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

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

**GITMO MENU**

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

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

What am I talking about? Not the Days Inn, not the Hampton Inn, not the menu here at the Capitol; but I am talking about what prisoners will be eating today in Guantánamo Bay. This is where the Democrats say they are being subjected to cruel and unusual punishment. I will go on with the dinner menu. We have cooked potatoes, seasoned lentils, pita bread, potato wedge, wheat bread, fresh fruit, cauliflower. I will kind of admit that making them eat cauliflower is a little bit tough on them, but we do not make them eat beets or broccoli on the other hand.

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

**SOME WAR ON TERRORISM**

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

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

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

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

**1045 DETROIT PISTONS ARE ALIVE AND WELL**

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

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

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

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

**INDIVIDUAL TAX SIMPLIFICATION ACT OF 2005**

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

Mr. NEAL of Massachusetts. Mr. Speaker, I have served in this House since 1988, and I have been on the Committee on Ways and Means since 1993. A lot has changed over this time, but it is a lot harder to achieve it. Many have said that the Tax Code grows more and more complex. As I have indicated, this is 6 years now that we have offered this legislation, but every year that passes our Code grows more and more complex. We have an opportunity to do away with the alternative minimum tax.

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

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 330, I call up the joint resolution (H.J. Res. 10) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 330, the joint resolution is considered read.

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

H.J. Res. 10

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

"ARTICLE—

"The Congress shall have power to prohibit the physical desecration of the flag of the United States:"

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

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

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

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

The SPEAKER pro tempore. Without objection, the gentleman from New
York (Mr. Nadler) will control the time of the gentleman from Michigan (Mr. Conyers).

There was no objection.

The SPEAKER pro tempore. The Chair recognizes the gentleman from Wisconsin (Mr. Sensenbrenner).

GENERAL LEAVE

Mr. Sensenbrenner. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material of H. J. Res. 10.

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

There was no objection.

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

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

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

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

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

For the first two centuries of our Constitution’s existence, it was permissible to protect America’s preeminent symbol from desecration. In 1989, the Federal Government and 48 States had exercised this authority. However, in the same year, a closely divided Supreme Court invalidated those laws by holding that burning an American flag as part of a political demonstration was protected by the First Amendment. The Congress quickly responded to this decision, but the following year, in another 5 to 4 decision, the Court struck down the Federal Flag Protection Act in United States v. Eichman. Since 1990, 119 incidents of flag desecration have been reported, and the flag of the United States remains vulnerable.

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

As a result, House Joint Resolution 10 does not upset the doctrine of judicial review. Rather, it utilizes a remedy envisioned by the founders to effectuate the will of the people. Moreover, House Joint Resolution 10 will prohibit flag desecration. Rather, should the States ratify the amendment, it will enable Congress to enact legislation to establish boundaries within which such conduct may be prohibited. The amendment process is one that should not be lightly used. However, because of the narrowly divided Johnson and Eichman Supreme Court decisions, the constitutional amendment provides the only remaining option for the American people and their elected representatives to protect their national symbol from the Nation’s preeminent symbol.

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

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

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

Mr. Speaker, the flag of the United States is a critical part of America’s civic identity. Millions of Americans, including we as Members of Congress, pledge daily allegiance to the flag, and our National Anthem pays homage to it. America’s soldiers salute the flag of the United States in times of peace, and generations of America’s soldiers have fought and died for it in times of war. I urge my colleagues to join me in supporting this important measure that provides this unique and sacred American symbol with the dignity and protection it deserves and demands. Pass the resolution.

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

Mr. Nadler. Mr. Speaker, I yield such time as he may consume to the gentleman from Michigan (Mr. Conyers), the distinguished ranking member of the Committee on Rules, for conducting such a dispositive examination of the rule and the substance of the measure that is before us today.

Today’s consideration of House Joint Resolution 10 will show whether we have the strength to remain true to our forefathers’ constitutional ideals and defend our citizens’ right to express themselves, even if we vehemently disagree with their method of expression. I have been thinking about this. I have never met anyone that supports burning the American flag. Very few Americans favor burning the flag as an expression of free speech. I personally deplore the desecration of the flag in question, but I remain strongly opposed to this resolution because this resolution goes against the ideals that the flag represents and elevates a symbol of freedom over freedom itself. If adopted, this resolution would represent for the first time in our Nation’s history that the people’s representatives in this body voted to alter the Bill of Rights to limit the freedom of speech.

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

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

This resolution is in response to two Supreme Court decisions, Texas v. Johnson in 1989 and the United States v. Eichman in 1990, two Supreme Court decisions in one bite. It is always
tempting for Congress to want to show the Supreme Court who is boss by amending the Constitution to outlaw flag-related expression.

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

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

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

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

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

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

Those who oppose this amendment to the Constitution prohibiting the physical desecration of the flag express the sentiment of many Americans. In May 2005, just last month, a majority of Americans opposed such an amendment by 63 percent to 35 percent because of its first amendment restrictions. Our veterans who have risked their lives to defend the ideals the flag represents, oppose this amendment as well. Veterans for Common Sense and Veterans Defending the Bill of Rights, two organizations, do not want to see the first amendment unaveled and a desecration of what the flag represents.

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

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

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 5 minutes to the gentleman from California (Mr. CUNNINGHAM), the author of the legislation.

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

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

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

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


American GI Forum of the U.S. American GI Forum of the U.S. Founding Chapter.

The American Legion. American Legion Auxiliary.

American Legion Riders, Department of Virginia. American Merchant Marine Veterans.


Catholic War Veterans. The Center for Civilian Internee Rights, Inc.


Czech Catholic Union. Czechoslovak Christian Democracy in the U.S.A.

Daughters of the American Colonists. Drum Corps Associates.


Great Council of Texas, Order of Red Men.


Jewish War Veterans of the USA. Just Marketing, Inc.


Ladies Auxiliary of Veterans of World War I. MBNA America.

Marine Corps League. Marine Corps Mustang Association, Inc.


Military Officers Association of Indianopolis, MOAA (formally The Retired Officers Association of Indianapolis, TROA). Military Order of the Purple Heart of the U.S.A.


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

National Center for Public Policy Research.


National FFA (Future Farmers of America). National Grange.

National Guard Association of the U.S.


National Organization of World War Nurses. National Service Star Legion.

National Slovak Society of the United States.


Native Sons of the Golden West.
Mr. NADLER. Mr. Speaker, I yield myself such time as I may consume.

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

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

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

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

Let there be no doubt that this amendment is aimed directly at ideas. Current Federal laws say that the preferred way to dispose of a tattered flag is to burn it, but there are those who would criminalize the same act of burning the flag if it was done to express political dissent. Mr. Speaker, the fact of the matter is done it, whoever the President may be at that moment, our troops shouldn’t be in wherever they are, that is endangering our troops, we will make that illegal. That will be easier to do. That is why this amendment is so dangerous.

How many Members of Congress, used the flag, an agent licensed restaurant, and other seemingly legitimate individuals and enterprises have engaged in the act of using the flag or parts of the flag for advertising, an act which our Constitution permits. Who among us actually contemplates flag desecration? This amendment would presumably make that law constitutional once more. If ratified, I think there are more than a few people who will have to redesign their campaign materials to stay out of jail, except, of course, that probably no one will arrest them for that violation of the law because they will not be seen to be using it for dissident political speech, unless they are running on an unpopular platform. Another reason that is the danger of this amendment.

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

This cavalier attitude toward the Bill of Rights is offensive and revealing. Why, then is it? Why look into it? It’s only the Constitution. We’re only talking about the rights of a few malcontents for whom even opponents of this amendment have contempt. And we do have contempt for people who would burn the flag. None of us think that those people are doing something praiseworthy. We all think it is absurd and wrong, but we think their right to be wrong has to be protected. That is what America is all about. By the way, that is this epidemic of flag burning? I do not recall seeing anybody burning the flag in I do not know how many years. What is the danger we are legislating against? People have died for this great Nation and therefore the flag or parts of the flag represent. We are a shining beacon to the world because we allow dissent, even when that dissent is offensive or despicable. Let us not cease to be a shining beacon on the hill. Let us not be the nation that destroys the way of life for which our troops have made the ultimate sacrifice.

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

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

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

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

But the last paragraph of that decision, I think, is very important; and I am going to read it into the RECORD. The Wisconsin Supreme Court through Justice John Wilcox said: "But in the end, to paraphrase Justice Frankfurter, we must take solace in the fact that as members of this court we are not justified in writing our private notions of policy into the Constitution, that no matter how much we disapprove, we do not have the right to approve or disapprove legislation in the public interest."

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

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

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

I would also like to very briefly just address some of the allegations, particularly the one about not having
hearings. As has been stated, we have had a number of hearings on this in the past. The interesting thing is when one holds these hearings or had we chosen to hold hearings again this time, I might add we had experts on both sides come and testify about this, there are allegations thrown against us that this is a crass exploitation of the flag when we have not done this, that, or the other thing. I think those of us on this side tend to want to keep this debate on a very civil level and I would encourage my colleagues to do that. Since this country’s creation, nothing has represented the United States of America as honorably as our American flag has. From the top of this very Capitol building to porches all across our country, the flag is synonymous with the principles on which this country was founded and the principles on which we still stand. Each day it serves as a source of comfort and strength and holds the promise of a better future for all Americans.

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

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

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

Mr. SCOTT of Virginia. Mr. Speaker. I thank the gentleman for yielding me this time. I think it is important to put this debate in context because it occurs to me that every time we consider this resolution, we end up cutting veterans health care. So let us just see what we are doing this year on the health care budget for veterans. The Republican budget cuts veterans health care programs by more than $13.5 billion. The Federal government compared to what would be needed just to keep up with inflation. The President even proposed a $15 billion cut and copays for a significant number of our veterans.

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

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

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

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

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

So you can restrict the particulars of a march and demonstration by what time it is held or where it is held or how loud the demonstration can be, but you cannot restrict what people are marching or demonstrating about. You cannot ban a particular march or parade and then try to restrict by content otherwise. The prohibition of the First Amendment is all about prohibiting expression in violation of the very principles on which this country was founded and the very protections our flag now is synonymous with. When the real impact of the legislation will be to have political protesters arrested because they disagree and express that disagreement of government policy.

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

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

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

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

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

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

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

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

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

Hampton Sides, in his book Ghost Soldiers, recounts the Ranger action to liberate the allied POWs from Cabanatuan, the same one for an American, said his heart stopped for he realized it was the first Stars and Stripes he’d seen since his surrender. All the men in all the trucks stood at attention and saluted. Then came the tears. ‘We wept openly,’ to paraphrase Abraham, ‘and we wept without shame.’

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

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

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

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

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

So, in other words, if one desecrates a flag to make a nice point, that is a good context. If they desecrate it to make an unpopular point, that should be jailable. I thank the gentleman from Indiana (Mr. SODREL) for making my point.

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

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

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

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

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

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

Jim Warner, a Vietnam veteran and prisoner of the North Vietnamese from 1967 to 1973, wrote this about the proposed amendment, and I quote this prisoner of war, this American hero: ‘The fact is the principles for which we fought, for which our comrades died, are advancing everywhere upon the earth while the principles against which we fought are everywhere discredited and rejected. The flag burners have lost, and the debt that is the most fitting and thorough rebuke of their principles which the human could devise. Why do we need to do more? An act intended merely as an insult is not worthy of our fallen comrades. It is the sort of thing our enemies did to us, but we are not them, and we must conform to a different standard. . . . Now, when the justice of our principles is every day vindicated, the cause of human liberty demands that the amendment be rejected. Rejecting this amendment would not mean that we agree with those who burned our flag or even that they have been forgiven. It would, instead, tell the world that freedom of expression means for those expressions we find repugnant.’

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

According to the American Legion, 30,000 veterans are waiting 6 months or more for their veterans budget. The Veterans of Foreign Wars estimates that as many as 220,000 men and women veterans could lose their benefits under the proposed veterans budget. Our veterans went to battle for our country. They protected our country. One of those freedoms is freedom of speech. We love our veterans. We love our flag. We love our country. And that is why we oppose this amendment.

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

Mr. Speaker, throughout the history of this Republic, the Congress has proposed constitutional amendments and sent them to the States to overturn Supreme Court decisions that were particularly onerous. The one that comes to mind as coming to the top of the list was the Dred Scott decision. That was based on constitutional grounds, and Congress proposed and the States ratified three amendments, the 13th, 14th and 15th amendment, to make sure that the mistake that was made by the Dred Scott decision would never be repeated again. And think of the time frame early in the country’s history under the Constitution that related to the judicial power of the United States. The 11th amendment was proposed and ratified to correct that. And the Supreme Court also said that levying income taxes violated the provision of the Constitution on apportionment of taxes, and the 16th amendment was proposed and ratified to correct that problem.
So when there is a court decision that has resulted in consequences that the Congress and the States collectively deem are so bad that it requires an amendment to the Constitution, this Congress has not hesitated to propose an amendment to the Constitution, and States have ratified it.

Here we have had resolutions of all 50 State legislatures asking that we propose an amendment in order to put this matter on the Constitution, and it has been ratified.

The星星条纹是强大的。这句话是真正的，而且我认为它将决定的，要展示和保护我们面前和那边的旗子以保持我们的自由和我们的宪法。我们的旗帜作为我们的国家和我们的自由的象征，是我们的国家和我们的自由的显著和保护的标志。那些乱扔我们的旗帜，对我们的人和我们战斗的人侮辱和残忍的人，就是我支持这项修正案的原因，这就是我为我们的国旗感到骄傲的理由。

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

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

Mr. Speaker, I rise today to defend the flag of the United States of America. Throughout the history of our Nation, our flag has stood as the ultimate symbol of our freedom. From Yorktown to Fort McHenry, from Iwo Jima to Baghdad, our troops have fought behind the flag in defense of our country.

Their dedication and their sacrifice in defense of freedom demands that we take this action today. And who can forget on September 11, 2001, when firefighters in New York pulled our flag out of the rubble of the World Trade Center and hoisted it in defiance of terror? And who can forget the flag that hangs in the American History Museum here in Washington, D.C., that was draped over the scarred Pentagon as a show of our Nation’s resolve? We should not, we must not, and we cannot allow the desecration of our national symbol as some form of protest.

Some things in this Nation are sacred, and the flag is the most sacred symbol of all. The flag binds our Nation together and must be protected. Let us take this action together today. Honor the service and sacrifice of those who have fought behind the flag in defense of our freedom.

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

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

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

I rise in support and as a cosponsor of H.J. Res. 10, an amendment to the Constitution authorizing the Congress to prohibit the physical desecration of the United States flag.

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

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

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

We have the right to protest and object to the policies of this administration or any other. The most effective protest is a piece of cloth that Francis Scott Key taped on his uplifted arm.

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

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

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

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

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

The Stars and Stripes is a powerful symbol of our Nation and the ideals that we, as a people, hold dear; the freedom Americans enjoy; the courage of those who have defended it; and the resolve of our people to protect liberty and justice for all from enemies from within and from without. The ideals that it embodies are very powerful and are recognized here at home, but also abroad, by friend and foe alike.

This symbol of liberty is so powerful that Congress should have the right to protect it. The Supreme Court was wrong to permit flag-burning. The burning of the flag is conduct that Congress is justified in regulating, and that is what we are doing in this legislation.

The process may well be legal, but it is unwise.

The flag is a symbol worth defending. It is a symbol of the values that we hold dear as Americans. It is a symbol of our Nation’s history and tradition. And that is why I am proud to be an American.

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

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

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

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

Mr. PAUL asked and was given permission to reserve and extend his remarks.

Mr. PAUL. Mr. Speaker, I rise in strong opposition to this resolution.

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

One would be to use State laws. There are a lot of State laws, such as laws against arson, disturbing the peace, theft, inciting riots, trespassing. We could deal with all of the flag desecration with these laws. But there is another solution that our side has used and that is to get rid of the jurisdiction from the Federal courts. We did it on the marriage issue; we can do it right here.
So to say this is the only solution is incorrect. It is incorrect. And besides, a solution like that would go quickly, pass the House by a majority vote, pass the Senate by a majority vote, send it to the President. The Schiavo legislation was rejected and passed. Why not do it with the flag? It is a solution, and we should pay attention to it.

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

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

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

Another problem that exists routinely on the House floor is the daily trashing of the Constitution by the Rules of the House because of the rules of the Federal government while undermining that extension of the States.

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

However, I cannot support an amendment to give Congress new power to prohibit flag burning. I served my country to protect our freedoms and to protect our Constitution. I believe very sincerely that today we are undermining to some degree that freedom that we have had all these many years.

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

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

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

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

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

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

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

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

One of the very first laws that Red China passed upon assuming control of Hong Kong was to make flag burning illegal. Since that time, they have prosecuted some individuals for flag burning. Our State Department keeps records of how often the Red Chinese prosecute people for burning the Chinese flag, as it considers those prosecutions an example of how the Red Chinese violate human rights. Those violations are used against Red China in the argument that they should not have the one nation, one people status. There is just a bit of hypocrisy among those Members who claim this amendment does not interfere with fundamental liberties, yet are critical of Red China for punishing those who burn the Chinese flag.

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

Some claim that this is not an issue of private property rights because the flag belongs to the country. The flag belongs to everybody. But if you say that, you are a collectivist. That means you believe everybody owns everything. So why do American citizens have to spend money to obtain, and maintain, a flag if it is communally owned. Your neighbor, or the Federal Government, owns a flag, even without this amendment you do not have the right to go and burn that flag. If you are causing civil disturbances, you are liable for your conduct under state and local laws. But if you say that, that idea that there could be a collective ownership of the flag is erroneous. Finally, Mr. Speaker, I wish to point out that by using the word “desecration,” which is traditionally reserved for religious symbols, the authors of this amendment are placing the flag on the same plane as the symbol of the church. The practical effect of this is to either lower religious symbols to the level of the secular state, or raise the state symbol to the status of a holy icon. Perhaps this amendment harkens back to the time when the state was integrally connected with the church. In any case, those who believe “no king but Christ” should be troubled by this amendment.

We must be interested in the spirit of our Constitution, not in the letter. We must be interested in the principles of liberty. I therefore urge my colleagues to oppose this amendment. Instead, my colleagues should work to restore the rights of the individual states to ban flag burning, free from unconstitutional interference by the Supreme Court.

Mr. SENSENIBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. Pence).

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

Mr. PENCE. Mr. Speaker, I want to begin by commending the gentleman from California (Mr. CUNNINGHAM) for not only his extraordinary and courageous work in the Committee on the Judiciary on which I have the privilege of serving. The gentleman from Wisconsin (Mr. SENSENIBRENNER) continues to provide leadership that reflects the values...
of the overwhelming majority of the American people to this Congress. By entertaining this legislation and bringing this debate again to the floor, the gentleman from Wisconsin (Chairman SENSENBERGER) demonstrates the quality of leadership we need.

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

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

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

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

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

Mr. SNYDER. Mr. Speaker, we are gathered here today to debate a constitutional amendment that would restrict the right of an American to make a foolish, foolish mistake with his or her own property. As Secretary of State Colin Powell said in a letter dated May 18, 1999 to Senator LEAHY: "If they are destroying a flag that belongs to someone else, that is a prosecutable crime. But if it is a flag they own, I really don't want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead." Mr. Speaker, my primary objection to this amendment is not the effect it will have on those who physically desecrate their flags, because the numbers of people who physically desecrate the American flag are so small. My objection is that it will give government a tool with which to prosecute Americans with minority views, particularly at times of great national division, whose behavior would have been perceived as patriotic if done by the majority. Unfortunately, our history has abundant examples of patriotism being used to hurt those who express views in disagreement with that of the majority, and those stories of strife and disorder were written in years of great strife in America.

The first one I would like to read is from April 7, 1917. Headline: "Diners Refuse to Stand for the National Anthem, Attack 5 Men and Two Women Who Refuse to Stand When It Is Played. There was much excitement in the main dining room at Rector's last night following the playing of the 'Star Spangled Banner' by a former reporter on the New York Call, a Socialist newspaper, was dining with Miss Jessie Ashley and Miss May R. Towle, both lawyers and suffragists. The three were among those remaining seated. There were quiet, then loud and vehement, protests, but they kept their chairs. The angry diners surrounded Boyd and the two women and blows were struck back and forth, the women fighting valiantly to defend Boyd. He cried out he was an Englishman and did not have to get up, but the crowd would not listen to explanation. "Boyd was beaten severely when Albert Dasburg a head waiter, succeeded in reaching his side. Other waiters were struck back and forth, the women closed in and the fray was stopped. The guests insisted upon the ejection of Boyd and his companions, and they were asked to leave. They refused to do so and they were escorted to the street and other waiters followed. The crowd went away.

Another one from the New York Times, July 2, 1917, headline: "Boston 'Peace' Parade Mobbed. Soldiers and Sailors Break Up Socialist Demonstration on and around Boston Headquarters Ransacked and Contents Burned, Many Arrests For Fighting. Riotous scenes attended a Socialist parade today which was announced as a peace demonstration. The ranks of the marchers were dispersed by a squad of uniformed soldiers and sailors, red flags and banners bearing Socialist mottoes were trampled on, and literature and furnishings in the Socialist Headquarters in Park Square were thrown into the street and burned.""At Scollay Square there was a similar scene. The American flag at the head of the line was seized by the attacking party, and the band, which had been playing the 'Marseillaise' with some interruptions, was forced to play 'The Star-Spangled Banner' while cheers were given for the flag."

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

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

What do these stories have to do with this very vocal minority and will we use this amendment to question the patriotism of someone else? Was it not the Constitution to prosecute someone for treason? Did we prosecute someone for treason? Was it not the Constitution to question the behavior of an American? Did we question the behavior of an American? Did we use this amendment to prosecute someone who did not rise at the playing of the National Anthem, but the court told him he did not realize such behavior is in violation of the law. Did we use this amendment to prosecute someone who took down our American flag? Did we use this amendment to prosecute someone who desecrated the American flag? Did we use this amendment to prosecute someone who did not know what the National Anthem was? Did we prosecute someone who did not know what the National Anthem was? Did we use this amendment to prosecute someone who did not know what the National Anthem was? Did we use this amendment to prosecute someone who did not know what the National Anthem was?

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

I was standing a few booths down the way and watched as one of the volunteers sat on the table, oblivious to the fact he was sitting on our American flag. I believe that his action was a completely innocent mistake, and that he did not realize such behavior is inconsistent with good flag etiquette. I believe that had this group been a fringe group, these with views contrary to the great majority, and should we have laws prohibiting physical desecration of the flag, and had this been a time of great national division, such an action as I described would not be excused as an innocent mistake.

Instead, a minority group might be prosecuted out of anger, out of disgust,
As I stepped out of the aircraft, I looked up and saw the flag. I caught my breath when tears filled my eyes. I saluted it. I never loved my country more than at that moment. Although I had received a Silver Star medal, and two Purple Hearts, there was nothing connected to the gratitude that I felt then for having been allowed to serve the cause of freedom.

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

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

“No, I said, that proves I am right. In my country we are not afraid of freedom. And I think this constitutional amendment is the best way to hurt them than with a subservient idea of freedom. Do not be afraid of freedom, it is the best weapon we have.”

This is, as I said, from Major James Warner, who was a POW in Vietnam for six years who understands freedom, and it is the way to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with another weapon of freedom?

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

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

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

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

For me, that would be a badge of honor. But I think this constitutional amendment is an overreaction to a nonexistent problem. Keep in mind the Constitution has only been amended 17 times since the Bill of Rights was passed in 1791. This is the same Constitution that outlawed slavery, gave blacks and women the right to vote, and guaranteed freedom of speech and freedom of religion.

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

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

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

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

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

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

But I have never heard of these groups. I am sure most of you have not heard of those groups. I am not saying they are not legitimate groups or they do have well-meaning members. But I would contend that the vast majority of American veterans do indeed support the proposed amendment.

And I cite that a group of veterans such as the American Legion and Veterans of Foreign Wars, whose membership combined is well over 5 million veterans.

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

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

Thanks to these, what I believe are dubious decisions, we are forced to act
June 22, 2005

CONGRESSIONAL RECORD—HOUSE

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

Further, I fully appreciate and respect the memories of those who have died in the service of our Nation in this manner. Since I started in the House of Representatives this issue has come to the floor every Congress. Flag burning today is not a problem. In my years in Congress, no one back home in Oregon has ever complained about flag burning. The irony is that if this amendment becomes law more flags will be burned as psychos see this as their way to get on television.

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

No amount of rhetoric about flag burning will hide our failure to spotlight how Congress is hide our failure to spotlight how Congress is hide our failure to spotlight how Congress is to deal with individuals who dishonor our Constitution at its very center: the First Amendment. Our respect and reverence for the flag should not provoke us to trample free speech. We all love the flag. No one is divided on that. But those of us who believe the question before us do so not to countenance the actions of a few, but because we believe the question before us is how we the United States of America, and will oppose this amendment for the reasons I have heard and have heard elsewhere.

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

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

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

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

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

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

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

Mr. KINK. Mr. Speaker, I rise to join in this serious debate over the First Amendment and our Nation’s respect for the most sacred institutions to this country.

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

The times I have been most proud of my country have been during my two trips to Iraq. Seeing our young men and women in uniform carrying out their mission under dangerous and difficult conditions is an inspiring thing. Seeing our nation, a nation that has made so much progress in the past century, represent ourselves the way that flag represents me so grateful to have grown up in this country and to have some small part in helping our troops.

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

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

I would like to close by quoting a man who knows much of patriotism and freedom. Former soldier and Secretary of State Colin Powell, when asked for his views on this issue, said, “The First Amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to harm one’s feelings. This flag will still be flying proudly long after they have sunk away.”

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

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

When I was first elected to the House, I co-sponsored a flag burning amendment. I did so for many of the same reasons that proponents of the amendment have expressed today. And every time I looked back, it was moved by my heart by my head.

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

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

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

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

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

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

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

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

Our flag is the strongest symbol of America’s character and values. It tells the story of victories won—and battles lost—in defending
the principles of freedom and democracy. These are stories of men and women from all walks of life who put their lives on hold to serve our Nation. Many of those brave Americans never returned home from distant battlefields. The flag reminds us of the sacrifices they made at Gettysburg, San Jacinto, Iwo Jima, Korea, Da Nang, Kuwait, Afghanistan, Iraq and other places where America’s men and women in uniform placed honor and duty above self. These Americans had a powerful symbol uniting them—the American flag. The American flag belongs to them and to each one of us.

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

Let us be aware that it is speech, not action, that is protected by the Constitution. Our Founding Fathers protected free speech and freedom of the press because in a democracy, words are used to debate, persuade and to educate. A democracy must protect free and open debate, regardless of how disagreeable some of the findings or opinions of others. Protesting flag desecration does not undermine that tradition.

In 1989, in the case of Texas versus Gregory Lee Johnson, the Supreme Court ruled that a state flag protection statute was unconstitutional. The court was in error. It was not the thoughts or opinions expressed by Mr. Johnson that the Texas law restricted but the manner in which he expressed his thoughts and opinions. Mr. Johnson was free to speak his mind without fear of censorship. That freedom is guaranteed by the First Amendment. Mr. Speaker, I urge my colleagues to support H.J. Res. 10, the "Flag Protection Amendment." Every day we rise with dignity to salute and pledge allegiance to our Nation’s flag. We do so because our flag stands for liberty, democracy, and all the sacred ideals that allow us to rise here at all.

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

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

We would not tolerate the desecration of this or any other public building. We would never tolerate the desecration of our Nation’s hallowed graves or places of worship. We would never stand idly by if Liberty Bell, the Washington Monument, or the Liberty Bell were burned to a cinder and dragged into the streets. Why then should we leave our Nation’s most cherished and recognized symbol vulnerable and unprotected in the very land that had its birth beneath her glorious colors?

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

Mr. HOLT. Mr. Speaker, I rise today in opposition to this amendment. Just as everyone here today, I view the American flag with a special reverence, and I am deeply offend when people burn or otherwise abuse this precious national symbol.

At the start of the town hall meeting I host in my district, I always try a few moments to lead those in attendance in the pledge of allegiance. I think this is an important and valuable portion of my town hall meetings when I have the privilege of taking the oath of allegiance from our brave men and women who have dedicated their lives to our country.

The Constitution—the greatest invention of humans—has allowed our diverse people to live together, to balance our various interests, and to thrive. It has provided each citizen with broad, basic rights.

The Constitution doesn’t fly majestically in front of government buildings. We do not pledge allegiance to it each day. Yet, it is the source of our freedom. It tells us that we are free to assemble peacefully. We are free to petition our government; we are free to worship without interference; free from unlawful search and seizure; and free to choose our leaders. It secures the right and means of voting. It is these freedoms that define what it is to be an American.

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

In its more than 200 years, the Constitution has been amended only 27 times. With the exception of the Eighteenth Amendment, which was later repealed, these amendments have reaffirmed and expanded individual freedoms and the specific mechanisms that allow our self-government to function.

This Resolution before us today would not perfect the operation of our self-government. It would not expand our citizen’s rights. Proponents of this constitutional amendment argue that we need to respect our flag. I believe that the vast majority of Americans already respect our flag, and I am unaware of a flag burning epidemic in America. To me this Resolution is a solution in search of a problem.

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

The issue before us is whether our Constitution should be amended so that the Federal Government can prosecute the handful of Americans who show disrespect for the flag. To quote James Madison, is this a “great and extraordinary occasion” justifying the use of a constitutional amendment? The answer is no; this is not such an occasion. I oppose this amendment because I believe that while attempting to preserve the symbol of the freedoms we enjoy in this country, it actually would harm the values and ideals that created these freedoms.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise to oppose this amendment to the Constitution. When former 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
This amendment would be the beginning, not the end, of the question of how to regulate a certain form of expression. It empowers Congress to begin the task of defining what the “flag” and “desecration” mean. The use of the flag as symbol is ubiquitous, from commerce, to art, to memorials, such things are not easily defined. This amendment would allow Congress to define broad rules for specific applications. Congress, the courts, and law enforcement agents would have to judge whether displaying the flag on Polo jerseys is “desecration,” but the Smithsonian’s recent removal of two million stitches from a 188-year old flag that inspired Frances Scott Key, is not.

The United States Supreme Court has ruled consistently that flag burning is a form of speech protected by the First Amendment. In Texas v. Johnson (1989), the Supreme Court held it unconstitutional to apply to a protestor a Texas law punishing people who “desecrate” or otherwise “molest” the flag in a manner that the “actor knows will seriously offend one or more persons likely to observe or discover his action.” The Court found that the law made flag burning a crime only when the disposal of a flag might be conveyed, prohibiting flag burning except when attempting the “disposal of a flag when it has become worn or soiled.” The Court struck down this statute as another attempt to punish offensive thoughts.

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

We should resist the temptation to clutter up the Constitution with amendments relating to substantive matters. We must avoid the obvious 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 the sentiment and spirit of this quote with my colleagues on the other side of the aisle. As Colin Powell, while I personally abhor the thought of anyone burning the American flag, the symbol under which I fought for this nation, I believe the principles embodied in the Constitution and the Bill of Rights are far more important.

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

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

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

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

**Flag-Burning Issue a Waste of Time**

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

Gunston Hall was the home of George Mason, whom the White House properly described as “Father of America’s Bill of
Rights." Mason wrote the prototype of the Bill of Rights for Virginia's constitution in 1776, and it was his intransigence that led to the adoption of those rights as the first 10 amendments to our Constitution.

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

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

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

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

Mr. KOUBLE. Mr. Speaker, today, I rose in opposition to H.J. Res. 10, proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

Since 1986, I have voted in opposition to a Constitutional amendment banning flag desecration or flag burning. I find flag desecration disgraceful, and I get as angry as anyone does when I see or hear about such things.

But, I do not believe we should amend the U.S. Constitution to deal with this matter.

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

However, I am not at all comfortable with changing the Bill of Rights that guarantees our freedoms. The Bill of Rights guarantees freedom of expression including dissent. Individual freedom and opportunity have built our nation into the strongest on earth where liberties are enshrined in our Constitution.

The First Amendment to the Constitution protects free speech and allows us to openly debate any subject. It is political speech and, therefore, protected under the First Amendment. I remain committed to preserving freedom and opportunity. In the true spirit of America, freedom must be maintained for those with whom we agree and, yes, those with whom we disagree. I believe we, as individuals, should speak up when we believe a symbol of the freedom.

Applying government coercion to prevent flag desecration actually chips away at that freedom of expression.

Old Glory can withstand a few exhibitionists and, I believe, recognize the long-standing legacy of the Bill of Rights. In over 200 years of history, our Constitution has been amended only 27 times and the Bill of Rights has never been amended, not once has the Bill of Rights been amended; and this proposed resolution would be the first time to do that.

I understand that the proposed resolution seeks to uphold the integrity of our flag; but my amendment seeks to ensure that the proposition that all voices of dissent should be heard without governmental suppression. Disrespect for the flag is offensive to every Member of this body, but this is not a debate about patriotism; it is a debate about whether the flag stands, particularly freedom of expression and freedom of speech, are also reserved.

The first amendment to the United States Constitution stands for the proposition that all voices of dissent should be heard without governmental suppression. Disrespect for the flag is offensive to every Member of this body, but this is not a debate about patriotism; it is a debate about whether the flag stands, particularly freedom of expression and freedom of speech, are also reserved.

In opposition to H.J. Res. 10, I propose an amendment to the Constitution as follows:

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Disrespect for the flag is offensive to every Member of this body, but this is not a debate about patriotism; it is a debate about whether the flag stands, particularly freedom of expression and freedom of speech, are also reserved.
The first amendment exists to ensure that freedom of speech and expression applies not just to that with which we agree or disagree, but also to that which we find outrageous. I would not amend that great shield of democracy, the Constitution, to humor a few miscreants, as Colin Powell has characterized them, those people who we disagree with. We should protect them also to free speech. I want to put this in context. I started by saying that I used to resent this debate and I would tell you, Mr. Speaker, that I came to Congress thinking that, I guess, I thought I had a monopoly on what the meaning of the Constitution was. And there is a history to that, because I had graduated from Yale Law School, took my constitutional law from Professor Robert Bork, who became so controversial when he was nominated to the United States Supreme Court. And in that class with me was a student by the name of Duncan Kennedy who is now a professor at Harvard Law School and for whom a whole theory of law has been patterned.

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

But I was listening and understanding that the Constitution, the first amendment had different meanings to different people. And I thought I got a good balanced view. Actually, I thought I got a good balanced view until I went back to North Carolina and went into a law firm that was generally civil rights. And one day my senior law partner, a gentleman by the name of Julius Chambers, called me in and said, I want you to go to eastern North Carolina to one of the counties in which Native Americans represent a high portion of the population, because a number of the Native Americans in that county have been charged with parading, using tomahawks, and parading under the flag. They were charged with resisting arrest and various other criminal offenses. And he did not tell me what they were down there demonstrating about. He just told me to go down there and represent them.

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

Well, I being an African American myself, swallowed very hard and said, What has my law partner gotten me into? And at the end of the day to get in my car and race back to Charlotte, North Carolina, and confront my senior law partner.

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

This is a difficult issue, and this is not about patriotism, and I have come to understand the years of debate that we have had this amendment under consideration, I started out saying to people on the opposite side, people like the gentleman from California (Mr. Cunningham) and people who served their country, You are unpatriotic because you do not agree with me about my interpretation of the first amendment; the first amendment was passed to protect the right of people to demonstrate against going to school with African Americans? His response taught me more about the first amendment than either Robert Bork or Duncan Kennedy or Paul Gewirtz or any of the discussions that I had participated in in law school. He simply asked me one question. He said, Do you not believe in the first amendment?

But then I started to listen to what the gentleman from California (Mr. Cunningham) was saying and what my colleagues were saying and studied this issue more. Could it be that Justice Scalia and Justice Rehnquist, two conservative jurists, could be on opposite sides of this issue and it not be a difficult issue from a constitutional perspective? That is, can you imagine the debate that was taking place in the Supreme Court? I cannot imagine that Justice Scalia and Justice Rehnquist, two conservative jurists, could be on opposite sides of this issue and that two frustrated by the way the Supreme Court is going to rule. What has happened is that the Supreme Court has been trying to do for a number of years it is not an easy thing to do. We have heard a lot of discussion about activist judges. This proposal encourages judges to be activists because it says you are giving Congress the right to prohibit the physical desecration of the flag. Do my colleagues think the Supreme Court is not going to exercise its constitutional responsibilities because Congress can prohibit the physical desecration of the flag? It is going to have to. It is going to have to decide what that
means. It is going to have to decide how we balance this provision, this statute, statutory authority that Congress gives against the first amendment. We are not going to be able to get around the Supreme Court here.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

His amendment does not do it. If the Supreme Court changes its mind, the composition of the Supreme Court changes, and they decide that burning a flag is prohibited, is not protected under the first amendment, then that is going to be the last word on it. We do not have any way to go on that. So I do not think I am going to agree with him that I am doing anything different than preserving the state of affairs.

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

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

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

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

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

The question is whether or not we are criminalizing the message or the conduct. So the Watt amendment makes it clear that we are still protecting freedom of speech. The message, that will be clear, that we if we do not support the Watt amendment we just ought to acknowledge it is indeed the message, not conduct, which is the target of the underlying amendment.

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

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

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

For 200 years, many Supreme Court Justices opined that flag desecration laws which were in effect in 49 States were not in violation of the first amendment of the Constitution. This is in defiance of the will of the overwhelming majority of the American people, who among many occasions, has amended the first amendment and other provisions of the Bill of Rights by changing the meaning of those words. This is one of those occasions.

Clearly, free speech goes beyond the written or spoken word to include other forms of expression, including the wearing of symbols and other actions. However, not all actions constitute free speech, and I am hardly alone in asserting that flag desecration is not speech to be protected under the first amendment.

In 1989, the United States Supreme Court in Texas v. Johnson unilaterally invalidated flag protection laws in 48 States and the District of Columbia, overturning 100 years of Federal and State precedent, banning the physical desecration of the American flag. When that occurs, and when the people and the Congress believe that is wrong, it is a constitutional amendment that corrects the error of the Supreme Court.

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

There have been those who have gone unarmed into battle carrying the flag, and many have died to keep the flag from falling into the hands of our enemies. To burn a flag in front of a veteran or someone else who has put his
or her life on the line for their country is an act not deserving protection.

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

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

Of course, words or other forms of expression do not have to be correct in order to be speech. As Chief Justice William Rehnquist, Warren Burger, and Hugo Black have all recognized the appropriateness of these desecration statutes that were struck down by the Court.

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

Of course, words or other forms of expression do not have to be correct in order to be protected. And clearly, free speech goes beyond the spoken word to include other forms of expression, including the waving of symbols and other actions. Not all actions do not have to be correct in order to be speech. If Congress has the power to protect the flag by statute. It is now necessary to amend the Constitution to give Congress the authority to protect the flag.

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

“Surely one of the high purposes of a democratic society,” wrote Rehnquist, “is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people whether it be murder, embezzlement, pollution or flag burning.” Free speech isn’t the right to do anything you want to do any time you want to do it. Rather, it’s a precious liberty founded in law—a freedom preserved by respect for the rights of others.

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

It’s well-established that certain types of speech may be prevented under some circumstances, including lewd, obscene, profane, libelous, insulting or fighting words. When it comes to actions, the proscriptions may be even broader. That’s where I have voted to put flag desecration—back where 48 state legislatures thought it when they passed laws prohibiting it. This amendment doesn’t, in any way, alter the First Amendment. It simply corrects a misguided court interpretation of that amendment. As Chief Justice Rehnquist eloquently observed in concluding his dissent: “Uncritical extension of constitutional protection to the burning of the flag risks the purpose for which organized governments are instituted... The government may conscript men into the Armed Forces where they must fight and perhaps die for the flag, but the government may not prohibit the public burning of the banner under which they fight.” I am proud to play a part in trying to right that wrong.

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Speaker, 15 years ago the U.S. Supreme Court would not let Congress ban flag-burning. And here we stand 15 years later in a country that is still deeply patriotic, a country that is still full of love of Americans toward each other. Frankly, I would submit in this last, or 5 years we have seen a rising tide of patriotism. We feel a greater faith in each other and a greater faith in our fighting forces now than we ever...
have, I wish advocates of this amendment understood we have won this battle. Those of us who believe in this country, those of us who believe in its decency, and those of us who believe in its power, we have won. Within our borders, we have won.

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

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

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

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

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

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

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

\[1300\]

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

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

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

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

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

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

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

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

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

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

Mr. WATT. 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.
Mr. TAYLOR of Mississippi. Mr. Speaker, I offer a motion to recommit. The SPEAKER pro tempore will make the motion. Is the gentleman opposed to the motion?

Mr. TAYLOR of Mississippi. In its present form.

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

Mr. TAYLOR of Mississippi. The motion to recommit is not germane to the original text of the House Joint Resolution 10.

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

Mr. TAYLOR of Mississippi. Does any Member wish to be heard on the point of order?

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

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

Mr. Speaker, if any business in America had taken that money out of the employees' trust fund, the SPEAKER pro tempore of the House would not have agreed to the motion to recommit. The gentleman from Mississippi will suspend.
If not, the Chair is prepared to rule. The gentleman from Wisconsin makes a point of order that the instructions contained in the motion to recommit offered by the gentleman from Mississippi are not germane.

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

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

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

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

**PARLIAMENTARY INQUIRY**

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

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

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

**MOTION TO TABLE OFFERED BY MR. SENSBRENNER**

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

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

The SPEAKER pro tempore. The motion to table the appeal is not debatable. The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

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

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

**RECORDED VOTE**

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

A recorded vote was ordered.

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

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

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

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

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

The motion is not in order.

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

The SPEAKER pro tempore. The question was taken; and the record was ordered.

Mr. TAYLOR of Mississippi. The ruling of the Chair was against the point of order.

The SPEAKER pro tempore. The question was taken; and the record was ordered.

Mr. TAYLOR of Mississippi. Mr. Speaker, I move to lay the appeal on the table.

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

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

RECORDED VOTE

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

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

AYES—222

[Vote list]

NOES—190

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

A motion to reconsider was laid on the table.

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

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

There was no objection.

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

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

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

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

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

Mr. SENSENBERGER, Mr. Speaker, if the gentleman from Wisconsin, Mr. TAYLOR, is going to insist on not allowing a vote to protect the constitutional amendment to balance the budget, not allowing a vote to protect the Social Security trust fund, I see no further reason other than to point out that I really thought the Republican majority wanted, when they praised the Contract with America, that they said they would balance the budget.

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

The SPEAKER pro tempore. The question was taken.

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

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

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

[Roll No. 296] YEA—286

NAY—130

NAYS—130

Recently, the Social Security trust fund has faced significant challenges. The proposed increase in payroll taxes is designed to ensure the long-term solvency of the program. I believe we must do everything possible to protect this vital program for future generations.

The Medicare program is another critical component of our health care system. It provides essential healthcare to millions of Americans, particularly seniors. We must ensure that this program is also protected for the future.

In conclusion, I urge my colleagues to support these amendments and work together to secure the financial stability of our Social Security and Medicare programs for the long term.
Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. Matsui), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only. I yield the gentleman from Florida (Mr. Lincoln Diaz-Balart) the floor for an hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. Lincoln Diaz-Balart) who asked and was given permission to revise and extend his remarks.

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

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

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

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

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

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

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