It is my understanding, too, that the President has the authority both to spend money that is in the pipeline to help these flood victims, so that the case that has been made this week is without merit. As Commander in Chief, he could send our troops and military and others and our dollars into this affected area to help those folks. That is the rest of the story.

CAPITAL GAINS TAX RELIEF IMPORTANT FOR AMERICAN ECONOMY

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

Mr. DREIER. Mr. Speaker, as we have watched the Committee on Ways and Means proceed with its markup, I think it is very important for us to recognize that the plan to reduce the top rate on capital gains is in fact not a tax cut for the rich, as many on the other side of the aisle and some harsh critics have said in the past.

If we are to reduce the top rate on capital gains significantly, we can actually increase the take-home pay of the average family of four by $1,500 a year. That itself is a very important tax cut; it will in fact benefit working Americans.

We also have to look at the fact that reducing the top rate on capital gains is not going to cost the Government a nickel. In fact, it is going to gain revenues to the Federal Treasury. How do we know that? Every single time that it has been done, from 1921 under President Warren G. Harding all the way to 1981 under President Ronald Reagan, reducing that top rate, in fact, expands the pie and generates an increased flow of revenues to the Federal Treasury. Reducing the capital gains tax is a very important part of this package. We need to move ahead with it.

PROVIDING FOR CONSIDERATION OF HOUSE JOINT RESOLUTION 54, PROHIBITING THE PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. SOLOMON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 163 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 163

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 54) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States. The joint resolution shall be considered as read for amendment. The joint resolution shall be debatable for two hours 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 (Mr. TAYLOR of North Carolina). The gentleman from New York [Mr. SOLOMON] is recognized for 1 hour.

Mr. SOLOMON. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts [Mr. MOAKLEY], 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. Speaker, this rule provides a fair and a reasonable way to consider the proposed constitutional amendment to allow this Congress to prohibit the physical desecration of the flag of the United States of America. Let me go through the steps that we will follow.

First, there is 1 hour of debate on this rule, which is equally divided between the majority side and the minority side. After voting on the rule, there will then be 2 hours of debate on the proposed constitutional amendment. That time is equally divided between the chairman and ranking minority member of the Committee on the Judiciary, who happen to be on different sides of this issue, although this is a bipartisan piece of legislation offered here today.

Then the rule allows for a motion to recommit, which may include instructions if offered by the minority leader or his designee.

□ 1045

This would be the opportunity for the minority or those in opposition, since many of the minority are cosponsors of this legislation, it would allow those in opposition to offer an amendment or a substitute and have it voted on in this House.

Mr. Speaker, as we begin this debate, I would like to provide some background on how we got here today, and it is a shame that we even have to be here.

Prior to the Supreme Court decision in Texas versus Johnson in 1989, 48 States and the Federal Government had laws on the books prohibiting the desecration of the American flag.

In the Johnson case the Supreme Court held by a bare 5 to 4 margin 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.

Then in 1990, in the case of the United States versus Eichman the Supreme Court in another 5 to 4 decision struck down this 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 to protect the flag from physical desecration. The amendment received support from a substantial majority of the House, but unfortunately fell short of the necessary two-thirds vote for a constitutional amendment. The vote at that time was 254 to 177.

Subsequently, Mr. Speaker, 49 States have passed resolutions calling on Congress to pass an amendment to protect the flag of the United States of America. In here are the resolutions of those 49 States.

Subsequently, in the last Congress, we mounted a new effort to pass a constitutional amendment to protect the flag against physical desecration. We were successful in achieving the required two-thirds vote in the House for the first time on this constitutional amendment. The vote then was 312 to 120, and that was substantially higher, 22 votes higher than even needed to amend the Constitution.

Unfortunately, the Senate fell just a few votes short of the needed two-thirds. The vote there was 63 to 36, and consequently the amendment was never put out to the American people to ratify.

Now we are set to begin the final push to victory, my colleagues, in order to try to pick up the few extra votes needed in the Senate. The language of the amendment offered this year is significantly different from the 1990 and 1995 versions, and this is important for Members to pay attention to, especially over in the other body, because many of those that voted against it last time voted against it because it contained a provision which allowed individual States to pass laws prohibiting the physical desecration of the American flag. Those versions provided that the Congress and the States shall have power to prohibit the physical desecration of the flag of the United States.

The version introduced, that I introduced this year, deletes the words ''and the States'' so that only Congress will have the power to prohibit physical desecration of the flag. This eliminates the concern of those who might have voted against it in years past that were worried about possible confusion which could be caused by different laws in each State.

Now, if this is adopted, there will only be one national law dealing with this issue. Since the whole purpose of this constitutional amendment is to protect the national flag, it makes sense, I guess, that there be a national policy to achieve that goal.

Mr. Speaker, none of us undertake this lightly. The Constitution is a document that has stood the test of time over two centuries. The Founding Fathers wisely made it very difficult to amend this Constitution of ours. Our goal then is not really to change the Constitution. Our goal is to restore the Constitution to the way it was for the first 200 years of this great Nation of ours, up until 1989. And had the Supreme Court not suddenly reinvented

the Constitution by a 5-to-4 vote, something that was never there before, we would not even be here today on this floor. But the Supreme Court did take away the right of the people acting through their elected representatives to protect their flag, and we propose today to restore the right of the people to protect that flag.

This is not an idea that just a few people dreamed up, my colleagues. We are responding to the will of the overwhelming majority of the American people by restoring to the Federal Government power to protect the flag of this Nation.

Stacked on this table right next to me now are more than 3 million signatures, 3 million signatures of people from all walks of life, and I would invite Members to come over and take a look at them, 3 million signatures from my colleagues' congressional districts. These signatures were gathered by the American Legion and the Citizens Flag Alliance. Many of the people that my colleagues see sitting up here in the audience today, from more than 100 organizations, organizations that I think represent a real cross section of America. In fact, when we look at these petitions, they are from people from all walks of life, from religious organizations, not just veterans' organizations, and every single veterans' organization in America has signed these petitions. But they come from religious organizations like the Knights of Columbus and the Masonic orders. They come from civic organizations like the Polish and Hungarian and Ukranian federations. Many of these people were immigrants that came to this country. From fraternal organizations like the Benevolent Order of Elks, Moose International, and the Federation of Police; in fact, all of the police organizations across this country, and from many, many other groups, totaling more than 100, like the National Grain and Future Farmers of America.

But perhaps most impressive again is the resounding support from the States around this country which I pointed to before, 49 out of 50 States, and that is what is in this book that I showed my colleagues a minute ago.

Mr. Speaker, some of the opponents of this proposal have tried to make it sound as if this is some kind of a threat to freedom of speech. The first amendment states, quote, Congress shall make no law abridging freedom of speech, but if this amendment is adopted and implementing legislation is adopted to follow it, every American will be just as free as they are today to say anything they want to about our flag or our country. However much I would disagree with that kind of sentiment, they will be free to say insulting things about the flag or about our country, and I would like to remind our colleagues that under the first amendment even freedom of speech is not unlimited.

For example, speech that is likely to incite an immediate violent response like yelling fire in a crowded theater is not allowed under the laws of this country. It is not protected under the first amendment rights. Obscenity is not protected, and libel is not protected. One cannot go and stand on a crowded street corner or in a residential street corner in the middle of the night and disturb the peace. That is against the law, and it is constitutionally against the law.

Mr. Speaker, this proposed constitutional amendment gives Congress only, only Congress, the power to prohibit physical desecration of our flag. It does not give Congress power to limit what anybody can actually say. As my colleagues know, if they reach into their pocket and they have a dollar bill, they own that dollar bill, it is theirs. But it is against the law for them to burn it, and it ought to be against the law to burn the symbol of our country, the American flag.

Furthermore, I will note that the power to protect the flag was used judiciously for the first 200 years of this Nation's history, and there is no reason to suspect that it will be used any differently in the future.

Mr. Speaker, over the last two centuries, and especially in recent years, immigrants from all over this world have flocked to America seeking what my colleagues and I enjoy, and that is freedom that is a decent safe way of life, and they knew little about America and about our culture and about our heritage. The face of America is changing, and these people when they come here, the one thing they did know: the American flag.

I can recall a number of years ago when I led a delegation to a place called Hanoi in Vietnam, and we sat across from those Communists and we begged them to give us back the remains of fallen soldiers, and they refused to do it. And later on when we left there, we went to a place called Thailand where there was a refugee camp with 180,000 people out in the wilderness in the middle of nowhere, and to get there we had to fly first by plane and then by truck over a dirt road, and as we approached that refugee camp 10 miles away, there began to be people, a few people on either side of the road waving little American flags. And as we proceeded further, there were more and more people, children and old people, and they were all waving little American flags. And as we got near the camp, there was more than 10,000 people lining this dirt road. And I was taken by one particular sign that was almost as wide as the rostrum up there, and on that sign it said: America, please take us home. And when I got out of that truck and I sat and talked with those people, they were not asking us to take them home to America. They were asking us to make it possible for them to go back to their home.

Mr. Speaker, that is what the American flag means. It is the symbol of this country. It is what binds us together, and particularly with the changing face of America. That is why we need to prohibit the physical desecration of this American flag, and that is why I would ask all of my colleagues to come over here in a few minutes, vote for the rule and then vote for this very, very, very important proposed constitutional amendment.

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

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

Mr. Speaker, I thank my colleague from New York, my dear friend, Mr. SOLOMON, the former marine, but they tell me, Mr. Speaker, there is no such thing as a former marine. It is just a marine. So I respect my colleague, my chairman, my marine who did a great job in explaining the issue before me.

I join my friend, the gentleman from New York [Mr. SOLOMON] not only in supporting the rule, but also in cosponsoring the bill to prohibit desecration of the flag. Mr. Speaker, I was very proud to serve in World War II, and I did serve to defend our flag, but more importantly I served to defend what our flag stands for. Still I cannot believe that people should be allowed to desecrate the flag. I think there are far better ways to express unhappiness than by engaging in an act that thousands and thousands of people find so offensive.

I have met with veterans groups many, many times, and they inform me that their No. 1 priority is protecting the flag that they fought to defend. I think the very least this country can do for these men and women who risk their lives defending the United States is to grant them that wish.

Mr. Speaker, I yield 5 minutes to the honorable gentleman from Colorado [Mr. SKAGGS], a gentleman who distinguished himself in the Vietnam war as a Marine lieutenant.

Mr. SKAGGS. Mr. Speaker, I thank the gentleman from Massachusetts [Mr. MOAKLEY] for the time.

Mr. Speaker, I can think of no better way to begin this debate than by recalling the words of Justice Oliver Wendell Holmes when he said, and I quote, we should be eternally vigilant against attempts to check the expression of opinions we loathe, unquote.

Amending the Constitution and for the first time in our history amending the Bill of Rights is an extremely serious matter, and we should consider it only under the most compelling circumstances. Those who propose this amendment, and they propose it in the deepest good faith and patriotism, should be obliged nonetheless to meet an exacting standard of proof, proof that clearly demonstrates a serious threat or need, a threat or need which goes to the fundamental structure of national government, one which can be addressed only through a change in our national charter and one for which the benefits of that change clearly outweigh the costs.

The proponents of this amendment cannot meet that standard. Where is

the threat, Mr. Speaker? Where is the need? A few zealots misguidedly believe that flag desecration will further their cause.

□ 1100

But their idiocy provides no excuse for us to weaken the first amendment. While isolated acts of disrespect for the flag may test our tempers, we should not let them erode our commitment to freedom of speech.

The first amendment and its guarantee of free and open political expression is at the very heart of our Nation's tradition of freedom and self-government. We change it at our grave peril. We do not need to amend the Bill of Rights to show our respect for the flag.

Respect for the flag should not be mandated, especially not at the expense of the first amendment's guarantee of free speech. More to the point, respect cannot be mandated. To be genuine, to be a respect that truly honors our flag, it cannot be a legal requirement. It must flow from the natural love of our freedom-loving people for the beautiful standard of this Nation and the exquisite symbol of our freedoms.

As Justice Jackson said in the West Virginia State Board of Education case back during World War II, ''To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds.''

As a Marine veteran and as an American, I have great pride in the flag. I vividly remember what it felt like to get back to the compound and see the flag flying there, and I think I understand the strong feelings of patriotism and pride in flag and country that motivate the supporters of this proposal. Unfortunately, in their understandable passion to protect the flag, they ask us to undermine the Bill of Rights.

As a veteran and as an American, I too am deeply offended by any act of disrespect to the flag, including physical desecration and flag burning. Like the proposal's supporters, I too am fiercely proud of the values and the ideals that our flag symbolizes. But it would be tragic if, in our rush to prohibit disrespect for the flag, we showed greater disrespect for the Constitution.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. Let me just say to the gentleman that just spoke, I have great admiration and respect for him and certainly respect his opinion on this, but he asked the question, where is the need?

Well, I guess we would have to go and ask the gold star mother that I talked to last week, where is the need and how she felt about it. I guess we could ask anyone who has lost a loved one how they feel about it, but I guess more than anything else we could ask the disabled veteran who a few years ago witnessed the burning of an American flag. This man was crippled, crippled from war, and he was so overcome that he jumped into the fray and he was injured, and then a lawsuit was brought against him.

Those are the kind of emotions that come about with something like this, and that is why we need the amendment that would ban the physical desecration of the American flag so that those kind of instances do not happen. Anyone can criticize the flag; anyone can criticize the Supreme Court building right over there, but one cannot go over and physically desecrate that Supreme Court building, one cannot physically desecrate the American dollar, as I said before, and one should not be able to physically desecrate the American flag.

Mr. Speaker, I yield such time as he may consume to the gentleman from Sanibel, FL [Mr. GOSS] a member of the Committee on Rules, a very valuable member who is a cosponsor of the legislation.

Mr. GOSS. Mr. Speaker, I thank the distinguished gentleman from New York [Mr. SOLOMON], my friend and the chairman of the Committee on Rules. Certainly his leadership and commitment have prevailed in bringing us here today, and I have nothing but the greatest admiration and commendation for what he is doing.

Mr. Speaker, the stars and stripes is certainly one of our greatest and most enduring monuments. It may be cloth, but it lasts longer than the monuments of steel, the monuments of cement, and the other monuments that we have made, because it is a monument in our heart. Its remarkable simplicity of design has made it perhaps the most universally recognized symbol around the world. It is literally a symbol of hope to millions and millions of people as the representation of freedom and democracy. There is actually a place in the world where there is freedom and democracy.

It is the subject of our National Anthem. When we count the stars, it shows our historical growth and the unity as the United States of America. It is the inspiration for our war fighters, as we have heard testimony here this morning. It is the beloved welcome home sign for Americans traveling abroad. But even more than that, it is a visual reminder of the millions of Americans who have shed their blood and lost their lives in defense of liberty for the United States of America. These are our fathers, mothers, daughters, sons, grandparents, spouses, people we may never have the chance to know again.

So as a nation we proudly display the flag in respect of their courage and the rights they fought to defend. They are the brave who made possible the fact that our homes are in the land of the free.

This amendment clearly has the weight of public opinion behind it. More than four out of five Americans believe that we should have laws to protect the symbol of freedom from physical desecration. Mere statutes have proven ineffective, strangely enough, because of curious and, I would say, wrong-headed Supreme Court decisions passed by the narrowist of margins. Since those rulings, in fact 49 out of 50 States have passed resolutions asking the U.S. Congress to ensure that States have the right to protect the flag.

Now is the time for Congress to get on with it. This has been a challenging process. There is nothing more integral to the lives of all Americans than our Bill of Rights. We all understand that here. But we would certainly never do anything that will infringe on our most sacred and protected freedoms.

But this proposed amendment will not interfere with our right to free speech. Anyone who wishes to express his or her ideas about our flag is certainly free to do so, and accept the consequences. As the Chairman has said, this narrow amendment will simply preclude physical desecration of the flag.

I would say in my district in southwest Florida that burning a flag could well be more of a threat to public safety and public order than screaming ''fire'' in a crowded theater, which the court has said is a permissible restraint on free speech.

This is an overwhelmingly popular idea whose time has come. As we look toward Flag Day this Saturday, we want to be able to send to our Nation's veterans and in fact to all Americans the simple gift of knowing that the flag that stirs their hearts, that so many have fought for and so many have died for will be as sacred and secure as the freedom and the liberty that it embraces.

I personally feel, if one burns the flag of the United States of America, one is burning a little piece of me, because I feel I have a little piece of that flag and I suspect every American feels that way. I think if one tears the flag, one is tearing a little piece of me. I think every American feels that way.

I would suggest that we do not want to encourage that kind of thing; we should discourage it, and I would suggest that in the event that there is an incident involving the flag, the side of law and order ought to be on those who are protecting the flag, not on the side of those who would destroy one of our most sacred symbols.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN], the chairman of the Committee on International Relations and a veteran Air Force member during the Second World War.

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

Mr. GILMAN. Mr. Speaker, I thank the gentleman for yielding. I am pleased to rise in support of the Solomon proposal, House Resolution 163, to protect our flag from desecration. Those of us who have seen these acts of

desecration find it abominable, and I think this is an excellent measure to protect a banner that we all hold dear to our hearts throughout our Nation.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. PAUL].

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

Mr. PAUL. Mr. Speaker, I thank the gentleman for yielding me this time. I am in support of this rule. I can think of a better rule. I would have liked the rule to be more open. I had a substitute for the particular amendment that we are proposing to the Constitution, but that will not be permissible. However, I will vote for the rule.

I have to compliment the authors of this legislation, recognizing that this cannot be done with legislation, that we have to alter the Constitution, because if one writes legislation, obviously it would not be constitutional. So therefore, I think the authors of the proposal should be complimented.

Also, they deserve some credit for courage, because it is my understanding that this will be the first time that we will alter the Bill of Rights, and in doing so, I think we should do this with a great deal of thoughtfulness.

The courts, as we know, have quite frequently limited our freedom of speech. This is why we have the Istook amendment. The courts have ruled out voluntary prayer in schools, so we are trying to compensate for that with the Istook amendment, and I am a supporter of that, but this amendment is quite different. Instead of expanding the right of free expression, this is curtailing the right of free expression and for that reason I will be opposing the legislation.

We have no flag crisis, and I am quite concerned that once this has passed into the Constitution, it might incite more flag burnings and more flag desecration. Actually, under the Constitution, a more permissible way and more proper way of dealing with the problems that the courts have presented us, is for we as a Congress to withhold the jurisdiction from the courts, and then allow the States to write the legislation that was ruled unconstitutional.

As a matter of fact, even this amendment, as proposed, we could change two words and make it an acceptable amendment to those of us who interpret the Constitution in a strict manner. All we would have to do is the States could write the laws instead of Congress. The first amendment starts out and says the Congress will write no laws, the Congress will make no laws restricting freedom of expression. But here, the last time this amendment came up, they included the States, it said the Congress and the States could write the regulations and the rules, but now it says only the Congress.

I thought we were for less government. I thought we were for less centralization, less police forces up here. I am quite sure that this will become the job of the BATF. I guess we will have a BATFF next, because they will have to police the flag abuse.

There are a lot of reasons why we should oppose this. One is that it is not only a freedom of speech issue, it is also a property rights issue. Withholding and restricting flag burning of other people's flags and Government-owned flags and on Government property, that certainly is legitimate. But freedom of speech and freedom of expression depends on property. We do not have freedom of expression of our religion in other people's churches; it is honored and respected because we respect the ownership of the property. The property conveys the right of free expression, as a newspaper would or a radio station. But once we deal with the property, no matter how noble the gesture, I think that we have to be very, very cautious in this manner.

The original intent of the Founding Fathers in writing the Constitution was never that we would be so involved in writing regulations and legislation of free expression in an attack on private property ownership, and then again, it really defies the ninth and tenth Amendments. We would be much better off taking the part of the Constitution that allows us to remove the jurisdiction from the courts and, thus, then permitting the States to write the laws as they see fit.

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

Let me say before recognizing the next speaker that certainly this Member of Congress would stand and defend any American citizen's right to freedom of speech. I do not consider burning the American flag an expression of speech. I think it is a hateful tantrum.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida [Mr. STEARNS], a very distinguished Member.

Mr. STEARNS. Mr. Speaker, I thank the gentleman for yielding. It is probably appropriate that I come to speak after my colleague on this side of the aisle spoke. He talks about amending the Bill of Rights, and that is not what we are doing here. He talks about protecting the first amendment. Let me point out to him that freedom of speech is not absolute. He might believe that freedom of speech is absolute, but it is not, it has never been. That is why we have on the books obscenity laws.

□ 1115

We have on the books public decency laws. So when he talks about the freedom of speech being absolute, I do not agree with him. I would also like to say to him and to others that express his opinion, we have in this country 49 States, 11 more than the 38 needed for ratification, that have called on Congress to submit a constitutional amendment protecting the American flag against physical desecration. We would be clearly lacking in our representation of the American people if we in this body deny it. So those Members of Congress that come from those 49 States where they have asked for ratification, it is on their conscience if they vote against this.

Mr. Speaker, when I think about this issue I am reminded of Theodore Roosevelt when he once said, ''There is no room in this country for hyphenated Americanism.'' I feel that desecration of this flag is a dishonor to over 1 million men and women who have died defending this country.

Our military personnel protect our country's unity, freedom, and value symbolized by the American flag. Mr. Speaker, burning the flag is not a method of speech or expression. It is a measure, a clear measure of hatred for our country. Our flag represents America's past, its present, its struggle and, of course, its promise for a great future.

As an American, I cannot accept the Supreme Court's decision which allows the American flag to be set on fire, spit upon, trampled as a form of political expression protected by the Constitution. That is where the problem many of us have is, where the Supreme Court is allowing people to set it on fire, to spit upon it, and trample it as political expression.

For more than two centuries Old Glory has exemplified the ideals our Nation was founded upon, including its constitutional rights. I remain an ardent supporter of the first amendment; however, I feel strongly that this freedom should not be an excuse for the scornful action of flag desecration. Burning the flag is not simply an expression of personal opinion. Mr. Speaker, it is an act of violence, an act of violence against a national symbol which represents the intangible spirit of liberty.

Again, I say to my colleagues, the freedom of speech is not absolute. The need for a flag protection amendment is a commonsense issue that resonates throughout this country. A vote for this amendment will put a stop to the erosion of decency and mutual respect facing our Nation. Americans do not see it as a partisan or an ideology issue, and neither should we.

Mr. Speaker, I would conclude by pointing out and reminding my colleagues if 49 States, 11 more than needed in the 38 for ratification, have called upon Congress to submit a congressional amendment protecting the American flag against physical desecration, why do not we?

Mr. MOAKLEY. Mr. Speaker, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS], the ranking minority member.

Mr. CONYERS. I thank the gentleman from Massachusetts for yielding time to me, Mr. Speaker.

Mr. Speaker, I would point out to the gentleman from Florida about five Supreme Court cases that prove that the statement that the gentleman uttered about action being equated with speech is not correct. Would that impress the gentleman at all?

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

Mr. CONYERS. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, there is also——

Mr. CONYERS. I ask, would it impress the gentleman at all?

Mr. STEARNS. I could find another five Supreme Court decisions that would refute the gentleman's argument.

Mr. CONYERS. I have my five, and we are going to have general debate for 2½ hours, so I would ask the gentleman to go get one, OK?

Mr. STEARNS. We will be glad to come back here.

Mr. CONYERS. I will yield the gentleman time to show me a case.

Mr. STEARNS. The gentleman asked me a question. Can I pose a question to him?

Mr. CONYERS. Just a moment. That is the end of our discussion.

Mr. STEARNS. The gentleman will not allow me to pose a question to him?

Mr. CONYERS. Of course not.

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

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

Mr. Speaker, I would respond by saying that all of the court decisions the gentleman from Michigan [Mr. CONYERS] referred to were 5 to 4 decisions. They could just as easily have gone the other way. If Justice Hugo Black, one of the most famous liberals of the Court, had been there, he would have voted with us on this particular issue. He said it is not an infringement on first amendment rights.

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

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. CANADY of Florida. Mr. Speaker, pursuant to House Resolution 163, I call up the joint resolution (H.J. Res. 54) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 54 is as follows:

H.J. RES. 54

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE—

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

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). Pursuant to House Resolution 163, the gentleman from Florida [Mr. CANADY] and the gentleman from Michigan [Mr. CONYERS] each will control 1 hour.

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

GENERAL LEAVE

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on House Joint Resolution 54.

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

There was no objection.

Mr. CANADY of Florida. Mr. Speaker, I ask unanimous consent that during the consideration of House Joint Resolution 54, an additional 20 minutes of debate be granted, equally divided and controlled by the gentleman from Illinois [Mr. LIPINSKI] and the gentleman from Maryland [Mr. GILCHREST].

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

There was no objection.

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

Mr. Speaker, the U.S. flag has long been a source of inspiration for Americans. The Stars and Stripes waving over Fort McHenry in Baltimore Harbor inspired Francis Scott Key to pen our national anthem in 1814. One of the most poignant images of World War II has been memorialized in the Iwo Jima Monument, which captures the moment when U.S. soldiers hoisted the American flag on Mount Suribachi.

Old Glory has had a profound impact on the citizens of this country throughout the years. There is no greater symbol of our unity, our freedom, and our liberty as Americans than our flag. In the words of Justice John Paul Stevens, it is a symbol of our freedom of equal opportunity, of religious tolerance, and of good will for other peoples to share our aspirations.

Until less than a decade ago, most States and the Federal Government enforced laws prohibiting flag desecration. However, in 1989, in Texas versus Johnson, the Supreme Court of the United States, in a 5 to 4 decision, invalidated the laws of 48 States and an act of Congress which protected the flag. The court thus deprived 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 response to the Johnson decision.

The amendment before the House today would overturn these Supreme Court opinions by restoring the authority of Congress to prohibit the physical desecration of the flag. Nothing in this amendment or in the legislation that will be adopted subsequently will prevent anyone from expressing any idea or viewpoint they wish to express.

No one will be prevented from expressing contempt for the flag, contempt for the country, contempt for the people in power, contempt for the Constitution, or contempt for anything else. The flag protection amendment simply grants Congress the power to restrict one type of conduct, that is, conduct involving the physical desecration of the American flag, which some have chosen as a crude means of expression.

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.

By allowing Congress to protect the flag from physical desecration, we would do nothing to impede the full and free expression of ideas by Americans. The first amendment would remain as strong as ever.

Freedom of speech is indeed central to our political system. Protecting freedom of speech is essential to protecting all the other freedoms that we cherish as Americans. Without freedom of speech our system of representative democracy would become a sham.

As the Supreme Court recognized in New York Times Company versus Sullivan, we as Americans have a profound national commitment to the principle that debate on public issues should be uninhibited, robust, and wide open, and that it may well include vehement, caustic, and sometimes unpleasantly sharp attacks on government and public officials.

But that does not mean that individuals have a totally unlimited right to engage in whatever conduct they choose simply because it is done under the banner of free expression. The government has a well-recognized right to place restrictions on obscenity, libel, fighting words, and fraudulent statements. The government may prohibit individuals from parading through the streets naked, even though those individuals do so in the name of free expression.

Such restrictions in no way impede the robust and wide open debate of public issues. We all agree that the government should not attempt to suppress ideas because they are offensive or disagreeable, but as Justice Stevens states in his dissent in Eichman:

> It is equally well settled that certain methods of expression may be prohibited if [a] the prohibition is supported by a legitimate societal interest that is unrelated to suppression of the ideas the speaker desires to express; [b] the prohibition does not entail any interference with the speaker's freedom to express those ideas by other means; and [c] the interest in allowing the speaker complete freedom of choice among alternative methods of expression is less important than the societal interest supporting the prohibition.

A prohibition on the physical desecration of the flag of the United States easily satisfies this test. There is a compelling societal interest in maintaining the physical integrity of the flag as a national symbol by protecting it from acts of physical desecration. Such protection can be afforded without any interference in the right of individuals to express their ideas, whatever they may be, by other means.

The interest of the American people in protecting the flag far outweighs any interest in allowing the crude and inarticulate expression involved in burning, shredding, trampling, or otherwise desecrating our flag.

The American people overwhelmingly support a flag protection amendment. We have testimony here to that fact on the table. A recent national survey found that, given the chance, 81 percent of American voters would vote for this amendment being considered by the House today. In addition, 49 of the 50 State legislatures have passed resolutions calling on Congress to pass an amendment to allow protection for the American flag. This amendment, supported overwhelmingly by the American people, recognizes that there are limits to what can be done under the banner of freedom of expression. It recognizes that the American people want to draw a line at this point. They want to draw a line to protect the American flag. The flag belongs to the American people. It is a symbol of our Nation, and no one has a right to desecrate it.

The Stars and Stripes is more than a piece of cloth. It was raised at Iwo Jima, planted on the moon, and has draped the coffins of thousands of Americans who have sacrificed their lives for our great country. It is a national asset. As Justice White has written, the flag is a national property. So it is fitting and necessary that this Congress, speaking for the American people, should pass this amendment to protect and preserve this symbol of our great Nation.

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

[Mr. CONYERS asked and was given permission to revise and extend his remarks.]

Mr. CONYERS. Mr. Speaker, this is the second annual flag-burning discretion legislative attempt. Last year it was not able to arrive in time for Flag Day, so it was held over for July 4, but this time, although the budget is out of whack and disaster relief is still unresolved, we are able to get this piece of legislation up.

I am happy to join with the ranking member on the Subcommittee on the Constitution of the Committee on the Judiciary to engage in this discussion for a couple of hours.

□ 1130

Now, we are the lawmakers of the land. That presumes that we understand the law. It also assumes that we know something about what the Supreme Court said, Mr. Speaker. What the Supreme Court has said, and I want to correct myself, I said that there were five decisions, there are seven decisions, which I will bring out to my colleagues one at a time, and I will put it in nonlegal discourse so that everybody, no matter what side of the issue they are on, will understand what the current state of the law is at this moment. It is not what some Members have misrepresented it, perhaps accidentally, to be during the debate on the rule.

Now, for those who know what Hugo Black would have done if he had voted on flag burning, that is wonderful. Hugo Black never voted on flag burning, so only the chairman of the Committee on Rules would know what a deceased Supreme Court jurist would have done had the issue come before him. Wonderful.

I will tell what one conservative jurist named Anthony Scalia has done on the Supreme Court on which he presently sits; that is, he has voted with those of us who realize that flag burning is an expression of speech protected by the first amendment.

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield for a quotation from Justice Black? Would the gentleman like to hear the words of the Justice himself?

Mr. CONYERS. Mr. Speaker, the gentleman in managing the time on that side.

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. N-O.

By the way, Mr. Speaker, the gentleman has 1 hour to do all the quoting he wants.

May I point out, Mr. Speaker, that speech is protected; that action is protected speech under the first amendment. I do not care what anybody once said. At least as we disagree on this subject matter, let us pretend that we understand what the law is. It is there in the books. We have got it in our offices. It is on the computer. Members can ask a staffer. But do not misrepresent the law while I am managing this bill on the part of the Democrats today. If my colleagues do, if time permits, I will try to correct them as we go along.

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

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume to point out that the gentleman's questioning with respect to Justice Black is totally unjustified. We do not have to guess what Justice Black would have thought on this subject. Justice Black spoke on the subject.

If the gentleman had read the committee report, the gentleman would have seen the statement from Justice Black. Justice Black said, ''It passes my belief that anything in the Federal Constitution bars'' a State from ''making the deliberate burning of the American flag an offense.''

If the gentleman would like the citation, he will find it in the committee report.

Mr. Speaker, I yield 1 minute to the gentleman from Nebraska [Mr. BARRETT].

Mr. BARRETT of Nebraska. Mr. Speaker, I thank the gentleman for yielding me the time.

I rise today in support of this amendment protecting the Nation's flag. This Saturday we do celebrate Flag Day. I can think of no better way to honor the flag and what it represents than by passing this amendment. Our Nation's flag represents freedom and tolerance around the world. Scores of Americans have fought for the symbol. Many have died for it. I will vote today to honor those sacrifices by protecting our flag.

We Americans have many rights, many freedoms, but desecrating the symbol of those freedoms does not exemplify those rights; it dishonors them. Mr. Speaker, 80 percent of Americans support the idea of protecting the flag and nearly every State has a law supporting it and protecting it. In passing House Joint Resolution 54, we are recognizing the desire to protect it.

During this Congress I hope the other body will also accord the flag its due respect and send the amendment out to be ratified.

Mr. Speaker, in passing House Joint Resolution 54, Congress does not act to restrict speech. It acts to acknowledge our rights by protecting that which represents them, our national symbol.

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

I address my remarks to the distinguished chairman of the Subcommittee on the Constitution because he quoted former Supreme Court Justice Black. The quote that he made does not come out of any case that Justice Black ever decided. It is in no decision. It refers to the Justice referring to what each State should do.

Now, either the gentleman does not understand that or he is trying to fool somebody. I do not know which.

Now, ask me to yield.

Mr. CANADY of Florida. Mr. Speaker, will the gentleman yield?

Mr. CONYERS. No.

Mr. CANADY of Florida. I thank the gentleman again.

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

The gentleman has difficulty apparently comprehending the plain words that are in an opinion written by Justice Black. I have difficulty understanding why the gentleman has such difficulty.

I will point out the last time I recall the gentleman from Michigan standing on the floor and citing a Supreme Court case, he was actually citing a case that had been decided by a district court, and had to be corrected by the ranking member on the subcommittee. I am not surprised that the gentleman is having difficulty understanding the words of Justice Black.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from Virginia [Mr. SCOTT], ranking member on the Subcommittee

on the Constitution, distinguished attorney and former State legislator.

Mr. SCOTT. Mr. Speaker, getting back to the point, we find ourselves considering yet another constitutional amendment on the floor. Mr. Speaker, the Constitution of the United States is not a major societal problem in America, and yet we find ourselves for the fourth time this session voting on a constitutional amendment. There are others, a slew of others still pending. This amendment, if ratified, will for the first time in over 200 years reduce our first amendment rights to free speech and expression.

The first amendment has made this country the envy of the world. It has protected us from religious and political upheavals that have led to the demise of numerous other federal governments. It has been a great success, not a failure. The first amendment is our friend and not our enemy. We should, therefore, resist the political temptation to abridge this freedom for short-term political gain.

At the hearing we had on House Joint Resolution 54, we heard testimony that the flag is a symbol of national unity, patriotism, and freedom. I agree. But in a direct affront to the liberty interests on which this country was founded, the resolution is seeking to prohibit a form of political expression. Just as we are free to express our love for the flag in a free country, those with contrary opinions should also be free to express their feelings. Freedom is not a popularity contest. If this were the case, we would never need a Bill of Rights. Popular speech does not need protection.

Instead, our rights only come into play when there is a need to protect the unpopular speech or religion from the tyranny of the majority. In fact, if this amendment is adopted, the only practical effect of the enactment of criminal statutes against flag desecration will be the jailing of political protesters. The idea of jailing political dissidents is obviously inconsistent with our tradition of freedom. I would ask that the Members consider this consequence before they start chipping away at the first amendment.

Let us not be confused. We are not, in this amendment, trying to prohibit flag burning. The truth is that burning a flag is considered the only proper way to dispose of a worn-out flag, and therefore flags are routinely burned by members of the American Legion in patriotic flag retirement ceremonies. This amendment, however, has nothing to do with the act of burning or causing any type of physical harm to the flag. This is not the concern of the supporters of the amendment, and that is why the term ''desecration'' is used in the amendment rather than ''burn,'' ''tear,'' or ''destroy.''

Instead, they are seeking to prohibit the use of the flag in situations where they disagree with the content of the expression. In other words, one can burn a flag if one is saying something nice about the flag, but one would be prohibited from burning the flag if they are saying or thinking something that government officials consider offensive. This is absurd because the Government has no business deciding which political speech is permissible or impermissible.

If we were just talking about conduct, we would be able to, we have to look at the effect of this amendment. We can prohibit forms of expression like we can prohibit parades, but we cannot prohibit one kind of parade by Democrats and not the same kind of parade by Republicans. If one can, if we are talking about flag burning, we cannot talk about burning the flag when there are good patriotic expressions but prohibit burning the flag when we do not agree with the expressions being made.

Furthermore, Mr. Speaker, we are not addressing situations where someone steals a flag and burns it. Stealing and destroying someone else's property is already against the law. So we have already been down the road of patriotic but coercive legislation.

I remind my colleagues of the World War II era Supreme Court cases dealing with the statutes compelling school children to pledge allegiance to the flag. We got so wrapped up in our drive to compel patriotism that we lost sight of the high ideals for which the flag stands, because despite our disgust for seeing Nazis force their people to hail Hitler, we in this country were passing laws that forced school children to salute and say a pledge to a flag even if such acts violated their religious beliefs.

Fortunately for the American people, the Supreme Court put an end to this coercion in the landmark case West Virginia State Board of Education versus Barnette. Justice Jackson wrote on behalf of the majority in the Barnette decision when he wrote,

> If there is any fixed star in our Constitution, it is that no official, high, or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.

Unfortunately, it does not seem that we have learned from the eloquence and clarity of Justice Jackson's opinion in Barnette, and instead we are here today poised and anxious to prescribe what shall be orthodox in politics and nationalism, even though we have no business governing a free society in this manner.

Furthermore, Mr. Speaker, our prescription is unknown. The text of the resolution reads: ''The Congress shall have power to prohibit the physical desecration of the flag of the United States.'' Even after the hearing, we still have no idea of what desecration will entail or what shall constitute a flag. Any criminal statute enacted under this amendment will therefore be inherently vague and unworkable. In fact, at the hearing at least one witness supporting the constitutional amendment agreed that the use of the flag in advertising could be considered desecration, and in fact some jurisdictions have criminal statutes on the books prohibiting use of the flag in advertising.

Mr. Speaker, furthermore, we have a question of what is a flag? Is a flag tie a flag? Do we have a national interest in that tie? Is that a national asset? Based on the flag code, wearing a flag tie could be a criminal offense. Considering that both an American Legion representative and a Member of Congress were wearing flag ties on the day of the hearing, I would hope that we would take a closer look at what could be the unintended consequences of this amendment. But of course we all know that the practical effect of the criminal statutes would be that they would only be enforced against political protesters, and that is why the amendment restricts speech and is not protecting the flag.

In conclusion, Mr. Speaker, I urge the House to be guided by the words of Justice Brennan when he wrote,

> We do not consecrate the flag by punishing its desecration, for in so doing we dilute the freedom that this cherished emblem represents.

Therefore, let us not betray the freedom our flag represents.

I urge the House to stand up for the high ideals the flag represents by opposing House Joint Resolution 54.

☐ 1145

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

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

Mr. LIPINSKI. Mr. Speaker, I rise to speak on behalf of the resolution, and I appreciate the opportunity to speak on the House floor today in favor of this important constitutional amendment.

When the gentleman from New York [Mr. SOLOMON] asked me to replace Mr. Sonny Montgomery as the lead Democrat on the flag protection resolution, I was honored and eagerly accepted the role. However, it is important to note that this is not a Republican issue, nor is it a Democratic issue. It is an American issue.

The flag is a symbol of our great Nation and all that we stand for. No other American symbol has been as universally honored or has bestowed such honor as our flag. We pledge allegiance to the flag at the start of each day here in the U.S. House of Representatives, as do schoolchildren throughout the United States. Our national anthem immortalizes the importance of our flag to our soldiers who fought for our freedom. Our flag is a symbol of our freedom.

The flag, being the symbol of American freedoms and ideas, ought to be protected with the same vigor with which we protect the very freedoms and rights it represents. Our Nation's flag deserves respect, care, and protection. Willful desecration of the flag is

an insult to all Americans, especially to those who fought to uphold the flag and maintain our freedom.

This constitutional amendment to give to Congress the power to prohibit the physical desecration of the flag in no way contradicts or weakens the first amendment's guarantee of freedom of speech. There has always been some limitations on the freedom of speech.

As mentioned earlier, prior to 1989, when States had flag protection statutes in effect, the American people did not complain that their freedom of speech was being unfairly restricted. In fact, in a recent poll, over 80 percent of Americans did not believe that the physical act of burning the flag was an appropriate expression of freedom of speech as guaranteed by the first amendment.

In addition, flag desecration, such as burning, trampling, spitting, and defecating on the flag is not actual free speech but is expressive conduct. Expressive conduct is understandably afforded a lower level of constitutional protection than actual speech.

This is an American issue, and the American people want the right to protect their flag. Forty-nine State legislatures, including my home State of Illinois, have passed memorializing resolutions asking Congress, asking us here in the U.S. House of Representatives, and the Senate, for the opportunity to ratify a constitutional amendment protecting the flag. Two hundred eighty Members of Congress, from both parties, from all regions of the United States, have listened to their constituents and have cosponsored this important resolution.

I urge all my colleagues to vote in favor of House Joint Resolution 54. We must seize this opportunity to restore the American flag to its rightful place of honor and give the American people the right to protect their greatest symbol, the American flag.

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

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Alabama [Mr. ADERHOLT].

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

Mr. ADERHOLT. Mr. Speaker, I rise today in support of the resolution today offered by the gentleman from New York [Mr. SOLOMON], an amendment to the Constitution that will give back to the American people the right to protect the one symbol that represents our great country more than any other, the American flag.

America is truly the land of the free and the home of the brave, and many of our country's best and brightest fought hard and gave their lives to protect this Nation. Now we must fight to protect the symbol of all that this country stands for, the American flag, the sacred emblem of our country and our heritage of liberty that was purchased with blood and sorrow.

Each time the flag is desecrated in America today, it is a slap in the face to the men and women who gave their lives to honor this country. By placing the flag in front of our homes and our businesses, we show honor to our veterans, and by desecrating it we show them disrespect.

Mr. Speaker, I urge my colleagues to join with me today in pledging allegiance to our flag.

Mr. GILCHREST. Mr. Speaker, I yield myself such time as I may consume, and I rise to speak against the resolution.

Mr. Speaker, as we move closer to amend the Bill of Rights for the first time in our Nation's history, I am reminded of what the gentleman from Georgia [Mr. GINGRICH] said at the opening day of this session of Congress, and I quote, ''On the altar of Almighty God, I have sworn eternal hostility to the forces that would bind the minds of men.''

That statement is arguably the most moving statement to individual freedom I have ever heard. Though I am no Thomas Jefferson, I too swore an oath before this Chamber to defend the Constitution, and the Bill of Rights in particular. For that reason, I strongly oppose the measure before us.

Jefferson did not pledge to fight for the freedom of good men, of wise men, or of inoffensive men. Until God himself sits in judgment, these distinctions will always reside in the minds of those with power.

Jefferson realized that the only way to defend freedom of good men is to defend the freedom of all men. The test, in fact the only test of a government's commitment to free speech is how it deals with the most unpopular, the most offensive and the most ill-conceived of messages.

We all know what would happen to anyone who burned the flag in Cuba. We all know what would happen to anyone, and we have seen it, who would burn the flag in China at Tiananmen Square. What is remarkable to me, however, is hearing my colleagues suggest that we have something to learn from China or Cuba; that patriotism requires us to become a little bit more like the oppressive regimes that we most often daily criticize.

Throughout the cold war years, we continually reminded ourselves that freedom is not free. One cost of freedom is eternal vigilance against those foes from without and from within. Another is vigilance against the sort of creeping majoritarianism that values freedom from insult more highly than freedom of speech.

The unavoidable cost of freedom is the fact that people will use freedom in insulting and sometimes idiotic ways. The few malcontents who burn flags seek our outrage. They need it to draw attention to their causes. If we ignored their actions or maybe just throw a bucket of water on them, they would soon realize that they were wasting their time.

Today, we not only give what they are doing the outrage that they seek but we enshrine it in the highest document in the lands. We are wrapping this gift in some pretty expensive paper. That expensive paper is the Constitution, whose liberties were bought with the blood of our forefathers. Is this the right thing to do?

In the play, ''A Man for All Seasons,'' Sir Thomas Moore is questioned about whether the law should be used to protect bad men. He is even asked if it is wise to cut through the law to get at the devil. This is his response, and I quote:

> And when the devil turned round on you, do you really think you could stand the winds that blow against you and blow against them? All the laws being flat, I would give the devil protection of the law for my own safety's sake.

Today we are asked a question much like the one asked Thomas Moore. Today we are asked to cut through the Bill of Rights to get at a particular devil: people who burn the flags. But the constitutional limitations which protect them are the same as the constitutional rights which protect us from oppressive governments.

Mr. Speaker, I believe that, no matter what anyone says, the House seems to value the work of Betsy Ross above the work of Madison and Jefferson. In my opinion, the practical effect will be to weaken both and to increase the pressure to restrict other kinds of speech. Thus, we will find ourselves cutting through the first of several swaths to the Constitution to get at various devils. May God help us should the devil turn round on us.

Our Nation's flag deserves our respect and protection. The best way to show respect for that symbol of freedom is good works, to be loving parents, competent teachers, and responsible legislators. We honor those who have given the ultimate sacrifice for their country by living those ideals.

Mr. Speaker, I yield the balance of my time to the gentleman from Texas [Mr. PAUL].

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

Mr. PAUL. Mr. Speaker, much has been said about this issue being a freedom of expression issue, and it certainly is. Obviously, the American Legion that burns the flag does it differently than the hoodlum on the street, so it does involve an expression of some ideas; that we are limiting that ability for any individual to make this expression.

I am convinced that this is historic. This is the first time that we have worked hard in undermining the Bill of Rights. Some have said that the first amendment cannot be absolute, but in some ways it can be. What we say and do in our homes and churches should be absolute, and we should be able to say and do things.

The restrictions on speech is when we get involved in lying and slandering

and doing harm that way. Yes, then there is a limitation. But that is different. When we are in our churches, we should have absolute right of freedom of speech.

But there is more to this than freedom of expression. This is a property rights issue. That is why I am so disappointed with some of my colleagues that have pushed this as an amendment, because this is an attack on property rights. The question seems to be asked very rarely but should be asked: Who owns the flag?

If somebody burned the flag, who owns the flag? They are saying everybody owns it? How does that happen? Can we not buy a flag anymore? Do we believe in collectivism now; that everybody owns the flag and everybody is responsible for it, and we will all do exactly as we are told? That is not part of our system.

We guarantee the right of free speech through property rights, through the reverence that we give to our churches or our radio stations or our newspapers. Nobody has the right to march into our church and preach any religion to us or march into a newspaper or march into a radio station. So in this case we are dealing with a piece of property that should be respected as property. And I think we are attacking that just as much as anything else.

Also, it is disappointing to see that this amendment is actually worse than the last amendment that came to this House floor, because at least the last amendment recognized that maybe the States could write regulations. Under the original Constitution, in the original intent of the Constitution, it would have been permissible for States to write regulations of this sort. It was our courts that have come in and started to overregulate freedom of speech and freedom of expression.

For instance, I am quite comfortable in agreeing with the Istook amendment. Because of the courts, again, we have lost the concept of property in our public schools. In a private school we know what we are allowed to do. But in a public school everything becomes fuzzy. So the courts come in and say, all of a sudden, we cannot even have a voluntary prayer.

So the Istook amendment approaches completely opposite of what we are doing here, because this is restriction of expression, it is a restriction on the private property ownership, and it really attacks the 9th and 10th amendments. Because before, even where the States had been permitted to write laws, they are not permitted under this legislation. Only the Congress shall make the laws.

□ 1200

I thought we were supposed to make the Federal Government smaller as conservatives, not bigger. Here we are adding a new role for the BATF. We have the Bureau of Alcohol, Tobacco and Firearms; and we are going to have a BATFF in order for those individuals to go out and regulate the flag use. And this is Federal.

Just think of how the RICO laws may apply to this. One individual in one group may do something wrong; everybody in that group can be held guilty for that. What if there happens to be someone in there that has done it deliberately in order to get at the group? Could this be entrapment? Has our FBI ever been known to do this?

I think it is a dangerous thing that we are doing. Why are we so fearful? It is implied at times that if we do not endorse this amendment we are less patriotic than the others. I think that is wrong to imply that we might be less patriotic. From my vantage point, from having been involved in politics for a few years, the real attack is not on our liberties. The real attack in this institution is the attack on the Constitution, and this does nothing to address it.

It is almost like window dressing. We are upset and feel guilty and in a mess and cannot do anything. All we need to do is pass a flag amendment and it is going to solve the problem of the attack on the Constitution, which is continuous and endless. We do not need more legislation like this. We do not need an amendment to the Constitution that will, for the first time, alter the Bill of Rights.

I really think those individuals who are pushing this have courage to get out front and say yes, for the first time, we will curtail the authority or the expressions and the rights of the Bill of Rights.

Mr. CONYERS. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina [Mr. WATT], one of the finest legal minds on the Committee on the Judiciary, and I would ask him to yield to me briefly.

Mr. WATT of North Carolina. Mr. Speaker, I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I would like to turn to my friend, the gentleman from Chicago, Il [Mr. LIPINSKI], who made the point that it is expressive conduct, but not free speech, in defining the flag burning situation.

I would like to ask the gentleman from Illinois [Mr. LIPINSKI] if he has any cases or constitutional theory that would explain how he separated flag burning out of free speech but put it into expressive conduct, which I presume is not covered by the first amendment?

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

Mr. WATT of North Carolina. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Speaker, I appreciate the gentleman yielding to me. I say to the ranking member of the committee, I do not have any here right now, but I will be very happy to reach out and try to get them back here prior to the time we have a vote on this issue.

Mr. CONYERS. I thank the gentleman.

Mr. WATT of North Carolina. Mr. Speaker, I have been engaged in a longstanding debate with my colleagues on the Republican side of this House about the definition of what is conservative and what is liberal. And every time I come here, I try to start this way so that I put this debate in context for my friends.

I should start it, ''Here we go again.'' That is one of their conservatives, Ronald Reagan, that was his ''Here we go again.'' Because it has always been my philosophy that the most conservative position in America is to defend the most conservative document in America, and that is our Constitution.

So how my colleagues could start with a Contract With America that had two proposed constitutional amendments in it has always been kind of disconcerting to me, because they keep calling themselves conservatives and it seems to me that that is inconsistent.

How in the 2-year period of that revolution we had introduced in the U.S. House of Representatives a total of 118 proposed constitutional amendments, how they can continue to call themselves conservative, I do not understand.

How in that 2-year period of that conservative revolution we voted more times than on constitutional amendments than in any congressional term over the last 10 years, and my colleagues can still call themselves conservatives, I do not understand.

Things from the balanced budget amendment to the term limits amendment, to the flag desecration amendment that is back again, to super majority requirement for tax increases, to voluntary school prayer, line-item veto, right to life, provide no person born in the United States on account of birth shall be a citizen here. I mean, a basic constitutional right.

Here we go again. Campaign finance reform in the Constitution, my conservative friends. Repeal the 22d amendment. Abolish the Federal income tax in the Constitution, my friends. Establish English as the only language, the official language of a nation that is a nation of immigrants, in the Constitution. And they are calling themselves conservatives.

These are the conservatives in this body calling themselves conservatives. And here we go again. Here we go again. These are not conservatives. These are radicals. It is a radical notion to amend the Constitution of the United States.

Now, having debunked this notion that those of us who are standing up for the Constitution are the radicals, as opposed to the people who have offered this amendment, now let me go to the notion that we are somehow unpatriotic because we are standing up for the Constitution.

Why do I love my country? Does it have anything to do with the color of the flag? It has to do with the principles that that flag stands for. That is all it has to do with. And every time

we diminish those principles, we diminish our rights as American citizens. We honor the flag by honoring the ideals that it represents, and among those ideals is freedom of speech, whether we like what somebody is saying or whether we do not like what somebody is saying.

The Supreme Court said, ''The bedrock principle underlying the first amendment is that the Government may not prohibit the expression of an idea simply because society finds the idea itself disagreeable.'' That is the bedrock principle on which the first amendment is founded.

What is the ultimate test of religious freedom? It is whether we tolerate those who have a religion that is different than the one that we have, not whether we are defending some particular form of religion. It is a bedrock principle of the things in the Bill of Rights.

Now let me go to a third notion here, that we can start amending the Constitution based on polling data. The majority of the American people want the Constitution amended, so let us go out and amend the Constitution. It is the order of the day. It is fashionable. Is that a conservative philosophy or a radical philosophy?

As a philosophical matter, the liberties outlined in the Bill of Rights are fundamental freedoms intended to be impervious to changing political tides, my friends, not wax and wane, depending on who is in the majority this year or next year or this day or the next day. The idea of the Bill of Rights is that there are a set of guaranteed rights that no one, including a majority of Americans, can take away from American citizens.

That is what tyranny by the majority is. My colleagues have heard that term used: tyranny by the majority. The majority can vote and take some basic constitutional human individual rights that I have. We cannot do it in our democracy.

Now lest my colleagues think I stand here as some raving radical or even raving conservative, let me tell my friends that I stand here in the tradition of all the people of North Carolina. This amendment would, for the first time in our Nation's history, 204 years or more, amend the Bill of Rights; and it is a Bill of Rights that the State of North Carolina stood up for from the very beginning.

We refused to join the Nation, refused to join this Union because it did not have a Bill of Rights in this Constitution. We refused to ratify the Constitution in August 1788 by a vote of 184 to 83 because the delegates of North Carolina at their ratifying convention wanted a Bill of Rights included in the Constitution.

It is in that tradition that I stand here, not in some tradition of being liberal or conservative. It is a human rights, a historical tradition. The delegates believed that in order to secure freedom there had to be rights and those rights had to be inviolable. My colleagues can do it by the majority. They all are the majority this year, but they might not be the majority next year. So are we going to go back and amend the Constitution and change it back when you are out of the majority?

My friends, get a hold on what we are doing here. This is about protecting the individual liberties of our Nation that every single one of us would fight and die for; our ancestors fought and died for them, and we would fight and die for them again today if we had to do it. But passing this constitutional amendment ain't got a thing to do with fighting and dying for those principles. Having the guts to stand up and say this is a farce, this is a degradation of our Bill of Rights, that is what our Nation is about.

My colleagues all can vote the popular tide all they want, but those of us who know what the historical significance of the Bill of Rights is will stand our ground and hold out our chest and say we are Americans, too. I hope my colleagues will not forget it, whether they are conservative or liberal. This is about protecting American values. That is what this debate is about. Let us get a hold.

Mr. GILCHREST. Mr. Speaker, I yield 6 minutes to the gentleman from New York [Mr. SOLOMON], sponsor of the amendment.

Mr. SOLOMON. Mr. Speaker, the previous speaker, the gentleman from North Carolina [Mr. WATT], I suppose, I thought I heard him say he was representing the State of North Carolina. I have here Resolution No. 230 from the State of North Carolina legislature asking for this amendment.

The gentleman also said that he was critical of conservatives' efforts to undermine the Constitution. I would just pose the question, did we undermine the Constitution when we added all of the Bill of Rights to the Constitution? I do not think so. Did we undermine the Constitution when we added the 13th, 14th, and 15th amendments on civil rights? I do not think so.

□ 1215

Did we undermine the Constitution when we gave 18-year-olds the right to vote? I do not think so. And I could go through the other 27, but, Mr. Speaker, let me just tell my colleagues I cannot tell them how excited I am that we are finally going to have this opportunity to pass this resolution with more than 300 votes here today, far more than the 290 that we need. And I want to thank the gentleman from Florida [Mr. CANADY], the subcommittee chairman, for steering this amendment on to this floor so soon. I want to thank the gentleman from Illinois [Mr. LIPINSKI] over on the other side of the aisle, one of the good Democrats, who is the bipartisan cosponsor, the main cosponsor, of this legislation, for bringing it here today.

Mr. Speaker, it has been a long time, as I said earlier today, since that tragic day in 1989 when five Supreme Court justices, only five out of nine, said that it was unconstitutional to ban flag burning. Just ask all of the supporters one sees here today all over the Capitol in their uniform who put thousands of hours into the grassroots efforts to pass this amendment. That is why I am so proud to be on the floor today as the main sponsor of the legislation.

Mr. Speaker, today we are hearing the same old arguments that we have heard for years now, for 8 years. I respect those opinions. That is in their first amendment rights, to get up and say what they are saying here today. But, Mr. Speaker, supporters of this amendment come to the floor today with overwhelming support, with nearly 80 percent of the American people, 80 percent. Can they be that wrong? All around the Capitol today we see all of the major veterans organizations who, along with 100 organizations, make up the Citizens Flag Alliance and numbering more than 12 million American citizens. They have asked us to pass this amendment today. These are people who have headed this grassroots movement.

In fact we can see for ourselves the stack of over 3 million signatures right there on this table from all constituents from all walks of life. They are people from all walks of life, from religious organizations like the Knights of Columbus and the Masonic Orders, Mr. Speaker, from civic organizations; as I mentioned before, from immigrant people that have come to this country. They are Polish and Hungarian and Ukrainian and a lot of other backgrounds. They support this legislation from fraternal organizations like the Benevolent Order of Elks and the Federation of Police, and it goes on, and on, and on; others, like the National Grange, the Future Farmers of America. These are not just veterans who have served their country; this is a cross-section of America asking for this amendment. And again as I have said, 49 out of 50 States have asked for this amendment to be sent to them so that they can ratify it. After all, Mr. Speaker, can 49 out of 50 States be all that wrong?

Some opponents of this amendment claim it is an infringement on their first amendment rights of freedom of speech, and they claim, if the American people knew it, they would be against this amendment. Well, there is a Gallup Poll just taken recently of the American people, and they ask them, and these are real people, Mr. Speaker, these are not people just here inside the beltway. They are out there in real America, outside this beltway. Seventy-six percent of the people said, no, a constitutional amendment to protect our flag would not jeopardize their right of freedom of speech. That is the overwhelming majority of the American people, not just a simple majority.

In other words, the American people do not view flag burning as a protected right, and they still want this constitutional amendment passed no matter

what. That is what they said in the poll: No matter what, pass this amendment.

Mr. Speaker, we should never stifle speech, and that is not what we are seeking to do here today. People can state their disapproval of this amendment, they can state their disapproval for this country, if they want to. That is their protected right. However, it is also the right of people to redress their grievances and to amend the Constitution as they see fit. That is what our forefathers gave us the right to do, and they made it very difficult to do. They are asking for this amendment.

Therefore I am asking my colleagues to send this amendment to the States and let the American people decide, not just here in this Congress. Even if my colleagues are opposed to this amendment, give the American people the right to make this decision. My colleagues should not try to make it themselves.

And lastly, Mr. Speaker, over the last two centuries and especially in recent years, immigrants from all over this world have flocked to this great country of ours knowing little about our culture and little about our heritage. But they know a lot about our flag, and they respect it, they salute it, they pledge allegiance to it. And Mr. Speaker, it is the flag which has brought this diverse country of ours together. It is the flag that will keep us together no matter what our ethnic differences, no matter where we come from, whether it is up in the Adirondack Mountains where I live, or Los Angeles, CA, St. Louis, MO, or Dallas, TX. It is the common bond which brings us to this point where we can elevate the Stars and Stripes above the political fray.

That is why it is bipartisan here today with an overwhelming 285 Members, Republicans and Democrats, supporting this amendment. That is why my colleagues must come over here and they must vote yes on it and give the people that they represent the chance to ratify it. My colleagues owe it to those people, and they owe it to America.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentleman from Tennessee [Mr. CLEMENT].

Mr. CLEMENT. Mr. Speaker, this argument is a strong argument. I realize there are different points of view. One can have a difference of opinion without having a difference of principle. I am a veteran myself, but whether one is a veteran or not, as my colleagues know, I want to do everything I can to honor the flag, to protect the flag because too many people have died in too many wars not to honor that flag and to protect that flag because it means sacrifice. It means that people have given their life to protect this great country.

That is why I rise today in strong support of House Joint Resolution 54, the American Flag Protection Amendment.

This Saturday is Flag Day, a day when Americans all around this Nation will be flying the Stars and Stripes from their homes and businesses in honor of their heritage. Flag Day is celebrated on June 14 in memory of the day in 1777 when the Continental Congress adopted the Stars and Stripes as the official flag of the United States.

While the American flag has changed through the years, the principles for which it stands have not. My colleagues, the flag is a national asset which deserves our respect and protection. We salute it, pledge allegiance to it, fly it from our homes and businesses. When we turn to the flag with head held high and hand over our heart, we give due honor to those who have defended this great Republic.

Please honor these brave men and women and vote ''yes'' on Senate Joint Resolution 54. I have no doubt that it is going to pass by a resounding number of votes today to send a message across the United States that we honor this country, and this is the country that honors freedom. This is the symbol for all other countries in the world to look at America as the place where we can cherish the flag as well as to look at the United States Capitol as a monument for freedom and peace in the world.

Mr. CONYERS. Mr. Speaker, I yield 6 minutes to the gentleman from New York [Mr. ACKERMAN], a great legislator.

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

Mr. ACKERMAN. Mr. Speaker, our Founding Fathers must be very puzzled looking down on us today; and instead of seeing us dealing with the very real challenges that face our Nation, they see us laboring under this great compulsion to amend the document that underpins our democracy and trying to give this Congress a great new power at the expense of the people, the power for the first time to stifle dissent. The threat must be great, they must be saying, to justify changing the Bill of Rights for the first time and decreasing, rather than increasing, the rights of the people.

And what is the threat? Is our democracy at risk? What is the crisis in the Republic? What is the challenge to our way of life? Where is our belief system threatened? Are people jumping from behind parked cars waving burning flags at us trying to prevent us from going to work? Trying to grind America to a halt? Do we really believe that we are under such a siege because of a few loose cannons? Need we change the Constitution to save our democracy?

The real threat is not the occasional burning of a flag but the permanent banning of the burners. The real threat is that some of us have now mistaken the flag for a religious icon to be worshipped rather than the symbol of our freedom that is to be cherished. Rather than allowing someone to insult them by demeaning the flag, they would diminish our Constitution.

These rare but vile acts of desecration that have been cited by those who propose changing our founding document do not threaten anybody. If a jerk burns a flag, America is not threatened, democracy is not under siege, freedom is not at risk and we are not threatened, my colleagues; we are offended. And to change the Constitution because someone offends us is in itself unconscionable.

The Nazis, Mr. Speaker, the Nazis and fascists and the imperial Japanese army combined, could not diminish the rights of even one single American; and yet in an act of cowardice, Mr. Speaker, we are about to do what they could not.

Where are the patriots? What ever happened to fighting to the death for somebody's right to disagree? We now choose instead to react by taking away the right to protest. Even a despicable low-life social malcontent has a right to disagree, and he has a right to disagree in an obnoxious fashion if he wishes. That is the test of free expression, and we are about to fail that test.

Real patriots choose freedom over symbolism. That is the ultimate contest between substance and form. Why does the flag need protecting? Burning one flag or burning a thousand flags does not destroy it. It is a symbol. But change one word of our living Constitution of this great Nation, and it and we will never be the same. We cannot destroy a symbol. Yes, people burn the flag, but, Mr. Speaker, there it is again, right in back. It goes on. It cannot be destroyed. It represents our beliefs.

Now, poets and patriots will tell us that men have died for the flag. But that language itself is symbolic. People do not die for symbols. They fight and they die for freedom. They fight and they die for democracy. They fight and they die for values. To fight and die for the flag means to fight and die for the cause.

Let us remind ourselves we did not enter World War II because the Japanese sunk a bunch of our flags. There happened to have been ships filled with men tied to the other end of those flagpoles, and our way of life was threatened.

We love and we honor and we respect our flag for what it represents. It is different from all other flags. And I notice we do not make it illegal to burn some other country's flags, and that is because our flag is different. No, it is not different because of its shape; they are all basically the same. And it is not different because of its design; they are all similar. And no, not because of the colors. Many have the same colors. Our flag is unique only because it represents our unique values, it represents tolerance for dissent. This country was founded by dissenters that others found obnoxious.

□ 1230

And what is a dissenter? In this case it is a social protestor who feels so

strongly about an issue that one would stoop so low as to try to get under our skin and to try to rile us up to prove his point, and have us react by making this great Nation less than it was. And how are we going to react?

Dictatorships crack down on people who burn their nation's flags, not democracies. We tolerate dissent and dissenters, even despicable dissenters.

What is the flag, the American flag? Yes, it is a piece of cloth. It is red, white, and blue with 50 stars and 13 stripes. But what if we pass this amendment and desecrators make flags with 55 stars and burn them? Will we rush to amend our law again? And if they add a stripe or two and set it ablaze, and it surely looks like our flag, but is it? Do we rush in and count the stripes before determining whether or not we have been constitutionally insulted? And what if the stripes are orange instead of red? What mischief are we doing? If it is a full-size color picture of the flag they burn, is it a crime to desecrate a symbol of a symbol? What are we doing?

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

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

Mr. CANADY of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Arkansas [Mr. HUTCHINSON].

Mr. HUTCHINSON. Mr. Speaker, I thank the gentleman from Florida for yielding me this time. I want to express my appreciation to him for his leadership on this issue, as well as the principal sponsor, the gentleman from New York [Mr. SOLOMON].

Mr. Speaker, I rise in strong support of House Joint Resolution 54, an amendment to the U.S. Constitution to prohibit the physical desecration of the American flag. I am a proud cosponsor of this resolution and am committed to seeing it sent out to the States for ratification.

Like so many other State legislatures, my own State of Arkansas has called on the U.S. Congress to pass this amendment. It is time that we responded to their calls.

Mr. Speaker, the only real objection that I hear concerning this resolution is that somehow protecting the flag infringes upon free speech. The Supreme Court of the United States, in a very close decision, a 5-to-4 decision, ruled that desecrating the flag is to be considered speech that must be protected. What if, what if one of those judges voting in the majority had voted with the other side and said that burning the flag was conduct that can be regulated and prohibited? Would the opponents say that we need to amend the Constitution to protect that very fundamental right to burn the flag? I doubt that they would suggest that.

So they place more confidence in one judge of the Supreme Court that could have gone either way versus 80 percent of the American people that say we need this amendment to the Constitution and the flag should be protected.

With all due respect, Mr. Speaker, the Supreme Court is wrong. Burning the flag is not speech, but is actionable conduct. The Supreme Court is wrong, the American people are right; the flag is deserving of protection. More than 1 million people have fought and died defending not just the flag, but the very ideals for which it stands. Whether on the shores of Normandy or in the sands of Iwo Jima, the American flag has flown as a tribute to freedom. The clarion call of the Liberty Bell is echoed every day when the American flag is unfurled at home and abroad, and it should be protected.

It is commonly accepted that the physical desecration of the American flag is an affront to the memories and families of those who gave their lives so that future generations might live free from tyranny and oppression. We honor their sacrifice by protecting that precious symbol for which they died.

The flag is special, as the gentleman from New York [Mr. SOLOMON] has pointed out. It is a symbol that is flown at half mast during times of tragedy in our country. It is the flag that is draped over the coffins of our soldiers. It is a special symbol in our country, and in memory of those who have fought and paid the ultimate price for our freedom, the star spangled banner is deserving of protection.

The flag must continue to wave o'er the land of the free with respect, dignity, and honor in the schoolyards of our children, on the porches of our neighborhoods, and yes, even in the trenches when Americans are called upon to protect this country. The resolution before us today brings us one step closer to that goal. I urge my colleagues to support this legislation.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. FOX].

Mr. FOX of Pennsylvania. Mr. Speaker, I thank the distinguished chairman for yielding me the time and for providing such outstanding leadership, along with the gentleman from New York [Mr. SOLOMON], on this issue.

I believe that the American flag is a sacred symbol of our great Nation. This symbol of our freedom and democracy is worthy of being protected. We owe it to the thousands of service men and women throughout our history that have sacrificed their lives for the ideals represented by the American flag. The flag serves as a remembrance to those who were called upon to make that ultimate sacrifice. Is it wrong to honor their memory by protecting their symbol? No. This concept is neither Republican, Democrat, conservative or liberal. Voting for this legislation is an all-American idea to protect our flag and our country.

There are some who will argue that ending desecration of our great flag will have the effect of attacking our first amendment right to freedom of speech. Not so. So where in this amendment is speech limited? Americans will still be free to say whatever they desire, no matter how repugnant it may seem to others. Nothing is more un-American, Mr. Speaker, than nonviolent speech. There are many expressions that are not protected under free speech, such as shouting ''fire'' in a movie theater.

Mr. Speaker, why should the action of burning the flag be protected when it is most used to incite violence and hatred. I remind my colleagues that Supreme Court Justices Earl Warren, Abe Fortas, and Hugo Black have each written opinions that protecting the flag from physical desecration is consistent with the first amendment. The symbol of our freedom must be protected.

There is widespread support for this amendment across the Nation. Forty-nine States have expressed the desire for approval of this amendment. I would also remind my colleagues that congressional approval of the amendment will only clear the first hurdle in the process. Three-fourths of the State legislatures must still pass the amendment for it to become law. The extremely rigorous nature of the amendment process ensures that there must be a groundswell of unified public support for this to become law, and I urge my colleagues to vote ''aye'' for House Joint Resolution 54.

Mr. CANADY of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Speaker, I thank the distinguished chairman of the Subcommittee on the Constitution, the gentleman from Florida [Mr. CANADY], for yielding me this time.

Mr. Speaker, I am somewhat at a loss for words here, after having sat here and listened even in the wake of the rather irrational debate last year by some of those who opposed the constitutional amendment similar to that which we are proposing today, who took the well of this great body and quite with a straight face said they did not know what the flag of the United States of America was, because the debate, and I hesitate to use that word, the shouting on the other side today, the indeed literal raving on the other side against this really is something that I never thought I would witness anywhere, much less in this body.

I suppose, Mr. Speaker, that perhaps only in Washington, DC, could people again, quite with straight faces, take the well of this House and call a constitutional amendment that simply gives the right of the people of this country the opportunity to pass laws in the Congress defending the flag of this country, only in Washington could

somebody with a straight face call those people radicals, or extremists. Yet perhaps it is not really that much of a surprise, Mr. Speaker, because many of these same people believe that it is mainstream to recognize homosexual marriages, believe that it is mainstream to recognize homosexual rights in virtually every other aspect of our society, and yet have the audacity to claim that those tens of millions of Americans, alive and dead, who have defended our country, to call us Nazis for simply standing up, Mr. Speaker, and saying that our flag deserves protection, and the people of this country are asking for it, indeed demanding it, and yet they, those who oppose this amendment, not only call those of us who support it Nazis and extremists and against human rights, apparently now it is a human right, according to the folks on the other side of this issue, to desecrate the flag of this country.

Let us though, Mr. Speaker, put this in proper perspective, and I think the gentleman from New York [Mr. SOLOMON] has done that very, very eloquently, in reminding the citizens of this country that it is not extremist, it is not radical, it is not nazism, it is not dictatorial, to simply say that the people of this country ought to have the right to have their Congress as a manifestation of the will of the vast majority of people in this country to be able to pass a law protecting our flag against desecration.

Indeed, what might perhaps very legitimately be properly labeled as radical are people who take the well of this House and say that the people of this country should be denied that basic right which, indeed, perhaps comes closer to being a human right than what they view as a human right, and that is the right to destroy the one enduring universal symbol of this country, and that is the great flag of the United States of America.

Again, I thank the gentleman from New York [Mr. SOLOMON] and the gentleman from Florida [Mr. CANADY] and the other supporters of this important piece of legislation for recognizing the American people's right to have this voted on and to say to the other side, shame on you for standing up here and saying that the American people should be denied that right. That is all this constitutional proposal does is simply allow the people of this country, through their State legislatures, to do something that the Supreme Court has said is the only way that we, the people of this country, can protect the flag, and that is through this amendment and through laws enacted thereafter.

Mr. CONYERS. Mr. Speaker, I am proud to yield 4 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Speaker, our flag commands the deepest respect because it stands for a Nation and a community that is strong, strong enough to tolerate diversity and protect the rights of those expressing unpopular views, and even expressing them on some regrettable occasions in a particularly offensive way. It is our Nation's strong commitment to those values, not the particular design of our flag, that makes this country an unparalleled model of freedom and the greatest of all nations, and it was because of those values that I was proud to serve my country in uniform in Vietnam.

Our Nation was founded on the ideals of democracy and freedom, the freedom to speak our minds, to question, to criticize and discuss freely, without interference from the Government. The depth of our commitment to that freedom is tested and measured in precisely those cases like flag-burning where the views expressed are especially offensive.

How do we honor the liberty for which the flag stands? By diminishing the liberty in order to protect the symbol? Justice Brennan put the proposition wisely and rightly in the Johnson case a few years ago, and I quote, ''Nobody can suppose that this one gesture of an unknown man burning a flag will change our Nation's attitude toward a flag. The way to preserve the flag's special role is not to punish those who feel differently. . . It is to persuade them that they are wrong. We do not consecrate the flag by punishing its desecration, for in doing so we dilute the freedom that this cherished emblem represents.''

Today there is a strong movement to limit the scope and the reach of the Federal Government. It is ironic that at this time some would seek to amend the first amendment for the first time and to bring government regulation to selected forms of political expression. That would be a terrible mistake. Our Nation is strong enough to tolerate diversity and protect the rights of all citizens, even those with unpopular views.

The even greater irony is that a constitutional amendment ultimately would render respect for the flag into a government mandate, and so, sadly, to contribute to its own undoing.

What is the grave danger to the republic that would be remedied by this amendment? There is none. What case can be made that this amendment would enhance our constitutional order? Absolutely none. And absent a significant evil to be avoided or some significant improvement to be made, we simply should not undertake the most serious of all acts of Congress, an amendment to the Constitution.

We have heard a lot lately about cost-benefit analysis. What about now? The costs: A real, if subtle, paring down of the rights of open and free expression, a little softening up of the first amendment, making subsequent and more damaging cuts into its protection of freedom that much easier; probably years of litigation about the meaning of the terms ''flag'' and ''desecration'' that will abound under this proposed amendment.

□ 1245

The benefit? Old Glory will be protected, even as the magnificent freedoms for which it stands are diminished. We are given a choice, Mr. Speaker. We may allow a few fools a year to tear the flag, or we may deny them, yet in the process tear the Bill of Rights itself, a small price for the protection of all liberty, an unthinkable price for the erosion of liberty.

Mr. LIPINSKI. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey [Mr. MENENDEZ].

Mr. BARR of Georgia. Mr. Speaker, I yield an additional minute to the gentleman from New Jersey [Mr. MENENDEZ].

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman from New Jersey [Mr. MENENDEZ] is recognized for 1½ minutes.

Mr. MENENDEZ. Mr. Speaker, as one of the cosponsors of this resolution, I rise in strong support of it. The flag of the United States of America is unique among all the symbols of this great Nation. No other symbol of our country is so universally recognized or beloved by its people.

Since it was first flown more than 200 years ago, it has represented our unity as a people, our unity based upon the diversity of a people whose heritage traces back from all parts of the world. Some of our families came to America to escape religious persecution. Some, like my own parents, came here to escape political repression. But under the protection of the American flag, we have been one people with a common bond, regardless of our individual ancestries.

Our flag has been carried into battle since the Revolutionary War. Thousands have died for the American flag and what it represents, and in turn have had it draped on their coffins in a silent but powerful recognition of their ultimate sacrifice. We honor it annually on Flag Day. We in the House of Representatives begin each day by reciting the Pledge of Allegiance that begins: ''I pledge allegiance to the flag of the United States of America.''

Our commitment to it is a reflection of our country's commitment to its people. The American flag is a symbol of American might and resolve, but it is also a symbol of hope and freedom. It is a symbol of the freedom secured by so many at such a great price. To desecrate it is to desecrate the memory of those who died for it. To burn it is to incite the general public.

Clearly we have created legitimate limitations on speech: fire in a theater, the burning of a cross, the painting of swastikas; those have been determined as crimes. I ask my colleagues, in special recognition of that history, that we give it the special protection that it deserves today.

Mr. LIPINSKI. Mr. Speaker, I yield 30 seconds to the gentleman from Massachusetts [Mr. KENNEDY].

Mr. BARR of Georgia. Mr. Speaker, I yield an additional 1 minute and 30 seconds to the gentleman from Massachusetts [Mr. KENNEDY].

The SPEAKER pro tempore. The gentleman from Massachusetts [Mr. KENNEDY] is recognized for 2 minutes and 30 seconds.

Mr. KENNEDY of Massachusetts. Mr. Speaker, I rise in strong support of the initiative to try and make certain that we do not allow our flag to be desecrated.

I think we as a Nation have far too few symbols of what it means to be the freest and most formidable democracy on the face of the Earth. I think rather than, as so many of my Democratic colleagues and particularly liberal Democrats have suggested, that this is outrageous and basically an invasion of our rights as provided in our Constitution, I could not disagree more wholeheartedly. I think that this is a protection that we fight for in our democracy. We need to have a few symbols of what it means to be an American. That is what this is all about.

As Professor Parker of Harvard University, who at one time worked for my dad, persuasively argued, that rather than a process for limiting free speech, this amendment is a democratic vehicle for the highest expression of free speech. The amendment is a way for people, through their elected representatives, to establish a baseline, a national standard for robust and wide open freedom of speech. Simply put, amending the Constitution is a way of protecting the first amendment as it now stands. In the words of Professor Parker, ''It is not fiddling with the first amendment, it protects the first amendment.''

The time is long overdue for defining what we are as a Nation dare to believe in and uphold as sacred. The American flag, which so many have fought and died for, deserves the protection of this amendment. The time has come, Mr. Speaker, to draw that line in the sand and protect the American flag as a symbol of our national unity.

Mr. CONYERS. Mr. Speaker, I yield myself 5 seconds.

Mr. Speaker, I would remind the previous speaker that a friend of ours in the Senate from Massachusetts and another friend of ours from the State of Rhode Island have a contrary view.

Mr. LIPINSKI. Mr. Speaker, I yield 1 minute to the gentleman from Ohio [Mr. TRAFICANT].

Mr. BARR of Georgia. Mr. Speaker, I am glad to yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

The SPEAKER pro tempore. The gentleman from Ohio [Mr. TRAFICANT] is recognized for 3 minutes.

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

Mr. TRAFICANT. Mr. Speaker, in America it is illegal to burn trash, but you can burn the flag. In America it is illegal to remove a label from a mattress, but you can in fact rip the stars and stripes from our flag. In America it is illegal to damage a mailbox, but you can destroy our flag.

Some people believe today that this debate is not about the flag, that this debate is about the Constitution. Let us talk about that. The original Constitution allowed slavery. The original Constitution treated women like cattle. The original Constitution treated native American Indians like buffaloes. The original Constitution needed to be changed then. The Constitution needs to be changed now.

Mr. Speaker, this is not a debate about a flag, this is a debate about national pride. A people that do not in fact honor and respect their flag is a people that does not honor and respect either their neighbors or their country.

If America wants to protest, if Americans want to make political statements, burn your brassieres, burn your pantyhose, your BVD's, your credit cards, burn your dollar bills, take a sledgehammer and destroy your car, but the Congress of the United States should say, leave our flag alone. Today's debate, Mr. Speaker, is not about the flag. That is for sure. It is about our national pride.

Let me tell every Member, those soldiers who were carrying that flag up the hill, they were not crawling, groveling, trying to hide from the fire, they were upright. They had that flag up there for everybody to see what that flag meant. They knew they may not come back, but their children would see that flag and their children would respect that flag.

Today's debate is not about the flag, it is about national pride and national respect. I submit, Mr. Speaker, if we as a Congress are going to start reinforcing national pride and respect in our countrymen and in our country, we should change this Constitution. It was right years ago and it is right and fitting today.

I commend the gentleman from New York [Mr. SOLOMON] and I commend this legislation, and I would hope we would get enough votes to pass it.

Mr. CONYERS. Mr. Speaker, I yield myself 15 seconds.

Mr. Speaker, I would explain to my friend, the gentleman from Ohio [Mr. TRAFICANT] who has lectured us about brassiere and pantyhose burning, mailbox bashing, burning of trash, my dear friend, the gentleman from Ohio [Mr. TRAFICANT], those are not symbolic speech. They are not protected by the Constitution.

Mr. TRAFICANT. Just a little common sense, Mr. Chairman.

Mr. BARR of Georgia. Mr. Speaker, I am proud to yield 2 minutes to the gentleman from Pennsylvania [Mr. PETERSON].

Mr. PETERSON of Pennsylvania. Mr. Speaker, I proudly and passionately rise today to support this amendment that prevents the desecration of the symbol of freedom, the symbol of opportunity, the symbol that was created with bloodshed. Many of our forefathers gave everything, their life, for this symbol. I thank the gentleman from New York [Mr. SOLOMON] and the gentleman from Florida [Mr. CANADY] for their leadership on this issue, and for allowing me to participate. I am also fiercely proud to join 280-some colleagues in sponsoring this important amendment that will allow Congress to protect our symbol of freedom, our symbol of opportunity.

I think it is important to point out precisely what this amendment says. It simply says that Congress shall have the power to prohibit the physical desecration of the flag of the United States. It does not prescribe how that should be done.

Rather, what it does do is restore to Congress the authority to prohibit the physical desecration of the flag, and really what this means is that it restores the power to the American people via their elected representatives, and not to live with changes brought about by a very liberal judiciary.

As Justice Rehnquist noted, the flag is not simply another idea or point of view competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with almost mystical reverence. All should. In my view, it is literally the fabric which binds us together. It is the symbol of who we are and the emblem we rally around when times get tough.

A gentleman by the name of Mike Ashmond in my district was an immigrant from Iran. He knew what it was like not to live in freedom. He went to Germany first, learned of the freedoms of America, moved to America to run his business, and he loves our American flag. Instead of cutting the ribbon in his business recently he raised the American flag, and he stated, ''I want to be able to look out my office window and see the symbol of freedom and opportunity. I want to look out my dining room window and see the symbol of freedom and opportunity, and everywhere I go around my community, because the American people need to realize the price paid for freedom and the freedom and opportunity that it stands for.''

Mr. CONYERS. Mr. Speaker, I yield 7 minutes to the distinguished gentlewoman from Texas, Ms. SHEILA JACKSON-LEE, an important member of the committee.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the ranking member very much for his kindness in yielding to me.

Mr. Speaker, I certainly do acknowledge as the sponsor of this amendment that the American people have spoken loudly and resoundingly. There is something great about this debate this afternoon. It is a reflection on what America is all about. America is about disagreement. America is about preserving the Republic.

I realized when I went to this well that I would be a rather lonely person,

that the numbers are against me; that in fact the wave of the popular vote says to pass this amendment. But I stand here very proudly, because I live in a nation that allows me and my dissident voice to be able to speak in opposition. Sometimes the tyranny of the majority must be opposed.

As a youngster I used to idolize Abe Lincoln, taught in our schools as a benevolent leader who freed the slaves. Now I understand as an adult that he sought to preserve the Union against, of course, the opposition of a great deal of the majority. Sometimes you must stand lonely to preserve the Union.

So I stand to preserve this Union today. I stand in opposition to my State, the State of Texas. I stand in opposition to those who I have sat and watched on television, for I was not allowed at that time to rise up and be drafted, tears in my eyes as we fought in the Vietnam war. I heard my grandmother tell stories of wondering whether her boys would return from World War II, and yes, friends and neighbors were in the Korean war, and I watched those in my neighborhood go off to Kuwait.

Yet, this amendment says Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and to petition the Government for redress of grievances.

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Mr. Speaker, I call the gentleman from Michigan [Mr. CONYERS] ''JOHN'' because I appreciate his steadfast view on the Constitution. It is because of his tradition and that of Barbara Jordan that I carry this Constitution with me on a daily basis.

It is because of that that I recognize that we are fighting today not so much for the flag and the symbol of freedom but we are fighting to preserve this Union. I do not need to be in the well and shout. There is nothing more that I can say that will convince those of my colleagues who are prepared to vote almost unanimously for this amendment.

But I can tell them, having traveled across this land and having the privilege of traveling internationally, I can assure them that Bosnia would have wanted to have a constitution and a nation that did not see the bloody fight. I can assure them that there would have been more preference to the burning of a flag than a Mideast war or the war in the Congo or Liberia or the war that rages in Northern Ireland.

I say to the children, of which those who have gone to the floor have said they truly have a reason to pledge allegiance to the flag of the United States because it is in fact a symbol of freedom, that freedom goes beyond the material of a flag.

I wish I could have been there as we penned the Star-Spangled Banner because I think that is a symbol of freedom. A tarred and marred flag, probably torn and burned, but yet still waving, caused the inspiration of the Star-Spangled Banner. It was the value that had been preserved. It was freedom that had been won. We had won this.

And to the veterans, let me simply say to them, I understand the message that is given to them as they go into battle. That battle is that they fight for the flag. But, no, they fight for Mrs. Jones or they fight for Mrs. Kazarazz or Mrs. Lee or any other ethnic group that have come to this Nation for freedom.

Yes, let me say something to my colleagues. There is a tragic, tragic story being unfolded in Denver, CO. I can say with the deepest of feeling in my heart, I wish that Tim McVeigh had burned a flag and not bombed and killed 168 Americans whose loved ones cry every day for their loss.

It is important that we understand what this constitutional amendment does. It is, in fact, an amendment that says that Congress has a right to define what type of desecration would be legal or illegal. That in and of itself is a denial of freedom, the very fact that we do not even know what we are trying to do. We do not know what we will claim as illegal. We do not know what we will deny a citizen the right of freedom of expression.

I have come from a time when those of us who look like me could not speak, could not ride in the front of the bus. I am grateful for those of goodwill who saw that if we left one person outside the circle, this could not be an equal nation. Well, we are going to do that today.

I leave Members with these words: ''The sacred rights of mankind are not to be rummaged among old parchments or musty records. They are written as with a sunbeam in the whole volume of human nature, by the hand of the divinity itself, and can never erased or obscured by mortal power.'' Alexander Hamilton.

John Marshall said, ''A Constitution intended to endure for ages to come, and consequently, to be adapted to the various crises of human affairs.''

We have not seen a flag burned for almost 20 years.

Then I want to say to my colleagues what Benjamin Franklin said. At the conclusion of the Constitutional Convention Benjamin Franklin was asked, ''What have you wrought?'' He answered, ''A Republic, if you can keep it.''

That is my challenge for this day, and I will remain lonely in this well, for I am going to try and keep this Republic and vote on the side of freedom of this Constitution, the first amendment and the Bill of Rights that has not been amended.

And might I just say, in tribute to someone that I hold with great respect and carried this Constitution, Barbara Jordan would certainly say today, I wish we would all stand to keep the Republic.

Mr. Speaker, it is without question that I rise in opposition to House Joint Resolution 54—proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

My colleagues, when Thomas Jefferson penned the Declaration of Independence, he wrote that: ''We, therefore, the Representatives of the United States of America, in General Congress, assembled, solemnly publish and declare, that these colonies are * * * free and independent States * * * and we mutually pledge to each other our lives, our fortunes, and our sacred honor * * * our sacred honor.''

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

''Congress shall make no law * * * abridging the freedom of speech.'' This amendment, if passed, for the first time in our Nation's history, would cut back on the first amendment's guarantee of freedom of expression that is the bedrock of our democracy, and one of the fundamental guarantees contained in the Bill of Rights.

In his 1859 essay on liberty, John Stuart Mill recognized the public good and enlightenment which results from the free exchange of ideas. He writes: ''First, if any expression is compelled to silence, that opinion for aught we can certainly know, be true * * * secondly, though this silenced opinion be in error, it may, and very commonly does, contain a portion of the truth * * * thirdly, even if the received opinion be not only true but the whole truth; unless it is suffered to be and actually is, vigorously and earnestly contested, it will by most of those who receive it, be held in the manner of a prejudice.''

The American system of Government is itself premised on freedom of expression.

On the subject of freedom of expression, Professor Emerson notes: ''Once one accepts the premise of the Declaration of Independence—that governments derive 'their just powers from the consent of government'—it follows that the governed must, in order to exercise their right of consent, have full freedom of expression both in forming individual judgments and in forming the common judgments''.

In the 204 year history of the Constitution of the United States, not one single word of the original Bill of Rights has been altered. What is the urgency and need to change the Bill of Rights now. There is none.

It is my firm belief that this effort to amend the Constitution of the United States, like other efforts by this same body to amend the Constitution, is an exercise in misjudgment and a severe waste of precious time.

It is rare that a flag is ever burned in our country as a form of political speech or otherwise. From 1777 through 1989, only 45 incidents of flag burning were reported; since the 1989 flag decision, fewer than 10 flag burning incidents have been reported per year.

The flag is a symbol. It is a symbol of freedom, not freedom itself. When given the choice, I chose freedom over symbolism. For it is freedom that allows me to choose the symbols that represent what I believe. Am I offended by the burning of the flag? Yes. But am I threatened by it? No. Where is the imminent threat to freedom in burning the flag? It

is simply not present. The real threat are those who seek to amend the Constitution of the United States and severely limit the prized protection of freedom of speech and the Bill of Rights.

It is evident that this is not the first time that we have visited this issue. Congress, in an effort to protect the American flag, passed the first Federal flag desecration law in 1968, which made it illegal to ''knowingly'' cast ''contempt'' upon ''any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon [the flag],'' which additionally imposed a penalty of up to $1,000 in fines and/or 1 year in jail. In 1969, the Supreme Court in *Street* v. *New York,* 394 U.S. 576, held that New York could not convict a person based on his verbal remarks disparaging the flag.

In 1972, the Supreme Court in *Smith* v. *Goguen,* 415 U.S. 566, held that Massachusetts could not prosecute a person for wearing a small cloth replica of the flag on the seat of his pants based on a State law making it a crime to publicly treat the U.S. flag with ''contempt.'' The Court ruled that the Massachusetts law was vague and thus, unconstitutional.

In 1974, the Supreme Court in *Spence* v. *Washington,* 418 U.S. 405, overturned a Washington State ''improper use'' flag law which, inter alia, made it illegal to place any marks or designs upon the flag or display such an altered flag in public view.

In each of these three cases, the Supreme Court failed to review the case under the protection of the first amendment.

It was not until 1989, 21 years after the adoption of the 1968 Federal flag desecration law, that the Supreme Court addressed the issue of flag desecration as it related to the first amendment. In *Texas* v. *Johnson,* 491 U.S. 397, the Supreme Court upheld the finding of the Texas Court of Criminal Appeals that Texas law—making it a crime to desecrate or otherwise mistreat the flag in a way that the ''actor knows will seriously offend one or more persons''—was unconstitutional as applied.

Gregory Johnson was a member of the Revolutionary Communists Party who was arrested during a demonstration outside of the 1984 Republican National Convention in Dallas, TX, after he set fire to a flag while protestors chanted, ''America, the Red, White and Blue, we spit on you.''

In a 5 to 4 decision written by Justice Brennan, the Court first found that burning the flag in political protest was a form of expressive conduct and symbolic speech subject to first amendment protection. The Court also determined that under *United States* v. *O'Brian,* 391 U.S. 367 (1967), since the State law was related to the suppression of freedom of expression, the conviction could only be upheld if Texas could demonstrate a ''compelling'' interest in its law. The Court found that Texas' asserted interest in ''protecting the peace'' was not implicated under the facts of the case. While the Court acknowledged that Texas had a legitimate interest in preserving the flag as a ''symbol of national unity.'' This interest was not sufficiently compelling to justify a ''content based'' legal restriction—that is, the law was not based on protecting the physical integrity of the flag in all circumstances, but was designed to protect it from symbolic protest likely to cause offense to others.

In an unequivocal show of contempt for the holding of the Supreme Court in Texas versus Johnson, Members of Congress who supported the Federal flag desecration statute hastily amended it in an effort to make it ''content neutral'' and conform to the constitutional requirements of Johnson. As a result, the Flag Protection Act of 1989 sought to prohibit flag desecration under all circumstances. This was attempted by deleting the statutory requirement that the conduct cast contempt upon the flag and narrowing the definition of the term ''flag'' so that its meaning was not based on the observation of third parties.

After a wave of flag burnings in response to passage of the Flag Protection Act, the Bush administration decided to test the law. One incident on the Capital steps in Washington, DC and the other incident in Seattle resulted in the Federal District Court judges in each jurisdiction striking down the 1989 Flag protection law as unconstitutional when applied to political protesters. Each judge relied on the Supreme Court's decision in Johnson in reaching their decisions.

In 1990, the Supreme Court accepted jurisdiction of these cases consolidated as *U.S.* v. *Eichman,* 496 U.S. 310. In a 5 to 4 decision, the Court upheld the lower Federal courts ruling, thus striking down the Flag Protection Act of 1989. The Court held that notwithstanding the effort of Congress to adopt a more content neutral law, the Flag Protection Act continued to be principally aimed at limiting symbolic speech. The Court ruled that the Government's interest in protecting the flag's ''status as a symbol of our Nation and certain national ideals'' was related ''to the suppression of free expression'' and that this interest could not justify ''infringement on first amendment rights.'' The 1989 law was still subject to strict scrutiny because it could not be justified without reference to the content of free speech.

The decision of the Supreme Court did not put the issue to rest. In 1990, after the Eichman decision, Congress considered and rejected House Joint Resolution 350—an amendment to the U.S. Constitution specifying that ''the Congress and the States have the power to prohibit the physical desecration of the flag of the United States.'' This failed to get the necessary two-thirds congressional majority by a vote of 254 to 177 in the House and 58 to 42 vote in the Senate.

In 1995, Congress considered the same amendment, House Joint Resolution 79, in the form of two separate resolutions. In the House, the measure passed by a vote of 312 to 120, but a similar measure in the Senate, Senate Joint Resolution 31, failed by a vote of 63 to 36, thus not getting the necessary two-thirds majority of the Senate.

Mr. Speaker, after all of this posturing by Members of Congress in both Houses, here we are again wasting time on the same unnecessary amendment to the Constitution of the United States. The only difference between the resolution that we have before us today, House Joint Resolution 54, and the resolution which failed in the 104th Congress, House Joint Resolution 79, is that House Joint Resolution 54, gives the power to prohibit the physical desecration of the flag of the United States to Congress only, and not to the States. This is the same Trojan horse that was destroyed in the 104th Congress, just a little lighter.

The first amendment implication of this resolution is most damaging. If passed, this would be the very first time in the history of our Nation that we altered the Bill of Rights to place a severe limitation on the prized freedom of expression. This would be a dangerous precedent to set, thus opening the door to the erosion of our protected fundamental freedoms.

The amendment, as written is vague. It states that, ''Congress shall have power to prohibit the physical desecration of the flag of the United States.'' What does the term ''desecration'' actually mean? Is it the burning of the flag? Flag burning is the preferred means of disposing of the flag when it is old. The Court noted in Texas versus Johnson, that according to Congress it is proper to burn the flag, ''when it [the flag] is in such a condition that it is no longer a fitting emblem for display.'' What criteria will be used to determine when the flag is no longer fit for display and can thus be burned without penalty.

When it comes to potential infringements on first amendment rights, Americans need to clearly understand what would be a violation of the law. This amendment clearly involves an issue of freedom of expression, which is critical to our Democratic system. Adoption of this resolution would amount to a severe restriction of the Bill of Rights.

Surrounding the definition of ''desecration'' is its religious connotation. Webster Dictionary defines ''desecrate'' as ''to violate the sacredness of.'' The word ''sacred'' is defined as ''consecrated to a God or having to do with religion.'' It is not necessary to include the religious word ''desecration'' within the Constitution and clause unnecessary tension and confusion with the religious clause of the first amendment.

Let me turn my attention to the unwisdom of unnecessarily amending the constitution and playing with the Bill of Rights. The Constitution should not be amendment based on the whims of Members of Congress. There is no urgent need to protect the flag of the United States via an amendment to the Constitution. The pressing need for this proposed amendment to the Constitution of the United States is simply not present.

Mr. Speaker, our veterans fought bravely for the beliefs and values of the American people, not the symbols of the American people. The flag of the United States is a symbol. It is a symbolic representation of the beliefs, values, and views associated with freedom. Our brave soldiers and veterans, both men and women, fight on behalf of the United States. They fight to protect the people of the United States. They fight to protect the beliefs and values of the people of the United States; and our soldiers and veterans die protecting those beliefs. Our soldiers and veterans died for the beliefs of the American people; not the flag.

In quoting the legal philosopher, Lon Fuller, on amending the Constitution, he stated that, ''we should resist the temptation to clutter up the Constitution with amendments relating to substantive matters. We must avoid the obvious unwisdom of trying to solve tomorrow's problems today and the insidious danger of the weakening effect of such amendments on the moral force of the Constitution.'' I continue to share this quote with my colleagues because they continue to try to follow the unwise path of unnecessarily amending the Constitution. Since the beginning of this Republican-majority Congress, Members have tried a number of times to amend the Constitution. This is absurd.

Mr. Speaker, for these reasons, I urge my colleagues to vote "no" on House Joint Resolution 54.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. GREEN].

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

Mr. GREEN. Mr. Speaker, I think it is ironic that I am on the opposite side of my colleague from Houston, and I only have 1 minute. I will try and say it quickly.

I rise as a cosponsor of House Joint Resolution 54. I am proud to be a cosponsor this session and last session. I think it is so important that we recognize, though, that freedom of speech has limits on it. And as much as I defend the right of someone to disagree with what I say on the floor or anyone says on the floor, we also have some limits.

That flag that we have is a symbol of that freedom. Now, granted, it is carried into battle. I would hope that our service personnel would carry the Constitution with them, too. But the flag is that symbol. That is why I think it is important that we pass this constitutional amendment today and send it on to the States for their ratification.

The burning of our national symbol is something that huge majority finds that we should change. This amendment is trying to protect those intangible qualities that the Bill of Rights represents, and it also represents our flag. I ask that we pass this with the two-thirds vote and hopefully the Senate will also.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana [Mr. ROEMER].

Mr. ROEMER. Mr. Speaker, I rise in strong support of the amendment offered by the gentleman from New York [Mr. SOLOMON] and the gentleman from Illinois [Mr. LIPINSKI] here today.

Woodrow Wilson, our President earlier in this century, once 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 this flag.

We are not talking about a symbol. We are talking about our history. We are not limiting the first amendment. We are not saying you cannot criticize an elected official. We are not saying you cannot protest a governmental policy. We are not saying you cannot investigate an alleged violation.

But we are saying that the flag of the United States of America, where our soldiers have fought and died for the freedoms that we hold so dear in this country, where they have fought for the freedoms of Europe and fought to defeat Hitler, where we have carried flags in civil rights marches for equality in this country, that is something unique and special. That cannot and should not be burned.

That flag that is staked on the moon, that flag that is symbolized at Iwo Jima, and this flag that hangs over ''in God we trust'' is not an insignia and not merely a symbol. It is the United States of America's history. It is our truce. It is our reverence, and we should protect it. I urge my colleagues to vote for this bipartisan amendment.

Mr. CANADY of Florida. Mr. Speaker, I would inquire of the Chair concerning the amount of time remaining on both sides.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The gentleman from Florida [Mr. CANADY] has 26 minutes remaining, the gentleman from Michigan [Mr. CONYERS] has 17½ minutes remaining, and the gentleman from Illinois [Mr. LIPINSKI] has 2 minutes remaining.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey [Mr. LOBIONDO].

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

Mr. LOBIONDO. Mr. Speaker, I am proud to stand today and join so many of my colleagues as an original cosponsor and strong supporter of House Joint Resolution 54, the flag desecration amendment.

Many individuals have given their lives, have made the ultimate sacrifice to protect the values that are embodied in our flag. To desecrate the flag, I think, is to belittle the sacrifices of our patriots. Forty-nine out of fifty States, including my home State of New Jersey, have passed resolutions urging the adoption of a constitutional amendment prohibiting the desecration of our flag.

We often talk about listening to the people in this body. We talk about how important it is to listen to what the citizens of the United States are looking for from us, their elected representatives. Mr. Speaker, I think that in this particular case it is time for us to listen to the will of the people. We cannot deny the will of the people on this particular issue, because it is so overwhelming from every segment of society that this is what we should do, and we cannot forsake the service of our veterans.

This weekend I will observe Flag Day in the small down of Clayton, N.J. As I meet the veterans in that community, I would love to be able to tell them that we in the House of Representatives of this U.S. Congress overwhelmingly passed this resolution that will enable us to protect our flag. I think it is the least we can do for the citizens of the country and for our veterans.

In Clayton we will celebrate the flag as our national monument. No single statue or memorial embodies our national civic pride like the values of our flag. Vandalizing the Washington Monument or the Liberty Bell in Philadelphia would be considered a despicable crime and would be dealt with very severely. The flag should receive nothing less. It should receive the same measure of respect and protection.

I urge my colleagues, think about what is at stake here and please support this bipartisan amendment that would protect our flag.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. GOODLATTE].

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

Mr. GOODLATTE. Mr. Speaker, I am proud to support House Joint Resolution 54, which gives the Congress and the States the power to prohibit the physical desecration of the American flag. This has over 280 cosponsors who share my commitment to giving back to the American people the authority to protect our flag.

Opponents of the flag protection amendment say it threatens free speech. Nothing could be further from the truth. ''Surely one of the high purposes of a democratic society,'' wrote Chief Justice William Rehnquist, ''is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people whether it be murder, embezzlement, pollution or flag burning.''

Talking about the flag is free speech. Criticizing our Government, for those who care to do so, is free speech. But desecrating the American flag is an offensive physical act, not speech to be protected by the first amendment. We can have open and free debate on issues without resorting to burning our flag in public.

The U.S. flag is more than a piece of cloth. It is the symbol of our freedom. It represents the sacrifice of those who gave their lives to win and preserve our way of life. Too many Americans have carried our flag into battle against tyranny and oppression around the world for us to tolerate the public desecration of the flag.

Those who doubt the need to honor and protect our flag need only visit the Iwo Jima Memorial in Arlington, VA, to be reminded of the heroic sacrifice made by our military veterans who carried our flag into harm's way in faraway battles at Iwo Jima and elsewhere. Justice Rehnquist noted the irony that ''government may conscript men into the Armed Forces where they must fight and perhaps die for the flag, but the government may not prohibit the public burning of the banner under which they fight.'' I am proud to play a part in trying to right that wrong.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut [Mr. SHAYS].

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

Mr. Speaker, I find it abhorrent that someone would desecrate the flag of the United States of America. But I will not support an amendment to the Constitution of the United States of America to prevent it from being desecrated.

When I think of the flag, I think about the men and women who died defending it. What they really were defending was the Constitution and the rights and freedoms it guarantees.

In the 101st Congress, my colleagues and I sought to address this problem when we overwhelmingly passed the Flag Protection Act of 1989. I do not feel anyone should be allowed to desecrate the flag. I wish the Supreme Court had decided in favor of the law, but regrettably, by a 5-to-4 vote, it declared the act unconstitutional.

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Congress' anger and frustration with the decision has led us to consider amending the Constitution. Our Constitution has been amended only 17 times since the Bill of Rights was passed in 1791. This is the same Constitution that guarantees freedom of speech and of religion, and eventually outlawed slavery and gave blacks and women the right to vote.

Republicans have proposed amendments to the Constitution to balance the budget, mandate school prayer, impose term limits on Members of Congress, institute a line-item veto, change U.S. citizenship requirements, and many other issues. Too many. Amending the Constitution is an extraordinarily serious matter. I do not think we should allow a few obnoxious attention seekers who choose to desecrate the flag to push us into a corner. They have become more important than anyone else and we should not allow them to do this, especially since no one is burning the flag and there is now no constitutional amendment to prevent it from being desecrated.

Mr. CANADY of Florida. Mr. Speaker, I yield 2 minutes to the gentleman from Alabama [Mr. RILEY].

Mr. RILEY. Mr. Speaker, the American flag is a symbol of freedom, equal opportunity, religious tolerance and good will to other people of the world who share those values. An attack against it is much more than a burning of a piece of cloth or a matter of free speech. Simply put, it is an attack against the ideals that made our Nation great and the men and women who fought and died for those principles.

Mr. Speaker, those who stand before us today and argue that the constitutional amendment to protect the flag is, in effect, a repeal of the first amendment's right to free speech vastly miss the mark. This amendment is not an attempt to limit speech. Our flag is the property of a free people, a symbol of a free society and a national treasure bought and paid for with the blood of countless brave Americans.

I believe we have a clear and moral obligation to protect the American flag from physical desecration. That is why, Mr. Speaker, I believe we must vote today in favor of the flag protection amendment.

Mr. CANADY of Florida. Mr. Speaker, I yield 2½ minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker, I thank my colleague for yielding me this time, and I say to the gentleman from Michigan [Mr. CONYERS] that when I was on the floor earlier this morning he asked me several questions and suggested I bring back some Supreme Court cases talking about my speech, and I went back and skipped lunch to get all this information for him, so I am here to present it to him.

The gentleman questioned the distinction I made between pure speech and expressive conduct. Indeed, I have been challenged; I think a couple of people asked me this question: Is there legal authority that supports such a distinction? And as I mentioned, I am pleased now this afternoon to provide the gentleman with that information.

The leading Supreme Court case in this area was decided in 1968 in United States versus O'Brien. The Court upheld against a first amendment challenge the conviction of someone who burned his draft card. The Court sustained his conviction on the basis that there was indeed a constitutional difference between expressive conduct, such as burning one's draft card, maybe someone burning the flag, and pure speech in that it would be easier to uphold a statute that would regulate the former; that is, expressive conduct.

In O'Brien, the Supreme Court held:

> We cannot accept the view that an apparently limitless variety of conduct can be labeled speech whenever the person engaging in the conduct intends thereby to express an idea.

And I have cited the case number and the page and everything.

The Court concluded that prohibiting the burning of a draft card was constitutional because it was ''an appropriately narrow means of protecting the government's substantial interests * * * and condemns only the independent, noncommunicative impact of conduct.''

So we cannot burn a draft card. We cannot burn a draft card. And we are just saying we cannot burn a flag.

Let me finish.

Mr. Speaker, this distinction has been accepted by a long line of Supreme Court cases, so this distinction has been accepted—now, the gentleman asked for additional Supreme Court cases, here we go—has been accepted by a long line of Supreme Court cases decided since O'Brien. Indeed, Texas versus Johnson; United States versus Eichmann.

The Court applied the same test in those cases as they did in the O'Brien case. While the result they reach by a narrow margin was different than I myself would have reached, they did not question O'Brien's distinction between pure speech and expressive conduct.

So I am glad that I could answer the question for the gentleman.

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

I ask my studious lunch-giving colleague to stay on the floor.

It is wonderful they have courses on constitutional law. It helps us all. Because they take the cases and then they go back and review them and they distinguish between the cases.

In the Johnson case that the gentleman cites from 1989, 491 U.S. 397, guess what? They accepted the O'Brien conclusion from the finding in the Johnson case. That is to say, sir, we cannot argue O'Brien about flag burning. We can argue it about something else, like draft cards, but we cannot argue it about flags. And guess what we are dealing with today? Flag burning.

So I give the gentleman a passing grade only for his effort.

Mr. STEARNS. Mr. Speaker, will the gentleman yield me more time, in addition to a passing grade?

Mr. CONYERS. Absolutely not.

Mr. CANADY of Florida. Mr. Speaker, I yield myself such time as I may consume. It is unfortunate that in the pursuit of a free and open debate, the gentleman from Michigan has been unwilling to yield additional time.

I am still trying to understand the gentleman's point. We all know that there is a disagreement with the Supreme Court decision or a couple of Supreme Court decisions. That is no revelation. That is why we are here today.

For anyone who has not figured that out, we are here because we believe the Supreme Court wrongly applied the test that the gentleman from Florida is talking about, and other doctrines that have been developed over the years, to the case of flag burning. That is why we are here.

We are driven to this because, as a last resort, we are going to amend the Constitution to correct the mistake that they made.

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

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

Mr. Speaker, I thank the distinguished chair of the Subcommittee on the Constitution of the Committee on the Judiciary. That is why we are here, and it is because the cases favor our side that the gentleman brought this proposed constitutional amendment.

I am glad the gentleman did. It does not prove that we are wrong, it proves that the Supreme Court agrees with our position and the gentleman is attempting to change it.

My dear friend in the well, one of the most considered constitutional scholars we have, is wrong in trying to argue O'Brien for his side. It does not apply.

Mr. Speaker, I yield 3 minutes to the gentleman from Illinois, Mr. JOHN PORTER, the distinguished chairman of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations.

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

Mr. Speaker, the first amendment to the Constitution, the supreme law of our land, proclaims that Congress shall make no law abridging the freedom of speech or of the press. The principle of free speech in our Constitution is an absolute, without proviso or exception.

The citizens of the newly freed Colonies had lived through the tyranny of a

repressive government that censored the press and silenced those who would speak out to criticize it. They wanted to make certain no such government would arise in their new land of freedom. The first amendment, as with all ten amendments, was a specific limitation on the power of government.

Throughout the 210-year history of the Constitution, not one word of the Bill of Rights has ever been altered. But the sponsors of this amendment today, for the first time in our Nation's history, would cut back on the first amendment's guarantee of freedom of expression. I submit that only the most dangerous of acts to the existence of our Nation could possibly be of sufficient importance to require us to qualify the principle of free speech which lies at the bedrock of our free society.

The dangerous act that threatens America, they claim, is the desecration of the flag in protest or criticism of our Government. Now, Mr. Speaker, desecration of the flag is abhorrent to me, as to anyone else. It is offensive in the extreme to all Americans. But it is hardly an act that threatens our existence as a nation.

Such an act, Mr. Speaker, is in fact exactly the kind of expression our Founders intended to protect. They themselves had torn down the British flag in protest. Our founders' greatest fear was of a central government so powerful that such individual protests and criticisms could be silenced.

No, Mr. Speaker, we are not threatened as a nation by the desecration of our flag; rather, our tolerance of this act reaffirms our commitment to free speech and to the supremacy of individual expression over governmental power, which is the essence of our history and the very essence of this country.

Mr. CANADY of Florida. Mr. Speaker, I yield 1½ minutes to the gentleman from Florida [Mr. STEARNS].

Mr. STEARNS. Mr. Speaker I thank the gentleman for yielding me this time, and I just wish to acknowledge the ongoing debate here between myself and the gentleman from Michigan.

I would say to the gentleman that I think he is correct in the sense that the Supreme Court did not agree with the O'Brien case. They did not agree in this case, but we in Congress are now saying they should have agreed.

The O'Brien case, United States versus O'Brien, was in 1968. Obviously, the gentleman and I both realize that men and women who are on the Supreme Court make different decisions in different periods of the American history; because we can go back and look at some of the decisions they made at the turn of the century, back in the 19th century, and today the gentleman and I would not agree. We would have unanimous opinion that we do not agree with those Supreme Court decisions.

Likewise, I am sure, another 100 years from now, God bless this wonderful country still remains intact and we are all working for democracy, we will not agree. But in this case Congress has the final say-so. So all we are saying in this legislative debate today is what they said in 1968 was relevant and we think they should abide by it.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Texas [Mr. PAUL].

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

I want to point out that the word ''desecrate'' is a very important word. We have talked about it all day but have not yet defined it. It means to deconsecrate. What I want to know is when we have consecrated the flag.

We are holding the flag in the highest of esteem, and yet liberty is really what should be on the pinnacle. Liberty and the Constitution. When we undermine the Constitution and the Bill of Rights, we undermine liberty and then we diminish the value of the flag.

But to deconsecrate something means that the flag was consecrated. I want to read what that means. It means ''To make, declare or set apart as sacred,'' or, such as a church, ''To set apart for the worship of a deity. To change the elements of bread and wine into the body and blood of Christ.'' Who and when did we raise this flag to this level? Have we deified the state to this extent?

We very often complain about the state taking over parental rights, and here we are now saying that to do anything to the flag is a desecration, which means that we have consecrated the flag. To desecrate means to abuse the sacredness of the subject of sacrilege; that we cannot commit blasphemy.

□ 1330

Mr. LIPINSKI. Mr. Speaker, I yield myself my two remaining minutes.

Mr. Speaker, I would like to make some observations here. No. 1, House Joint Resolution 54 is the following: ''The Congress shall have the power to prohibit the physical desecration of the flag of the United States.'' That means that when we pass this and the Senate passes it, we will have the ability to make a law to prohibit the physical desecration of the flag.

I have heard a considerable amount of tyranny of the majority on this floor today. Yet in order to have this pass, we here in the House of Representatives, one of the two most democratic bodies in the entire world, have to produce 290 votes. The U.S. Senate has to produce 67 out of 100 votes. Then three-fourths of the States of the United States of America have to approve this.

After all that is done, then we have the ability to write a law to protect the physical desecration of the flag. That seems to me to be the most democratic way we could possibly go about this. It cannot be tyranny of the majority when we have that many concerned, democratic individuals involved.

On top of that, it seems to me that most of the arguments that we have heard today against this resolution have really been arguments against a law that would prohibit the physical desecration of the flag. That law has not been written. It will only be written after a long, concerted effort to pass this resolution.

Once again, I say to my colleagues, support the flag, pass House Joint Resolution 54.

Mr. CANADY of Florida. Mr. Speaker, I yield 1 minute to the gentlewoman from Missouri [Mrs. EMERSON].

Mrs. EMERSON. Mr. Speaker, I rise in strong support of House Joint Resolution 54, the Flag Protection Constitutional Amendment. I am proud to be an original cosponsor of this amendment to provide Old Glory with the complete and unqualified protection of the law.

Our flag is an enduring symbol of America's great tradition of liberty and democratic government. Missouri's own Harry Truman hailed the special importance of Old Glory when he signed the Act of Congress which established June 14 of each year as National Flag Day.

With Flag Day just 2 days from now, it is altogether fitting and appropriate for the House to pass the constitutional amendment to outlaw its desecration. Countless brave Americans have followed our flag into battle. More than 1 million have died in its defense. These men and women, our soldiers and veterans, stood in harm's way to defend the flag and the principles which it represents. Please let us not diminish their sacrifices and their courage by looking the other way at the desecration of America's proudest symbol.

Mr. Speaker, I urge a strong ''yes'' vote on the flag protection amendment.

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

Mr. Speaker, and Members of the House, there are two clear schools of thought that have emerged in the annual debate over flag burning. The first school of thought is that we can compel patriotism. The second school of thought is that we cannot compel patriotism. And so, we have heard, I think, a better debate than I participated in in earlier years; and I commend the Members of the Congress on all sides for a debate that I think will be studied and examined by those who will come after us and the American people as well.

Because at the same time that we are reminding the Chinese Government of their need to safeguard the civil liberties in emerging Hong Kong, we find ourselves on the verge of modifying our own Bill of Rights to limit freedom of expression in these United States, to limit freedom of expression. By adopting a constitutional amendment that would then allow Congress to prohibit flag desecration, we would be joining the ranks with countries like China,

like Iran, like the regimes of the former Soviet Union and the former South Africa.

So I believe if we are to continue to maintain the moral stature in matters of human rights, it is essential that we remain fully open to even unpopular dissent that may take the obnoxious form of flag burning.

Indeed, the Committee on the Judiciary has been authorized by its distinguished chairman, the gentleman from Illinois, Mr. HENRY HYDE, to take a CODEL to Haiti at the end of this month. I am grateful to him for that because I will be leading that trip. The law of Haiti on this subject provides that burning, mutilating, or degrading or otherwise profaning their national flag is punishable with forced labor up to life. That is Haiti now.

So it is the judgment of many of us that the true test of a nation's commitment to freedom of expression lies in its ability to protect the unpopular forms of expression. It is the most imperative principle of our Constitution that protects not just freedom for the thought and expression we agree with, but for the freedom for the thought we despise. And here we are again. There is no doubt that symbolic speech relating to the flag falls squarely within the ambit of traditionally respected speech. We have talked about that all morning and afternoon.

Seven Supreme Court cases, seven, count them. Our Nation was born in the dramatic, symbolic speech of the Boston Tea Party, and our courts have long recognized that expressive speech associated with the flag is totally protected speech under the first amendment.

Now most Americans deplore burning of an American flag, as we do. It is our allowance of this conduct that reinforces the strength of our constitutional liberty. In one case, a Federal judge back in 1974 wrote that the flag and that which it symbolizes is dear to us, but not so cherished as those high moral, legal, and ethical precepts which our Constitution teaches.

The genius of the Constitution lies in its indifference to a particular individual's cause. The fact that flag burners are able to take refuge in the first amendment means that every citizen can be assured that the Bill of Rights will be available to protect his or her rights and liberties should the need arise.

The adoption of the flag desecration amendment would diminish and trivialize our Constitution. If Congress begins to second guess the court's authority concerning matters of free speech, we will not only be carving out an awkward exception into a document designed to last for the ages, but we will be undermining the very structure created under the Constitution to protect our rights.

Madison, he warned against using the amendment process to correct every perceived constitutional defect that is the style in this Congress. Dozens and dozens of amendments. Do not like it? Change the Constitution. You do not like it? Well, you could write a statute, but let us put it in the Constitution so they will not be able to take it out.

So as a practical matter, this proposed constitutional amendment is not drafted very well, it is poorly drafted, and it will open up a Pandora's box of litigation. The Congress will come back and now make it enforceable. Not only are its terms open-ended and vague, but the resolution gives us no guidance, none, as to its intended constitutional scope or parameter.

So while those who supported claims that we are merely drawing a line between legal and illegal behavior, in actuality, we are drawing no line at all, merely granting the Government open-ended authority to prosecute those dissenters, go get them, that use the flag in a manner that we in Congress deem inappropriate.

But unlike other open-ended provisions of the Bill of Rights which constrain the power of the state against the individual, the flag desecration amendment represents an unchartered invasion of our liberties rather than a backup mechanism to prevent the Government from usurping our individual rights.

So please, there are a few Members in the Congress that have not made up their mind, please, to those few Members, let us show where America's strength really lies. Join us in rejecting this unsound, inappropriate, intemperate, and unreasonable invasion into the Bill of Rights. I urge a ''no'' vote on the matter pending in the House.

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

Mr. CANADY of Florida. Mr. Speaker, I yield the balance of my time to the distinguished gentleman from Illinois [Mr. HYDE], the chairman of the Committee on the Judiciary.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. HYDE] is recognized for 15 minutes.

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

Mr. HYDE. Mr. Speaker, I would appreciate it if my colleagues would not interrupt me until I am through because I would like to complete my argument.

I want to preface my remarks by saying there are good people on both sides of this argument. There are no good guys or bad guys here. A very respectable case can be made against the amendment, and it has been made by the gentleman from Michigan [Mr. CONYERS], the gentleman from Colorado [Mr. SKAGGS], and others, without question.

But a very good case and, in my judgment, a better case can be made in support of the amendment; and we hope to do that. We hope we have done that today. I would like to introduce the gentleman from Illinois, [Mr. JOHN PORTER] my constituent, my friend, my neighbor, standing there clutching the flag to his bosom because next to him is the coffin of his 21-year-old son, Lance Cpl. Christian Porter, who died in Operation Desert Storm.

This picture speaks more eloquently than anything I could say; and I hope my colleagues will take a look at it and, if they get a chance, look at the eyes of the gentleman from Illinois [Mr. PORTER] and the gentleman standing by the casket.

□ 1345

Mr. Speaker, we are not alone in thinking as we think. We are not a bunch of yahoos, unlettered, unwashed jingoists. We have some pretty distinguished people who agree with us: Chief Justice Earl Warren, Justice Hugo Black, Justice Abe Fortas, Chief Justice Rehnquist, Justice John Paul Stevens, Justice Sandra Day O'Connor, Justice Byron White. These people knew a little something about the Constitution.

And so this is not a one-sided debate at all. There is authority, there is scholarship on both sides of this issue.

Now there are two important questions in this dispute. First, is flag burning conduct imbued with speech and hence protected by the first amendment? Those of us supporting this amendment shout no to that question despite a 5 to 4 Supreme Court decision in Texas versus Johnson in 1989.

I think the average person knows the difference between freedom of speech and vandalism. Almost any act can be called expressive speech. Blowing up a building can be expressive speech, urinating in public can be a political statement. Why, the courts have declared nude dancing and dial-a-porn services as free speech. To burn an object is to demonstrate one's contempt for it, not speech. It is the antithesis of speech. It is not a form of argument. It is an act of contempt for the very idea of reasoned argument. Flag burning is no more speech than a child's temper tantrum.

And to suggest that the Founders and Framers intended to protect such public displays of childish pique, to suggest that this is what the first amendment free speech clause protects is demeaning and it is degrading.

Free speech has never been absolute as our laws against libel, slander, copyright infringement, and so many more prove. By freedom of speech the Founders meant the freedom to make reasoned arguments about matters touching the common good. They did not mean a freestanding right to say anything one wants, any time and any place.

Freedom of speech is a freedom inherent in the dignity of the people, and the Government should honor it and protect it so that democracy might flourish. But democracy is possible only where a civil society can deliberate the common good freely, openly and publicly.

The notion that our highest value is self-expression has confused some of

our leaders. What the highest court has done, by a margin of one vote, no less, is draw the line between speech and conduct at a point that maximizes expression, lest anyone's personal fulfillment be stifled. But America cannot long survive the selfishness of autonomous individuals as its highest value.

There is another value; that with our rights come responsibilities, a value well expressed and embodied in our national symbol, the flag. By reducing freedom of speech to yet another free-standing personal autonomy right, the Supreme Court has once again weakened the once strong fabric of our constitutional democracy and has once again struck a blow against the idea that it is a civil society, not merely autonomous individuals, that makes democracy possible.

As for the substance of the issue, to think seriously about flag protection and flag burning means thinking seriously about the nature of American democracy. The Founders and the Framers pledged their lives, their fortunes and their sacred honor to a democratic experiment of self-governance that engaged the moral energies and the imagination of the people. Democracy for that generation of Americans was not simply a matter of procedures. Democracy was an ongoing test of a people's capacity to be self-governing. Democracy was not a matter simply of rights. It was a matter of duties with rights understood as the freedom to do what we ought, not simply what we like.

Procedural democracy, democracy reduced to an array of legal and political procedures, would have made no sense to Jefferson and Madison and all the rest. They were interested in the substance of democracy. They were interested in the Republican virtue that would make democracy possible.

As my colleagues know, to have a successful monarchy, all that is needed is a virtuous king. But to have a successful democracy, what is needed is a virtuous people. We look around this Chamber, we see the splendid diversity of America, we see men and women whose great grandparents came from virtually every corner of the globe. What holds this democratic community together? A common commitment to certain moral norms is the foundation of the democratic experiment, and just as man does not live by bread alone, human beings do not live by abstract ideas alone. Those ideas and ideals have to be embodied in symbols.

And what is a symbol? A symbol is more than a sign. A sign simply conveys information; a symbol is much more richly textured. A symbol is material reality that makes a spiritual reality present among us. An octagonal piece of red metal on a street corner is a sign. The flag is a symbol. Vandalizing a no parking sign is a misdemeanor. But burning the flag is a hate crime because burning the flag is an expression of contempt for the moral unity of the American people that the flag makes present to us every day.

I said there were two questions. The second question is why do we need this amendment now? Is there a rash of flag burning going on? Happily there is not. But I believe in my heart we live in a time of serious disunity. Our society is pulled apart by the powerful centrifugal force of racism, ethnicity, language, culture, gender and religion. Diversity can be a source of strength, but disunity is a source of peril. We Americans share a moral unity expressed so profoundly in our country's birth certificate, the Declaration of Independence. We hold these truths to be self-evident, Jefferson wrote, the truth that all are equal before the law, the truth that the right to life and liberty is inalienable and inviolable, the truth that government is intended to facilitate, not impede, the people's pursuit of happiness. Adherence to these truths is the foundation of civil society and of democratic culture in America.

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

Let us take a step toward the reconciliation of America and toward constitutional sanity by adopting this amendment. The flag is our connection to the past and proclaims our aspirations for the future. There may be no flags burning right now, but it is worthwhile to elevate our flag in our consciousness, to catch the falling flag and to hold it high as the embodiment of those ideals which we have in common. Too many brave Americans have marched behind it. Too many have come home in a box covered by a flag. Too many parents and widows have clutched that flag to their hearts as the last remembrance of their beloved one. Do not treat that flag with anything less than reverence and respect.

About 183 years ago during the British bombardment of Baltimore, Francis Scott Key looked toward Fort McHenry in the early dawn and asked his famous question. To his joy he saw that our flag was still there. And he might be surprised to learn that our flag is even planted on the Moon. But most especially it is planted in the hearts of every loyal American, and we should clutch it to our bosom, as JOHN PORTER does every day of his life.

Mr. KOLBE. Mr. Speaker, I rise today in opposition to House Joint Resolution 54, a proposed constitutional amendment to ban flag burning.

In both 1990 and 1995, Congress debated and voted down proposed constitutional amendments to ban flag burning; yet once again, with a Federal budget that is far from being balanced, with entitlement programs in desperate need of reform, and with an overwhelming Federal tax burden on American citizens, we are again on the floor debating this issue.

Mr. Speaker, I am a patriotic American. I am a proud American. I am a Navy combat veteran. I know the deep patriotic feeling that the flag elicits, especially when I am in a foreign country, when I stand to say the Pledge of Allegiance at the beginning of our congressional day or at a rally, or when I see a flag neatly folded into a triangle and presented to a grieving family. I also have feelings of disgust and outrage when I see on TV people desecrating the flag. But I still do not support this amendment.

In the past two years, I have supported two constitutional amendments—one to require Congress to balance the budget, the other to limit terms of Members of Congress. These amendments would have fundamentally altered the focus of our national Government and changed the way Congress conducts its business.

This amendment does not do either. In fact, there is not a crisis of disrespect for the American flag, like with the Federal budget. In fact, the Congressional Research Service reports that there were all of 10 incidents of flag burning in 1996. We can count on the fingers of two hands the incidents of flag burning since the Supreme Court ruled that such behavior—despicable though it may be—is constitutionally protected.

Additionally, Mr. Speaker, there are many questions associated with this amendment. Are partial reproductions of flags covered by the intent of the amendment? What about the popular American flag clothing that can be found in department stores in every mall in this country?

We honor our flag with our behavior every day. We show our respect in large ways and in small ways. But this body could do nothing more fundamental to honor our country—and its symbols—than by restoring fiscal responsibility to this Government.

So let us get on with the business we were sent here to do. Let us balance the budget, let us return responsibilities to the States, let us empower the American people. We do not need to pass a constitutional amendment to ban flag desecration to show that we love and respect this great symbol of America.

Mr. Speaker, we can't legislate patriotism and we can't legislate love of the American flag. We can honor our country and our flag by carrying out our responsibilities to our great Nation.

Mr. QUINN. Mr. Speaker, as the only New York State Representative on the House Veterans' Affairs Committee, and as the chairman of the Veterans' Subcommittee on Benefits, I rise today in support of House Joint Resolution 54, the flag desecration amendment.

It is our Nation's flag that serves as constant reminder of those who have bravely fought for the United States of America, so that we may never forget the principles of freedom, independence, and democracy which it so proudly represents.

I am a proud cosponsor of House Joint Resolution 54. I am honored to join with my colleagues in making sure that our most treasured symbol, and the millions of veterans that fought under that symbol, are not forgotten.

The American people have spoken on this issue. A national pole conducted by Wirthlin Worldwide in 1996 reveals that 81 percent of Americans said they would vote for an amendment to protect their flag. In fact, an overwhelming majority of Americans have asked that we pass this amendment and send it back to the States for ratification.

Military personnel will attest that the very sight of Old Glory gives them a renewed sense of purpose and hope. For some, the flag symbolizes comradery, spirit, and the preservation of our Nation's values.

I truly believe that America's values should be reflected in our laws. While teaching our children to pledge allegiance to our flag we must also send the message that it is wrong to allow America's greatest symbol to be desecrated with impunity.

Not only do I urge my fellow colleagues to join me in support of the flag desecration amendment, I encourage them to display the red, white, and blue prominently, let it serve as a proud reminder of the freedom it symbolizes for our country.

Mr. CUNNINGHAM. Mr. Speaker, I rise as a cosponsor of House Joint Resolution 54, in support of protecting the flag of the United States from desecration.

The majority today will find that the physical desecration of the flag of the United States is conduct which is not expressly protected by the freedom of speech clause of the first amendment of the Bill of Rights. It is similar to other types of conduct that carry misguided messages of hate—such as burning a cross in a yard, or painting a swastika on a synagogue, or exploding a Federal building. These are not protected free speech. They are not protected by our Constitution. They are conduct.

And today, 2 days before Flag Day, we address the protection of our flag from desecration.

The flag of the United States represents our country, our ideals, our people, and our history. It represents the motto of our Nation, ''E pluribus unum:'' out of many, one. It is a symbol of the United States of America here and around the world. Under the Stars and Stripes, men and women have fought and given their last full measure of devotion. This idea is very close to me, because like many others I served my country in the military.

I am reminded by a tale of an American soldier who was captured in battle in Vietnam. He was a prisoner of war. He was subjected to the injustices and deprivations of the enemy. What kept him together was a project in which he used scraps of thread and any material he could find to sew, ever so slowly, an American flag on the inside of his garment. Day by day, he worked. On one day, his captors found his flag. They took the flag, and they beat the brave flag maker to within an inch of his life.

He survived. He was returned to his cage. And he began once again to sew his flag in defiance of his captors.

For this man, for every American who has had a flag flown at half staff or half mast in their honor, for every American who gave the last full measure of devotion for this country, for every American who has had a flag enclosed in their casket or passed on to the surviving generation, and for the strength and unity of America, let us pass this amendment.

Mr. YOUNG of Florida. Mr. Speaker, I rise today in support of House Joint Resolution 54, the flag desecration constitutional amendment. As the Nation prepares to celebrate Flag Day, it is most fitting that we pass this measure and pay tribute to our American flag, our sacred red, white, and blue symbol of liberty.

Nearly 200 years ago a tattered and worn American flag flew over Fort McHenry amidst dense smoke and heavy artillery fire. Every American now knows the words of tribute penned by Francis Scott Key, describing how after a night of intense fighting, he looked upon Fort McHenry in the early light of day and saw Old Glory, with its broad stripes and its bright stars, still flying high. Today, above the pristine Capitol of our great Nation, the flag still flies high so that all of the world might look upon our Nation and know that we indeed are the land of the free and the home of the brave.

Our American flag is a symbol of freedom and liberty that every American should look upon with patriotic fervor. It flies gloriously over our national buildings, monuments, and parks, quietly over the graves of the dedicated men and women who have bravely served in our Armed Forces, proudly in all our schools and courthouses, and reverently in our churches and places of worship.

This is our American flag. Regardless of race, creed, or color, the Stars and Stripes symbolizes for every American all that is good and right in our Nation. It honors both the living and the dead who have so honorably served and sacrificed in the U.S. military, and it honors the families who work hard every day serving their communities, helping their neighbors, and pursuing the American dream. It is a symbol of strength and protection to our schoolchildren, a symbol of liberty to those who look upon the United States from distant shores, and a symbol of honor and justice to every freedom-loving American.

Mr. Speaker, this is our American flag. May it always fly high over our great land, our America the beautiful.

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

However, today I rise in opposition to House Joint Resolution 54, the flag amendment, which for the first time in over 200 years would amend our Bill of Rights.

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

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

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

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

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

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

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

Mr. FROST. Mr. Speaker, I rise in support of House Joint Resolution 54, a constitutional amendment to protect the flag from physical desecration. The American flag holds a sacred place in our Nation's identity, representing the millions who have made sacrifices in its defense and for the preservation of freedom. I am proud to be a cosponsor of this important legislation.

Amending the Constitution is done only when absolutely necessary, and when it is clear it is the will of the public, not just a whim. I am confident that this legislation meets that high standard. This amendment has been introduced in several Congresses, and support has grown in every session. In fact, during the last session, this legislation passed the House overwhelmingly with strong bipartisan support, falling short in the Senate by a mere three votes.

A constitutional amendment is the last hope for protecting our flag. In 1989, the Supreme Court narrowly decided to strike down existing flag protection laws as an infringement on the rights of free speech. The action of the Court sent a clear message that stronger actions must be taken.

Most Americans share the important belief that our flag can be protected without infringing on free speech. Throughout our history, punishing flag desecration has been viewed as compatible with the letter and spirit of our first amendment. Some of the strongest supporters of individual rights ever to serve on the Supreme Court—former Chief Justice Earl Warren, and former Justices Hugo Black and Abe Fortas—each have written that the Nation could prosecute for physically desecrating the flag without violating the right to free speech.

The views of these great constitutional scholars reflect the same commonsense belief of millions of hardworking Americans who understand that burning the flag is conduct, not speech. If this amendment is approved, and Congress passes a flag protection statute, people will still have the right to say anything about the flag, or anything else. However, the specific action of physical desecration of the flag would be against the law.

All across racial, socio-economic, and political lines, there is a strong belief that the preservation of our flag is vital. In fact, 49 State legislatures have petitioned this body for strong action. I urge Congress to take this historic step to preserve this paramount symbol of our national heritage.

Mr. POSHARD. Mr. Speaker, today we will be debating and voting on a constitutional amendment to allow the States to prohibit desecration of the American flag. I rise today to address this issue, and I would like to do so, at least in the beginning, from a historical perspective.

Our founders, the people who settled this country, were men and women of great faith. They came to this country and lived here for a long while under the edict of the King of England. They came here to escape the suppression of their freedoms, but found as colonists they were still under the control of the King. They were not free to speak their minds, to criticize the Government. They were not free to assemble, to discuss their problems, because the Government, the King, was afraid it might end up being a grievance against him.

They were not free to choose their own religious beliefs according to the dictates of their conscience. They worshipped in the Church of England, or they did not worship at all. The Church of England has the official blessing of the state. The church and the state had formed an alliance linking themselves together, so the church never had to fear the loss of parishioners to other faiths, and the state could control the people through the church.

Newspapers were not free to criticize the Government, or they would be shut down. The Government, if they even suspected a citizen of criticizing them, even in private, could take a citizen from this home in the middle of the night, charge him with sedition against the Government, and that citizen could be jailed or punished without ever having been allowed a trial. Time and again, they tried to confiscate the firearms of the citizens because they feared an armed protest against the Government.

In short, the people were not free. Government controlled their lives in attempts to force its will upon the people.

As it is always true whenever a government attempts to force its will on the people, the people rebelled. They sent away their representatives to Philadelphia to form the First Continental Congress, and that Congress decided to throw off the bonds of slavery that bound them to England. They declared their independence, raised an army, made George Washington its commander, and, in their own resolution, won their freedom from the oppressive Government of England.

After the Revolutionary War they went back to their individual States and a great debate arose as to whether or not they should even form a national government. They so distrusted a central government and its potential for ruling their lives that when they thought of a national government, all they could remember was oppression.

But there were certain national issues that had to be dealt with. Foreign trade had to be considered, paying off war debts, and so on, and so they sent their representatives back to Philadelphia to form a Second Continental Congress, and it was this Congress that had the task of putting together a new government. They wrote a Constitution of the United States of America.

Notice how they said the ''United'' States of America. Before, they were not so united. They had operated under the Articles of Confederation, which gave great powers to the individual colonies. They has vast disagreements between themselves, and this new government was their attempt at becoming united.

The Constitution they had written said their new government would consist of three branches. No. 1, the legislative, would be elected from among the people to make the laws; No. 2, the executive, would be elected by the people to execute the laws; and No. 3, the judicial, would be appointed by the executive and approved by the legislative, and they would judge and interpret the laws.

The judicial, the Supreme Court, was appointed for life, because the Founding Fathers knew that if the Supreme Court has to be subjected to the popular opinion of the people every so many years just to keep their jobs, they may do as members of the legislative branch do and vote the popular thing, rather than the thing they believe to be right. So they said this sacred trust of judging the law is so important, that we will remove this branch from political pressure.

They took this Constitution that they were so proud of back to the people of the 13 colonies to be ratified, to be approved. They said to themselves, ''Boy, this will be a snap. The people don't have to worry about a king. They get to elect two of the tree branches of government. Many rights are reserved for the States. This is the perfect government.'' And they must have sighed a sigh of relief. It had been a long struggle, fighting the war, putting this new government together. Now all it needed was the people's stamp of approval, and that would be easy.

But the people said, ''No, no, not so fast. Sure, this is a form of government with which we agree. It allows us to participate. But we just got rid of oppression, and this Constitution doesn't say anything about our freedom.'' And the people said, ''Wait just a minute. We want our basic freedoms guaranteed in writing, or we don't approve this government at all.'' The Founding Fathers, being men of great faith, some of them ministers, sat down to amend this Constitution, to guarantee the people these rights, their freedoms. They wrote 10 amendments to the Constitution, which have become known as the Bill of Rights, and for over 200 years of America's existence, the Bill of Rights has remained unchanged, unamended, unaltered.

I will not mention all of the freedoms articulated in the Bill of Rights, but here are just a few: freedom of speech, assembly, religion, press, a fair and speedy trial before our peers, the right to bear arms, not having to testify against one's self, protection against unreasonable search and seizure.

But we must speak not only of freedom, but of faith, for the two are inextricably bound together. Nothing will bolster your faith more than to read the personal accounts of these great men of faith in their struggle with the concept of freedom.

My understanding over the years of my own faith has been bolstered by my understanding of their concept of faith and freedom. In 1990, when this issue was before the Congress, I was struggling to try to make some sense out of it, and I took my family up to Gettysburg for the weekend. Being from Illinois and representing a couple of the same counties Mr. Lincoln represented when he was in the Congress, I have been a Lincoln scholar my entire life.

As I walked over that great battlefield, I was reminded of his words on the day he dedicated that field. He started his address with these words: ''Four score and seven years ago, our forefathers brought forth on this continent a new nation.''

Now, the importance of that opening is this: four score and seven years ago did not take them back to the Constitution and the Bill of Rights drafted in 1787. Four score and seven years took them back to 1774 and the Declaration of Independence. Mr. Lincoln considered the Declaration of Independence to be the founding document of this Nation, the document that bound us together as one Nation.

And what was the premise of the Declaration of Independence? Let me state it for you again in Mr. Jefferson's words, ''We hold these truths to be self-evident, that all men are created equal, and are endowed by their creator with certain unalienable rights, and that among these are life, liberty and the pursuit of happiness.''

Listen to that again. ''We hold these truths,'' not falsehoods, but universal principles, givens, ''* * * to be self-evident.'' They do not need to be pointed out or proven or justified. Some things are so true that any reasonable examination of the conscience would reveal the evidence of their truthfulness. And what is this truth that should be self-evident? That all men are created equal and endowed with certain unalienable rights.

Created equal? Well, certainly not by position, or power, or influence, or even physical or emotional or mental capacity, but equal in the eyes of the Creator with regard to love and respect for their being, and equal in the eyes of the law.

And what are these unalienable rights, these rights that cannot be taken away? Life, not death; liberty, our freedoms; and the pursuit, not the guarantee, the pursuit of happiness.

And who endows us with these rights? Does man? Does the State? No. The founding document of our country says we are endowed those rights by our Creator. Government cannot endow us with these rights. Government can only affirm or deny what is already given to us just by virtue of having been created by God.

President Kennedy spoke of this in his inaugural address, when he said, ''These same revolutionary beliefs for which our forefathers fought are still at issue around the globe today. The belief that the rights of man come not from the generosity of the State, but from the hand of God.'' He went on to say that we dare not forget today that we are the heirs of that first revolution.

President Lincoln, in the Gettysburg Address, sought to affirm by the Government what the Creator had endowed all of our people, equality before the law. The Bill of Rights, which our Founding Fathers penned some 13 years after the Declaration of Independence, sought to articulate some of those God-given rights of life, liberty and the pursuit of happiness in a more concrete fashion, and so they guaranteed with some specificity what God had already granted, given by virtue of creation.

Now, why do I speak of our country's historical beginning, and especially those beginnings with respect to our rights given to us by the Creator and acknowledged so by both the Declaration and the Constitution? Because of this reason: today we will be debating and voting upon a constitutional amendment to make it a criminal offense for anyone to desecrate the American flag.

Some will argue that we should not pass this amendment for various reasons. One, how do you define desecration? Some believe wearing clothing, ties, shirts, and so on that resemble the flag is a form of disrespect and constitutes desecration. Others believe lack of respect by not standing or sitting when appropriate desecrates the flag. Still others believe that burning or walking on the flag is desecration.

Many argue the mere act of defining desecration creates a legal nightmare for enforcement of such a law. Others point out that millions of dollars spent trying to pass and ratify this amendment by three-fourths of the States could better be spent on veterans' health care and other necessities of our people.

Most agree that the flag is held in higher respect today than at almost any other time in our history, as witnessed by only a scattered number of flag desecrations in our Nation among 260 million people, as well as the tremendous outpouring of flag displays in our country at this time. And many wonder aloud why this is even an issue, with all the seemingly complex, almost unsolvable problems facing America today.

Others will say, ''This flag is mine. I earned my money. I went down to the corner hardware store. I purchased this flag with my money. It is my private property, and Government won't tell me what to do with it.''

But I want us to consider this issue in the light of our beliefs that our rights are God-given, what that means to us as a people and a nation, and whether we actually believe that as a principle anymore. Let me say again that we must speak here not only of freedom, but of faith, for the two are inextricably bound together.

This is what I believe, and I believe it is entirely consistent with the beliefs of our forefathers who penned the precious Bill of Rights, and I believe it is consistent with the words of my own Bible. If we are to examine the nature of the freedom or rights which God has given us, then we must examine the nature of God Himself.

This is what I believe. God is love, unconditional love. He created us as an object of His love because love needs an object on which to lavish itself. God needed us, so He could love us, so He crated us in His image so that He might love us and create fellowship with us so that we might love Him in return.

The Bible says we love because He first loved us. Our response to Him, our purpose for being, is to learn to love in the way that He loves us, unconditionally, to love others, but especially to love Him.

God wants our love. But the great loving merciful heart of God knew something from the beginning. He knew even before He created us that if we were going to learn to love as He does, He had to give us the freedom not to love.

God is God. He is sovereign. He could have created us with no choice, no freedom to choose to love or not to love. He could have demanded our love, our respect. He is God. But He knew that love that is not freely given cannot be real, if we have no choice. He knew that we could learn to love only if we are free. Even our love for God must be freely given. He will never force you to love Him. So God, creating us as the object of His love, gave us a free will to love or not to love, to respect or not to respect. He even gave us the freedom not to love Him.

I am confident our Founding Fathers understood their faith in these very terms. They understood that the great loving heart of God was grieved when His children chose in the free will that He Himself had given them, to hate Him, to despise Him, to sin against love. But they also understood that God continued to love, that He continued to be patient with His rebellious children, that He had faith that eventually love would win them over. And our forefathers said, to the extent possible, we will model this Government upon the principles of our faith, the principle that we will allow our people the free will to choose, to choose to love or not to love, to care or not to care, to respect or not to respect, and we will have the faith to believe that in their freedom they will choose to love. But, in any case, we will not demand it, we will not command it; we will have faith in love winning the hearts of our people.

The issue before us today goes to the heart of that fundamental belief of allowing free will with regard to the issue of respect and love.

Of course there are limitations upon the individual citizens' free will with respect to the endangerment of the safety, health, or welfare of our fellow citizens, but these issues do not touch upon the heart of this matter which is criminalizing the manner in which an individual chooses to differ with his or her government.

Do we want to criminalize an act of free will when it comes to dissent against the Government? Do we really believe that government can legislate love and respect? Remember that the most precious right of any American has is the right to speak out against the Government when they feel in their hearts that government is no longer responsive to their needs.

It is only the right to dissent which keeps the Government in line, and when that right of the citizen is diminished, then the power of the Government to control grows proportionately.

However, those who propose this amendment will say, there are a hundred ways to show your dissatisfaction with the Government. You can march, you can show up at a town meeting and blast your Congressperson, you can organize rallies, you can write letters, you can vote. You do not have to desecrate the flag to show your disagreement, and if you do, we are going to punish you.

But what if a citizen is so in disagreement with this Government over an action it has taken which he feels is morally and ethically wrong and he chooses to emphasize this disagreement in the most emphatic way he knows how, not by the sacrifice of a few hours' time marching or writing a letter or going to a town meeting, but by taking the most precious possession he owns, the American flag, and sacrificing it at the feet of his Congress in protest of his Government?

The question is, Shall we limit dissent against an overbearing government to just those ways that do not matter much, to just those ways of which the Government approves?

Justice Jackson wrote words especially relevant here in Board of Education versus Barnett in 1943. He said, and I quote:

> The case is made difficult not because the principles of its decision are obscure but because the flag involved is our own. Nevertheless, we apply the limitations of the Constitution with no fear that freedom to be intellectually and spiritually diverse or even contrary will disintegrate the social organization. Freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order. If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or any other matters of opinion or force citizens to confess by word or act their faith therein. If there are any circumstances which permit an exception, they do not occur to us.

This principle of sacrificing that which is most precious occurred to me for the first time as a young man when I was growing up. I asked the pastor in my church, ''Why did God have to sacrifice the most precious thing He owned, His son, as a protest against sin, so we may be forgiven? Why could He not have sent something that was not so precious, a cow, a goat, a bull, something else? Why was it necessary to sacrifice his most precious possession?'' The pastor said to me, ''Because sacrificing something less precious would not have gotten the job done.''

I believe it should be the purpose of the flag, as it is the Constitution, to invite respect and love, but not to command it, because that violates the free will of the individual and love and respect not freely given cannot be real.

It is only the insecure that demands and commands love. That is why dictators all over the world must have armies to keep them in power. But do their people really love a government which demands their respect at the point of a gun? Have the events in Eastern Europe the last few years taught us nothing?

America is secure, not because we have an army to defend the Government, but because we have a Constitution, a Bill of Rights, to defend the people against the Government. We will remain secure not by suppressing the free will of the people, regardless of what national or political purpose we believe that serves, but by allowing the free will of every single citizen to love or not to love.

If a country is big enough to say to its people, ''I love you and I want you to love me but

I give you the right not to love if that's what you choose. I'm never going to stand over you with a machine-gun in my hand and force you to care for me, even though it is your care that I need. You are free to love or not to love, to care or not to care, to respect or not to respect.'' If a country is that big in its heart that secure in its being that loving in its respect for its own people, what choice do you think the people are going to make, to love or not to love?

We have nothing to fear. Neither America nor the flag is in any danger, as long as the precious Bill of Rights, which gives both their meaning and their purpose, stays as it has for the past 200 years, unamended. Listen to the words included in the First Amendment one more time: ''Congress shall make no law abridging the freedom of speech.''

In 1990, when I was struggling with a previous flag amendment vote, I wrote this piece of prose which I called ''Family Matters:''

Glenn?

Yes?

It's God.

Yes?

Still Struggling?

Yes.

What's the problem?

The problem is I'm nearly 45 years old, and I'm still filled with questions about purpose and meaning and who you are. Who are you anyway?

I'm love. Unconditional love.

Who am I?

You're the object of my love. I created you because I needed you. Love must have others upon which to lavish itself. It creates only that it may love more, and I love all of my creation.

What's my purpose for being then?

To learn to love unconditionally. To learn to love me and others in the same way I love you.

Why should I have to learn that? You're God. Why didn't you just create me in such a way that I loved you automatically?

Because love cannot be commanded. How can I be sure you really love me, or your neighbor, if you have no choice? I created you to be free, free to choose, because it is only in your freedom that you can truly learn to love.

But what if I choose not to love you?

That is the risk love takes. It is always the hope of love that the one upon whom love spends itself will freely choose to return that love. But in any case, it can never demand love be returned.

What will you do then if I choose not to love you?

I will continue to love you. I will wait. I will trust. Love never fails.

Glenn?

Yes?

It's Thomas.

Yes?

You walked over to my memorial last night.

Yes.

Why?

Because I'm struggling with a decision on a constitutional amendment to alter the Bill of Rights, and I need some help.

What's the problem?

Some people burned our flag and the country's upset. The President and several Members of Congress want to forbid the practice.

What do you want to do?

I don't know. I'm torn. I'm a history teacher. I've taught the Bill of Rights and the Constitution to hundreds of young people. I've emphasized the importance of those freedoms that you and others penned in that precious document. I've told those children that these freedoms cannot be compromised. But now we have this issue with the flag. I love the flag. It symbolizes all those freedoms the Bill of Rights guarantees. Couldn't we pass just this one amendment?

Would you be willing to pass a second constitutional amendment forbidding the burning of the Bill of Rights?

No, that's not an issue. Nobody thinks about the Bill of Rights. We see the flag a hundred times a day. It's so visible.

You mean the symbol has become greater in the mind of the people than the substance behind the symbol? How did that happen? You were a teacher, not to mention a State Senator and now a Congressman.

Well, what do I do now?

Maybe you start teaching again, as a Congressman. And trust the people to understand. It's the only way to insure that you leave your children no less freedom than we left you.

Dad.

Yes.

I hate this place.

Why?

For lots of reasons. Your stupid rules that say I have to be in by midnight. You won't buy me a car. I'm sick of church every week and it's silly activities. There's a lot more. I * * *

But we fell those things are best for you. It's only because we love you that * * *

Well, I don't love you. Right now I don't love you at all. As soon as I'm eighteen I'm out of here.

Glenn?

Yes.

What do we do?

We remember the proverb, ''Bring up a child in the way he should go and when he is old he will not depart from it.''

Yes.

We love. We wait. We trust.

Are you sure?

Well, I have decided—I am sure the American people love this country enough to be able to look past the surface nature of this debate and examine its real meaning. The American people, given the chance, will show they love this country, and there is no need to force them to do it by changing the very document that insures our freedom and invites that love.

And this is the truth. For over 200 years now the faith of our Founding Fathers has been justified because we are still the freest Bastion on the face of the Earth and every country in the world yearns for the freedoms in the Bill of Rights.

Every nation has a flag, but only America has a Bill of Rights. For over 200 years now neither the Supreme Court nor the Congress of this Nation has seen fit to change even one small letter in this precious Bill of Rights.

Yes, it is true we have gone through periods of time when rebellious children in disrespect for the great goodness of this country have shown their contempt. They march, they cry injustice, some burn the flag, some join the Communist Party,

In the 1950's, people demanded a constitutional amendment to forbid the Communist Party in this country. In the 1960's and 1970's there were flags burned all across America in the civil rights and Vietnam war protests, and people demanded then a constitutional amendment to protect the flag. Today there are more flags flying in America than ever before in our history. The Communist Party is not even on the ballot in most States, and gets less than one-half of 1 percent in the States where it is on the ballot.

In the last several years, we have had a handful of people out of 260 million arrested for desecrating the flag. Some are demanding now another constitutional amendment to amend the Bill of Rights, to demand that we show respect by not allowing a form of disrespect. The Supreme Court said no, and Congress agreed. I was one of the Members of Congress that agreed.

I believe our forefathers would have said, leave them alone. If they are desecrating this flag out of meanness or ill will, rather than honest differences with their own Government, they will reap their own reward. They cannot destroy the Bill of Rights by destroying the symbol for the freedoms the Bill of Rights gives us. Their ideas will never match up to freedom, no matter what they are.

Leave them alone. The ignorance of their act will show the bankruptcy of their ideas. However, if you take away their free will, even to show disrespect, you will do more injustice to the principles upon which this government was formed than they ever could.

Just as we in our sins against the Creator end up bankrupt by our rebellion, they will end up the same way in their sins against the Nation. Have faith. Have faith that love and freedom will sin. Love never fails.

If we could command respect by the law, we would not need faith, but our forefathers said that faith will be the foundation of our freedoms, the faith that people, because they are free, will in the end choose to be responsible.

This is the history book from which I taught the principles of Government, the Constitution, and the Bill of Rights. This is my Bible, upon whose words I have stacked by life.

This Fourth of July, because I will do today what I think is consistent with my faith, Old Glory for me personally will fly higher and brighter than ever before. God bless America, God bless the Bill of Rights, and God bless our flag.

Mr. PAUL. Mr. Speaker, the Congress will vote today on a ''Flag Burning Amendment'' to the Constitution. This issue arouses great emotions even without any evidence flag burning is a problem. When was the last time we heard of a significant incident involving flag burning? It's a nonissue but Congress has managed to make it one while avoiding the serious matters of life, liberty, and property.

There just is no flag ''desecration'' crisis. Where are the demonstrators, where are the letters? Will this only lead to more discredit on Congress? Only 6 percent of the American people trust anything they hear from the Federal Government so why should they believe there is a flag crisis requiring an adjustment to the Bill of Rights for the first time in our history. Since most of what Congress does, leads to unintended consequences, why do we feel compelled to solve imaginary problems?

The American people are way ahead of the U.S. Congress and their distrust is a healthy sign the Republic will survive in spite of all our good deeds and noble gestures. And that's good.

What sense of insecurity requires such a public display to reassure ourselves we are patriots of the highest caliber, confident enough to take on the flag burning movement—a movement yet to raise it's ugly head.

Our political saviors will have us believe that our loyalty to America hinges on this lone amendment to the Constitution.

As Congress makes plans to attack the flag enemies, it stubbornly refuses to consider seriously: the Doctrine of Enumerated Powers, property rights, political propaganda from a government run educational system, taxpayer's paid-for NEA sacrilege, licensing of all broadcast networks, or taxpayer's financing of monopolistic political parties, let alone the budget, the debt, the deficit, honest money, policing the world, and the entire welfare state.

Pervasive bureaucratic government is all around us and now we're spending time on developing the next addition to the Federal police force—the flag police. Diverting attention away from real problems toward a pseudo-problem is not a few technique of politicians.

MOTIVATION

Political grandstanding is probably the greatest motivation behind this movement to change the Constitution. It's thought to be easy to embarrass those who, on principle, believe and interpret the 1st Amendment differently. Those who vote eagerly for this amendment do it with good intentions as they laugh at the difficult position in which opponents find themselves.

Will the country actually be improved with this amendment? Will true patriotism thus thrive as the mal-contents are legislated into submission? Do we improve the character of angry people because we threaten them with a prison cell, better occupied by a rapist?

This whole process fails to address the anger that prompts such misguided behavior as flag burning. We have a government growing by leaps and bounds, our citizens are fearful of the future, and we respond by creating the underwear police—surely, flag underwear will be deemed a ''desecration''.

Why is dealing with a symptom of anger and frustration by suppressing free expression a moral good?

The best I can tell is legislative proposals like this come from Congress' basic assumption that it can legislate economic equality and mold personal behavior. The reasoning goes; if Congress thinks it can achieve these goals, why not legislate respect and patriotism even if it does undermine freedom of expression and property ownership?

DESECRATION

Desecration is defined as: ''To divest of a sacred character or office, commit sacrilege or blasphemy or de-(con)secrate.'' If consecrate is ''to make sacred; such as a church or bread and wine,'' how can we ''de-consecrate'' something not first ''consecrated''? Who then consecrated the flag? When was it done? Sacred beliefs are those reserved for a religious or Godly nature, that is, to set apart for the worship of a deity. To make holy.'' Does this amendment mean we now concede the flag is a religious symbol? Will this amendment if passed essentially deify the State?

There are some, I'm sure, who would like to equate the State with God. The State's assumption of parental rights is already a deep concern to many Americans. Will this encourage more people to accept the State as our God? We imply by this amendment that the State is elevated to a religion—a dangerous notion and one the Founders feared. Calling flag burning ''blasphemous'' is something we should do with great caution.

Won't it be ironic if the flag is made sacred—consecrated—and we write laws against its desecration at the same time we continue to steal taxpayer's money to fund the National Endowment for the Arts which truly desecrates Christ and all of Christianity in the name of ''free speech''?

The flag, indeed, is a loved patriotic symbol of American pride and freedom. Many of us, I for 5 years, have served our country in the military fighting for the principles of liberty, but not for the physical cloth of which the flag is woven.

There is confusion between the popular symbol and the real stuff, and in the process of protecting our symbols we are about to undermine the real stuff—liberty. The whole notion of legislating against desecration is vague and undefinable. Burning can be easily identified but shouldn't it matter who paid for the flag? Are there no owners of the particular flag involved? Are all flags to be communal property? If we pretend flags are universally owned, that means we can use them randomly. If there is no individual ownership how can one sell or buy a flag? Should it not be a concern as to where the flag is burned and on whose property? With this legislation the flag will lose its identity as property and become a holy government symbol not to be desecrated? These are difficult questions but they must be answered.

Will using a flag as underwear or as a beach towel or a handkerchief or flying it upside down become a Federal crime?

The American Legion and the Veterans of Foreign Wars burn flags to dispose of them. This respectful ritual is distinguished from a hoodlum doing it only by the intent. Are we wise enough to define and legislate ''intent'' under all circumstances? Intent obviously implies an expression of a view. So Congress now feels compelled to police intentions, especially if seen as unpopular.

Whatever happened to the notion that freedom to express unpopular, even obnoxious views, including Marxist ideas was the purpose of guaranteeing freedom of expression. Of what value is protection of only popular and majority-approved opinions? That's a mockery of liberty. Soviet citizens had that much freedom. Remember, dissidents who burned the Soviet flag were shot. A national flag police can only exist in a totalitarian state. We should have none of it.

Why not police the burning of the Constitution, the Declaration of Independence, the Emancipation Proclamation? These acts, expressing a radical fringe view, would be as equally repugnant, and a case could be made they might be even more threatening because their attack would be precise and aimed at the heart of American liberty. The answer is the political mileage is with the flag and tough luck to those who have principled opposition.

But no one should even squirm or weasel out of the right vote, even if threatened with possible negative political fallout.

FREE EXPRESSION VERSUS PROPERTY

The right of free expression and the right to our property are inseparable. A free society cannot have one without the other. When one is compromised, so is the other. Concentrating on free expression while ignoring the importance of owning property sanctions taxpayer's funding of the likes of the NEA and a Government propaganda machine like the one that permeates our schools from Head Start to the post graduate levels. By ignoring the taxpayers right to control all educational expenditures, property rights are violated.

When property rights are correctly honored, free expression is guaranteed through that right. The independence of a newspaper, radio station, or a church guarantees the use of that property in any free expression desired. Remember, no one has the right to use any newspaper, radio, or church to exert his or her own opinion as an example of ''free speech.'' Catholics have no ''right'' to say Mass in a Jewish temple. Certainly in our homes we are protected from others imposing their ''free speech'' on us. It's the church property that guarantees freedom of religion. The networks or papers need not submit to demands to be heard by religious believers as an example of free speech. Use of the radio or newspaper by those with strong opinions or religious views is only done voluntarily with the permission of the owner.

Yes, it is very important who bought the flag and where it was when ''desecrated.'' What if it's in a home or in a church for some weird reason? Do the police invade the premises? Who gets sent in: the BATF, the DEA, the FBI, the U.S. Army, or the flag police? If it's on Government property or a Government flag or someone else's flag, that is an attack on property and can be prosecuted. By legislating against how someone else's flag is being used, the right of free expression and property ownership is infringed just as if it were church property or a newspaper.

We work diligently to protect controversial expression in books, television, movies, and even bizarre religious activities through the concept of private property ownership, as long as violence is not used. Is this matter much different?

We live in an age where it's becoming more common to attack free expression and that's a danger we should not ignore. We find one political group attacking expression that violates the subjective rules of politically correctness while working to prohibit voluntary prayer. Now another wants to curtail expression through flag antidesecration laws in the name of patriotism. But there is a better way to handle demonstrators and malcontents.

The danger here is that flag burners frequently express a disdain for big Government. Curtailing any expression of criticism of the Government is fraught with great danger. Will anyone who opposes big Government someday be identified as a ''friend'' of the flag burners and treated like one since he is expressing an idea similar to the flag burners. Just because some people aren't smart enough to express themselves in any other way than flag burning, it does not justify the careless attack on freedom of expression. Once it's routinely accepted that expressing these ideas is dangerous to the status quo, all our freedoms are threatened.

SUMMARY

This is a dangerous and needless political exercise. Flag burning is not epidemic or even prevalent. Why must we continuously find dragons to slay? Whom are we trying to reassure? Why do we feel compelled to prove, by voting to change the Constitution, that we are true patriots? Could it be that Congress' lack of vigilance in defending the Constitution has created a sense of guilt that must be purged. But will it really compensate for the endless shredding of the Constitution through legislation that has occurred throughout this century?

If we could spend one-tenth of the time on restoring the Founder's intent in the Doctrine

of Enumerated Powers that we have spent suppressing free expression I would be a happy person. Instead, we daily shred the intent of constitutional law by regulations, taxes, and abusing liberty to a point that the Constitution has no relevance. Maybe that's it. If the Constitution has no current relevance, it's assumed to be OK to mess it up even more with an amendment which will serve only to further undermine liberty and threaten free expression.

What the Congress, the Executive, and the Courts have done in the past 50 years to undermine the Constitution is many times more disgraceful and dangerous than what any two-bit punk flag burner can do—especially if we ignore him. If this amendment is passed, flag burners will get more attention, not less. Their cheap message will get more publicity than if we had ignored them. The goal of the flag burner will be enhanced by the amendment by this extra attention they gain.

This amendment will do nothing to restore trust in the Federal Government. It won't fill the void left by the scandals, the perks, the plush pension program, the false promises of the welfare state, and pledges to balance future budgets. This amendment will do nothing to curtail Federal Government control over education, which indeed does infringe on free expression through Government indoctrination. Remember it was Government management of our schools in the name of free expression, which actually led to the prohibition of voluntary prayer.

We need to direct our patriotic zeal toward defending the Constitution and to the protection of liberty. Lack of this effort has led to the impending bankruptcy of the welfare/warfare state. Now there's a problem worth directing our energies.

The flag police are no substitute for our policing our own activities and responsibilities here in the Congress. We are endlessly delivering more power, in the name of political emergencies, budgetary crisis, and Government efficiency, to the Executive—a process not permitted under the Constitution.

We permit Socialists to attack property rights and the fundamentals of economic liberty as a right under the Constitution. But those who profess respect for private property should not be trapped into attacking flag ''property'' when it's used to express unpopular anti-Government views and even change the Bill of Rights to do so.

The Socialists know what they are doing but, the antidesecrators act out of confused emotions while responding to political pressures.

We should not further sacrifice freedom of expression with a flag amendment, especially when compared to the harm done with taxpayers funding of school propaganda and NEA desecration, it is negligible.

True patriots can surely match the wits of the jerks who burn flags, without undermining the first and fifth amendments. We can do better than rush to alter constitutionally protected free expression for a nonproblem.

We could easily organize bigger and grander demonstrations to celebrate our constitutional liberties for which the flag is our symbol in answer to the flag burners. I promise to appear, anytime and anyplace, to celebrate our liberties and countermand the flag burners who work so hard to offend us.

Mr. BROWN of California. Mr. Speaker, I rise today in opposition to House Joint Resolution 54, the constitutional amendment to prohibit the physical desecration of the American flag. As I contemplated speaking on this issue today I thought about what I should say. I realized that the statement that I made on the floor back in 1990 is still relevant. As I said back in 1990, I take this time not because I expect to change the mind of a single one of my colleagues, nor contribute some profound insight or new knowledge to the debate. But I have very deep feelings on the matter, and I want my colleagues and my constituents to understand those feelings and to judge me by them, for they go to the heart of why I love my country and wish to serve it to the very best of my ability.

Mr. Speaker, the first amendment speaks first of freedom of religion, then of speech, the press, and assembly. Religion is placed first, because many, if not most of the early American colonists who came to this country, came to escape the restrictions placed upon religious freedom by the kings of England who felt that they ruled by divine right.

No human rules over others by divine right. No flag symbolizing a ruler or a state is sacred. To even speak in such terms denies the primacy of God in the world, demeans the spiritual basis of freedom and democracy and smacks of idolatry. The very term ''desecrate'' means ''to violate the sanctity of * * *'' and sanctity is ''the quality or state of being holy or sacred.''

No earthly flag is sacred or holy. All earthly rules and governments are flawed and imperfect, and must be brought closer to perfection by those willing to protest and to criticize, sometimes in shocking terms. Protection of that right is at the heart of the first amendment.

No single act of political protest is more frequent and disrespectful to the vast majority of American people than that of burning the American flag. I know that every member of this institution is personally and deeply offended by the thought of Old Glory burned in protest. However, we should be even more offended by proposals to fundamentally alter the very principles for which the American flag stands. Mr. Speaker, let us try not to move down that road.

The strength of this Nation has always rested upon the principles of freedom of speech, press, religion, and assembly as embodied in the Bill of Rights. It was for these freedoms that our Founding Fathers created the greatest experiment in popular democracy in human history. The flag is the physical symbol of those freedoms and although it is not sacred, it pains us deeply to see that symbol destroyed by malcontents seeking by their shocking behavior to bring public attention to their unpopular political positions. In amending the Bill of Rights for the first time in our Nation's history, however, we would be doing more damage to the integrity of our society then could ever be inflicted by a small handful of disgruntled protesters seeking to call attention to their views.

The right to freedom of speech as established by the first amendment is not an absolute right. It can be restricted by the law and the courts when necessary to protect public's safety, or the rights of other individuals. But it stands at the apex of those principles and values which were aimed at protecting individual freedom from encroachment by powerful and autocratic organs of government. The first amendment provides protection for those who express views that we believe, as well as those that we abhor.

In writing the Bill of Rights, Thomas Jefferson and James Madison captured the principle in the well-known words of the 18th century French author Voltaire: ''I disapprove of what you say, but I will defend to the death your right to say it.'' Those who wish now to amend the Constitution are saying: ''I disapprove of what you are saying, and I intend to make it illegal to say it.'' This is what tyrannies do, not democracies.

There may be some who will argue that the Supreme Court erred in considering flag burning to fall within the protection of the first amendment by virtue of being a form of symbolic speech. I ask those persons to look within their minds and hearts and analyze the message they received as they watched the Chinese students in Tiananmen Square burn the Chinese flag and erect a miniature Statue of Liberty. Was the message that fun-loving Chinese students needed to keep warm and therefore burned anything available, and that they admired American statuary? No, the message was clear to all that they supported freedom and democracy and opposed the autocratic regime of the Chinese Communist leaders, and were willing to suffer to convey that message. And we applaud their heroism.

That Chinese Government understood the message full well and responded to their young people's demands for greater political freedom with tanks and guns. Right now, that country is considering a law prohibiting flag burning. Throughout history, dictatorships have sought to expand their power by prohibiting disrespect of their symbols. That was the case in 17th and 18th century England, and of course led many citizens to leave their country and settle in America in order to avoid prohibitions. In our country, it is not the symbols that are paramount to us. It is what those symbols represent that unifies us.

Love of country and respect for the values of human freedom cannot be coerced. A country which seeks to do so will not only fail, but its actions will destroy that which it seeks to protect. Some argue that the Bill of Rights can stand a little tinkering. Who are these people kidding? Don't they realize the risks that such a step would pose? In altering the first amendment, we would be heading down a slippery slope of further erosions of the freedoms that we hold so dear.

If flag burning were protected, then the next logical step would be banning desecration of the Constitution, Bill of Rights, Statute of Liberty, and Declaration of Independence. And what about effigies of the President? The destruction of any of these—or any items resembling these important national symbols—is abhorrent and can be seen as a statement of profound disrespect for this Nation. But is that the path that we want to head down, given the courts the role of interpreting whether a flag printed on a matchbook, a replica of the Statute of Liberty, or a copy of the Bill of Rights were destroyed with the intent of making a statement against our Government?

Deep down, I believe that every Member of Congress recognizes the dangerous precedent we would be setting in tampering with the first amendment. We recognize these risks, but we are being pushed toward this decision by crass political opportunists who have already designed the 30-second television spots they

intend to use to advance their own political ends. Thomas Jefferson and James Madison would turn in their graves if they saw the work of their genius manipulated in this fashion.

The American flag is among the most powerful symbols in the entirety of human history. It has withstood the test of time not because it was protected against destruction, but because the ideas which it embodies cannot be destroyed—no matter what anyone does to the flag itself.

Mr. Speaker, the easy vote today would be to vote in favor of amending our Constitution. That is what our political pollsters tell us would garner the most votes from the American public. We were not elected to this institution, however, to take the easy road. Our task is a more serious and burdensome one. Each one of us has taken the oath to ''support and defend the Constitution of the United States against all enemies foreign and domestic.'' That document—and all that it stands for—is not threatened by a small handful of political protesters. It is threatened, however, by an effort to amend its most central tenet, the Bill of Rights.

As Justice Anthony Kennedy has argued:

> The hard fact is that sometimes we must make decisions we do not like. We make them because they are right. * * * It is poignant but fundamental that the flag protects those who hold it in contempt.

Nobody likes casting a vote that will be manipulated by high-paid political consultants as being a ''vote against the flag.'' It is preposterous, however, that we would modify the Constitution for fear of self-serving political attacks. In my view, there could hardly be a more patriotic act than to vote to protect the sanctity of the Bill of Rights. It is not the easy vote, but it is the right one.

Mr. RODRIGUEZ. Mr. Speaker, I rise today in support of the constitutional amendment allowing for legislation to protect the desecration of our flag. Throughout history, Americans have fought and died for this Old Glory, and we owe it to their memory to protect this symbol at home.

It will indeed be a challenge to at once protect the symbol and also protect that for which it stands. Whether flying over the local high school or the post office, beckoning foreigners at a U.S. Embassy or consulate, covering a crate of aid to victims of strife abroad, or drapping a casket of a servicemember killed in action, the Stars and Strips has and always will instill a sense of pride and security the world over. We have inherited this legacy, from the days Betsy Ross put together the patches of cloth, and we should treasure it, preserving it for the future, a future of much more diversity, patches of different-colored cloth.

So in voting for House Joint Resolution 54, I understand the feelings of free speech being restricted. I urge this body to take tremendous caution in drafting any future laws which will specify liability and penalties. In defending the symbol of the fort, we must not give away the fortress, the Bill of Rights. We must not today give up any power to vigorously defend and fully guard the liberties enshrined in the Bill of Rights in enforcing and adjudicating flag desecration laws.

We have a duty to those who have come and gone before us, and to those that preserve our country as a symbol of freedom the world over. Although desecration of Old Glory is itself an expression of speech, I can, in good conscience, draw this thin red, white, and blue line.

Ms. BROWN of Florida. Mr. Speaker, Unfortunately, I was unavoidably detained and could not cast my vote in support of the flag desecration amendment. Had I been present, I would have voted for the amendment. As a member of the Veterans Affairs Committee, I continue to pledge my support to protect the veterans of our country, as well as the flag of the United States of America. The flag is the most esteemed emblem of this country—and this amendment will restore the authority to Congress to regulate the treatment of our most precious symbol.

To our Nation's veterans and their families, the flag is more than a symbol of our country. It is the cloth under which they defended our country and risked their lives. I truly believe that there should be a means by which we can show our love and respect for the flag—while at the same time monitoring the treatment of this highly important part of America.

Mr. KIM. Mr. Speaker, I rise today in strong support of House Joint Resolution 54, an amendment of the U.S. Constitution to prohibit the physical desecration of the flag.

I grew up in Seoul, Korea. Not the Seoul we know today: modern and democratic. The Seoul I grew up in was an occupied city, invaded by Communist forces that had come down from the North and terrorized the Korean people. My family lost everything during the Communist occupation—including family members and friends, who we saw executed in the streets, right before our very own eyes. It was a living Hell.

I still remember like it was yesterday, the day the American soldiers, strong and brave, arrived in Seoul and drove the Communists out. Behind them—weathering the shrapnel and bullets—was Old Glory. To use, the Red, White, and Blue symbolized freedom and liberty.

In the midst of the battle zone that was my neighborhood, I stood watching the U.S. Marines fight in our streets and drive out the Communists. Suddenly, one of the soldiers broke ranks, picked me up and carried me out of the line of fire to safety. As he put me down, he patted me on the head and gave me two things: a chocolate bar and a small American flag. I kept that flag in my pocket, believing, as I do today, that it was a good luck charm, the symbolism of everything great about America.

That small flag gave me hope. It symbolized the courage and bravery of the young men putting their lives on the line, thousands of miles away from their homes and their families. That American spirit, that flag, made me want to become an American.

I owe a debt of gratitude to that flag, and to everything it represents. There is no greater symbol of freedom and hope anywhere in the world than the Red, White, and Blue. Ask any person in any opposed country, and they will tell you.

So today we again vote on a constitutional amendment to prohibit desecration of our flag. I urge my colleagues to support this resolution. We cannot allow the symbol of our country, the symbol of freedom and liberty, to be dishonored and desecrated. If we do not defend our flag, who will?

Support our flag, vote for this bill.

Mr. LUCAS of Oklahoma. Mr. Speaker, I rise to commend Chairman Solomon and the nearly 300 cosponsors, Republicans and Democrats, who recognize the importance of protecting the American flag. It is downright repulsive that the very symbol of our freedoms and rights can be trampled upon under the guise of the first amendment.

The flag is what soldiers salute every day, it is what we, as Members of Congress, address every morning when we recite the Pledge of Allegiance, it is what we hoist during military ceremonies, it is what we drape over the caskets of our fallen soldiers, and it is what we placed on the Moon in 1969 during one of the proudest moments of my life. To minimize the symbolism of what the flag represents is reprehensible. Congress should have the ability to protect the sanctity of the flag.

The Supreme Court has ruled that physical desecration of the flag is protected by the first amendment to the Constitution. This is a mistake and the reason why we are here today. Congress cannot pass statutory language prohibiting physical desecration of the flag because of this ruling. I join an overwhelming majority of my colleagues in protesting this decision and protecting our flag.

Our veterans, those who have fought to protect the freedoms we cherish, have asked that the flag that they fought for be protected. The Government should attach the same level of importance to the flag that we respect and treasure. This amendment is the right thing to do at the right time. Let's show our veterans that we respect the flag by approving this today.

I appreciate the opportunity to make my voice heard on this important issue and encourage my colleagues to support this measure and send this to the States for ratification.

Mr. SCHIFF. Mr. Speaker, I write today in support of House Joint Resolution 54, the constitutional amendment to prohibit the physical desecration of flag of the United States.

As a 26 year member of the New Mexico Air National Guard and the Air Force Reserve, I believe that our flag occupies a special place in our society, as well as in military protocol. Military members are expected to salute the flag of the United States when it passes by in parade, or during retreat ceremonies.

The flag is our unique symbol that signifies the beliefs on which this country was founded: liberty, freedom, and democracy. Although we have other important national symbols, none are treated with the reverence of our flag.

Although I am a proud cosponsor of House Joint Resolution 54, I was unable to vote today in support of this important constitutional amendment, due to the fact that I am currently back in New Mexico for medical reasons. I voted for a similar amendment in the 104th Congress, and would have done so again today, because I believe that the flag deserves special protection from desecration.

Mr. BISHOP. Mr. Speaker, as an original cosponsor of this resolution, I rise as a proud and strong supporter of this joint resolution which would amend the Constitution of the United States to prohibit the physical desecration of the flag. I want to thank Congressman SOLOMON, the other 284 cosponsors of the bill, and the alliance of groups and individuals for their tireless efforts in support of this bill.

As Flag Day approaches, it is appropriate that we take this opportunity to recognize and emphasize the importance of Old Glory. The flag represents something sacred. It may just

be a piece of cloth, but it symbolizes the sacrifice of millions of Americans who have served and died defending our country's promise of freedom and opportunity for all. It represents patriotism itself. Those who oppose legal barriers against flag desecration say this is a restraint on freedom of expression. They are wrong. This cause does not diminish the sacred values on which the country is founded, including free expression. By protecting the flag we honor these values, we uphold them, we strengthen them.

Many Americans have willingly fought and died defending the flag. By legally protecting this unique symbol, we uphold the respect and honor they are due. In the freest country in the world, this hardly imposes a serious threat on expression.

We must pass this resolution so that we can provide our Nation's most precious symbol with the much needed protection it deserves. Forty-nine States have passed resolutions calling upon us to pass this amendment, overwhelming public opinion is calling upon us to pass this amendment. It is time we answer these calls by passing this amendment. Moreover, it is time we send a message to those who would disrespect and dishonor Old Glory.

Again, I want to express my strong support for this resolution and strongly urge my colleagues to support it.

Ms. PELOSI. Mr. Speaker, I rise in opposition to House Joint Resolution 54, a constitutional amendment to prohibit flag desecration.

Mr. Speaker, I respect and revere our flag, all Americans do. It is a most treasured symbol of our country's freedom. But a constitutional amendment would diminish the freedom of expression that we hold so dear.

Those brave people who struggle for human rights around the world look to the United States and its flag as symbols of freedom and tolerance. We have seen the tragic cost in other countries of placing greater importance upon a nation's symbols then on the freedom of each person to speak freely. We recognize that it is not the flag itself, but the treasured principles of democracy behind it that we must protect at all costs.

Our flag is a piece of cloth that represents freedom and tolerance. But the flag itself must not be mistaken for what it represents. The freedoms of the first amendment are too valuable and cherished, too hard-fought and hard-won to be restricted by this amendment. I urge my colleagues to oppose this restrictive legislation.

Mr. BARCIA. Mr. Speaker, ''The flag is the embodiment, not of sentiment, but of history. It represents the experience made by men and women, the experiences of those who do and live under the flag.''

President Woodrow Wilson knew the real meaning of our flag when he made this statement in 1915, and it is a sentiment that I firmly share. It is precisely why I cosponsored House Joint Resolution 54, proposing an amendment to the Constitution to prohibit the desecration of the flag of the United States, and it is why my colleagues should vote in favor of this resolution.

From the hands of Betsy Ross, through the eyes of Francis Scott Key during the bombardment of Fort McHenry in 1814, to the raising at Iwo Jima, our flag has represented the hopes and beliefs of generations of Americans. It symbolizes resolve. It symbolizes freedom. It symbolizes democracy.

Over the years, we have had people who have violated the spirit expressed by our flag. They have wrongly suggested that the burning of the flag is a matter of freedom of speech. Well, if you can't shout fire unnecessarily and be protected by the freedom of speech, you shouldn't be able to burn our American flag as an expression of speech.

Our veterans' groups have seen friends and family fall in the line of duty protecting our flag. They proudly salute it as it passes by, bringing back the painful and glorious memories of times served protecting what the flag represents. I can only imagine how they feel when someone, who has had the benefit of not having had to go to war because of the sacrifices that so many have made, defiles our flag in such a disrespectful, demeaning, and childish act of burning it.

Let us never forget the words of Henry Ward Beecher, the American clergyman, editor, and abolitionist, who said: ''A thoughtful mind, when it sees a nation's flag, sees not the flag only, but the nation itself.'' We cannot let the world see Americans burn our flag, and then hypocritically criticize others elsewhere in the world who do the same thing. If it is wrong for others to burn the American flag, then it is most assuredly wrong for Americans to burn it. Let our Nation be unified in the fact that there are some things too important to defile, too important to ignore, and chief among them is our flag.

Mr. FRELINGHUYSEN. Mr. Speaker, this Saturday, June 14, America will celebrate Flag Day. Millions of American men and women all across the country retrieved their Star Spangled Banner from the basement or attic and proudly displayed it to honor the day. For many families, the flag itself is a tradition. Perhaps it was granddad's flag, or a gift from a son or daughter serving in the military. Perhaps it even draped the coffin of a sister or brother who paid the ultimate sacrifice for the United States.

Whatever the case—the American flag means something special and personal to each and every one of us. It represents our freedom, our dreams, our liberty, and our common bond. It is the emblem of unity to which every fourth-grader has pledged their allegiance at one time or another. In the House of Representatives, we begin every day with that same pledge. We pledge allegiance to the flag because of ''the Republic for which it stands.'' As a veteran, I believe that our flag is our Nation's most enduring symbol.

It is unfortunate and saddening that some disagree. They use the flag to express an opinion or to make some kind of statement. I think this is complete idiocy. Burning our flag is simply wrong and should be outlawed. As an original cosponsor of a constitutional amendment to ban flag desecration, I am working with almost 300 of my colleagues in the House of Representatives to protect the flag and what it stands for. We are making significant progress; 49 States have already passed resolutions requesting that Congress ban flag desecration.

We hold high respect for the flag not because of what it is but because of what it stands for. We have rules which define the proper way to display, store, and maintain our flag. These rules were established for a reason. They were established so that we would not grow complacent about our flag and hence our unity and freedom. They protect our flag so that we remember the high price we paid for our freedom and personal liberties. Our flag reminds us that we are one Nation, one People—regardless of our diverse backgrounds, religious, or ethnic heritage.

Our flag reminds us of who we are as Americans, and deserves the utmost honor, esteem and protection.

Mr. PACKARD. Mr. Speaker, the United State is often referred to as the great American ''melting pot''—a blend of many different people, cultures, and heritages. The American flag represents this diversity; it embodies the values, traditions, and aspirations that bind us together as a nation. It stands above our differences and it unites us in war and peace. No other symbol is so readily recognized as the American flag nor says ''America'' quite so eloquently.

The beauty and significance of our flag has always inspired Americans to provide some measure of protection from abuse. In fact, the first flag protection laws were enacted in the 1880's. For more than 100 years, our flag enjoyed legal protection. In 1984, 48 States and the Federal Government had laws to safeguard our flag. Five years later, in a 5 to 4 split decision, the U.S. Supreme Court stripped away the people's right to shield the American flag from intentional, public desecration. Americans were outraged by this decision.

Mr. Speaker, America is a beacon of democracy and hope in a world plagued by turmoil and depression. Flag desecration is a slap in the face to all those who have worked to make the United States the model among nations and freedom a guaranteed right.

For these reasons, I intend to support passage of House Joint Resolution 54, introduced by my colleague GERALD SOLOMON, which will permit Congress and the States to prohibit the physical desecration of our flag. I whole-heatedly support Congressman SOLOMON's efforts to defend the flag. No other American symbol captures the spirit of this Nation. It deserves the utmost respect and protection. Americans want to have the flag protected. I will vote to defend our flag from harm and preserve the rights and freedoms of all American citizens.

Mr. BUYER. Mr. Speaker, the legislation before us today would amend the Constitution to empower Congress to enact legislation to protect Old Glory from desecration. The American flag is a mighty symbol, not only to the citizens of this great Nation, but also to those abroad who see it flying, at our embassies or on the ships of our naval fleet. It represents the freedom of our people, the courage of those who have defended it, and the resolve of our people to protect our freedoms from ''all enemies, foreign and domestic.''

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

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

The flag is a symbol worth defending. I urge the adoption of the flag protection amendment.

Mr. GILMAN. Mr. Speaker, I am proud to rise in strong support of this resolution prohibiting the physical desecration of the flag of the United States. I commend the gentleman from New York [Mr. SOLOMON], the original sponsor of this legislation, for his dedicated work and determination on this important issue.

As Americans across the country prepare to celebrate our Nation's independence, it is befitting that the House of Representatives is considering this important legislation.

For hundreds of years, courageous men and women have fought for the ideals and beliefs that our great Nation represents. To the many dedicated men and women who have sacrificed for our Nation, our flag is not just a piece of cloth, it is not just the symbol of our Nation, it represents our inherent belief in our freedoms and our ideals.

Based upon these strong beliefs of proud Americans across the country, 49 State legislatures have passed resolutions asking Congress to approve an amendment to the Constitution protecting our flag; 48 States have enacted flag-desecration laws. Over 80 percent of the American people support such an amendment to the Constitution.

This is not any new issue, yet today, it is more important than ever. Accordingly, I urge my colleagues to join in strong support of this legislation.

Let us properly protect our flag and all of the ideals that it represents. I urge my colleagues to vote for House Joint Resolution 54.

Mr. BEREUTER. Mr. Speaker, as an original and strongly committed cosponsor, this Member rises in support of House Joint Resolution 54, the measure before us today which proposes a constitutional amendment authorizing Congress to ban the physical desecration of the American flag.

Certainly, there are legitimate arguments on both sides of the issue of whether or not it is desirable to change the Constitution to permit legislation to protect the American flag. However, opponents of such a constitutional amendment are not entitled to sanctimoniously wrap themselves in the Constitution citing the first amendment. Our Constitution provides a way that Americans can amend it through State ratification. Like the majority of Americans and the vast majority of this Member's Nebraska constituents, this Member believes it is appropriate to propose a constitutional amendment for a legislative method to protect the most important symbol of our Nation—the American flag.

This Member disagreed with the U.S. Supreme Court decision, Johnson versus Texas, which overruled the conviction by the State of Texas of a protester at the 1984 Republican National Convention for setting the American flag on fire. The Court ruled that the burning of the American flag was a form of expression protected by the constitutional guarantee of freedom of speech. In Congress, this Member has been a strong supporter of a constitutional amendment to reverse the Supreme Court's ruling in Johnson versus Texas.

For over 200 years the American flag has occupied a precious spot in the hearts of our Nation's citizens. It is a unique symbol of the principles and values which make this country great and which are generally shared by American citizens. Many have sacrificed, fought, and died under our flag for freedoms forged by the principles and values embodied in the Declaration of Independence and the Constitution.

Mr. Chairman, this Member urges his colleagues to vote in favor of the resolution. This is an important step to ensure that States and Congress can enact legislation protecting our flag without fear that these laws will be ruled unconstitutional.

Mr. DOYLE. Mr. Speaker, as Flag Day quickly approaches, I can think of no other legislation more appropriate for the House to consider than House Joint Resolution 54. As an original cosponsor in both the 104th and 105th Congresses, I am pleased to voice my support for the right of our citizens to protect the American flag.

While much of what the Congress considers derives its momentum from within the halls of Washington, the genesis and steadfast support of House Joint Resolution 54 comes directly from the constituents we all have the privilege to represent. Hundreds of residents from the 18th Congressional District of Pennsylvania have expressed to me their support for the U.S. Government to have the power to prohibit the physical desecration of the flag. As House Joint resolution 54 has the support of 284 cosponsors, it is apparent proponents from across our great country have been equally vocal about their support. Given the fact that the cosponsor total is just six votes short of the two-thirds majority required for passage, I am confident that this year's vote will surpass the vote in the 104th Congress.

Prohibiting the desecration of our flag does not deny individuals their thoughts or opinions, but preserves our national symbol of freedom as the most visible form of the ideals of the American people. Indeed, our freedom of speech is a result of the supreme efforts of those who contributed to our Nation's independence and unity, and who see our flag as the embodiment of the American spirit. For those individuals who feel differently, I would respectfully urge them to find more productive ways to express themselves, rather than involve themselves in an act of destruction. In the wake of our country's firsthand experience with domestic terrorism and racial tension, House Joint Resolution 54 provides an excellent opportunity to reiterate our commitment to, and respect for, our national history of uniting our diverse population.

I urge my colleagues to vote in favor of protecting the symbol that embodies liberty, freedom, and democracy: our American flag.

Mr. BLUMENAUER. Mr. Speaker, Americans cherish their flag and all it represents. It is fitting and proper to do everything in our power to honor this symbol of America.

This proposed constitutional amendment is the wrong way to go about doing so. The authors of the Constitution and the Bill of Rights gave us a wise and enduring framework, one which has guided this Nation for over 200 years. We should but rarely and in moments of absolute necessity alter their work. This amendment does not meet that test. However repugnant burning or otherwise desecrating the flag is to us individually, flag desecration is not a problem in American society today. In the last 10 years, I cannot remember a single instance where anyone in Oregon walked up to me and raised this as an issue. To elevate a moronic but anachronistic and virtually extinct form of protest to the level of constitutionally defined crime, in my judgment, is likely to increase the incidence of flag desecration as people turn to burnings to gain attention for themselves. This serves the interests of absolutely no one other than the extremists who will have been handed a new tool for expressing their cause.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). All time for debate has expired.

Pursuant to House Resolution 163, the joint resolution is considered read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

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

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

The question was taken.

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

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

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 310, nays 114, not voting 10, as follows:

[Roll No. 202]

YEAS—310

Aderholt	Clyburn	Gillmor
Andrews	Coble	Gilman
Archer	Coburn	Goode
Armey	Collins	Goodlatte
Bachus	Combest	Goodling
Baesler	Condit	Gordon
Baker	Cook	Goss
Baldacci	Cooksey	Graham
Ballenger	Costello	Granger
Barcia	Cox	Green
Barr	Cramer	Gutierrez
Barrett (NE)	Crane	Gutknecht
Bartlett	Crapo	Hall (TX)
Barton	Cubin	Hamilton
Bass	Cunningham	Hansen
Bateman	Danner	Harman
Bentsen	Davis (FL)	Hastert
Bereuter	Davis (VA)	Hastings (WA)
Berry	Deal	Hayworth
Bilbray	Delahunt	Hefley
Bilirakis	DeLay	Hefner
Bishop	Deutsch	Herger
Blagojevich	Diaz-Balart	Hill
Bliley	Dickey	Hilleary
Blunt	Dooley	Hilliard
Boehlert	Doolittle	Hinojosa
Boehner	Doyle	Hobson
Bonilla	Dreier	Holden
Bono	Duncan	Horn
Boswell	Dunn	Hostettler
Boyd	Edwards	Houghton
Brady	Ehrlich	Hulshof
Brown (OH)	Emerson	Hunter
Bryant	English	Hutchinson
Bunning	Ensign	Hyde
Burr	Etheridge	Inglis
Burton	Everett	Istook
Buyer	Ewing	Jefferson
Callahan	Fawell	Jenkins
Calvert	Foley	John
Camp	Ford	Johnson (CT)
Campbell	Fowler	Johnson (WI)
Canady	Fox	Johnson, E. B.
Cannon	Franks (NJ)	Johnson, Sam
Carson	Frelinghuysen	Jones
Castle	Frost	Kanjorski
Chabot	Gallegly	Kaptur
Chambliss	Ganske	Kasich
Chenoweth	Gekas	Kelly
Christensen	Gephardt	Kennedy (MA)
Clement	Gibbons	Kennelly

Kildee
Kim
King (NY)
Kingston
Klug
Knollenberg
Kucinich
LaHood
Lampson
Lantos
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Maloney (CT)
Manton
Manzullo
Martinez
Mascara
McCarthy (MO)
McCarthy (NY)
McCollum
McDade
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Menendez
Metcalf
Mica
Miller (FL)
Moakley
Molinari
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Neal
Nethercutt
Neumann
Ney
Northup
Norwood
Nussle
Ortiz
Oxley
Packard
Pallone
Pappas
Parker
Pascrell
Paxon
Pease
Peterson (MN)
Peterson (PA)
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Redmond
Regula
Reyes
Riggs
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryun
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaefer, Dan
Schaffer, Bob
Sensenbrenner
Sessions
Sherman
Shimkus
Shuster
Sisisky
Skeen
Skelton
Smith (NJ)
Smith (OR)
Smith (TX)
Smith, Adam
Smith, Linda
Snowbarger
Solomon
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Talent
Tauzin
Taylor (MS)
Taylor (NC)
Thomas
Thompson
Thornberry
Thune
Thurman
Tiahrt
Torres
Towns
Traficant
Turner
Upton
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—114

Abercrombie
Ackerman
Allen
Barrett (WI)
Becerra
Berman
Blumenauer
Bonior
Borski
Boucher
Brown (CA)
Cardin
Clay
Clayton
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
DeLauro
Dellums
Dicks
Dingell
Dixon
Doggett
Ehlers
Engel
Eshoo
Evans
Fattah
Fazio
Filner
Foglietta
Frank (MA)
Furse
Gejdenson
Gilchrest
Gonzalez
Greenwood
Hall (OH)
Hastings (FL)
Hinchey
Hoekstra
Hooley
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Kennedy (RI)
Kilpatrick
Kind (WI)
Kleczka
Klink
Kolbe
LaFalce
Leach
Levin
Lewis (GA)
Lofgren
Lowey
Maloney (NY)
Markey
Matsui
McDermott
McHale
McKinney
Meehan
Meek
Millender-McDonald
Minge
Mink
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Paul
Payne
Pelosi
Petri
Porter
Poshard
Price (NC)
Rangel
Rivers
Roybal-Allard
Sabo
Sanders
Sawyer
Schumer
Scott
Serrano
Shadegg
Shaw
Shays
Skaggs
Slaughter
Snyder
Stark
Stokes
Tanner
Tauscher
Tierney
Velazquez
Vento
Visclosky
Waters
Watt (NC)
Waxman
Weygand
White
Woolsey
Yates

NOT VOTING—10

Brown (FL)
Capps
Farr
Flake
Forbes
McCrery
Miller (CA)
Rush
Schiff
Smith (MI)

□ 1407

The Clerk announced the following pairs:

On this vote:

Mr. Forbes and Mr. Capps for, with Mr. Rush against.

Mr. DINGELL and Mr. BERMAN changed their vote from ''yea'' to ''nay.''

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

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. BROWN of Florida. Mr. Speaker, during rollcall vote No. 202 on House Joint Resolution 54, I was unavoidably detained. Had I been present I would have voted ''yea.''

PERSONAL EXPLANATION

Mr. SMITH of Michigan. Mr. Speaker, on rollcall No. 202, House Joint Resolution 54, I was giving testimony before the Commodity Futures Trading Commission. I arrived in the Chamber too late for any vote to be counted. I am a cosponsor of this bill and had I been present, I would have voted ''yes.''

PERSONAL EXPLANATION

Mr. SHAW. Mr. Speaker, on rollcall No. 202, I was recorded as a ''no'' which should have been a ''yes.'' I would like to think that the electronic equipment may have malfunctioned, but having been up all night with the tax-writing committee, I would have to assume that the malfunction was with me.

I ask that the RECORD show my intention and desire to vote ''yes'' as a cosponsor of the flag-burning amendment to the Constitution.

ANNOUNCEMENT OF DEADLINE FOR FILING AMENDMENTS TO H.R. 1119, THE DEPARTMENT OF DEFENSE AUTHORIZATION BILL

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, I rise for the purposes of making an important announcement.

Mr. Speaker, this concerns the defense authorization bill and amendments thereto, so I would appreciate it if the Members would listen up.

The Committee on Rules is planning to meet during the week of June 16 to grant a rule which may restrict amendments for consideration of H.R. 1119, the Defense authorization bill for fiscal year 1998.

Mr. Speaker, any Member contemplating an amendment should submit 55 copies of the amendment and a brief explanation to the Committee on Rules in H–312 of the Capitol no later than Tuesday, June 17, at noon.

Amendments should be drafted to the text of the bill, a copy of which will be available tomorrow at the Committee on National Security.

Members should use the official Office of Legislative Counsel to ensure that their amendments are properly drafted and should check with the Office of the Parliamentarian to be certain their amendments comply with the Rules of the House.

Members may contact Jim Doran, a member of the Committee on Rules staff, at 3–0071 if Members have further questions.

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

Mr. SOLOMON. I yield to the gentleman from Michigan.

Mr. BONIOR. Mr. Speaker, I would inquire of the gentleman from New York [Mr. SOLOMON], the distinguished chairman of the Committee on Rules, as to approximately how long we can anticipate this recess to last before we come back?

□ 1415

Mr. SOLOMON. Mr. Speaker, I would say to the gentleman, there is going to be a Republican conference right now. I do not know whether the gentleman could contemplate a Democrat conference or not, but that will probably last a half-hour to an hour, and we will be able to get word to him as soon as we can.

Mr. BONIOR. I thank the gentleman.

COMMUNICATION FROM STAFF MEMBER OF HON. JIM McDERMOTT, MEMBER OF CONGRESS

The Speaker pro tempore (Mr. TAYLOR of North Carolina) laid before the House the following communication from Wilda E. Chisolm, staff member of the Hon. JIM MCDERMOTT, Member of Congress:

HOUSE OF REPRESENTATIVES,
Washington, DC, June 11, 1997.

Hon. NEWT GINGRICH,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: This is to formally notify you pursuant to Rule L (50) of the Rules of the House that I have been served with a subpoena issued by the United States District Court for the District of Columbia.

After consultation with the General Counsel, I will make the determinations required by Rule L.

Sincerely,

WILDA E. CHISOLM.

COMMUNICATION FROM STAFF MEMBER OF HON. JIM McDERMOTT, MEMBER OF CONGRESS

The SPEAKER pro tempore laid before the House the following communication from Charles M. Williams,