about managing the health of our loved ones than managing the profits of the HMOs.

We need to ensure that treatment decisions are made by a patient's doctors, not by an HMO accounting clerk; that patients can enforce their rights by taking HMOs to court if the HMO wrongfully denies surgery, specialists, hospitalization or other medically necessary care that causes the death or injury to the patients.

Moderates on both sides of the aisle have endorsed the Democrats' Patients' Bill of Rights, but the Republican leadership here in the House of Representatives refuses to allow us to debate and vote on it.

I urge my Republican colleagues to persuade your Republican leadership here in the House to allow debate and a vote on the Democrats' Patients' Bill of Rights.

CONGRESSIONAL ACTION REQUIRED ON 50 CALIBER ARMOR-PIERCING AMMUNITION

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

Mr. BLAGOJEVICH. Mr. Speaker, the role of the United States military is to provide for the national security of our country. We are grateful for that. What is not the role of the military is to provide armor-piercing ammunition to the civilian market.

Mr. Speaker, 50-caliber sniper rifles are among the most powerful and destructive weapons available today. Armor-piercing ammunition that that weapon uses can destroy aircraft and armored personnel vehicles. The General Accounting Office reports that, unbelievably, our military provides surplus ammunition to a company in West Virginia that refurbishes the ammunition and then resells it to the civilian market.

Adding insult to injury, we, the taxpayers, pay the company to take the ammunition. This ammunition is easily accessible to the general public. One can buy it by mail order, one can buy it by the Internet, and one can buy it in gun stores.

Who would want to buy this ammunition, one might ask? If one is a hunter and a sportsman, one does not need this ammunition. But if one wants to take out a helicopter, take out a limousine, or commit some sort of heinous crime, one might want that ammunition.

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

The SPEAKER pro tempore (Mrs. EMERSON). The unfinished business is the further consideration of the joint resolution (H.J. Res 33) proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. When proceedings were postponed on Wednesday, June 23, 1999, pursuant to the previous order of the House, all time for debate on the joint resolution had expired.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. WATT OF NORTH CAROLINA

Mr. WATT of North Carolina. Mr. Speaker, pursuant to the rule, and as the designee of the ranking member, the gentleman from Michigan (Mr. CONYERS), I offer an amendment in the nature of a substitute, which has been made in order.

The SPEAKER pro tempore. The gentleman from North Carolina is the designee of the gentleman from Michigan (Mr. CONYERS).

The Clerk will designate the amendment in the nature of a substitute.

The text of the amendment in the nature of a substitute is as follows:

Amendment in the nature of a substitute offered by Mr. WATT of North Carolina:

Strike all after the resolving clause and insert the following:

That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years after the date of its submission for ratification:

''ARTICLE—

''Not inconsistent with the first article of amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States.''.

The SPEAKER pro tempore. Pursuant to House Resolution 217, the gentleman from North Carolina (Mr. WATT) and a Member opposed each will control 30 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. WATT).

Mr. WATT of North Carolina. Madam Speaker, I yield myself 1 minute.

Madam Speaker, we engaged in an exciting debate yesterday, and today is the culmination and continuation of that debate in which we have an opportunity to make it explicitly clear that whatever amendment we pass in this body will be subject to the first amendment to the United States Constitution.

My amendment in the nature of a substitute simply says, not inconsistent with the first article of amendment to this Constitution, the Congress shall have power to prohibit the physical desecration of the flag of the United States. That simply makes this proposed constitutional amendment subject to the provisions that have stood us in good stead for 200 years, and shapes and focuses the value of this debate.

Madam Speaker, I yield 6 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Madam Speaker, I urge support of the amendment that has just been offered. The gentleman from North Carolina has, in his service here, distinguished himself by the careful thought he brings to difficult issues, and this amendment today is an example of that.

I am one of those who questioned whether there was a need for any amendment at all. I thought there was not. We have had people say, well, but desecrating the flag is not simply an expression of opinion, as crude and as stupid an expression as it is, and, of course, the first amendment protects crudeness and stupidity in expression; but people have said there is something about the desecration which as a physical act could go beyond expression.

Well, the amendment of the gentleman from North Carolina is very carefully drawn so as to say, to the extent that one is simply engaging in an expression of opinion by desecrating the flag, one is protected, but if there are elements involved in that desecration that go beyond expression, we will leave that to the courts to decide in the specific circumstances. I think that is a reasonable compromise.

I want to address, therefore, the part of the amendment that says, to the extent this desecration is an expression of opinion, we should not make it illegal.

I understand, all of us do, the motivation of those who want to make it illegal. The flag is a very powerful symbol. The flag symbolizes the greatness of this country. Yes, there are veterans who saw their comrades lose their lives, who lost their health, who sacrificed years when they could have been with their families, and they did it under a flag which they understandably want to protect. But we have to look at the implications of what we do.

In the first place, passing the amendment as originally presented says that there are times when one can express oneself in ways that we find so offensive that we will make it illegal. That is a great breach in a wall that we have had between the rights of individuals and the government. And I am surprised that many of my friends who are conservative, who want to limit government, want to put this forward, because what this amendment says, without the refinement added by the gentleman from North Carolina, is there are things that one does to one's property, we are talking about now people who own a flag; remember, this applies to people who own a flag and who desecrate the flag they have bought, the physical flag; no one owns the symbol, but they have bought the physical material, they have desecrated it by writing outrageous words on it, by physically mistreating it. Remember, desecration covers things one would write on the flag that would be abusive and offensive, and we are saying we are so offended by what you have done to your property, on your property; you

can be standing in your yard with a flag you own and desecrate it, we are so offended by that, that we will make that illegal. We will perhaps send you to prison.

That is a fundamental line that has been crossed. No one is affecting your property; no one is disrupting your peace of mind; no one is making noise and interfering with your right to privacy. Someone on his or her own property, with his or her own physical property, is doing something you find outrageous. But it does not affect you in any material or physical way.

That is a great expansion in the power of government in and of itself.

I was very impressed with the Special Order I heard the night before last by our colleague, the gentleman from Texas (Mr. PAUL), when he talked about and said correctly, the purpose of a first amendment freedom of speech clause is precisely to protect people's right to be obnoxious and offensive, and we do that not because we think obnoxiousness is a virtue, although sometimes, watching this House, people might fall into the assumption that we do; we do it because we fear government. We do it because there is no neutral, impersonal arbiter that can decide which expressions are so offensive as to ban them and which ones should be allowed. We will do it. Elected officials will do it. Politicians a couple of months before an election will do it. Elected judges will do it.

And we have said, we think the danger of discriminatory and arbitrary interference with freedom of expression is so great that we would rather put up with the occasional obnoxious jerk than to empower the government to decide what is acceptable and what is not.

Of course, we have not had many flag burnings lately. My guess is that this debate will probably increase the number of flag desecrations, because it will put ideas in people's heads. But the fact is, to most of us, the fact that some fool wants to desecrate the flag as a way to get attention ordinarily would not work.

There is one other aspect of this that I want to address. There is no logical way that one can say, if one adopts this principle, that someone who has expressed himself or herself obnoxiously should be banned. How can we limit it to the flag? Because once we have said, look, if we care enough about something, we will make it illegal to desecrate, what are we then saying about people who desecrate venerated religious symbols? What about people who burn crosses? Because the Supreme Court said, and I agree, burning a cross on your own land should not be a crime.

This is a principle it is impossible to limit, because if we say burning a flag, desecrating a flag, writing rude words on a flag is so offensive that we are going to make it illegal, then what we are apparently saying is, but it is okay to do this with anything else. I do not think it will stop. We will ratify this amendment, if we do, and we will soon after be asked to protect important religious symbols, the Constitution, other important symbols of our unity.

We choose here, if we pass this amendment without the gentleman from North Carolina's proposal, to break a very important line, and we say that we, the government, will say what is too offensive to express, and that is a terrible step to take.

Mr. CANADY of Florida. Madam Speaker, I rise in opposition to the amendment.

The SPEAKER pro tempore. The gentleman from Florida (Mr. CANADY) is recognized for 30 minutes.

Mr. CANADY of Florida. Madam Speaker, I do rise in opposition to the substitute amendment offered by the gentleman from North Carolina. While I understand and respect the gentleman's intention in offering this substitute, I must point out that the adoption of the substitute would produce a measure that is, quite frankly, meaningless. The fundamental flaw in the gentleman's proposal arises from the fact that the present Supreme Court would declare that any legislation prohibiting the physical desecration of the flag is inconsistent with the first amendment to the Constitution.

The reason we are here today considering this constitutional amendment is that the Supreme Court has made it clear beyond any doubt in the Johnson and Eichmann cases that, under the Court's current view of the Constitution, individuals who physically desecrate the flag of the United States enjoy the protection of the first amendment.

The decisions of the Court demonstrate that any law which prohibits the physical desecration of the flag will be held to involve an impermissible suppression of free expression. The Court is committed to this position, which I can only view as mistaken, that trampling, shredding, defacing, burning, or otherwise desecrating the flag is protected expression under the first amendment. Everyone understands that this is the Court's view of the issue, and there is really no debate on that.

I would like to quote again what the representative of the Department of Justice said back in 1995 on an earlier constitutional amendment on this subject. Mr. Dellinger wrote on behalf of the Department of Justice that the Supreme Court's decision in Eichmann, invalidating the Federal Flag Protection Act, appears to foreclose legislative efforts to prohibit flag burning. There is really no dispute about that. Everyone has acknowledged that any meaningful legislation to protect the flag would be found unconstitutional by the Supreme Court. That is beyond dispute.

Once we understand that basic point, I think we can all see that the amendment of the gentleman from North Carolina (Mr. WATT) travels in a circle to nowhere. How would the Supreme Court interpret the power of Congress under the gentleman's amendment? What statutory provision would the Court be bound to uphold under the Watt amendment? It is obvious that the Court would find that the introductory phrase of the amendment, not inconsistent with the first article of amendment to this Constitution, is the language that the gentleman uses, and the Court would find that to be the crucial operative language in the measure. The introductory phrase would limit and restrict the clause that follows, and this is no great revelation. That is, I am sure, the very clear intent of the gentleman from North Carolina in offering this substitute.

But the fact remains that, given the Court's interpretation of the first amendment, the introductory language of the amendment of the gentleman would rob the clause granting Congress power to protect the flag of any force or meaning.

□ 1045

Under the amendment of the gentleman from North Carolina (Mr. WATT) the court would continue to strike down any laws protecting the flag from desecration. As the gentleman from North Carolina (Mr. WATT) well knows, when he adds ''not inconsistent with the first article of amendment to the Constitution,'' he simply ratifies the constitutional status quo.

But we are here today because the status quo created by the Supreme Court is unacceptable. We are here today because, a decade ago, the Supreme Court imposed novel and flawed interpretation of the First Amendment. We are here today because the Supreme Court, in its mistaken interpretation of the First Amendment, stripped our flag of the protection to which it is entitled. We are not here to ratify that mistaken interpretation. We are here to repudiate it.

It is important for us all to understand that this was something that was new, prior to these decisions about a decade ago, the flag had enjoyed protection against desecration. It was the virtually universal view that such legislative restrictions protecting the flag were constitutional.

Indeed, as I pointed out in my statement yesterday, some of the greatest civil libertarians of this century who have served on the Supreme Court, recognized the power of the government to protect our national symbol from acts of desecration. Justice Hugo Black, Justice Earl Warren, Justice Abe Fortas, all clearly expressed their view that it was not inconsistent with the First Amendment to protect the flag from acts of desecration.

Let me also address the point that has been made by the gentleman from Massachusetts that somehow the First Amendment provides absolute protection for expression in any form, in any circumstance. That is simply not so.

We know that the First Amendment does not protect obscenity, for instance. That is carved out by the Supreme Court's interpretation of the First Amendment, and I think it is a proper interpretation. I do not believe the First Amendment was ever intended to protect that sort of expression.

We also know that certain conduct, which may have an expressive element in it, and that is what we are really talking about here when we talk about the desecration of the flag, it is conduct which admittedly can have an expressive element is not always protected under the First Amendment simply because of the expressive element.

There are certain indecent things that people will not be permitted to do in public simply because they have chosen to use that indecent act as a way of expressing themselves.

People may wish to parade through the streets unclothed as a way of expressing a particular viewpoint. Now, that conduct may have an expressive element in it, but the fact that the people engage in that conduct have chosen that means to express a particular viewpoint or idea does not mean that the indecent public conduct has a protection of the First Amendment.

It is the same point here with the flag. We are not limiting anyone who wishes to express any idea about anything. They can say whatever they choose about the flag, about the leaders of this country, about our Constitution, about the Congress. The list goes on and on.

Free and full public debate can go forward without any restriction under this proposal. All we are saying is that, when people choose to engage in conduct that involves the physical desecration of the flag, they have gone too far, they have transgressed a limit into behavior that is not acceptable, and behavior that is not, like obscenity, expression which is not protected by the First Amendment of our Constitution.

That is why we are here on the underlying proposal. The amendment of the gentleman from North Carolina (Mr. WATT) would simply undo what we are trying to accomplish through the underlying proposal.

So I would submit to the House that the amendment of the gentleman from North Carolina (Mr. WATT) should be rejected by the House and that we should proceed with the passage of the proposal of the gentleman from California (Mr. CUNNINGHAM), and we should proceed with the important work of restoring the legal protection for the flag of the United States of America.

Madam Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Madam Speaker, the flag symbolizes our Nation, its history, and its values. We all love the flag, I think, equally.

That is not what this debate is about. The flag is our national symbol of pride, of unity, and of freedom. Many of us have family or friends who died defending it, and so we have to be heard on this. So this becomes deeply personal.

I think what they really died for were the freedoms embodied in the Bill of Rights that the flag represents. We can and should be incensed when the flag is burned or defaced. We have a responsibility to protect the flag.

That is why I have cosponsored the Flag Protection Act which was introduced by the gentleman from Virginia (Mr. BOUCHER). This legislation would protect the flag by punishing those that burned or defaced it. This bill would also punish any person who steals our flag or commits trespass in order to do damage to one.

The Bill of Rights is one of America's greatest gifts to mankind. For over 200 years, the First Amendment, which protects our freedom of speech and expression, has never been amended. Amending the Constitution, I think, is the wrong way to protect the flag.

I urge my colleagues to support a statutory approach which would protect the flag without doing violence to what it stands for. We need a tough law consistent with our Constitutional responsibilities that can be enacted in a timely fashion and can accomplish what we want without compromising the integrity of our Constitution and Bill of Rights.

Mr. CANADY of Florida. Madam Speaker, I yield myself 1 minute.

Madam Speaker, I want to address this issue about a limited statutory approach to protecting the flag. I think the emphasis there should be on the ''limited.'' I have looked at the proposal that has been brought forward as an alternative to the constitutional amendment; and the truth of the matter is, it does nothing to protect the flag from physical desecration. The only thing that that statute does is prohibit some actions that are already crimes, like destroying government property. It prohibits things that would be prohibited under laws that impose penalties for disorderly conduct.

But the bottom line is, it does not protect the flag from physical desecration. There is a very good reason that the statute does not do that. The reason is that the Supreme Court has made very clear that any statute which does that, under their interpretation of the First Amendment, would be struck down. That is the dilemma that those face who wish to talk about offering a statute. It just does not work.

Madam Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. CLEMENT).

Mr. CLEMENT. Madam Speaker, I thank the gentleman from Florida (Mr. CANADY) for yielding to me.

I also want to say to the gentleman from North Carolina (Mr. WATT), he is offering this amendment, he is a true gentleman, he is a friend, and he is an American, but we look at it differently. We can have a difference of opinion without having a difference of principle.

This weekend, I am going to be speaking to the State American Legion Convention in Tennessee in Gatlinburg, Tennessee. I will tell my colleagues that I am proud of those veterans. I am proud of the fact of what they have meant to this country. I am proud of the fact that they were willing to lay their life on the line in order for us to be free.

I rise today in strong support of the flag protection amendment to the Constitution. As one who served in the U.S. Army, and who currently serves as a colonel in the Tennessee Army National Guard, my colleagues do not have to tell me about the significance of the flag.

To me, the flag represents the many sacrifices our veterans have made throughout history to protect our precious freedoms and to preserve our democracy. Historically, the flag has served as a sacred emblem of the principles on which our Nation was founded. The flag is a national asset which I believe deserves our respect and protection.

While I fully support an individual's right to express himself or herself freely, when it comes to the American flag and such a gross disrespect for something so precious as our national symbol of freedom, I feel it is necessary for Congress to take action.

I believe the ideas flag burners want to communicate can be expressed just as effectively without burning our national symbol. We should not protect such horrendous behavior when our forefathers, our veterans, and many patriotic citizens of this great land sacrificed and fought to protect the freedom it symbolizes.

Madam Speaker, I stand up here, not as a legal scholar, but I say that, if the Supreme Court holds that our Constitution permits flag burning, it is time to change our Constitution.

As we prepare to celebrate the independence of this great Nation, I urge my colleagues to join me in saying thank you to every veteran that fought and every soldier that died to defend this flag and the country for which it stands by voting for the flag protection amendment.

A lot of people may not have thought about this, but we celebrated our 200th birthday in 1976. We are now 223 years old. But do my colleagues know what the average longevity of the great democracies of the past is? Two hundred years.

If we want to rededicate and recommit ourselves, we need to fight for this country in order to make sure that we have that opportunity to celebrate our 300th birthday. Vote for the flag protection amendment.

Mr. WATT of North Carolina. Madam Speaker, I yield 3½ minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Madam Speaker, I want to thank the gentleman from North Carolina (Mr. WATT) for yielding to me. I also want to thank the gentleman for all of his good work. He is a good friend, and he is a great American.

Our flag is worthy of the emotion it stirs deep within us. It is worthy of reverence. I love the flag. We all love the flag. Our flag is worthy to stand, by itself, against the attacks of those who seek to denigrate it and all that it stands for.

Is our flag so weak that it cannot withstand public desecration and attack? Is our flag so weak that we must pass a constitutional amendment to protect it? No, our flag is greater than that.

America, our America, is the free-est Nation on earth. In our America, we have freedom of speech, freedom of assembly, freedom of press, freedom of religion. Our Constitution guarantees each of these freedoms.

The Constitution is a sacred document. It is the foundation of our democracy. It is the foundation of our freedom.

Our flag, Old Glory, is worthy of every word of praise and respect that will be spoken here today, tomorrow, and years to come. Throughout the world, the American flag symbolizes freedom, liberty, and the glory of democracy. Old Glory has served as a beacon of hope and opportunity for generation upon generation, not just in the United States, but throughout the world.

But above Old Glory, above a symbol of our liberty, is our sacred Constitution. The Constitution guarantees that we have the freedom to have political belief and express those beliefs openly.

An amendment to our Constitution will not protect Old Glory, it will destroy Old Glory. Because Old Glory is nothing without freedom. When freedom is strong, Old Glory is strong. When we persecute our citizens for expressing political belief, yes, even the burning or desecration of the flag, we weaken our freedom. When freedom is denied, Old Glory dies.

My colleagues, if Old Glory could speak to us today, she would cry for us. She would weep. Today, on the floor of this House, we are attacking freedom. We are attacking the liberties guaranteed in the Bill of Rights.

□ 1100

To honor our flag and all that it stands for, we must reject a constitutional amendment. We must embrace not just a symbol of freedom, but freedom itself. To suppress freedom by passing a constitutional amendment is to make a flag stronger than the people and the Nation it represents.

For the sake of our people, our freedoms and our Constitution, I urge my colleagues to reject this well-meaning but unnecessary constitutional amendment. I urge my colleagues to vote ''no.''

Mr. CANADY of Florida. Madam Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. BRYANT).

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

Mr. BRYANT. Madam Speaker, I thank the gentleman for yielding me this time, and as I listened to the debate, I could not help but come to the floor to talk about this very important bill.

I have the greatest amount of respect for the gentleman from Georgia who preceded me. He is certainly a hero. He has served his country well. And certainly in this Nation where we have freedom of speech and the freedom to disagree, I must respectfully disagree with his opinion on this very important issue.

I also greatly respect the sponsor of this bill, the gentleman from California (Mr. CUNNINGHAM), and people like him who not only can talk about liberty and patriotism and wave that flag, but actually, when it came time to serve his country, he did so greatly. He, too, is a great American hero.

Many of my colleagues that are new to this Congress may not know that the gentleman from California (Mr. CUNNINGHAM) was the inspiration for the movie Top Gun. I think all those military scenes and those kinds of things he certainly stood for and was representative of many of those actual events, and during Vietnam was a top gun pilot himself. I think some of the other scenes he did not represent, but certainly as a military man he is one of our true American heroes, and it is a privilege to serve in Congress with him.

I think people like the gentleman from California, who have fought over the years, and we have heard it argued they fought for the freedom to burn the flag, I do not think that was the case. They fought for the freedom that is in the Constitution, but they stood for that flag. At Iwo Jima they raised those flags, and those marines certainly did not intend for that flag to be burned.

But I think what this comes down to can be boiled down to this. Very simply, the overwhelming majority of the American people, whom we represent in Congress, we are elected to represent these people throughout the country, the majority of the American people want this protection of the American flag. They believe, like I do, that it is the symbol of this country and deserves to be protected, deserves that constitutional protection.

It takes an amendment to the Constitution, because the courts have, over the years, declared any law, any statute, any simple bill that we pass as unconstitutional. But in the end we have had as many as 48 States at one time who had their own individual State laws against burning flags. Right now this Congress has, I believe, resolutions from 49 of the 50 States asking us to pass a constitutional amendment to protect the flag.

And, yes, there are limitations to the first amendment freedom of speech. We have probably heard them argued many times on this floor already. We cannot yell fire in a crowded theater; we cannot slander or libel somebody; and in most places we cannot walk around without clothes on, if that is someone's way of freedom of speech. It is against the law to do that. So we have, as a lawful society, placed some restrictions on freedom of speech. This would simply be another that the people want. Three-fourths of the States have to ratify it. We are simply setting forth that process today that allows them to make that choice.

Madam Speaker, I ask support for this bill.

Mr. WATT of North Carolina. Madam Speaker, I yield 2 minutes to the gentlewoman from Oregon (Ms. HOOLEY).

Ms. HOOLEY of Oregon. Madam Speaker, I love our flag. It stirs my heart every time I recite the Pledge of Allegiance, but the Constitution says Congress shall make no law abridging our freedom of speech. We also know that the Supreme Court twice has ruled that flag burning, as upsetting and despicable as it is to many of us, comes under the protection of the first amendment.

I believe that the patriotic thing to do is to condemn flag burning whenever and wherever it happens, but not to ban it. The right thing to do is to leave well enough alone with the Constitution. That means leaving the Constitution the way it is by keeping the first amendment intact.

Cutting into the first amendment, the cornerstone of our great democracy, would curtail what our beautiful flag stands for: freedom, the very freedom that each of us holds so near and dear, the very freedom that so many brave Americans have courageously fought to protect throughout history.

I am so very proud of our veterans, but I believe the best way to honor our veterans is to defend the Constitution. Let us show respect for our precious flag by pledging allegiance to the flag for which it stands and upholding the integrity of the Constitution.

Mr. CANADY of Florida. Madam Speaker, may I inquire of the Chair concerning the amount of time remaining on each side?

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Florida (Mr. CANADY) has 15 minutes remaining, and the gentleman from North Carolina (Mr. WATT) has 16 minutes remaining.

Mr. CANADY of Florida. Madam Speaker, I yield myself 1 minute.

I wanted to respond again to the point that has been made that here we are attempting to change the first amendment. That is not what we are attempting to do, and that is not what we would do here. We are simply responding here to a flawed and novel interpretation of the first amendment that the Supreme Court imposed a decade ago.

Let me quote once more what Justice Black said back in 1969. He said, ''It passes my belief that anything in the Federal Constitution bars making the deliberate burning of the American flag an offense.'' And Chief Justice Earl Warren said this: ''I believe that the States and the Federal Government do have power to protect the flag from acts of desecration and disgrace.''

That was the understanding of the first amendment until the Supreme Court 10 years ago changed direction and created this right to desecrate the flag which previously had not been recognized. I think the Supreme Court was wrong, and that is why we are here with this amendment today.

Madam Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Speaker, I yield 1½ minutes to the gentlewoman from California (Ms. LEE).

Ms. LEE. Madam Speaker, I have to speak out today on this issue because the first amendment means so much to me, and I want to thank the gentleman from North Carolina (Mr. WATT) for yielding me this time and for his hard work on this issue.

As an African American woman, the right to free speech has allowed me to challenge the inequities in the society based on race, gender, age, sexual orientation and disabilities. The proposal to amend the first amendment's guarantee of free speech for the first time in the Constitution's history will have a chilling effect on those who fight for freedom and justice.

Madam Speaker, this amendment will weaken one of our most fundamental rights. Our government cannot, must not, prohibit freedom of expression simply because it disagrees with its message. We condemn other countries for stifling dissent. We condemn the lack of freedom of speech. In fact, we impose blockades against countries which we believe crack down on citizens who oppose their own government. This Congress needs to stop its hypocrisy.

I implore my colleagues not to be superficial and to stand for the freedom, yes, the liberty and the justice that the flag represents.

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

I just want to point out that what we are talking about here is conduct which attacks our national symbol. What this amendment represents is the view that the people of the United States have a compelling interest in protecting our national symbol from that sort of physical act which is intended to desecrate it.

Let me refer again to something that Justice Stevens said in his dissent in the Eichmann case where he started off by acknowledging that we all understand that the government should not attempt to suppress ideas because we find them to be objectionable. I certainly accept that the government should not be in the business of suppressing debate about public issues in this country. That is not the purpose of the government. That does contravene the first amendment of the Constitution. But that does not mean that there are no limitations on the type of conduct that people can engage in in this country in the name of freedom of expression.

Justice Stevens said in his dissent that, ''In addition to being well settled that we should not attempt to suppress disagreeable or offensive ideas, it is equally well settled that certain methods of expression may be prohibited if, A, the prohibition is supported by a legitimate societal interest that is unrelated to the suppression of the ideas the speaker desires to express; B, the prohibition does not entail any interference with the speaker's freedom to express those ideas by other means; and, C, the interest in allowing the speaker complete freedom of choice among alternative methods of expression is less important than the societal interest supporting the prohibition.''

Now, I believe if we look at this test, which is a very responsible test, and a test which is quite protective of freedom of expression, we will see that prohibitions on the desecration of the flag are not objectionable. The prohibition is supported by a legitimate societal interest that is unrelated to the suppression of the idea the speaker desires to express.

We are not attempting to express any idea when we protect the flag from desecration. The truth of the matter is, desecration of the flag is conduct which is used by people who are trying to express a whole range of different ideas in a very inarticulate way. The Chief Justice, I think, has aptly described this as more like an inarticulate grunt or roar as opposed to real articulate expression.

But what we are doing is not related to the expression of any idea, and we are not interfering, under the second part of this test, with the speaker's freedom to express those ideas by other means. People can choose any other means to express whatever idea they wish to express. We are simply saying that they cross the line and they will not be permitted to use the one means to express their view, which is the desecration of the flag of our Nation, which I believe is the property of the people of the United States and is not to be used for desecration by any one individual.

I believe that that interest of the people of the United States, in protecting the symbol of our Nation, of our national unity, is more important than whatever marginal value some individual might derive from using the particular means of flag desecration to express some viewpoint. I believe that full and robust and free public debate will go forward. There is no question that that will take place. It took place before the Supreme Court decided those cases 10 years ago. There was wide-open debate on public issues. Nobody's opinion was suppressed even though the flag was, before that decision and for many years, had been protected under the laws of the United States and the laws of the various States of the Union.

So looking at this all in context, I think we see how reasonable what we are asking is, and it is just another reason for opposing the gentleman's amendment, which would render the underlying proposal by the gentleman from California (Mr. CUNNINGHAM) meaningless.

Madam Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, let me again put in context what this debate is all about. First of all, we all abhor the desecration of the flag, and the proposed constitutional amendment that my colleague the gentleman from Florida (Mr. CANADY) and my colleague the gentleman from California (Mr. CUNNINGHAM) have put forward express that abhorrence for the desecration of the flag in the precise wording of their proposed amendment. It says, ''The Congress shall have power to prohibit the physical desecration of the flag of the United States.''

□ 1115

My proposed substitute amendment expresses that same abhorrence for the desecration of the flag, but at the same time it expresses a higher commitment to the command of the First Amendment that is already in the Constitution of the United States that has stood our Nation so well for over 200 years.

My proposed substitute to their amendment simply says, not inconsistent with the First Amendment, not inconsistent with the First Amendment, the Congress shall still have the power to prohibit the physical desecration of the flag of the United States. So we have got two clear options.

Now, their defense to my proposal is, on the one hand, that it is meaningless and, on the other hand, that it is too meaningful. Now, they have got to make a choice. And my colleagues must make a choice.

First of all, they say they are not doing anything to the First Amendment by proposing to protect the flag from physical desecration under the amendment that they have offered. If that is the case, if that is the case, the language that I have proposed to insert here in this amendment is meaningless.

Well, it might be meaningless. But if it is, I want to be on record as saying that I support the First Amendment to the Constitution.

The other side of their argument is, well, it is so powerful this language that I have proposed in my amendment that it undermines completely the amendment that they have offered. That is the opposite side of their argument. And if that is what they are saying, what I want my colleagues to

know is that that is exactly what should be the case. I am not backing away from that.

But if their proposed constitutional amendment is inconsistent in any respect with the First Amendment to the Constitution, which they say it is not and which I do not know because we do not know how it will be interpreted, but if it is, then I want to go on record right now as saying I want the First Amendment to rule in this conflict. And that is really what this debate is all about.

We talked a lot yesterday about things that the debate is not about, and I want to go through those things one more time. We all agree that this is not about patriotism. There are patriots on every side, both sides of this issue. In the committee, the patriot the gentleman from California (Mr. CUNNINGHAM) came. Another patriot came from the Republican side who was on our side of this issue.

So second, it is not even about partisan politics. Is that not wonderful that we have something on the floor of the House of Representatives that we can debate that we can all stand up and say to America, this is not about partisan politics? We have agreed on that.

Third, we have agreed that it is not a liberal versus conservative issue. Because if we read the opinions of the court, we have got conservative justices and liberal justices on both sides of the Supreme Court's opinion. So it is not a liberal-conservative issue.

The gentleman from Florida (Mr. CANADY) and I even agreed that it is not even about where we went to law school. Because both of us went to law school at the same place. He is on one side of this issue. I am on the other side of it. So it is not even about that.

I want to talk to my colleagues about one other thing that this amendment is not about. It is not about burning the flag. Let me repeat that. This is not about burning the flag. We have heard all this discussion about burning of the flag, but this is not about burning of the flag.

There is a reason that my colleagues decided not to use the word ''burning'' in this proposed constitutional amendment. The reason is that the appropriate way to dispose of a flag is to burn it. The court has acknowledged that. Where is the language here that I can just point that out and be explicit? I had it right here. Well, I cannot find it right now. But it will come back to me. Here it is. This is from the underlying case that was decided by the Supreme Court.

''The Defendant Johnson was prosecuted because he knew that his politically charged expression would cause serious offense. If he had burned the flag as a means of disposing of it because it was dirty or torn, he would not have been convicted of flag desecration under this Texas law. Federal law designates burning as the preferred means of disposing of a flag when it is in such condition that it is no longer a fitting emblem to display.''

So we have got a Federal law that says we can burn the flag. So what is this about? What is this word ''desecration'' all about? It is about expression of an opinion. Because if we burn the flag in reverence to the flag as an honorable way to put that flag to bed, to end the use of that flag, the Federal statute protects us. But if we go out and we burn that same flag as an expression of our disgust with some idea that our constitutional government has not lived up to or some disgust with the principles for which that flag stands, it is, at that point, desecration, which has a different connotation than burning, kicks into this equation.

So this is not about burning the flag. This is about what they are thinking about, what they are saying, what they are expressing when they burn that flag. That is what this debate is about. The case law clearly says they can have antiburning statutes at the local level. Sure they can have antiburning statutes. But they cannot single out the flag and say they cannot burn the flag as a process for expressing themselves. That is what the underlying amendment does. That is why the word ''desecration'' is used instead of ''burning.''

Just think about it. That is a little subtle difference. I know some of my colleagues are just going to say, well, he is just playing on words. But think about why they did not use the word ''burning'' in the statute, in the proposed constitutional amendment. Because the law already allows the flag to be burned as long as they are thinking good thoughts and supportive thoughts when they burn it.

Madam Speaker, I reserve the balance of my time.

Mr. CANADY of Florida. Madam Speaker, may I inquire of the Chair concerning the time remaining.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from Florida (Mr. CANADY) has 9 minutes remaining, and the gentleman from North Carolina (Mr. WATT) has 3½ minutes remaining. The gentleman from Florida (Mr. CANADY) has the right to close.

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

Madam Speaker, I want to commend the gentleman from North Carolina (Mr. WATT) on the role that he has played in the debate. I think the gentleman from North Carolina has made the best case that can be made against the amendment. I do not think it is a strong case, and I disagree with it. But I think the gentleman has made the case that can be made.

The problem that I think underlies the attack on this proposal is it does not come to terms with the fact that we in this proposal are not preventing anyone from expressing any idea or opinion they wish to express. This is simply a restriction on the means that they have chosen. And this is a point I have made before. But I think this is a fundamental flaw in the argument that is used by those against this amendment who claim that somehow we are undoing the First Amendment or that we are acting in a way that is inconsistent with the purpose of the First Amendment.

It is true that we are acting in a way that is inconsistent with the interpretation of the First Amendment that has come down from the Supreme Court. That is why we are here. But the substitute, in my view, does not, as the gentleman from North Carolina (Mr. WATT) said, express a higher commitment to the command of the First Amendment.

What the substitute of the gentleman from North Carolina (Mr. WATT) does instead is express a higher commitment to the command of the Supreme Court. I would just remind the gentleman that, under our Constitution, the Congress also has a role to play and under Article V, we are playing the role that we have in the constitutional amendment process.

That was put in the Constitution for a purpose. I believe that one of the reasons it was put there is to make certain that the people's representatives and the people themselves ultimately could address mistakes that might be made by the Supreme Court.

Now, the gentleman has also argued that we are claiming that his amendment is meaningful in one sense but not meaningful in another. Well, we are claiming that. I will confess to that. Now, the change that the gentleman is making by his amendment in the amendment that has been offered by the gentleman from California (Mr. CUNNINGHAM), the underlying constitutional amendment, is quite meaningful.

There is no question that the change that the gentleman from North Carolina (Mr. WATT) is attempting to make to the amendment of the gentleman from California (Mr. CUNNINGHAM) is extraordinarily meaningful. It is so meaningful that it destroys the Cunningham proposal. That is true. But another way of looking at that is saying that the end result of making the change that the gentleman from North Carolina (Mr. WATT) would have us make is a constitutional amendment that is meaningless because it would ratify the constitutional status quo, which has been established not by the First Amendment itself but by the Supreme Court of the United States.

So the amendment that the gentleman offers is meaningful in that it changes the proposal that the gentleman from California (Mr. CUNNINGHAM) has brought forward, and it is meaningless in that the end result of adopting the Watt amendment would be a constitutional amendment that simply ratifies the status quo and, thus, does nothing. And I do not know why anyone would want to do that.

I would have to candidly suggest that I find it hard to believe that the gentleman or any of the other opponents of the Cunningham amendment would

actually want to adopt the substitute as a part of the Constitution of the United States.

Now, I know they do not want to adopt the amendment of the gentleman from California (Mr. CUNNINGHAM) either, but I really have a hard time believing that they would support adoption of the substitute. Because they understand, of course, that it is a proposal that would simply endorse what the Supreme Court has already said.

□ 1130

For that reason, I think we need to move on, vote down the amendment of the gentleman from North Carolina, and then go on to the important business of passing the resolution that has been brought to this House by the gentleman from California, whose leadership on this has been outstanding.

Madam Speaker, I reserve the balance of my time.

Mr. WATT of North Carolina. Madam Speaker, I yield 1 minute to the gentleman from New York (Mr. MEEKS).

Mr. MEEKS of New York. Madam Speaker, first I want to associate myself with the words of the gentleman from North Carolina.

The Constitution has been amended only 27 times over 200 years, and this was to expand our freedom. Why should we amend our Constitution to limit a person's freedom? This Nation stands for freedom, not for enslavement of one's views. The ultimate demonstration of a Nation's commitment to freedom of expression is to allow its symbol of freedom to be used for individual expression.

Freedom of speech is one of the most fundamental rights we as United States citizens have. What makes the United States different from Iran, China, Cuba and other countries is that we can voice our concerns freely under the first amendment without the penalty of being fined or going to jail. If we strip our citizens of this right, we will be taking a step backwards to the practices that are pervasive in many tyrannical countries.

I am not for flag burning. As the gentleman from North Carolina has indicated, this is not about flag burning, but this amendment would infringe on a person's right to express what they feel. For example, I am against the practices of the Ku Klux Klan, but they still have the right to their freedom of expression.

The 1st Amendment protects all people and their opinions—if their opinions disagree with your beliefs—that is what makes this country unique—the environment of discourse and the ability to pick and choose what you believe in.

As we debate many beliefs in this great House, let us not forget that each and everyone of us has the opportunity to hear both sides and make an individual decision on what is right and wrong for their constituents. But, the wrong decision would be to limit a person's freedom of expression by penalizing how they feel.

The First Amendment makes the U.S. unique from all other countries. Let us continue to be a world leader in preserving our citizen's right under the 1st Amendment.

Mr. WATT of North Carolina. Madam Speaker, I yield 1 minute to the gentleman from Maryland (Mr. CARDIN).

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

Mr. CARDIN. Madam Speaker, the people of my district are conflicted on this issue. They and I have a special feeling towards our flag. I represent Fort McHenry in which Francis Scott Key saw the flag that inspired the National Anthem, the symbol of our freedom. But they and I also understand that protecting the first amendment of the Bill of Rights, we must do. It is part of the founding principles of our country, the right to speak out even when it is not popular.

I want to applaud the gentleman from North Carolina for giving us the opportunity to both protect the Constitution and the Bill of Rights and putting this issue in proper context. Yes, we want to protect the flag from desecration, but we also want to protect our Bill of Rights.

Mr. WATT of North Carolina. Madam Speaker, I yield myself the balance of my time.

The SPEAKER pro tempore (Mrs. EMERSON). The gentleman from North Carolina is recognized for 1¾ minutes.

(Mr. WATT of North Carolina asked and was given permission to revise and extend his remarks.)

Mr. WATT of North Carolina. Madam Speaker, the words keep resonating in my head from my senior law partner that I talked about yesterday, when I was sent to represent people who had demonstrated on an issue that was on the opposite side of a position that I held, and I called my senior law partner and said, ''Why would you send me here to represent these demonstrators that are demonstrating against something that I believe in?'' And his simple words to me were, ''Don't you believe in the first amendment?''

That is what I ask my colleagues today: ''Don't you believe in the first amendment?''

This is what Justice Kennedy said in his concurring opinion in the Supreme Court case:

> For we are presented with a clear and simple statute to be judged against a pure command of the Constitution. The outcome can be laid at no door but ours. The hard fact is that sometimes we must make decisions we do not like. We make them because they are right, right in the sense that the law and the Constitution compel the result.

I call on my colleagues today to make the decision that they know is right. It is a difficult political decision. It was not easy for the Supreme Court. But they stood and upheld the first amendment to the Constitution of the United States. I ask my colleagues in this House to do the same in the face of this adversity.

AMERICAN BAR ASSOCIATION,
Washington, DC, June 21, 1999.

DEAR REPRESENTATIVE: On behalf of the American Bar Association, I write to urge you to oppose H.J. Res. 33, the proposed constitutional amendment to prohibit the physical desecration of the flag of the United States.

The Association deplores any desecration of the flag, but we must not forget that the flag is a symbol of both national unity and sovereignty and the individual freedoms we so uniquely enjoy in this country—freedom to think one's own thoughts, to express one's beliefs, and to associate freely with those of like mind. As important as the flag is to all of us, we must never protect it at the expense of the precious freedoms it symbolizes.

Proponents of this measure argue that it would merely restore 200 years of ''tradition'' of protecting our flag. In fact, the amendment would actually violate our nation's true tradition of preserving and expanding individual freedoms. The Bill of Rights has endured intact since its adoption in 1791. Previous amendments to the Constitution have acted only to expand the individual liberties guaranteed in the Bill of Rights, not to limit them. As Acting Assistant Attorney General Randolph Moss noted, ''[p]art of the unique force, security, and stature of our Bill of Rights derives from the widely-shared belief that it is permanent and enduring.''

In a recent statement, Keith A. Kreul, a U.S. Army veteran and former National Commander of the American Legion, warns that this amendment ''will neither protect the flag nor promote true patriotism.'' He goes on to say that, ''Our nation was not founded on devotion to symbolic idols, but on principles, beliefs and ideals expressed in the Constitution and the Bill of Rights.'' Mr. Kreul cautioned Congress against attempting to impose patriotism by legislative fiat. ''We must not delegate to government our responsibility of citizenship lest we endanger our most precious freedoms . . . Respect for our beautiful flag can only come from the hearts of the people. Attempts to bestow honor by government decree upon the flag are idle myths and must not prevail.''

Arguments that this amendment is needed in order to address moral malaise in this country are misdirected. Moral malaise did not begin ten years ago with the Supreme Court's ruling in *Texas* v. *Johnson*. The notion of drawing a line in the sand on this issue in order to send a message on morality diverts attention and resources from real and serious problems. The issues of concern facing our nation today—violence in our streets and schools, economic security, questions of race, and armed conflict abroad—will have a far greater impact on the shape of our society than a constitutional amendment on flag desecration. It would better serve our nation if the time and effort Congress is expending on the flag amendment would be directed toward those and other critical issues.

Proponents of the amendment argue that flag desecration is a serious national problem. They cite 72 incidents that have taken place over the past five years and claim that ''hundreds'' more have occurred but remain unreported. First, if they have been unreported, how can the proponents possibly affirm they have occurred? What evidence of the ''hundreds'' of cases has been offered? None. Second, of the 72 specific incidents they do cite, almost ⅔ involved actions that are already punishable under existing law.

Amending our Constitution is a serious endeavor that must be reserved for issues of the fundamental structure of American government and social order. As James Madison once stated, amending the Constitution should be reserved for ''great and extraordinary occasions.'' Infrequent incidents of flag desecration do not warrant this unprecedented action to undermine the freedom of

speech guaranteed under the First Amendment.

In the more than 200 years since the adoption of the Bill of Rights, we have seen that our institutions cannot be destroyed by the exercise of the First Amendment freedoms, only strengthened. Do we really want or need to go to the extreme of tampering with the First Amendment to deal with the rare actions of a few individuals? Walter Cronkite, a highly respected journalist and one who has personally witnessed and recorded for history some of our nation's most difficult challenges, says emphatically ''no.'' In his own words;

''This tiny band of malcontents has inspired a threat by otherwise thoughtful, serious citizens to amend the very foundation of our liberties, which has stood solid and unshaken through political and economic crises, through insurrection and civil war, through assaults by foreign ideologies. Even if the flag desecrators were of far greater numbers and represented a cause of some significance, they still would cause no threat to the integrity of our national emblem. But those who would amend the Constitution do threaten the integrity of that far more precious of our possessions—our freedom of thought and speech.''

The American Bar Association urges you to oppose the amendment and vote ''no'' to protect the American flag by preserving one of the most precious constitutional principles it represents—the First Amendment's guarantee of freedom of expression.

Sincerely,

ROBERT D. EVANS.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, June 22, 1999.

STATEMENT OF ADMINISTRATION POLICY

(This statement has been coordinated by OMB with the concerned agencies.)

H.J. RES. 33—CONSTITUTIONAL AMENDMENT AGAINST FLAG DESECRATION

(Cunningham (R) California and 279 cosponsors)

The President is deeply committed to protection of the United States flag and will continue to condemn those who show it any form of disrespect. The Administration believes, however, that efforts to limit the First Amendment to make a narrow exception for flag desecration are misguided. The Congress should be deeply reluctant to tamper with the First Amendment.

AMERICAN SOCIETY OF NEWSPAPER EDITORS,
Reston, VA, May 5, 1999.

AMERICAN SOCIETY OF NEWSPAPER EDITORS STATEMENT ON FLAG AMENDMENT

In order to defend the foremost symbol of freedom, the American flag, proponents of this amendment are prepared to diminish freedom itself.

For more than two centuries, our Bill of Rights has guarded individual liberties against the awesome power of government. It has been the blueprint for freedom around the world, as other societies seek to establish and emulate the democratic traditions they so admire here.

And now, with the Cold War won and liberty blossoming in soil once ruled by tyranny, Congress is considering a proposal to trim back the Bill of Rights for the first time in our history and give itself the power to punish offensive speech.

What urgent national interest demands that America turn even slightly away from its singular heritage of freedom and liberty? Is it public order? Does violence against the flag create a climate of physical violence, even chaos among the public as a whole?

No, it does not. Even the proponents of this amendment cite only a handful of flag-burning and other disrespectful acts each year, and those episodes hardly constitute a pressing threat to public order. Thirty years ago, this country weathered a thunderstorm of political turmoil and civil unrest. These current acts of flag-desecration cannot begin to test our democratic resilience and resolve.

To the contrary, this amendment would likely encourage the very acts it seeks to punish. Criminal prosecution would provide the attention that those who set the flag on fire most crave.

Is common decency, then, the reason to erode the liberties established by the Bill of Rights? Does even a single act of flag-burning so offend the patriotic spirit that we must outlaw this particular expression?

Such disrespect does offend all who honor the values the flag symbolizes and the heroic sacrifices made defending them. But offensive speech comes in many varieties beyond desecration of the flag. Is flag desecration a special category of speech, clearly more hateful than other brands of offensive expression?

Does the person who sets fire to a flag, for example, clearly do greater damage to the public good than the person who advocates racism or other bigotry? and if not, how will the rest of us know where to stop, once we start putting limits on the things that may be said and defining some ideas that cannot find voice?

That is the great threat posed by this amendment, a threat that far exceeds the harm it is supposed to prevent. The occasional act of disrespect for the American flag creates but a flickering insult to the values of democracy—unless it provokes America into limiting the freedoms that are its hallmark.

The architects of the Constitution were themselves veterans of a war that began as a revolution against the power of government. To guarantee the liberties for which they risked everything, those authors of America drafted the Bill of Rights, and they put the freedom of expression first.

After more than 200 years, we must not diminish their enduring promise of freedom by putting this footnote on the First Amendment.

PAUL C. TASH, *Chair,*
Freedom of Information Committee,
St. Petersburg Times, Florida.

Mr. CANADY of Florida. Madam Speaker, I yield the balance of my time to the gentleman from California (Mr. CUNNINGHAM).

The SPEAKER pro tempore. The gentleman from California is recognized for 4 minutes.

Mr. CUNNINGHAM. Madam Speaker, this is a very difficult issue for many of us. I would like to thank my friend the gentleman from North Carolina (Mr. WATT), and he is my friend. I would also like to thank Mr. Solomon who I am just the torch bearer of a long evolution, as well as Major General Patrick Brady who is President of the Citizens Flag Alliance that put most of this whole effort together in the grassroots. I would say to my friend that I laud him. It would be very difficult for me to represent David Duke or the KKK or anybody of that kind, but I would support him in the same manner on the first amendment.

Nothing in this amendment prevents anyone from expressing themselves in writing, speech, or any other way except for the desecration of the flag. For over 200 years, all the Supreme Courts in the United States, the Congress and the American people agreed. It does not violate the first amendment. That is why 48 States had laws to protect the flag from desecration. One bad, in my opinion, Supreme Court voted against 200 years of tradition. My friend's amendment would throw this whole amendment back to that pack of wolves, that particular Supreme Court, and it would destroy this whole process, or the amendment. We think that is wrong.

The Massachusetts' 54th Regiment, a regiment of African American soldiers who fought for the Union for freedom. Among its leaders was Frederick Douglass. The movie ''Glory'' was produced about this whole episode. It was a suicide mission, these African Americans knew it, but they were fighting for freedom and their country, and the Constitution of the United States. Colonel Robert Shaw, commander of the 54th asked these men, he said, ''I will carry the flag into battle, but when the flag falls, who will carry it for me?''

There have been people given the Medal of Honor specifically for protecting the flag. Article 5 of the Constitution allowed us to have the first amendment to give us the freedom for speech. I was amazed at my colleague from California (Mr. BILBRAY) that brought up the fact that article 5 also used in the Dred Scott decision that said African Americans were only property, they could not be citizens of this great country. The Supreme Court ruled that. And quite often, as the gentleman from California (Mr. BILBRAY) pointed out, the Supreme Court has been wrong. Fortunately, Congress enacted the 14th amendment which protected those rights.

I would say to my friend, if I felt the first amendment was abridged, as much anger as I felt for Jane Fonda during the Vietnam War when she wanted to open a sports store, I was there protecting her right to do that. I think she stepped over the line in that particular issue. But I would support every issue and my friend, but to support this amendment would kill everything that we are trying to do as far as this bill that the gentleman from North Carolina has offered.

Many of us were moved by the speech of the gentlewoman from New York (Mrs. MCCARTHY) last week, deeply moved, because we knew that she was speaking from the heart. But many of us disagreed on that issue because of a second amendment right.

Mr. WATT of North Carolina. Madam Speaker, I ask unanimous consent that the gentleman be granted 1 additional minute.

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

There was no objection.

Mr. CUNNINGHAM. But many of us disagreed with the gentlewoman, not

because of special interest groups but because we have a strong belief in the second amendment, and we thought it would be violated. In the same vein, my friend feels that the first amendment would be violated. We disagree. Two hundred years of Supreme Courts disagree with my friend.

I am not worried if God is on the side that we are portraying, because God is always on the right side. I think we need to ask ourselves, are we on the side of God?

Mr. PRICE of North Carolina. Madam Speaker, two pictures of the American flag are etched in our minds, and they embody the kind of nation we are: one is of the U.S. Marines planting the flag at Iwo Jima and the other is Neil Armstrong standing next to the flag on the moon. Those visions move us because they show the commitment and courage of our people, representing what we can overcome and what we can achieve as a nation working together.

I do not understand people who are unmoved by these visions, or the even smaller minority who, for whatever reasons, feel compelled to desecrate our flag. These people do not reflect my values or the values of our people. To me, the American flag is a symbol of our nation's greatness, of our aspiration toward ''liberty and justice for all,'' and of the Constitutional protections that we offer our citizens.

I don't think any of us would disagree with the goals we are discussing today, protecting our flag and honoring the values it stands for. But we do have significant disagreement about the means by which this can best be accomplished.

Along with a bipartisan group of members, I am cosponsoring the Flag Protection Act, which would protect the flag without compromising or changing the Constitutional protections which the flag symbolizes. I am reluctant to base a change in the Bill of Rights—something we have not done in over 200 years—on the misguided actions of a small group of people who choose to express themselves by desecrating the flag. The Flag Protection Act would let us honor and protect both the flag and the Constitution, which is what I believe most of our fellow citizens and most of us here today wish to accomplish.

The alternative Constitutional amendment offered by my friend from North Carolina would leave the Bill of Rights intact and is consistent with the approach I am advocating. It would state simply that ''not inconsistent with the First Amendment, the Congress shall have the power to prohibit the physical desecration of the flag of the United States.'' I believe this is the proper and appropriate way to prevent the desecration of the American flag. We don't need to change the Bill of Rights to protect our nation's most powerful symbol.

I urge passage of the Watt substitute.

The SPEAKER pro tempore. All time for debate has expired.

Pursuant to House Resolution 217, the previous question is 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 of North Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 115, nays 310, not voting 9, as follows:

[Roll No. 251]

YEAS—115

Abercrombie
Ackerman
Allen
Baldwin
Barrett (WI)
Becerra
Bentsen
Berman
Blagojevich
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Brown (OH)
Cardin
Carson
Clay
Clayton
Clyburn
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
Dicks
Dixon
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ford
Frank (MA)
Frost
Gejdenson
Gonzalez
Greenwood
Hastings (FL)
Hinchey
Hoeffel
Hoekstra
Hooley
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy
Kilpatrick
Kind (WI)
Kolbe
Kucinich
LaFalce
Lampson
Lantos
Larson
Leach
Lee
Levin
Lowey
Maloney (CT)
Maloney (NY)
Markey
Martinez
McCarthy (MO)
McDermott
McIntosh
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Miller, George
Minge
Mink
Moore
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pastor
Payne
Pelosi
Porter
Price (NC)
Rivers
Roybal-Allard
Rush
Sabo
Sanchez
Sanders
Sawyer
Schakowsky
Scott
Serrano
Slaughter
Stark
Tauscher
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Velazquez
Vento
Waters
Watt (NC)
Waxman
Weiner
Wexler
Woolsey

NAYS—310

Aderholt
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Bass
Bateman
Bereuter
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Capuano
Castle
Chabot
Chambliss
Chenoweth
Clement
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crowley
Cubin
Cunningham
Danner
Davis (FL)
Deal
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dingell
Doggett
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Ehrlich
Emerson
English
Everett
Ewing
Filner
Fletcher
Foley
Forbes
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (OH)
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Herger
Hill (IN)
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Holden
Holt
Horn
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kanjorski
Kelly
Kildee
King (NY)
Kingston
Kleczka
Klink
Knollenberg
Kuykendall
LaHood
Largent
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lucas (KY)
Lucas (OK)
Luther
Manzullo
Mascara
Matsui
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntyre
McKeon
Menendez
Metcalf
Mica
Miller (FL)
Miller, Gary
Moakley
Mollohan
Moran (KS)
Moran (VA)
Morella
Murtha
Myrick
Napolitano
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Paul
Pease
Peterson (MN)
Peterson (PA)
Petri
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sandlin
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tanner
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Thune
Thurman
Tiahrt
Toomey
Traficant
Turner
Upton
Visclosky
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Weygand
Whitfield
Wicker
Wilson
Wise
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—9

Barton
Brown (CA)
Davis (VA)
Gilchrest
Hefley
Kasich
Millender-McDonald
Rangel
Towns

☐ 1203

Mrs. KELLY, and Messrs. PEASE, GOODLING, MATSUI, SAXTON, SHAYS, DOGGETT, HOBSON, and HILLIARD changed their vote from ''yea'' to ''nay.''

Mrs. MEEK of Florida and Mrs. MALONEY of New York changed their vote from ''nay'' to ''yea.''

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

Stated for:

Ms. MILLENDER-McDONALD. Madam Speaker, during rollcall vote no. 251 on June 24, 1999, I was unavoidably detained. Had I been present, I would have voted ''yes.''

Mr. STARK. Madam Speaker, I rise today in strong opposition to H.J. Res. 33, ''The Flag

Desecration Constitutional Amendment.'' This constitutional amendment would undermine the very principles for which the flag stands—freedom and democracy.

The First Amendment to the Constitution reads as follows: ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.''

Those who founded our nation recognized that the First Amendment to the Constitution must protect citizens from their objections to the workings of their government. Freedom of expression is what makes the United States of America strong and great—it is the bedrock of our nation and has kept our democracy strong for over 200 years.

In an effort to overturn two Supreme Court decisions that upheld flag burning as symbolic speech protected by the Constitution, the Flag Desecration Amendment would be the first to amend the Bill of Rights and limit Americans' freedom of expression.

It would also open the door to other ''well-intentioned'' limits on our free speech. Just last week this Congress debated an amendment that would have barred the sale of films, books, pictures, and sculptures that qualify as ''patently offensive'' or lack ''serious literacy, artistic, political or scientific value.''

Who is to decide what is offensive, what is desecration, and what is free expression? While the idea of someone burning or destroying an American flag is upsetting, the thought of police arresting peaceful protesters is even more so. Our government's toleration of criticism is one of America's greatest strengths.

This is not an issue of patriotism, it is an issue of preserving every American's protected right to dissent. Our commitment to freedom can best be displayed with a vote against this misguided constitutional amendment.

Mr. LEACH. Madam Speaker, as has been the case in past Congresses, this amendment is being brought forward in an attempt to affirm all that is good about our great country. This is an honorable motive and I am reluctant to oppose it.

Moreover, as in the past this amendment is championed by organizations—particularly the American Legion, VFW and DAV—which represent those without whose sacrifices this country and its values would not exist. Had it not been for our nation's veterans, the only competition in the world today would be between totalitarianism of the Left and totalitarianism of the Right.

These are honorable men and women, and I am reluctant to oppose them.

Yet I remain unable to support this amendment because I remain convinced that to do so is to undercut the very essence of the system of governance for which the flag itself stands.

At the heart of our democracy is a struggle, an ongoing conflict of ideas for which the Constitution provides the rules. It is in this conflict that the e pluribus unum—the ''one out of many,'' as the motto borne on the ribbon held in the mouth of the American bald eagle on The Great Seal of the United States puts it—arises. And it is precisely this unity in multiplicity for which our flag with its 50 stars and 13 stripes stands.

The genius of our Constitution lies in the way in which it structures and ensures the continuity of this conflict of ideas which is our democracy. It does so through the system of checks and balances and separation of powers with which it structures our government on the one hand, and the protection of freedom of expression it provides in the First Amendment on the other. the former ensures that the fight is always a fair one and that no momentary majority uses its temporary advantage to destroy its opponents; the latter ensures that no idea, however obnoxious, is excluded from consideration in the debate.

It should be stressed that the protection provided by the First Amendment is a two-edged sword. In fact, the Bill of Rights does not exempt ideas and the actions that embody them from criticism, but ensures they are exposed to it. As Jefferson put it in his ''Act for Establishing Religious Freedom'' in Virginia:

> Truth is great and will prevail if left to herself; . . . she is the proper and sufficient antagonist to error, and has nothing to fear from the conflict unless by human interposition disarmed of her natural weapon, free argument and debate; errors ceasing to be dangerous when it is permitted freely to contradict them.

Thus any abridgment of the protections provided by the First Amendment, no matter how nobly motivated, would diminish freedom and in all likelihood precipitate, in this instance, more symbolic incidents tarnishing the flag than would otherwise be the case. Accordingly, great care must be taken not to take actions in the name of protecting the flag that have the effect of misinterpreting the meaning of the flag.

In making this assessment, the distinction between liberties to protect and symbols to rally behind remains essential. Freedom of speech and freedom of religion require constitutional protection. The flag, on the other hand, demands respect for what it is—the greatest symbol of the greatest country on the face of the earth. It is appropriate to pass laws expressing reverence for the flag and applying penalties, wherever possible, to those who would desecrate it, but I have grave doubts the Constitution is the right place to address these issues.

Mr. BLUMENAUER. Madam Speaker, the authors of the Constitution and the Bill of Rights gave us a wise and enduring framework, one that has guided this Nation for over 200 years. We should but rarely and in moments of absolute necessity alter their work. I can say unequivocally, that this flag burning amendment does not meet that test.

Americans cherish their flag and all it represents. It is fitting and proper to honor this symbol. This proposed constitutional amendment however, is the wrong way to attempt to protect the flag. Ironically, the fastest way to take the very rare occurrences of flag burning and make them more frequent would be to pass this amendment.

Once it is illegal, and after all the publicity surrounding ratification by the states occurs, we will have made our flag the target for every publicity-seeking kook in America. Burning the flag will be the fastest way to go to court, to jail and onto the evening news.

Regardless of how distasteful burning or otherwise desecrating the flag is to most Americans—it is important to note that flag burning is not a major problem today. What is clear is that making flag burning illegal would backfire.

The First Amendment doesn't need any help from this Congress.

Mr. KOLBE. Mr. Speaker, Congress enacted the first Federal flag protection act in the midst of the Vietnam War protests. However, Madam Speaker, I was not here to see these protests, I was in Vietnam, fighting for the very freedoms some are seeking to limit today. The flag is a special symbol for our country, but it is certainly no more than the Constitution itself. Embodied in our Constitution is the First Amendment.

The First Amendment is no small part of the protections that make our country unique in the history of civilization and no small part of the freedoms others and I fought to protect. Freedom of speech protects both those with whom we agree and those with whom we disagree.

What we are debating today is a proposal to chip away at the First Amendment and I cannot support that. I would like to see the intellectual prowess of this institution brought to bear upon the task of drafting legislation would make it illegal to desecrate the flag of the United States and still meet the Constitutional standard. However, taking the simplistic but dangerous task of amending the Constitution to accomplish this end is neither agreeable nor advisable. I ask my colleagues to consider the monumental implications of today's proposal. We are toying with a right we all hold dear: that of free speech.

Though this Amendment may sound reasonable on the surface, I implore you to look beyond the superficial. Recall that in the 1975 case of Spence v. Washington, taping a peace symbol to the flag was at issue. Do you really believe imprisonment is the appropriate punishment for such an act? The fundamental issue is public protest—that is what gave rise to this issue and that is also the heart of First Amendment protection.

The Supreme Court articulated a standard in the 1989 case of Texas v. Johnson by which each of us should consider this issue. In that flag desecration case, the Court said: the First Amendment stops the government from prohibiting expression of an idea merely because society finds the idea offensive, even when the flag is involved. Can anyone stand before us with intellectual honesty and deny that this is precisely what we aim to do? Consider the language of the 1990 flag case of U.S. v. Eichman:

> The Government's desire to preserve the flag as a symbol for certain national ideals is implicated ''only when a person's treatment of the flag communicates [a] message'' to others that is inconsistent with those ideals.

To me freedom is greater than any symbol can encapsulate. How can we possibly promote freedom by restricting an object that is so clearly identified as a symbol of freedom? What should give all of us pause is that we stand in the Capitol of the government and debate outlawing speech with which we disagree. I cannot support such an Orwellian piece of legislation.

Mr. SHAYS. Madam Speaker, today I rise in opposition to the Flag Desecration Constitutional Amendment.

I find it abhorrent anyone would burn our flag. It's a symbol of all the values we cherish—freedom, democracy and tolerance for others.

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

The Constitution has been amended only 17 times since the Bill of Rights was passed in 1791. This is the same Constitution that guarantees freedom of speech and freedom of religion, and that eventually outlawed slavery and gave blacks and women the right to vote.

These are monumental, historic issues—issues that directly affect people's lives. Amending the Constitution is a very serious matter. I don't think we should allow a few obnoxious attention-seekers to push us into a corner, especially since no one is burning the flag now, and there is no constitutional amendment.

Madam Speaker, I love the flag for all that it represents, but I love the Constitution even more. The Constitution is not just a symbol. It's the very principles on which our nation was founded.

Mr. MOORE. Madam Speaker, I rise in opposition to H.J. Res. 33, a bill to prohibit the physical desecration of the flag of the United States of America.

Since our nation was born in battle 223 years ago, hundreds of thousands of American soldiers, sailors, airmen and women, and Marines have fought and died across the globe to preserve the great American experiment in freedom and democracy. One of the cornerstones of our freedom is our Constitution, including the Bill of Rights. The Bill of Rights, including the First Amendment protections for speech and political expression, has been the envy of the world for more than two hundred years.

Our democracy has withstood many tests over time, and has been strengthened as a result. The occasional, random, despicable acts of public desecration of our flag by a few malcontents presents another such test. There is no more important protection provided by the First Amendment than its protection of political expression.

I love our country. I love our flag—and the principles for which it stands. The American flag is a symbol for liberty and justice, for freedom of speech and expression and all of the other rights we cherish which are guaranteed in the Bill of Rights. But as important as the symbol may be, more important are the ideals and principles which the symbol represents.

That our nation can tolerate dissension and even disrespect for our flag is proof positive of the strength of our nation. It would be a hollow victory to preserve the symbol of freedom by chipping away at the freedoms we hold sacred.

As one who served with the U.S. Army and the Army Reserves, I know how deeply our veterans love and revere our flag. I share those feelings for our flag and all that it represents. I have absolute faith and every confidence that even without amending our Bill of Rights, our nation and our flag are strong and will survive and continue to be a source of hope and inspiration to all Americans and freedom loving people around the world.

Ms. PELOSI. Madam Speaker, as an issue, the flag-desecration amendment is, of course, entirely symbolic. Its sponsors believe that support is, symbolically speaking, tantamount to being a patriotic American.

But what is true patriotism in the context of the American experiment? At its heart, I believe, is an abiding tolerance—a tolerance so deep and so pervasive that it easily absorbs all insults. The American saga is, in essence, a tale of ever-expanding realms of acceptance and inclusion.

Tolerance of extraordinary diversity is the mystery that lies at the heart of our origins and our destiny, the magnificent quality that renders the American project unique in human experience—diversity in ethnic and religious origins; diversity in language and lifestyle; diversity in aptitude and ambition; and, yes, diversity in behavior, including the bizarre, the distasteful, and even the contemptuous.

We Americans are most patriotically American when we display our tolerance of virtually all behavior short, of course, of crimes against people and property. Simply turning away from even such objectional behavior as the burning of the flag is, then, a true test of our tolerance, a measure of our patriotism, a demonstration of our Americanism.

E Pluribus Unum!

The SPEAKER pro tempore (Mrs. EMERSON). The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

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

RECORDED VOTE

Mr. CANADY of Florida. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 305, noes 124, not voting 5, as follows:

[Roll No. 252]

AYES—305

Aderholt
Andrews
Archer
Armey
Bachus
Baird
Baker
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Berkley
Berry
Biggert
Bilbray
Bilirakis
Bishop
Blagojevich
Bliley
Blunt
Boehlert
Boehner
Bonilla
Bono
Boswell
Boyd
Brady (TX)
Brown (FL)
Brown (OH)
Bryant
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cannon
Capps
Castle
Chabot
Chambliss
Chenoweth
Clement
Clyburn
Coble
Coburn
Collins
Combest
Condit
Cook
Cooksey
Costello
Cox
Cramer
Crane
Crowley
Cubin
Cunningham
Danner
Davis (FL)
Davis (VA)
Deal
Delahunt
DeLay
DeMint
Deutsch
Diaz-Balart
Dickey
Dooley
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehrlich
Emerson
English
Etheridge
Everett
Ewing
Fletcher
Foley
Forbes
Ford
Fossella
Fowler
Franks (NJ)
Frelinghuysen
Frost
Gallegly
Ganske
Gekas
Gephardt
Gibbons
Gillmor
Gilman
Goode
Goodlatte
Goodling
Gordon
Goss
Graham
Granger
Green (TX)
Green (WI)
Gutierrez
Gutknecht
Hall (TX)
Hansen
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Hill (MT)
Hilleary
Hilliard
Hinojosa
Hobson
Holden
Horn
Hostettler
Houghton
Hulshof
Hunter
Hutchinson
Hyde
Isakson
Istook
Jefferson
Jenkins
John
Johnson (CT)
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Kelly
Kildee
King (NY)
Kingston
Knollenberg
Kucinich
Kuykendall
LaHood
Lampson
Lantos
Largent
Larson
Latham
LaTourette
Lazio
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (KY)
Lucas (OK)
Luther
Maloney (CT)
Manzullo
Martinez
Mascara
McCarthy (NY)
McCollum
McCrery
McGovern
McHugh
McInnis
McIntosh
McIntyre
McKeon
McNulty
Menendez
Metcalf
Mica
Miller (FL)
Miller, Gary
Moakley
Mollohan
Moran (KS)
Morella
Murtha
Myrick
Napolitano
Neal
Nethercutt
Ney
Northup
Norwood
Nussle
Ortiz
Ose
Oxley
Packard
Pallone
Pascrell
Pease
Peterson (MN)
Peterson (PA)
Phelps
Pickering
Pickett
Pitts
Pombo
Pomeroy
Portman
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Regula
Reyes
Reynolds
Riley
Rodriguez
Roemer
Rogan
Rogers
Rohrabacher
Ros-Lehtinen
Rothman
Roukema
Royce
Ryan (WI)
Ryun (KS)
Salmon
Sanchez
Sandlin
Sanford
Saxton
Scarborough
Schaffer
Sensenbrenner
Sessions
Shaw
Sherman
Sherwood
Shimkus
Shows
Shuster
Simpson
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Souder
Spence
Spratt
Stabenow
Stearns
Stenholm
Strickland
Stump
Stupak
Sununu
Sweeney
Talent
Tancredo
Tauzin
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Thune
Thurman
Tiahrt
Toomey
Traficant
Turner
Upton
Vitter
Walden
Walsh
Wamp
Watkins
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson
Wise
Wolf
Wynn
Young (AK)
Young (FL)

NOES—124

Abercrombie
Ackerman
Allen
Baldwin
Barrett (WI)
Becerra
Berman
Blumenauer
Bonior
Borski
Boucher
Brady (PA)
Capuano
Cardin
Carson
Clay
Clayton
Conyers
Coyne
Cummings
Davis (IL)
DeFazio
DeGette
DeLauro
Dicks
Dingell
Dixon
Doggett
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Gejdenson
Gonzalez
Greenwood
Hall (OH)
Hastings (FL)
Hill (IN)
Hinchey
Hoeffel
Hoekstra
Holt
Hooley
Hoyer
Inslee
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Jones (OH)
Kennedy
Kilpatrick
Kind (WI)
Kleczka
Klink
Kolbe
LaFalce
Leach
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Maloney (NY)
Markey
Matsui
McCarthy (MO)
McDermott
McKinney
Meehan
Meek (FL)
Meeks (NY)
Miller, George
Minge
Mink
Moore
Moran (VA)
Nadler
Oberstar
Obey
Olver
Owens
Pastor
Paul
Payne
Pelosi
Petri
Porter
Price (NC)
Rangel
Rivers
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schakowsky
Scott
Serrano
Shadegg
Shays

Slaughter	Udall (CO)	Waxman
Snyder	Udall (NM)	Weiner
Stark	Velazquez	Wexler
Tanner	Vento	Weygand
Tauscher	Visclosky	Woolsey
Thompson (CA)	Waters	Wu
Tierney	Watt (NC)	

NOT VOTING—5

Brown (CA)	Millender-McDonald
Gilchrest	Towns
Kasich	

□ 1221

So (two-thirds having voted in favor thereof) the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated against:

Ms. MILLENDER-McDONALD. Madam Speaker, during rollcall vote No. 252 on June 24, 1999, I was unavoidably detained. Had I been present, I would have voted "no."

APPOINTMENT OF CONFEREES ON H.R. 775, YEAR 2000 READINESS AND RESPONSIBILITY ACT

Mr. GOODLATTE. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 775) to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

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

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. CONYERS

Mr. CONYERS. Madam Speaker, I offer a motion to instruct.

The Clerk read as follows:

Mr. CONYERS moves that the managers on the part of the House at the conference on the disagreeing votes of the two houses on the amendment of the Senate to the bill H.R. 775 be instructed to ensure, within the scope of conference, that their eventual report to the House reflects due regard for—

The substantive concerns of the high-technology community and the possible implications of the ''Y2K'' date change on that community and on the Nation's economy;

The substantive inputs of the Administration and of the bipartisan Leaderships in the Congress on the issues committed to conference; and

The sense of the House that a decision not to follow this process will lead to a failure to enact legislation.

The SPEAKER pro tempore. Under rule XXII, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Virginia (Mr. GOODLATTE) each will control 30 minutes.

The Chair recognizes the gentleman from Michigan (Mr. Conyers).

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

Madam Speaker, I rise today to urge my colleagues to support the motion to instruct the conferees to engage the administration and the congressional leadership of both parties in a substantive discussion to make every effort possible to produce a Y2K bill that President Clinton can sign.

The information technology community, as we know, has legitimate concerns due to the unique nature of the Y2K problem that should be and could be addressed through legislation. This legislation would first encourage remediation, it would then encourage mitigation, and finally, deter as much as possible frivolous lawsuits.

We are all interested in legislation that will solve the concerns of the high-tech community as we recognize the possible implications of the Y2K date change on the high-tech community and on the Nation's economy.

We are optimistic that the conference will result in a bipartisan compromise through a substantive discussion of the concerns of the information technology community, the administration, and the congressional leadership, and that we will address the unique nature of the Y2K problem. I urge this cooperation on the part of all the different forces that will be part of this conference.

We on the Democratic side are willing to engage in a deliberative conference that makes every effort to avert an impasse and to produce a bipartisan bill.

Mr. Speaker, I urge all my colleagues to support this motion to instruct, and I reserve the balance of my time.

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

Mr. Speaker, I would like to say to my good friend, the gentleman from Michigan, that we are prepared to accept the motion to instruct that the gentleman has offered, and I would say with regard to the legislative process that we have been through that we have from the outset been concerned about the substantive inputs of the administration and the leadership of both the House and Senate and both the Democratic and Republican leadership, and in fact, the House bill, which I think is an outstanding piece of legislation, which will go a long way to address the concerns of the American people, of the business community, of those who have been negatively affected by the failure to have certain equipment or software, whatever the case may be, ready for Y2K needs; that in all those cases we have in the legislation we passed listened to everyone who had input in this process, and have adapted the legislation that passed the House while taking those inputs into consideration, agreeing with some and disagreeing with others. I know that same process has taken place in the Senate, where they also have passed a good bill.

So when the conference meets and considers the relative merits of both the House bill and the Senate bill, we will be interested in hearing the input of the leadership, and have heard the input of the administration in that process.

For that reason, we are prepared to accept this motion to instruct. I would say, however, that the House of Representatives is a sovereign body, that it is duly designated on the basis of the United States Constitution to represent the will of the people that we represent, and we will do so with input from a number of different sources, but most importantly, with input from the majority of the Members of the House who supported the bill that we passed through the House of Representatives, taking into account the fact that we want to see legislation signed into law by the President which will reflect the need to address the Y2K problem to avoid frivolous and fraudulent lawsuits, to encourage parties to work on solving the Y2K problem and not on an increasing amount of litigation.

We believe those things are reflected in the bill passed by the House. We believe they are also reflected in the bill passed by the Senate. So we will proceed in a fashion that will allow us to come up with legislation that surely the President will want to sign because it is urgent that we solve this problem.

One of the points to be made about Y2K legislation addressing this problem is that time is of the essence. It is not only important that we pass this before January 1, 2000, it is important that we pass this and get it signed into law by the President now, because the effects of this legislation will take place immediately.

Those who need to solve Y2K problems will be less fearful of getting into a litigation mess and more anxious to get about the business of correcting the actual technological problems that individuals and businesses face with their computer systems if they know now that they can get started now or continue work now without fear of a massive problem with litigation. That is what this bill that we have passed through the House is designed to do. I know that is what the Senate intended, as well.

So surely when we work out the differences between the House and Senate bills, we will be able to present to the President something that he should sign immediately, given, I know, the concern that the President has for addressing this problem and addressing it immediately and not dragging us through a long process involving a veto; the addressing of this problem with new legislation that we would have to take up with another version passed through the House, another version passed through the Senate, another conference, and then still not knowing whether the version that that we come up with in that conference would be signed by the President.

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So it would be my hope that the version that we pass out of the conference will be signed into law by the President, recognizing that we have already been taking into account the