

I was also saddened, I must say, by one of the previous speakers who said he wanted to express his disdain for the universities involved. We have universities here which are trying to express their disagreement with what they believe, and I agree, but what they believe to be an unfair prejudice that singles out some of their students. I understand disagreement with that, but disdain? Disdain because people in these positions feel that their students should not be unduly stigmatized and denied this opportunity?

If it is so important to have the opportunity, Mr. Speaker, should not people on the other side say, you cannot deny these young people the opportunity to serve in the military. Should you not say, you should not deny these young people the opportunity to serve in the military unless they are gay or lesbian. Because if they are gay or lesbian, you want to deny them the opportunity to serve in the military regardless of any fault.

Remember, this is one that says we just stigmatize you from the outset. There is nothing you can do, there is no degree of service you can perform, there is no sacrifice you can offer to make that will allow you to serve your country. And then we will complain because we do not have enough people to serve in the military. And, again, literally thousands have been turned away. The universities are not blocking recruitment. They cannot. They are asking for the right to stand up for principle.

And now we are told by one other speaker, well, if they do not agree with the policy, you would think they would not accept the money. Please. I would say to Members, one rule in parliamentary debate: try to avoid saying something that no one will believe. I mean, this notion that if you do not agree with a policy you should boycott the government, which is using your tax money, nobody believes that. People get taxed, and sometimes they agree and sometimes they disagree. We say to people, look, you can voice your opinion, but you cannot avoid paying the taxes.

And, by the way, it is not money from the military they are seeking. Typically, what we have here are law schools. It is law schools, as people have noted, who are doing this. So people have said, well, what about the poor people? We are not getting enough wealthy people to offset the number of poor people. Well, we are talking about lawyers who are being recruited. Frankly, the poor people are not being recruited for the Judge Advocate General's office. It just does not compute.

But what they are saying is, we are not going to allow our facilities to be used in this discriminatory way. And the law schools, by the way, are not themselves, and this is an important point, under the Clinton administration the ruling was that we would look at each element of a university separately. And if the law school said no

military recruiting, that did not stop the medical school or the school of engineering from applying for Federal funds. What you now have is a policy that says if the law school says no, no other entity can get the money. So there is no connection there.

The key issue here is this: Have we not in this country come to the point where patriotic young gay men and lesbians who are prepared to serve their country will at least be given a chance? Can you not judge them on their merits? Can you not say, okay, we admire your willingness to do this. We will judge you. If it turns out you become disruptive, we will act. But this blanket denial of even the opportunity no matter how talented, no matter how diligent? You enforce that as a policy, and then you complain that we have people being turned away?

Mr. Speaker, I hope this resolution is not adopted, and I hope we will begin to reverse this blanket prejudicial policy that says to millions, millions of young American men and women, you need not apply to defend your country because we do not like some aspect about you, even if it is going to be entirely irrelevant to your service.

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

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

This Congress should be leading the way to end discrimination of any form in this country. Unfortunately, we have a resolution before us today that condones discrimination. I think it is sad we are dealing with this today. I urge my colleagues to vote "no" on the resolution.

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

Mr. COLE of Oklahoma. Mr. Speaker, I yield myself such time as I may consume; and in closing, I would like to say I think we have had a good and substantive debate today, but let us be clear: the concurrent resolution is really about ensuring those who defend our freedom and liberty the ability to have the same access to colleges and universities that is available for everyone else.

Mr. Speaker, often today others have placed this debate in the context of the "Don't ask, don't tell" policy. I suggest that those who would like to change that policy, that they look inward, at the political process itself. This was President Clinton's policy, and one enshrined in law that can only be changed by Congress.

If the other side of the aisle would like to make this change, they should propose it and debate it at this level. To put it in the context of the Solomon Amendment, I believe, is disingenuous and dangerous to our recruiting efforts. I urge my colleagues to support this rule and the underlying concurrent resolution.

Mr. COLE of Oklahoma. 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 POSTPONEMENT OF FURTHER CONSIDERATION OF HOUSE CONCURRENT RESOLUTION 36, NOTWITHSTANDING THE OPERATION OF THE PREVIOUS QUESTION

Mr. KLINE. Mr. Speaker, I ask unanimous consent that during considering of House Concurrent Resolution 36, pursuant to House Resolution 59, the Chair may, notwithstanding the operation of the previous question, postpone further consideration of the concurrent resolution to a time designated by the Speaker.

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

There was no objection.

EXPRESSING CONTINUED SUPPORT OF CONGRESS FOR EQUAL ACCESS OF MILITARY RECRUITERS TO INSTITUTIONS OF HIGHER EDUCATION

Mr. KLINE. Mr. Speaker, pursuant to House Resolution 59, I call up the concurrent resolution (H. Con. Res. 36) expressing the continued support of Congress for equal access of military recruiters to institutions of higher education, and ask for its immediate consideration.

The Clerk read the title of the concurrent resolution.

The text of House Concurrent Resolution 36 is as follows:

H. CON. RES. 36

Whereas section 8 of article I of the Constitution commits exclusively to Congress the powers to raise and support armies, provide and maintain a Navy, and make rules for the government and regulation of the land and naval forces;

Whereas the Nation's security interests demand high levels of military personnel readiness, which in turn demand cost-effective military recruitment programs;

Whereas military recruiting on the Nation's university campuses is one of the primary means by which the Armed Forces obtain highly qualified new military personnel and is an integral, effective, and necessary part of overall military recruitment;

Whereas a lack of cooperation by institutions of higher education with the legitimate pursuit of the Federal military recruiting function carries with it the harmful effect of increasing Federal spending to achieve the required outcome, while at the same time compromising military personnel readiness and performance, which in turn conflicts with Federal responsibilities to provide for the Nation's defense;

Whereas military recruiting will be significantly harmed if military recruiters are denied access to campuses and students that is at least equal in quality and scope to the access provided to any other employer;

Whereas on-campus recruiting and ready access to students are key components of recruiting highly qualified new employees for any enterprise and are recognized as such by

both institutions of higher education and employers and requiring the Armed Forces to rely exclusively on alternative recruiting methods would adversely affect the ability of the Armed Forces to attract the most qualified applicants;

Whereas any reduction in performance by the Armed Forces amidst the present national emergency declared by the President on September 14, 2001, operates against the national interest;

Whereas the Congress has chosen over time to appropriate funds for a variety of Government programs to be provided to institutions of higher learning, but those taxpayer funds are not an entitlement to any college or university and can be provided subject to conditions and criteria placed on those funds by Congress.

Whereas acceptance of Federal funding carries with it an expectation of support and respect for the laws of the Nation, including section 983 of title 10, United States Code, relating to the support of military recruiting and Reserve Officers Training Corps functions by certain educational institutions;

Whereas Congress has acted to legislatively craft a safeguard for military recruiting in section 983 of title 10, United States Code, by linking Federal funding of educational institutions to the willingness of those institutions to abide by a rule of access by military recruiters to campuses and students that is at least equal in quality and scope that is provided by any other employer;

Whereas the Government suffers irreparable injury any time it is prevented by a court from effectuating statutes enacted by Congress, the representatives of its people, and any obstruction against enforcement of section 983 of title 10 of the United States Code will not only divest the Department of Defense of a legislatively crafted recruiting safeguard but also will inflict grave harm on the Nation's military readiness and the military's ability to recruit sufficient numbers of high-quality personnel; and

Whereas the consequences specified in section 983 of title 10, United States Code, relating to a denial of certain Federal funding for failure to offer support of military recruiting and Reserve Officers Training Corps functions, are instrumental to the achievement of military performance in satisfaction of the national interest and the Constitutional duties of the Congress: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) Congress remains committed to the achievement of military personnel readiness through vigorous application of the requirements set forth in section 983 of title 10, United States Code, relating to equal access for military recruiters at institutions of higher education, and will explore all options necessary to maintain this commitment, including the powers vested in it under article I, section 9, of the Constitution;

(2) it is the sense of Congress that the executive branch should aggressively continue to pursue measures to challenge any decision impeding or prohibiting the operation of section 983 of title 10, United States Code; and

(3) Congress encourages the executive branch to follow the doctrine of non-acquiescence and not find a decision affecting one jurisdiction to be binding on other jurisdictions.

The SPEAKER pro tempore. Pursuant to House Resolution 59, the gentleman from Minnesota (Mr. KLINE) and the gentleman from North Carolina (Mr. BUTTERFIELD) each will control 30 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KLINE).

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

Mr. Speaker, while the men and women of our Armed Forces serve bravely throughout the world, the ability of our U.S. military to recruit highly qualified candidates is being put in jeopardy. As was stated so eloquently by the late Representative Gerald Solomon, barring military recruiters is an intrusion on Federal prerogatives, a slap in the face to our Nation's fine military personnel, and an impediment to sound national security policy.

The legislation bearing his name, the Solomon Amendment, formerly protected the ability of the U.S. military to reach the most highly qualified candidates by denying Federal funding, denying Federal funding to colleges which refused to permit on-campus recruiting by the U.S. military. However, on November 29 of last year, the Third Circuit Court of Appeals in Philadelphia overturned this legislation, enabling universities to receive Federal funding despite barring military recruiters from campus.

This decision threatens to severely damage the ability of the military to recruit the highly qualified candidates necessary during a time of war. Harvard Law School and now Yale Law School have already implemented the unjust policy of denying the military access to their campuses for recruiting purposes. Without the threat of lost funding, sadly, many other schools are expected to follow suit. The Department of Defense intends to appeal this ruling, but in the interim the military risks losing access to a vital source of highly qualified recruits. Our desire is to ensure this does not happen.

Under Article I, section 8 of the United States Constitution, Congress has the exclusive power to raise and support armies, provide and maintain a Navy, and make the rules for the Government and regulation of the Armed Forces. Congress has not only the right but the responsibility to use its power to protect the ability of our U.S. military to recruit the best and the brightest young men and women. We cannot be silent while this ability is put in jeopardy.

The citizens of the United States, all citizens of the United States, and I would argue the world, benefit from the protection of the most highly qualified and well-trained military in the world, and I am hopeful our actions today will put an end to the injustice of banning recruiters and will restore the ability of the U.S. military to serve its citizens most effectively.

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

□ 1315

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

Mr. Speaker, I rise today in support of this resolution. The 103rd Congress determined that Federal funding should be denied to institutions of

higher learning that prohibit military representatives from having student access while permitting access to other employers.

The Solomon Amendment was passed by this body in 1994 after vigorous debate by a vote of 271 to 126. The amendment was simple, "You cannot receive Federal funds for your institution if you impair the military from recruiting on your campus, yet allow other employers access to the students."

It is essential that our military be prepared to defend our country. Cost-effective recruiting is the key to an all-volunteer Army. Many of our institutions recognize Congress's intention and immediately complied with the intent and spirit of the Solomon Amendment. Other institutions have taken offense to the amendment by insisting that this measure offends the first amendment's provision that Congress shall make no law abridging the freedom of speech.

The question of whether the Solomon Amendment violates the first amendment is now being litigated in our courts. The District Court for the District of New Jersey denied a request for injunctive relief which permitted this law to stand. The district court was of the opinion that the plaintiffs were not likely to prove a first amendment infringement. On appeal, the U.S. Court of Appeals for the Third Circuit in a 2 to 1 decision reversed the district court and concluded that the plaintiffs demonstrated a likelihood of success on their contention that the first amendment claim had merit and directed the district court to enter a preliminary injunction which has the effect of permitting these universities to deny access to military recruiters.

Mr. Speaker, I was a trial judge in my home State of North Carolina for 13 years and a State supreme court justice for 2 years. I can tell Members there is a presumption in our law to favor congressional enactments that are intended to support our military. There is a high burden on a plaintiff to overcome this presumption. No court has ever declared unconstitutional on first amendment grounds any congressional statute designed to support the military.

If this law in any way offends the first amendment, the courts are then required to balance the interests that are involved and determine whether the violation trumps the articles relating to the spending power and support of the military.

I need not remind my colleagues of the perilous times the American people now face. Like never before, this Congress must ensure that we have the best military on the planet and this includes having unimpeded access to our colleges and universities for the purpose of recruiting.

It seems illogical to me that an institution desires Federal resources but wants to restrict access to military recruiters. Acceptance of Federal funding carries with it an expectation of support and respect for the laws of this

Nation. I therefore join with the gentleman from Minnesota (Mr. KLINE) in support of this resolution and urge its adoption. This matter needs to be put to rest. It is imperative that the executive branch take this matter to the U.S. Supreme Court to urge the court to give deference to the Congress and uphold this statute. This resolution makes it clear that the Congress intends to continue to support our military by ensuring equal access for military recruiters on college campuses, and it should be the sense of this Congress that we want judicial review of this matter by our highest court.

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

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to the order of the House of today, further proceedings on this concurrent resolution will be postponed.

RESIGNATION AS MEMBER OF COMMITTEE ON GOVERNMENT REFORM

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Government Reform:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 1, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: I am requesting a leave of absence (effective immediately) from the House Committee on Government Reform due to my pending appointment to the House Permanent Select Committee on Intelligence.

Thank you.
Sincerely,

JOHN F. TIERNEY,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted. There was no objection.

RESIGNATION AS MEMBER OF COMMITTEE ON AGRICULTURE

The SPEAKER pro tempore laid before the House the following resignation as a member of the Committee on Agriculture:

HOUSE OF REPRESENTATIVES,
Washington, DC, February 1, 2005.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
Washington, DC.

DEAR SPEAKER HASTERT: I would like to resign my seat from the Committee on Agriculture, effective immediately.

Sincerely,

BENNIE G. THOMPSON,
Member of Congress.

The SPEAKER pro tempore. Without objection, the resignation is accepted. There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. MENENDEZ. Mr. Speaker, I offer a privileged resolution (H. Res. 62) and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 62

Resolved, That the following named Members and Delegates be and are hereby elected to the following standing committees of the House of Representatives:

(1) COMMITTEE ON AGRICULTURE.—Mr. Pomeroy, Mr. Boswell, Mr. Larsen of Washington, Mr. Davis of Tennessee, Mr. Chandler.

(2) COMMITTEE ON THE BUDGET.—Mr. Kind.

(3) COMMITTEE ON GOVERNMENT REFORM.—Ms. Norton.

(4) COMMITTEE ON RESOURCES.—Mr. George Miller of California, Mr. Markey, Mr. DeFazio, Mr. Inslee, Mr. Udall of Colorado, Mr. Cardoza, Ms. Herseth.

(5) COMMITTEE ON SCIENCE.—Ms. Hooley of Oregon (to rank immediately after Ms. Woolsey), Ms. Jackson-Lee of Texas, Ms. Zoe Lofgren of California, Mr. Sherman, Mr. Baird, Mr. Matheson, Mr. Costa, Mr. Al Green of Texas, Mr. Melancon.

(6) COMMITTEE ON SMALL BUSINESS.—Mr. Faleomavaega, Mrs. Christensen, Mr. Davis of Illinois, Mr. Case, Ms. Bordallo, Mr. Grijalva, Mr. Michaud, Ms. Linda T. Sánchez of California, Mr. Barrow, Ms. Bean.

(7) COMMITTEE ON VETERANS' AFFAIRS.—Mr. Strickland, Ms. Hooley of Oregon, Mr. Reyes, Ms. Berkley, Mr. Udall of New Mexico.

Mr. MENENDEZ (during the reading). Mr. Speaker, I ask unanimous consent that the resolution be considered as read and printed in the RECORD.

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

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING CONTINUED SUPPORT OF CONGRESS FOR EQUAL ACCESS OF MILITARY RECRUITERS TO INSTITUTIONS OF HIGHER EDUCATION

The SPEAKER pro tempore. Pursuant to the order of the House of today, proceedings will now resume on House Concurrent Resolution 36, expressing the continued support of Congress for equal access of military recruiters to institutions of higher education.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. When proceedings were postponed earlier today, 52½ minutes remained in debate. The gentleman from Minnesota (Mr. KLINE) has 27 minutes remaining, and the gentleman from North Carolina (Mr. BUTTERFIELD) has 25½ minutes remaining.

The Chair recognizes the gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Mr. Speaker, I yield 4 minutes to the gentleman from Alabama (Mr. ROGERS), the sponsor of this concurrent resolution and a member of the Committee on Armed Services.

Mr. ROGERS of Alabama. Mr. Speaker, I rise today in strong support of H. Con. Res. 36. This resolution expresses the continued support of Congress for the so-called Solomon Law, a critical piece of legislation originally passed in 1994 which has helped ensure that mili-

tary recruiters have equal access on our Nation's campuses.

We are debating this resolution today only because of a recent court decision that wrongfully struck down the Solomon Law. In November of last year, a closely divided U.S. Third Circuit Court of Appeals ruled that the Solomon Law violates first amendment rights to free speech and association.

The court sided with the plaintiff arguing that "the Solomon Amendment requires law schools to express a message that is incompatible with their educational objectives, and no compelling governmental interest has been shown to deny this freedom."

Mr. Speaker, I cannot disagree more with this assessment. In our post-9/11 world, our Nation's military deserves, at least the same access to institutions of higher education that any other major employer might enjoy. This is certainly a modest and I believe a reasonable request, especially if the college or university accepts Federal funds.

This is not about infringing free speech; it is about ensuring our military has access to our Nation's best and brightest at a time when we face enormous challenges abroad. This resolution expresses the continued support of Congress for the Solomon Law and would help ensure that military recruiters continue to have access to college campuses and students that is at least equal in quality and scope as that provided to any other employer.

This resolution would reaffirm the commitment of Congress to explore all options, including the use of its constitutional power to appropriate funds to achieve that equal access. In adopting this resolution, we would also be urging the executive branch to aggressively challenge any decision impeding or prohibiting the operation of the Solomon Law. Also, we would be encouraging the executive branch to follow a doctrine of nonacquiescence by not finding a judicial decision affecting one jurisdiction to be binding on any other jurisdiction.

Mr. Speaker, as we debate this resolution, it is important for us to remember that the Solomon Law and its legislative updates were not designed as one-size-fits-all mandates from Washington. In fact, the law is very flexible, and it fits the needs of nearly every public-funded institution in the country. For example, the Solomon Law does not apply to colleges or universities that have a long-standing policy of pacifism based on historical religious grounds, nor does it affect any Federal student aid or financial assistance.

Of course, as those of us who are here debating this issue are aware, this is not the first challenge to this law. Prior to the November circuit court decision, on repeated occasions lower courts have consistently upheld the constitutionality of the Solomon Law, arguing that it does not infringe on any institution's right to free speech or association.