

very Chamber pledges our allegiance not only to the Republic but to the flag itself. Mr. Speaker, others will argue that the ideals of the flag are the only things that are worth protecting. I must respectfully disagree with their argument.

The flag itself occupies a unique place in our Republic. It is the one symbol that merits our allegiance. Why do we continue to pledge our devotion and support to a flag if we are not willing to protect it from desecration? I urge my colleagues to support the proposed amendment.

Mr. NADLER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Ohio (Mrs. JONES).

(Mrs. JONES of Ohio asked and was given permission to revise and extend her remarks.)

Mrs. JONES of Ohio. Mr. Speaker, I thank the ranking member for yielding me time.

When I was a little girl in elementary school and I learned the Pledge of Allegiance, I was so very proud. Even in my French class our French teacher taught us how to say the Pledge of Allegiance in French. As I stand here today, I know I can still remember those words.

I am so pleased to hear so many talk about allegiance to the flag and to the Republic, and they drape themselves in the flag and talk about all these issues that are important to them; yet I have stood here on the floor of the House and listened to my colleagues pass legislation that denies liberty and justice for all in this country.

I have seen us pass legislation that denies liberty and justice for all with regard to the child care credit. I have seen them deny liberty and justice for all for a whole lot of reasons. But what I say to you today is this debate is not about that piece of material up there, the flag that we all revel. This debate is merely about whether we are going to stand here and be divided, one side or the other, about whether or not people have a right to free expression and a right to free speech. And I stand with those who are entitled to free speech and a right to speak out on their own.

I love the flag. All of us love the flag. But let us not fool anybody about why we are debating the issue. It would be great. I even heard someone talk about African American soldiers. My father was an African American soldier. He is 83 years old. He was denied his rights of liberty and justice because he had to serve in a segregated Army, and he talks to me about that all the time.

So let us get real. Let us talk about the facts, and let us say the only reason we are up here debating this issue is because there are some who want to deny people the right of free expression and the right of free speech. So I stand here opposed to this resolution.

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

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

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

Mr. Speaker, I rise in opposition to this amendment. I do not believe much good will come of it. A lot of good intentions are put into the effort, but I see no real benefit.

It was mentioned earlier that those who supported campaign finance laws were inconsistent. And others would say that we do not have to worry about the first amendment when we are dealing with the flag amendments. But I would suggest there is another position. Why can we not be for the first amendment when it comes to campaign finance reform and not ask the government to regulate the way we spend our money and advertise, at the same time we protect the first amendment here?

It seems that that consistency is absent in this debate.

It is said by the chairman of the committee that he does not want to hear much more about the first amendment. We have done it before, so therefore it must be okay. But we should not give up that easily.

He suggested that we have amended the Constitution before when the courts have ruled a certain way. And he says absolutely right, we can do that and we have done that. But to use the 16th amendment as a beautiful example of how the Congress solves problems, I would expect the same kind of dilemma coming out of this amendment as we have out of the 16th amendment which, by the way, has been questioned by some historians as being correctly ratified.

I think one of our problems has been that we have drifted away from the rule of law, we have drifted away from saying that laws ought to be clear and precise and we ought to all have a little interpretation of the laws.

The gentleman earlier had said that there are laws against slander so therefore we do violate the first amendment. Believe me, I have never read or heard about a legislative body or a judge who argued that you can lie and commit fraud under the first amendment. But the first amendment does say "Congress shall write no laws." That is precise. So even the laws dealing with fraud and slander should be written by the States. This is not a justification for us to write an amendment that says Congress shall write laws restricting expression through the desecration of the flag.

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So we do not know what the laws are, but when the laws are written, that is when the conflict comes.

This amendment, as written so far, does not cause the conflict. It will be the laws that will be written and then we will have to decide what desecration is and many other things.

Earlier in the debate it was said that an individual may well be unpatriotic if he voted against a Defense appropriation bill. I have voted against the Defense appropriation bill because too

much money in the Defense budget goes to militarism that does not really protect our country. I do not believe that is being unpatriotic.

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

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

Mr. Speaker, we have some misfits who on occasion burn the flag. We all despise this behavior, but the offensive conduct of a few does not justify making an exception to the First Amendment protections of political speech the majority finds offensive. According to the pro-flag amendment Citizens Flag Alliance, there has been only 16 documented cases of flag burning in the last two years, and the majority of those cases involved vandalism or some other activity that is already punishable by local law enforcement!

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

Unfortunately, Congress has long since disregarded the original intent of the Founders and has written a lot of laws regulating private property and private conduct. But I would ask my colleagues to remember that every time we write a law to control private behavior, we imply that somebody has to arrive with a gun, because if you desecrate the flag, you have to punish that person. So how do you do that? You send an agent of the government, perhaps an employee of the Bureau of Alcohol, Tobacco and Flags, to arrest him. This is in many ways patriotism with a gun—if your actions do not fit the official definition of a "patriot," we will send somebody to arrest you.

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

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

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

Secretary of State, former Chairman of the Joint Chiefs, and two-time winner of the Presidential Medal of Freedom, Colin Powell has also expressed opposition to amending the constitution in this manner:

I would not amend that great shield of democracy to hammer out a few miscreants. The flag will be flying proudly long after they have slunk away.

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

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

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

Some claim that this is not an issue of private property rights because the flag belongs to the country. The flag belongs to everybody. But if you say that, you are a collectivist. That means you believe everybody owns everything. So why do American citizens have to spend money to obtain, and maintain, a flag if the flag is community owned? If your neighbor, or the Federal Government, owns a flag, even without this amendment you do not have the right to go and burn that flag. If you are causing civil disturbances, you are liable for your conduct under state and local laws. But this whole idea that there could be a collective ownership of the flag is erroneous.

Finally, Mr. Speaker, I wish to point out that by using the word "desecration," which is traditionally reserved for religious symbols, the authors of this amendment are placing the symbol of the state on the same plane as the symbol of the church. The practical effect of this is to either lower religious symbols to the level of the secular state, or raise the state symbol to the status of a holy icon. Perhaps this amendment harkens back to the time when the state was seen as interchangeable with the church. In any case, those who believe we have "no king but Christ" should be troubled by this amendment.

We must be interested in the spirit of our Constitution. We must be interested in the principles of liberty. I therefore urge my colleagues to oppose this amendment. Instead, my colleagues should work to restore the

rights of the individual states to ban flag burning, free from unconstitutional interference by the Supreme Court.

Mr. NADLER. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from New York (Mr. ACKERMAN).

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

Mr. ACKERMAN. Mr. Speaker, I love our flag and that for which it stands. It stands for a Nation founded by people fleeing from an oppressive regime. It stands for freedoms, not the least of which is the freedom of opinion and the unimpeded expression thereof, including the freedom to protest.

Bear in mind, this was a Nation founded by protesters. When our Founding Fathers sought to guarantee these freedoms, they created not a flag but a Constitution, debating the meaning of each and every word, every amendment, every one of which gives people rights. They did not debate a flag. The flag would become a symbol of these rights.

There are those who would have fewer rights. Why? What is the threat to the Republic that drives us to erode the Bill of Rights?

Well, someone burned the flag. Whatever happened to fighting to the death for somebody's right to disagree? We now choose instead to react by taking away a form of the right to protest. Most people abhor flag burners, but even a despicable, low-life malcontent has a right to disagree and disagree in an obnoxious fashion if he wishes. That is the true test of free expression, and we here are about to fail that test.

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

Hitler banned the burning of the flag. Mussolini banned the burning of the flag. Saddam banned the burning of the flag. Dictatorships fear flag burners. The reason our flag is different is because it stands for burning the flag.

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

It is not the flag burners who threaten democracy. Rather, it is those who would deny them. In the name of our Founding Fathers, save us from those who would put up this defense.

The Constitution was written by intellectual giants and is here today

being nibbled by small men with press secretaries. If flag burners offend us, do not beat a cowardly retreat by rushing to ban them. Protesters, like grapes, cannot be eliminated by stomping on them. Meet their ideas with bigger ideas for an ever better America to protect the flag by protecting democracy, not by retreating from it.

We cannot kill a flag. It is a symbol, and yes, patriots have died; but recall what they have died for. They have died for liberty. They have died for democracy. They have died for the right to speak out in protest. They have died for values.

The flag is a symbol of those values. What they died for are American principles. Saying that people died for the flag is symbolic language. The Constitution gives us our rights. The Constitution guarantees our liberties. The Constitution embodies our freedoms. It is our substance. The flag is the symbol for which it stands.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. GOODLATTE).

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

Mr. GOODLATTE. Mr. Speaker, I thank my chairman for yielding me the time.

Mr. Speaker, I rise in strong support of this resolution to amend the Constitution to give the Congress the authority to prevent the physical desecration of the American flag, and I would note the comments of the gentleman from New York, citing some dictators who have prohibited destroying flags, and would point out that many others of a very different mindset have strongly supported this, including President Abraham Lincoln. Many justices of the Supreme Court, as disparate in their views as Earl Warren and William Rehnquist and Hugo Black have found that the laws of the many States prohibiting the desecration of the flag to be constitutional, and it is only because of a narrow five-four majority at one moment in time in our Court's history, finding these laws to be unconstitutional and overturning the work of 48 States and the District of Columbia, that it is necessary for the Congress to address this.

I would argue to the gentleman from Texas, for whom I have respect, that we are turning away from the rule of law when we do not recognize that with freedom comes responsibility, and we have always recognized in the first amendment that there are a number of instances in which free speech is limited. A person cannot shout fire in a crowded theater. They cannot engage in slander or libel. They cannot engage in fighting words. There are a number of such restrictions, and certainly, the prohibition on the physical act of destroying a flag should be included