

the increased focus on homeland security and hazard response. We rely on them to protect us from harm while we are at home, at work, and everywhere in between. Regrettably, more than 58 firefighters have died this year, a number that far exceeds the annual pace. This is especially disturbing because most, if not all, of these deaths are preventable. There are measures to be taken to reduce the number of fatalities—measures that are described in this resolution. These firefighters don't have to die. The number of deaths can be reduced, but we have to do more. Not only can we ill-afford to lose over 100 firefighters a year, but we cannot afford to lose any. I fully support the goals of the National Fallen Firefighters Foundation and the United States Fire Administration with respect to firefighter safety. I truly believe that at the end of the day, every firefighter must go home.

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

The SPEAKER pro tempore (Mr. ISSA). The question is on the motion offered by the gentleman from New York (Mr. BOEHLERT) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 180.

The question was taken.

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

Mr. BOEHLERT. 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. Pursuant to clause 8, rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

The point of no quorum is considered withdrawn.

PROVIDING FOR CONSIDERATION OF H.J. RES. 10, CONSTITUTIONAL AMENDMENT AUTHORIZING CONGRESS TO PROHIBIT PHYSICAL DESECRATION OF THE FLAG OF THE UNITED STATES

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 330 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 330

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 10) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States. The joint resolution shall be considered as read. The previous question shall be considered as ordered on the joint resolution and on any amendment thereto to final passage without intervening motion except: (1) two hours of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) the amendment in the nature of a substitute printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Watt of

North Carolina or his designee, which shall be in order without intervention of any point of order, shall be considered as read, and shall be separately debatable for one hour equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 2. During consideration of H.J. Res. 10 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the joint resolution to a time designated by the Speaker.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Washington (Mr. HASTINGS), 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, House Resolution 330 is a structured rule, and it provides 2 hours of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the joint resolution. It makes in order the amendment in the nature of a substitute printed in the Committee on Rules report accompanying the resolution, if offered, by the gentleman from North Carolina (Mr. WATT) or his designee, which shall be separately debatable for 1 hour, equally divided between the proponent and an opponent.

The rule waives all points of order against the amendment printed in the report, provides that notwithstanding the ordering of the previous question, the Chair may postpone further consideration of the joint resolution to a time designated by the Speaker, and it allows one motion to recommit, with or without instructions.

Mr. Speaker, in 1989, the United States Supreme Court *Texas v. Johnson* decision nullified the laws of 48 States banning flag desecration. Today, all 50 States have passed resolutions requesting Congress to approve a Constitution amendment for ratification that would ban flag burning.

The House of Representatives has passed the same, if not similar, legislation for five consecutive Congresses. In the 104th Congress, the House of Representatives passed a proposed amendment with the necessary two-thirds majority by a vote of 312 to 120; while the 105th House passed it 310 to 114, the 106th House passed it 305 to 124, the 107th House passed it 298 to 125, and in the last Congress, the 108th, the House passed it by a vote of 300 to 125.

Our flag, with 50 stars and 13 stripes, represents the history, culture, and ideology of democracy for the world. Millions of Americans throughout our Nation's history died defending our flag and the ideals it represents. To burn a flag is to disrespect America and disrespect democracy. For our enemies, those who embrace terrorism,

communism, and totalitarianism, burning the American flag is a sign of defiance, because freedom threatens the existence of tyranny. For our soldiers fighting in Afghanistan and Iraq, our flag is motivation to keep fighting, to move ahead, and reason to liberate a people from fear of oppression, as it has been in every conflict in which our Nation has fought.

□ 1200

For our veterans, the desecration of the flag is a slight for everything they fought for. And it serves to dishonor their friends and fellow soldiers who gave their lives for our country. To the parts of Europe occupied by the allied powers during World War II, the sight of our flag brought tears of joy because it symbolizes an end to atrocity and oppression and the return of freedom.

A constitutional amendment to ban flag desecration is not the end of our first amendment liberties. The Constitution was drafted as a living document that is capable of changing when called for by the overwhelming desire of the American people.

The debate to end flag desecration is an important issue that carries the overwhelming public support needed to pass an amendment to our Constitution. The Constitution is the foundation of our government, and modifying it should not be taken lightly. However, the American citizens have consistently spoken in favor of this amendment for more than 10 years, and it is an issue that is more than 3 decades old.

Our laws provide an opportunity for every citizen to express their opinions freely. If someone does not like the policies of our Nation, the party in power, our military, or even a specific law, they have the ability to protest, to voice concerns, write letters to their Congressmen without the consequences of death or imprisonment.

This freedom is not found in all nations. The desecration of the American flag, however, is not a form of free speech. It is a challenge to the institution that defends liberty. Although some may disagree, the United States is not the root of the world's problems; rather, we have provided relief from subjugation and freedom to many nations.

For those liberated by America and those who cherish freedom, our flag represents more than a Nation, government, or people. It is an emblem of liberty and justice. Our flag deserves to be respected and protected because it is more than just star-studded fabric; it is the symbol of democracy.

With that in mind, I request unanimous support of this rule and the underlying bill.

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

Mr. HASTINGS of Florida. Mr. Speaker, I thank my good friend, the gentleman from Georgia (Mr. GINGREY), for yielding me time, and I yield myself such time as I may consume.

I would like to ask my colleague from Georgia a question, if he does not mind, and engage in just a brief colloquy.

Does the gentleman know or has his staff related to him, when the last time occurred in America that a flag was burned, and how often that occurs, let us say, in the last year or 2?

Mr. GINGREY. Well, if the gentleman will yield, since the Supreme Court decision, in response to my good friend, the gentleman from Florida (Mr. HASTINGS), since 1994 it is my understanding that there have been at least 119 reports of incidents involving flag desecration.

The Supreme Court ruling, that 5 to 4 decision that allowed flag desecration, flag burning as part of free speech, that was 1989. Since 1994, to the gentleman from Florida (Mr. HASTINGS), my understanding is 119 incidents.

Mr. HASTINGS of Florida. And reclaiming my time, does the gentleman distinguish between flag burning and other forms of desecration when he cites the 119? I have no memory of a flag burning in recent times. And I am curious to know whether or not you do.

Flag burning is what this Congress constitutional amendment is about.

Mr. GINGREY. In response to the gentleman, no, I do not know.

Mr. HASTINGS of Florida. That is my point, reclaiming my time, among others. This is not something that happens frequently.

We begin this debate today as patriotic Americans, you and I, Dr. GINGREY, and the other 433 Members, voting Members of the House of Representatives, and the five delegates to this House.

We began this day with one of our celebrated ideals. It was in 1777 that the Founding Fathers of this Nation determined that there should be a flag as a symbol. Symbol, that is what it is. All of us abhor desecration of the flag. Desecrating the flag is disrespectful and downright disgusting.

But I am curious, because I asked two people in my district, knowing that I would be handling this rule, to observe on their way to work on June 14 the number of people that flew their flags. It is astounding, all of this talk about the flag, and how few people on June 14, that is just recently, on Flag Day, flew their flags.

I am curious, I wonder how many Members did that as well. We begin this debate today with an unresolved war in Afghanistan and Iraq. We begin this debate today with Americans dying in Iraq and Afghanistan and families crying as a result thereof.

We begin this day with the President of the United States saying that we have a Social Security crisis, and one would argue not against the notion that Social Security needs to be reformed in an appropriate manner by the body.

We began this day with a serious Medicaid crisis in this country which

we are not addressing. We began this day with an equally serious Medicare crisis which we are not addressing.

We began this day with AIDS raging throughout this country, and sexually transmitted diseases are ripe in our society; and we are not doing as much as we can about it. But yet we come to debate embedding the flag in our precious Constitution in as far as its desecration is concerned.

We begin this debate with millions of Americans without jobs. Some unemployed, some underemployed, and some never to be employed again as a result of the laws of industry in this country from a manufacturing point of view.

This debate begins with oil magnates and their companies receiving their highest profit ever in the history of this country, and American drivers paying the highest prices ever for gasoline; and yet we do not have an energy policy, and other than a handful of us, including myself, no one is introducing legislation to address the high cost of gasoline.

We began this debate today with more than 40 million Americans without health care, 2 million Americans in jail, millions of children dropping out of school. And the best we can do is stir up emotions and divisions by holding a debate about our precious flag. Nothing in the way of positive understandings is coming about as far as immigration problems in this country.

So, Mr. Speaker, I rise today in strong opposition to the underlying resolution. I firmly believe that passing this bill would abandon the very values and principles upon which this country was founded.

Make no mistake, all of us, as I have said, abhor the desecration of the flag. The flag is a symbol of our country and a reminder of our great heritage. When I graduated from high school in 1954, my assigned topic at that graduation had to do with the song, "The Old Flag Never Touched the Ground."

When Frances Scott Key wrote the Star Spangled Banner, "the flag was tattered and torn; when it was raised in Montezuma or at Arlington Cemetery, all of us are proud every day that that flag flies over this Capitol and elsewhere.

I find it unfortunate that a few individuals choose to desecrate that which we hold so dear. However, it is because of my love for the flag and the country for which it stands that unfortunately I have no choice but to oppose this well-intentioned, yet misguided, legislation.

Our country was founded on certain principles. Our Founders had the broadest visionary scope of their times. Chief among these principles are freedom of speech and expression. These freedoms were included in the Bill of Rights because the Founding Fathers took deliberate steps to avoid creating a country in which individuals' civil liberties could be abridged by the government.

Yet, that is exactly what this amendment would do. In my opinion, it be-

gins a dangerous trend in which the government can decide which ideas are legal and which must be suppressed.

I believe that the true test of a nation's commitment to freedom of expression is shown through its willingness to protect ideas which are unpopular, such as flag desecration. When I was a lawyer, I represented a member of the Ku Klux Klan, because they would not let him put his ad on a Negro station at that time that was owned by members of the Jewish faith.

I won that lawsuit, and I stood for his rights, because I knew if they took his rights away, it would be just a matter of time before they could be able to take mine away. As the Supreme Court Justice, the eminent Oliver Wendell Holmes, wrote in 1929, it is an imperative principle of our Constitution, that it protects not just freedom for thought and expression we agree with, but freedom for the thoughts we hate.

To the gentleman from Georgia (Mr. GINGREY), you and I and all of our colleagues hate it when someone burns a flag. I remember the very last time that I saw one burned sitting in my living room with my mom.

And almost without hesitation, both of us referred to those people as fools, and we used choice words in front of the word fools. Throughout this debate, Mr. Speaker, I am sure that some of our colleagues are going to try to paint some of us Democrats as unpatriotic. They will tell the American people that because we support the protection of our civil liberties and the constitutional right for an American to burn her flag, we are therefore not loyal citizens. They will demagogue us, and some may even accuse the judiciary, a separate and equal branch of government established under article 3 of the Constitution, of being a body filled with activist judges because the highest court in our land has already said that the act of burning an American flag is permissible under the first amendment of the Constitution.

To those who intend to levy such artificial claims, I say shame on you. You see, Mr. Speaker, this Congress and the Bush administration loves draping itself in the flag when talking about troops and terrorism. And there is absolutely nothing wrong with that, if they so choose to do that.

Yet this is the same administration that while standing, as the gentleman from Georgia (Mr. GINGREY) did just a moment ago, in his comments talking about our troops who are dying for us to have the right to be here, and you and I and all of our colleagues are proud of the fact that we can serve in this United States Congress, and there are people as we speak, and certainly more than 1,700 Americans have died in Iraq, and some substantial number in Afghanistan, and, yet, when they come home to Dover, Delaware, with flag-draped coffins, this administration who is so proud of the flag and all of you who would support its being made a part of a Constitution, refuses to let

the public see the pictures of those persons with those flag-draped coffins, and I might add, punishes the media for trying to access them.

The hypocrisy is so thick, that you can choke on it.

□ 1215

Last night in the Committee on Rules, I offered an amendment to the underlying legislation and I said to the gentleman from Wisconsin (Chairman SENSENBRENNER) that I found a way that I can support his measure to put the flag in the Constitution. It came by way of an incident that occurred in Durham, North Carolina on May 25 of this year. Three crosses were burned in Durham; one in front of a church, designed to intimidate people. The cross, the precious cross was burned. And yet we find ourselves here talking about the flag. I wonder about my colleagues which offends them more; or do they, as they do me, both offend me highly.

In 2003, the United States Supreme Court upheld a Virginia law banning cross burning in Virginia. The court ruled the burning of a cross by a terrorist organization such as the Ku Klux Klan is not protected by the first amendment because of the maliciousness and intent to intimidate behind the action.

Justice Sandra O'Connor wrote in the majority's opinion, "While a burning cross does not inevitably convey a message of intimidation, often the cross burner intends that the recipients of the message fear for their lives. And when a cross burning is used to intimidate, few if any messages are more powerful."

Mr. Speaker, as I began my discussion with my good friend, the gentleman from Georgia (Mr. GINGREY), I asked, When was the last time we saw a flag burn? I have not seen a flag burning in America. And I might add, when it burns abroad it offends me just as much as when it burns in this country, but I have not seen one of those desecrations in quite some time. But cross burnings continue to plague the South and are used by hate groups to incite, intimidate, and, in some instances, harm and murder. Despite this real epidemic, Congress has always been silent on the issue.

Had my amendment been made in order, and it was not considered to be made in order in the Committee on Rules, the House would have been able to debate this important issue for the first time. The House will not be debating that issue, nor will we be debating the myriad of other issues of critical importance to the American people. There are so many other things that this body could be doing today instead of drawing up another way to impede our constitutionally protected rights.

We could be expanding veterans health care benefits. We could be increasing military pay. We could be providing our soldiers with adequate body armor and protection. We could be improving our schools, creating incen-

tives for affordable housing, ensuring our seniors have long-term health care. We could be completing a transportation reauthorization bill and new school construction. These are just a few of the things, in addition to others that I have mentioned, that we could be doing.

Mr. Speaker, are we so insecure in our own patriotism that seeing someone else burning a flag will lead us to question our commitment to this great Nation? Let us ask ourselves the question, What is America? We know that its symbol stands tall no matter the circumstances.

I love this country and everything our flag stands for, even the things with which I do not agree, and they are numerous; for better or for worse, that is the cost we pay for democracy. I ask you to please consider, when you are talking about putting something in the United States Constitution, that you get past political rhetoric and that you understand the serious dynamics that are involved when we are talking about asking two-thirds of the States in this country and two-thirds of this body and the other body to pass something that will allow us to become more insecure.

I tell you, when I see somebody burn the flag, it makes me mad; it does not make me insecure. And that is what ought cause us to be reaching across to each other, because it is at that one point in time when somebody desecrates the flag that the gentleman from Georgia (Mr. GINGREY) and I have the exact same view, and that is everybody that is here. Therefore, it is a uniting thing, not a dividing thing between the first amendment rights of people.

Civil liberties are important. I do not like the fools who burn the flag, but I will stand up and protect their right to do so because to take their right means one day somebody might try to take mine.

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

Mr. GINGREY. Mr. Speaker, I yield myself such time as I may consume in response to a number of the points that my good friend, the gentleman from Florida (Mr. HASTINGS), just made so eloquently.

He asked me a little while ago about the incidences that had occurred, the 119 since 1994, and how many of those were burnings in contrast to how many might be other forms of desecration. I did not have that information for him at the moment, but I do now, and I want to share that with him; 75 of those actually were burnings.

I want to anecdotally mention one of those 75. In April 18, 2005, this occurred in Topeka, Kansas, this burning. Fire and police investigators looked into a case of arson in which flags were burned at the Topeka and Shawnee County Public Library. Someone came into the library grounds between 12:21 a.m. and 1:15 a.m. They lowered the library's flags and they burned them near the building.

Now, it was not illegal then and now to burn your own flag. It was illegal to burn someone else's. But that is the point that I wanted to make; that in fact 75 of 119 were burnings. Furthermore, I want to also mention that the word "desecration" in this constitutional amendment resolution was selected because of its broad nature in encompassing many actions against the flag.

Such broad terms are commonly used in constitutional amendments. For example, free exercise in the first amendment; unreasonable searches and seizures, probable cause, in the fourth amendment; due process and equal protection in the 14th. Thus, it is essential that we continue to use broad terms in constitutional amendments such as the word "desecration" in order to give Congress discretion when it moves to enact implementing legislation. Debate and discussion as to what forms of desecration should be outlawed, such as burning, will come at a later date in Congress.

Also, Mr. Speaker, the gentleman from Florida (Mr. HASTINGS) was talking about in regard to his own amendment. The Supreme Court decision in 2003, *Virginia v. Black*, held that "a ban on cross burning carried out with the intent to intimidate is proscribable under the first amendment," allowable under the first amendment. So it is really unnecessary to pass a constitutional amendment to prohibit cross burnings, since statutes prohibiting cross burnings with the intent to harm are currently enforceable.

In contrast, the Supreme Court has concluded in *Texas v. Johnson* in 1989 that, 5 to 4 decision, that flag desecration is protected by the first amendment, leaving a constitutional amendment as the only remaining option to protect the flag, since statutes doing so in 50 States, 48 States before 1989, are currently unenforceable.

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

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

Mr. Speaker, I for one would like to let my friend, the gentleman from Florida (Mr. HASTINGS), know that I am not so weak in my faith that burning of a cross would somehow destroy my faith. And yet I still believe that when somebody burns the cross, that the effect on our society, the chances of a riot, the chances that it will lead to violence are so high that society has a right to protect itself from the inevitable outcome of that kind of action. Furthermore, I do not believe we are acting as a body in order to tell the American people what to do.

I believe we reflect on a bipartisan basis, an overwhelming bipartisan basis, which reflects the will of the people, their desire to see this protection. That is why 50 States have all passed resolutions. Some of these States are very much Democrat States, some very much Republican.

This is not about patriotism or party. This is about the will of the people. We

must respond to the will of the people. I believe in the Constitution as a not easily changeable document, and I respect the idea that we should not change it lightly. But just as this Constitution began without Indians, African Americans, women, or even people below the age of 21 being able to vote, and we have revised and revised and revised to get a more perfect democracy, we too must respond to this generation's request.

This generation's request of us is, in fact, to establish a special respect level, not an overly high one, but a special respect level for the flag. Not because America will somehow be destroyed if one or one million flags are burned, but because the American people have called on this body to offer them an opportunity to amend the Constitution, and we do so here today. We attempt to give the American people that opportunity to revise the Constitution.

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

I would say to the gentleman from California (Mr. ISSA) before he leaves the floor, that every time that we have amended the Constitution it has been to expand liberties and rights, not to restrict them. If this amendment passes, this would be the first time in the history of this country that we would pass an amendment that would restrict rights and liberties.

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

Mr. HASTINGS of Florida. I yield to the gentleman from California.

Mr. ISSA. I might remind the gentleman from Florida (Mr. HASTINGS), my friend, that we limited the terms of how many times someone could run for President as a constitutional amendment. That is fluid document. It may add or subtract. It may reflect the will of the people. The will of the people in our lifetime was to limit the amount of terms that a President could serve, no differently than the question of whether or not you can incite a riot by burning a flag.

Mr. HASTINGS of Florida. Reclaiming my time, I cannot believe my colleague would even try to make such a specious argument, but the fact of the matter is there have only been 15 incidents in a country of 300 million people between the years of 2000 and 2005. There are substantial laws on the books that will prosecute fools who desecrate the flag.

Mr. Speaker, I yield 5 minutes to the gentleman from New York (Mr. ACKERMAN), my very good friend on the House Committee on International Relations.

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

Mr. ACKERMAN. Mr. Speaker, I love our flag and that for which it stands. It stands for a Nation founded by people fleeing from oppressors. It stands for freedoms, not the least of which is the freedom of opinion and the unimpeded

expression thereof, including the freedom to protest. This was a Nation founded by protesters.

When our Founding Fathers sought to guarantee these freedoms, they created not a flag, but a Constitution, debating the meaning of each and every word, every amendment of the Bill of Rights, each and every one of which gives people rights. They did not debate a flag. The flag would become a symbol of these rights.

What is the threat to the Republic today that drives us to dilute the Bill of Rights? Well, someone burned the flag once this year. Whatever happened to fighting to the death for somebody's right to disagree?

□ 1230

We now choose instead to react by taking away a form of protest. Most people abhor flag burners; but even a despicable, low-life malcontent has a right to disagree and to disagree in an obnoxious fashion. That is the true test of free expression.

Flag burners are rare, but vile, acts of desecration that have been cited by those who would propose changing our founding document, but these acts do not harm anybody. If a jerk burns a flag, America is not threatened. If a jerk burns a flag, democracy is not under siege. If a jerk burns a flag, freedom is not at risk. We are offended. To change our Bill of Rights because someone offends us is, in itself, unconscionable.

Who bans flag burning? Hitler did. Mussolini did. Saddam Hussein did. Dictators fear flag burners. The reason our flag is different is because it stands for burning the flag.

Though we in proper suits may decry the protesters and the flag burners, protecting their right is the stuff of democracy. The real threat to our society is not the occasional burning of a flag, but the permanent banning of the burners. The real threat is that some of us have now mistaken the flag for a religious icon to be worshipped as would pagans, rather than to be kept as a beloved symbol of our freedom that is to be cherished.

It is not the flag burners who threaten democracy. Rather, it is those who would deny them.

The Constitution this week is being nibbled to death by small men with press secretaries. If the flag burners offend us, do not beat a cowardly retreat by rushing to ban them. Meet their ideas with bigger ideas, for an even better America to protect the flag by protecting democracy, not by retreating from it.

The choice today is substance or symbolism. We cannot kill a flag. It is a symbol; and, yes, patriots have died, but they have died for liberty. They have died for democracy. They have died for the right of the protesters. They died for values.

The flag is a symbol of those values. Saying that people died for the flag is symbolic language. What they really

died for are American principles. The Constitution gives us our rights. The Constitution guarantees our liberties. The Constitution embodies our freedoms. It is our substance. The flag is the symbol for which it stands.

True patriots choose substance over symbolism. Diminish the Constitution by removing but one right and the flag shall forever stand for less. Do not pass this amendment. Do not diminish the Constitution. Do not cheapen our flag.

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

Mr. STEARNS. Mr. Speaker, let me just say to the gentleman from New York in his last presentation, for over 2 centuries the first amendment was already understood to permit flag protection. In fact, before the 1989 case, what he is talking about was not even germane because 48 States had already had in place that the flag was protected. Only Wyoming and Alaska did not have it; and now all 50 States, contrary to what the gentleman is talking about, want this amendment, H.J. Res. 10, to pass so that we have protections for our flag.

So he is acting like there has not been historically, little protection for this flag, but historically, for 2 centuries, the first amendment was in place and the flag was protected. H.J. Res. 10 will not amend the first amendment.

Let us not forget that we are not talking about amending the first amendment or limiting the rights guaranteed under the Bill of Rights. So let us make that perfectly clear.

As I pointed out, for 200 years in this country, the first amendment was understood to permit simple flag protection. That conduct has always and continues to be regulated by the United States Government. That is our job. Both State and Federal criminal codes prohibit conduct that could conceivably be protected by the first amendment; yet their constitutionality is not questioned.

Let me give my colleagues an example. Defacing currency, urinating in the public, pushing over a tombstone, public nudity are all actions which can be utilized to express a particular political or social message, but are unquestionably, unquestionably illegal. Flag desecration was once included in that list as a form of conduct our society chose not to condone. However, the Supreme Court's opinion in 1989 in Johnson and Eichman usurped the people's will in this respect.

So after 1989, then we had this problem. H.J. Res. 10 will simply return to where we were 200 years ago, overturn this erroneous decision. That is all we are doing here, restoring the original meaning to the first amendment that had persisted for over 200 years.

As we stand here today, we have a flag behind us here in the House. That flag was like the flag that we saw on 9/11. Who can forget the iconic photo taken on the terrible day of September 11, 2001, of three New York City

firefighters raising our flag from the rubble of the World Trade Center?

What did that do? That symbolizes America's mourning, but also it symbolized a determination by the American people to pursue justice. How sad it would be to come to the point where we would allow this flag that projects the symbolism of American mourning and the symbolism of a determination to pursue justice, that we would allow it to be burned.

So we are here to move forward on this amendment. I urge my colleagues to support the rule.

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

I would ask the gentleman from Florida (Mr. STEARNS), my friend, does the gentleman know of any time that we have amended the Bill of Rights in the United States of America?

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

Mr. HASTINGS of Florida. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Speaker, I think I would ask my colleague why he is against 200 years in this country, when we protected our flag, why is he standing on the floor today not respecting the tradition of this country for 200 years and realizing that all 50 States want us to enact this legislation.

Mr. HASTINGS of Florida. Mr. Speaker, reclaiming my time, because I believe in the first amendment. That was the first thing done in the United States Constitution; and I believe that in 1777, when the Founders of this Nation established the flag as our symbol that they were correct then and they are correct now.

I do not know whether my colleague was on the floor when I said to him, and I rather suspect he was not, that I resent flag burning, but I respect rights, and I will respect the rights of individuals within the framework of the Declaration of Independence and the Bill of Rights for as long as I am here.

Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. ACKERMAN), my colleague.

Mr. ACKERMAN. Mr. Speaker, I would appreciate it if the gentleman from Florida (Mr. STEARNS) does not leave the floor for a moment.

I appreciate very much his lecture about 9/11. I happen to live in New York. I am a New Yorker. I am a New York Representative. I was born in New York, and let me tell the gentleman how proud we are of those firemen. Let me tell the gentleman how proud we are of the act that they did in raising that flag and how proud each and every one of us is of that flag.

But let me also tell the gentleman this: we are proud of that flag because it represents a set of values that are different from al Qaeda's values, from oppressors' values. That flag represents our Constitution, and that Constitution is what makes the difference between us and others.

It is not a flag because it is a different shape or has different colors. It is what it represents, and for the gentleman to stand up and cite why we are against doing this and citing history, we have laws against, as the gentleman from Florida said, public urination or nudity in public. Those laws, could the gentleman tell me where there is a constitutional amendment to ban that? There is none. We take care of that with other laws.

In the history which the gentleman is so fond of citing in this country, never has there been a case where we amended the Founding Fathers' Bill of Rights. We have never amended the Constitution's Bill of Rights. We have never once taken away rights of Americans.

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

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

Mr. STEARNS. Mr. Speaker, the gentleman from New York would agree that we are not amending the first amendment or otherwise limiting in any way the guarantees under the Bill of Rights. Is that not true what we are doing?

Mr. ACKERMAN. No, that is not true. That is absolutely not true.

What my colleagues are doing is amending the Constitution which, for the first time since Prohibition, takes away the right; and there was such a hue and cry in Prohibition and that was because more people happened to drink than burn the flag, appropriately so, I might say.

Mr. STEARNS. Mr. Speaker, if the gentleman would continue to yield, I understand the gentleman is kind to give me this time. It is the gentleman's time, but the point is this is a constitutional amendment. It is not changing the first amendment.

Mr. ACKERMAN. Reclaiming my time, of course it takes away a recognized form of protest and freedom of expression. If a person burns the flag, if they burn someone else's flag, that is a crime. If they urinate in public, as the gentleman's side is so apt to talk about, on the flag, which is a despicable thing to do, there are laws that protect against those things occurring in public.

Mr. STEARNS. Mr. Speaker, if the gentleman would further yield, I have one question for the gentleman. If I went to the New York City firefighters who raised our flag on the rubble of the World Trade Center and I said to them, do you want to protect this flag from desecration and burning, what does my colleague think their answer would be?

Mr. ACKERMAN. Mr. Speaker, reclaiming my time, they were there to protect lives and protect Americans. They raised the flag in an act of patriotism, to show why this great country is different from those that attacked us, and that is because we have a Constitution.

Mr. HASTINGS of Florida. Mr. Speaker, how much time remains?

The SPEAKER pro tempore (Mr. FOSSELLA). The gentleman from Florida (Mr. HASTINGS) has 1½ minutes remaining. The gentleman from Georgia (Mr. GINGREY) has 15½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I would urge my colleague from Georgia, if he is interested in this colloquy continuing, perhaps it is that he would yield some time to the gentleman from Florida (Mr. STEARNS), who may in turn yield time to the gentleman from New York (Mr. ACKERMAN) and myself and the gentleman from New York (Mr. NADLER).

Mr. GINGREY. Mr. Speaker, I have no other speakers at this time. I plan to reserve the balance of my time, but I will be happy to yield 2 minutes to the gentleman from Florida (Mr. HASTINGS) in the interest of continuation of this colloquy.

Mr. HASTINGS of Florida. Mr. Speaker, I yield to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Well, we have been through this debate, and in all respect to the gentleman from New York, he has come down here and he pulls a box out and he has the American flag on handkerchiefs and he has got it on his tie. I respect him for doing that because he is really saying that the American flag comes in many forms and people use it to adorn, maybe even upholstery, but that is a little different. That is a little different than taking the flag and burning it.

The fact that when this country was founded and we have all the States up until 1989 supporting the idea of protection of the flag, I mean, that tradition alone, by saying to the American people we are going to forget all that tradition, so have we been wrong?

Mr. HASTINGS of Florida. Mr. Speaker, reclaiming my time, I—

Mr. STEARNS. Mr. Speaker, I think I have got the time now.

Mr. HASTINGS of Florida. No, the gentleman does not.

The SPEAKER pro tempore. Did the gentleman from Georgia (Mr. GINGREY) allocate time to the gentleman from Florida (Mr. HASTINGS) or the gentleman from Florida (Mr. STEARNS)?

Mr. GINGREY. Mr. Speaker, I yield 2 additional minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Speaker, what the gentleman is saying when we think about it, my good colleague from Florida and New York, were the people in this country wrong for 200 years to protect the flag from desecration?

Mr. HASTINGS of Florida. No.

Mr. STEARNS. Mr. Speaker, now the gentleman, as a Congressman in this 21st century, is saying they were all wrong, the judge in the Johnson and Eichman case was absolutely right? He was not respecting the 200 years we had and now suddenly out of thin air he has decided to change the courts?

Mr. HASTINGS of Florida. Mr. Speaker, reclaiming my time, I do not want to create a constitutional morass,

but I had the time and yielded to the gentleman from Florida (Mr. STEARNS), and I tried to reclaim my time. The Chair then permitted the gentleman from Georgia (Mr. GINGREY) to yield time to the gentleman from Florida (Mr. STEARNS), which should come after the time that I have utilized.

Mr. STEARNS. Mr. Speaker, I think we need a clarification who has the time. I understood that my side had given me 2 minutes.

The SPEAKER pro tempore. The gentleman from Florida (Mr. STEARNS) will suspend.

Did the gentleman from Georgia initially allocate debate time to the gentleman from Florida (Mr. HASTINGS) or the gentleman from Florida (Mr. STEARNS)?

Mr. STEARNS. Mr. Speaker, he has been very generous with my time. I do not want to take his time away because he is on the rule.

The SPEAKER pro tempore. The Chair is asking the gentleman from Georgia (Mr. GINGREY) who he initially allocated time to.

Mr. GINGREY. Mr. Speaker, may I inquire as to how much time our side has remaining?

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) has 1½ minutes remaining after this time has expired. However, the question to the gentleman from Georgia is, who initially did the gentleman allocate time to, the gentleman from Florida (Mr. HASTINGS) or the gentleman from Florida (Mr. STEARNS)?

□ 1245

Mr. GINGREY. Mr. Speaker, that was my mistake. I intended to yield that time to the gentleman from Florida (Mr. STEARNS) rather than the gentleman from Florida (Mr. HASTINGS). I apologize for that mistake.

Mr. HASTINGS of Florida. Mr. Speaker, how much time do I have?

The SPEAKER pro tempore (Mr. FOSSELLA). The gentleman from Florida (Mr. HASTINGS) has 1½ minutes remaining. The gentleman from Georgia (Mr. GINGREY) has 1½ minutes remaining; and, the gentleman from Florida (Mr. STEARNS) has 3 minutes remaining.

#### PARLIAMENTARY INQUIRY

Mr. ACKERMAN. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from Florida (Mr. STEARNS) yield to the gentleman from New York (Mr. ACKERMAN) for the parliamentary inquiry?

Mr. STEARNS. Mr. Speaker, I do.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. ACKERMAN. Mr. Speaker, if the gentleman from Georgia (Mr. GINGREY), who controls the time, yielded 2 minutes, which is an allocation of time to the gentleman from Florida (Mr. HASTINGS), should not the gentleman from Florida (Mr. HASTINGS) have 3½ minutes even if they are New York minutes?

Mr. Speaker, 1½ plus 2 are 3½ even in Florida.

The SPEAKER pro tempore. It is the understanding of the Chair, upon asking the gentleman from Georgia to clarify his initial allocation of time, that he intended to yield an initial 2 minutes and a subsequent 2 minutes to the gentleman from Florida (Mr. STEARNS). The gentleman from Florida (Mr. STEARNS) has the time.

Mr. ACKERMAN. Mr. Speaker, further parliamentary inquiry.

The SPEAKER pro tempore. Does the gentleman from Florida yield to the gentleman from New York (Mr. ACKERMAN) for a parliamentary inquiry?

Mr. STEARNS. I do.

Mr. ACKERMAN. Is what counts in the rules of procedure of the House what the gentleman's intent was or what the gentleman did?

The SPEAKER pro tempore. The Chair asked the gentleman from Georgia for a clarification. The gentleman from Georgia initially indicated he was yielding 2 minutes to the gentleman from Florida and the Chair did not hear which gentleman from Florida he intended to yield time to. Upon seeking clarification, the gentleman from Georgia indicated he intended to yield to the gentleman from Florida (Mr. STEARNS).

The gentleman from Florida (Mr. STEARNS) may proceed.

Mr. STEARNS. Mr. Speaker, I am going to wrap up here. I did not intend to get into this kind of debate.

Mr. Speaker, only to make my point, as a conservative, when we look at the issue and say there are 200 years of tradition here of protecting the flag, I think we should not throw that tradition out and remember it is only this judge in Johnson v. Eichman in 1989 that made that change, and now again we have 50 States that are asking for us as Members of Congress to vote to support H.J. Res. 10.

Mr. GINGREY. Mr. Speaker, I reserve the balance of my time for the purpose of closing.

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

I would just comment, in the Johnson case, it was Justice Scalia that was the fifth vote that made the ruling that the gentleman from Florida (Mr. STEARNS) was speaking of just a moment ago. I would hope that he would know that.

The sum fact of the matter is none of us are in favor of anybody burning a flag. But the simple fact of the matter is all of us ought to be about the business of protecting the rights and the liberties of United States citizens.

What I have said I repeat, and that is I am not so insecure that when I see a fool burn a flag that it makes me anything more than incensed. It does not cause me to lose any respect for my country at all, but the rights of that individual are the things that we must be here to protect.

Mr. Speaker, I yield the balance of my time to the gentleman from New York (Mr. NADLER).

Mr. NADLER. Mr. Speaker, the gentleman from Florida (Mr. STEARNS) indicated this does not implicate free speech. I would simply point out that we see movies all the time. In those movies we see actors dressed up as Nazis, as German soldiers in German World War II trampling and burning the flag. Do we go out and arrest those actors? Of course not, because we know the actors do not mean it; they are playing a role.

But this amendment says if an American citizen to make a point, a point that he disagrees with the actions of his government, were to do the same thing, then we would arrest him. So what are we really saying? It is not the act of the flag burning that matters; it is the point of view associated with the flag burning which is why this is a free speech issue and why we should not pass this amendment.

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

In closing, I thank the gentleman from California (Mr. CUNNINGHAM) for introducing this legislation and to the gentleman from Wisconsin (Mr. SENBRENNER), the chairman of the Committee on the Judiciary, for being steadfast and persistent in trying to bring resolution to the issue of flag desecration.

On June 14, 1777, the Continental Congress approved the stars and stripes design as the official flag of the United States in order to designate and protect our ships from friendly fire at sea.

Since 1994, 119 incidents of flag desecration, and yes, 75 of those were flag burnings, have been reported in the United States and its territories. A constitutional amendment will send a strong message of respect for our country and what it represents. Every Memorial Day, civic groups volunteer their time placing flags on the graves of our fallen soldiers. It was said earlier on Flag Day, June 14, that very few of our citizens took their liberty to display their personal flags. It is regrettable. It is regrettable that on Memorial Day, instead of honoring our fallen, our KIAs in this great country, people, many people, most people, in fact, just use it as a long weekend, another day, a holiday, not really remembering. But, of course, we do not throw out Memorial Day just because our citizens are not paying the proper respect.

Whenever a soldier or a government leader dies, a flag is given to his or her family in honor of their service to our country. Our flag means something to these civic groups, these family members, our veterans, our soldiers, and all Americans.

Every day men and women selflessly give of themselves to protect our country and our liberties, and they do not deserve to be dishonored, just as our firefighters and our policemen in the great City of New York gave of themselves on that fateful day of 9/11.

During our war against terrorism, we need to send a strong message to the

enemies of America and the enemies of freedom by protecting the symbol and values of our Nation. With that said, Mr. Speaker, I urge my colleagues to pass this rule, to oppose the Watt substitution, and pass the underlying legislation.

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.

**PROVIDING FOR CONSIDERATION OF H.R. 2475, INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2006**

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 331 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

**H. RES. 331**

*Resolved*, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 2475) to authorize appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes. The bill shall be considered as read. The amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence now printed in the bill, modified by the amendment printed in part A of the report of the Committee on Rules accompanying this resolution, shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) One hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence; (2) the further amendment printed in part B of the report of the Committee on Rules, if offered by Representative Maloney of New York or her designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for 30 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), 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. PUTNAM asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. PUTNAM. Mr. Speaker, H. Res. 331 is a structured rule that provides

for consideration of H.R. 2475, authorizing appropriations for fiscal year 2006 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System.

I am pleased to bring this resolution to the floor for its consideration. The rule provides for 1 hour of general debate, equally divided and controlled by the chairman and ranking minority member of the Permanent Select Committee on Intelligence. The rule waives all points of order against consideration of the bill.

It provides that the amendment in the nature of a substitute recommended by the Permanent Select Committee on Intelligence modified by the amendment printed in part A of the Committee on Rules report accompanying the resolution shall be considered as adopted and shall be considered as read.

It makes in order an amendment offered by the gentlewoman from New York (Mrs. MALONEY) or her designee which shall be considered as read and shall be debatable for 30 minutes equally divided and controlled by the proponent and opponent, and all points of order against the amendment are waived.

The rule provides for a motion to recommit with or without instructions.

Mr. Speaker, I am proud to present for consideration the rule for the Intelligence Authorization Act for fiscal year 2006. I want to commend the gentleman from Michigan (Mr. HOEKSTRA) and his hard-working ranking member, the gentlewoman from California (Ms. HARMAN), for their excellent work on this legislation. More than any other committee in the Congress, we rely on the Permanent Select Committee on Intelligence to do work that we have confidence in and that is accurate and honest. The committee is the eyes and ears of this Congress in the intelligence community. We depend on them to be aware of what the rest of the world and our own community is up to. We put our faith in them to practice oversight and to produce a legislative product that addresses the needs of our intelligence community, and therefore our Nation.

The committee does an outstanding job of working on a bipartisan basis to provide for our men and women who are fighting the war on terror on a variety of fronts.

I want to take a moment to salute those men and women who are working around the globe in a variety of capacities doing so much in a quiet, discreet way for our security and liberty. Linguists, analysts, case officers, mathematicians, and engineers, some of the brightest minds that our Nation produces, work in the intelligence community taking, in many cases, an option that is not as generous as the private sector may be if they were to put that intellect and those talents and skills

into some other capacity in the private sector.

But they do it as a labor of love, as a part of public service identical to that which calls men and women into uniform in the armed services and which calls men and women into our firefighter and police and other first responding capacities. No differently than those uniformed members, the men and women in our intelligence community throughout the world are performing a huge public service for which we can never show enough gratitude and appreciation.

□ 1300

The Intelligence Committee has reported out a bill that continues the House's commitment to the global war on terrorism and to ensuring that intelligence resources are directed in a balanced way toward threats to our national security. This legislation authorizes more than last year's appropriated amount and more than the President's request to continue to fight the war on terror.

The bill does an effective job of balancing our intelligence resources and strengthening human intelligence gathering by increasing the number of case officers and training and support infrastructure. A long-term counterterrorism program is established to reduce the dependence on supplemental appropriations. Additionally, it authorizes the full amount of funds expected for heightened operations for counterterrorism operations and the war in Iraq.

H.R. 2475 enhances the analytic workforce by providing additional linguists and analysts as well as improved training and tools. Furthermore, the bill continues to invest in technical programs, funding systems end to end, investing in R&D and increased use of signature intelligence, and reflects the results of a comprehensive survey to review and rationalize technical collection programs.

For the first time, the Intelligence Authorization Act funds the new Office of the Director of National Intelligence and allows for increased positions. The National Counterterrorism Center is enhanced through improved information sharing activities and collaboration provisions. The bill improves physical and technical infrastructure of intelligence agencies with new facilities.

This authorization bill is a perfect example of how Congress can achieve a bipartisan product that meets the needs of our Nation. Again, I thank Chairman HOEKSTRA, Ranking Member HARMAN, and the members of the committee for their admirable work. I urge Members to support the rule and the underlying bill.

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

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume. First, let me thank the gentleman from Florida (Mr. PUTNAM) for yielding me the time.