, that 80 percent of the American people be allowed to have their vote.

This is it. Look at it. And here are over a million signatures gathered by the veterans organizations that are sitting in this gallery and that are all out in the halls and around this complex today.

All they want is the right to ratify. Give them that chance. That is what this country is all about. I urge a yes vote on the previous question and a yes vote on the rule.

And then, ladies and gentlemen, we are going to pass that constitutional amendment. Two-thirds of this Congress is going to speak on behalf of those 80 percent of the American people who demand this right to vote on the constitutional amendment.

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

The previous question was ordered.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on ordering the previous question.

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

Mr. BEILENSON. 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.

Pursuant to clause 5(b)(1) of rule XV, the Chair may reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adopting the resolution.

The vote was taken by electronic device and there were—yeas 258, nays 170, not voting 6, as follows:

[Roll No. 428]

YEAS—258

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clinger
Coble
Coburn
Collins (GA)
Combest
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kanjorski
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Oxley
Packard
Parker
Paxon
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Torkildsen
Traficant
Upton
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Young (AK)
Young (FL)
Zeliff
Zimmer

NAYS—170

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bishop
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Clayton
Clement
Clyburn
Coleman
Collins (IL)
Collins (MI)
Condit
Conyers
Costello
Coyne
Danner
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt
Gonzalez
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Holden
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lincoln
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Nadler
Neal
Oberstar
Obey
Olver
Orton
Owens
Pallone
Pastor
Payne (NJ)
Payne (VA)
Pelosi
Peterson (FL)
Peterson (MN)
Pomeroy
Poshard
Rangel
Reed
Richardson
Rivers
Roemer
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Sisisky
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thompson
Thornton
Thurman
Torricelli
Towns
Tucker
Velazquez
Vento
Visclosky
Volkmer
Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Wynn
Yates

NOT VOTING—6

Gibbons
Hoyer
Kasich
Moakley
Reynolds
Torres

□ 1209

Mr. MASCARA changed his vote from ''yea'' to ''nay.''

Mr. GORDON changed his vote from ''nay'' to ''yea.''

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. DUNCAN). The question is on the resolution.

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

RECORDED VOTE

Mr. BEILENSON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. By a previous order of the Chair, this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 271, noes 152, not voting 11, as follows:

[Roll No. 429]

AYES—271

Allard
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Brewster
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Buyer
Callahan
Calvert
Camp
Canady
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Combest
Condit
Cooley
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
Davis
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Doolittle
Dornan
Dreier
Duncan
Dunn
Ehlers
Ehrlich
Emerson
English
Ensign
Everett
Ewing
Fawell
Fields (TX)
Flanagan
Foley
Forbes
Ford
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Funderburk
Gallegly
Ganske
Gekas
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Greenwood
Gunderson
Gutknecht
Hall (TX)
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Horn
Hostettler
Houghton
Hunter
Hutchinson
Inglis
Istook
Johnson (CT)
Johnson, Sam
Jones
Kasich
Kelly
Kim
King
Kingston
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Lewis (CA)
Lewis (KY)
Lightfoot
Lincoln
Linder
Lipinski
LoBiondo
Longley
Lucas
Manton
Manzullo
Martini
McCollum
McCrery
McDade
McHugh
McInnis
McIntosh
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (MN)
Petri
Pickett
Pombo
Porter
Portman
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roberts
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Stearns
Stockman
Stump
Talent
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Tiahrt
Torkildsen
Torres
Towns
Traficant
Upton
Volkmer
Vucanovich
Waldholtz
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Zeliff
Zimmer

NOES—152

Abercrombie
Ackerman
Andrews
Baldacci
Barcia
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bonior
Borski
Boucher
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Cardin
Clay
Collins (IL)
Collins (MI)
Conyers
Costello
Coyne
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dingell
Dixon
Doggett
Dooley
Doyle
Durbin
Edwards
Engel
Eshoo
Evans
Farr
Fattah
Fazio
Fields (LA)
Filner
Flake
Foglietta
Frank (MA)
Frost
Furse
Gejdenson
Gephardt

Geren
Green
Gutierrez
Hall (OH)
Hamilton
Harman
Hastings (FL)
Hefner
Hinchey
Holden
Jackson-Lee
Jacobs
Jefferson
Johnson (SD)
Johnson, E. B.
Johnston
Kanjorski
Kaptur
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klink
LaFalce
Lantos
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Mascara
Matsui
McCarthy
McDermott
McHale
McKinney
McNulty
Meehan
Meek
Mfume
Miller (CA)
Mineta
Minge
Mink
Moran
Nadler
Neal
Oberstar
Obey
Olver
Ortiz
Orton
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Peterson (FL)
Poshard
Rangel
Reed
Richardson
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Spratt
Stark
Stenholm
Stokes
Studds
Stupak
Tanner
Tejeda
Thornton
Thurman
Torricelli
Tucker
Velazquez
Visclosky
Ward
Waters
Watt (NC)
Waxman
Williams
Woolsey
Wyden
Yates

NOT VOTING—11

Burton
Gibbons
Hoyer
Hyde
Livingston
Meyers
Moakley
Pomeroy
Reynolds
Vento
Young (FL)

☐ 1218

Ms. VELÁZQUEZ and Mr. BERMAN changed their vote from ''aye'' to ''no.''

Mrs. CLAYTON changed her vote from ''no'' to ''aye.''

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Edwin Thomas, one of his secretaries.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I missed the last rollcall vote, No. 429. I ask that the RECORD reflect had I been present I would have voted ''aye.''

PERSONAL EXPLANATION

Mr. POMEROY. Mr. Speaker, I inadvertently missed rollcall vote 429. I was just off the House floor meeting with North Dakotans on legislative matters. Had I been present, I would have voted ''nay.''

CONSTITUTIONAL AMENDMENT TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 173, I call up the joint resolution (H.J. Res. 79), proposing an amendment to the Constitution of the United States authorizing the Congress and the States to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration in the House.

The clerk read the title of the joint resolution.

The text of House Joint Resolution 79 is as follows:

H.J. RES. 79

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

The SPEAKER pro tempore. Pursuant to House Resolution 173, the gentleman from Florida [Mr. CANADY] and the gentleman from Michigan [Mr. CONYERS] will each be recognized for 30 minutes.

The Chair recognizes the gentleman from Florida [Mr. CANADY].

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

Mr. Speaker, there is no greater symbol of our unity, our freedom, and our liberty than our flag. In the words of Justice John Paul Stevens:

> It is a symbol of freedom, of equal opportunity, of religious tolerance, and of good will for other peoples who share our aspirations.

Our flag represents We the People—the most successful exercise in self-government in the history of the world.

In 1989 in Texas versus Johnson, the Supreme Court of the United States in a narrow 5 to 4 decision, invalidated the laws of 48 States and an act of Congress depriving the people of their right to protect the most profound and revered symbol of our national identity. In 1990, Johnson was followed by the decision in United States versus Eichman, which held unconstitutional a Federal statute passed by Congress in the wake of the Johnson decision.

House Joint Resolution 79 proposes to amend the Constitution to restore the authority of the Congress and the States—which was taken away by the Supreme Court—to pass legislation protecting the flag from physical desecration.

I believe, as do many of my colleagues, and eminent jurists such as former Chief Justice Earl Warren and Justice Hugo Black—ardent defenders of the first amendment—that the Constitution, properly interpreted, allows Congress and the States to prohibit the physical desecration of the U.S. flag.

Justice Black bluntly stated:

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

The Solomon-Montgomery amendment will overturn the opinions of the Supreme Court in Johnson and Eichman by restoring the authority to Congress and the States to prohibit the physical desecration of the flag.

This amendment poses no threat to free speech. As legal commentator and columnist Bruce Fein testified before the Subcommittee on the Constitution:

> I don't think [the flag desecration amendment] really outlaws or punishes a person's ability to say anything or convey any idea. Indeed, every idea that is conveyed by burning a flag can clearly be conveyed without burning the flag using your vocal cords, for example, and therefore it doesn't, in my judgment threaten to dry up rich political debate.

As Chief Justice Rehnquist stated in his dissent in the Johnson case, the physical desecration of the flag:

> . . . is the equivalent of an inarticulate grunt or roar that, it seems fair to say, is most likely to be indulged in not to express any particular idea, but to antagonize others.

In protecting the flag from physical desecration we will do nothing to impede the full and free expression of ideas by Americans.

The people of the United States—through their elected representatives—have the power and the right to amend the Constitution under article V. After the amendment is ratified by the States, legislation will need to be crafted to prohibit the physical desecration of the flag.

In an unprecedented demonstration of public support, the legislatures of 49 States have called on this Congress to exercise its power under article V and to submit a flag protection amendment to the States for ratification. We should not ignore the 49 legislatures which have called for action. We should listen to them and pursuant to article V.

Our flag was raised at Iwo Jima, planted on the moon and drapes the coffin of every soldier who has sacrificed his or her life for our great country. It is a national asset, a national asset which deserves our respect and protection. Indeed our flag is a national asset which deserves to be protected from physical desecration as much as the Capitol Building itself, or the Supreme Court, or the White House.

I say to my colleagues, ''If you want to protect the flag, this unique national asset, from physical desecration, you must support the Solomon-Montgomery constitutional amendment. There is no other way.''

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

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the majority be granted an additional 10 minutes of time for general debate to be controlled by the gentleman from Mississippi [Mr. MONTGOMERY] and that the minority be granted an additional 10 minutes of general debate to be controlled by the gentleman from Arizona [Mr. KOLBE] which would give each side 40 minutes of general debate.

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