



June 11, 2013

RE: Oppose H.R. 1497 in Markup—Bill Would Harm Freedom of Religion and Belief and Not Honor All Members of the Armed Services

Rep. Doc Hastings
Chairman
Committee on Natural Resources
1324 Longworth HOB
Washington, DC 20515

Rep. Edward J. Markey
Ranking Member
Committee on Natural Resources
1329 Longworth HOB
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TREASURER

Dear Chairman Hastings and Ranking Member Markey:

On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with more than a half million members, countless additional activists and supporters, and 53 affiliates nationwide dedicated to the principles of individual liberty and justice embodied in the U.S. Constitution, we are writing to urge you to oppose H.R. 1497 in markup. The bill would broadly authorize the use of religious symbols on any government memorial or monument honoring United States veterans. It is a misguided attempt to sanction government promotion of religion and use religion to achieve political gain.

Our policy concerns with H.R. 1497 are many. It is an ill-advised reaction to a federal appeals court decision that held that the government's display of a 43-foot tall cross that dominates the Mt. Soledad war memorial was an unconstitutional endorsement of religion because the cross is a preeminent Christian symbol that no other religion shares.¹ The Latin cross is the most widely recognized symbol of Christianity² and is venerated by many Christians because of what it represents to those believers. Thus, the government's use of this sacred symbol (or any other religion's symbol) harms religion and belief in two ways. First, it puts the government in the position of choosing which religious symbols and their attendant religious beliefs it will promote over all other symbols and beliefs. Second, the government is using a sacred religious symbol and attaching a secular meaning to it—in this case, making the cross a symbol of military service.

H.R. 1497 would have ramifications far beyond Mt. Soledad, because it endorses the false notion that all veterans are honored by war memorials that include only one religion's sacred symbol. So many of our citizens, service members, and veterans are not Christian. Department of Defense reports show that nearly one-third of all members of the U.S. Armed Forces identify as

¹ *Trunk and Jewish War Veterans v. City of San Diego*, 629 F. 3d 1099, 1110–11 (9th Cir. 2011), *cert. denied*, 132 S.Ct. 2532 (2012). ACLU is counsel in this case.

² It should be noted, however, that although the Latin cross is the most widely recognized Christian symbol, it is not a symbol revered or even accepted by all Christians and some denominations use no cross at all.

non-Christian.³ The four-story high Christian cross at the Mt. Soledad war memorial (which prompted this bill) in no way recognizes the religious background of *all* members of the armed services. Instead of being something that unites us as we remember the sacrifice of those who served, the use of a Christian symbol is divisive: It

sends a strong message of endorsement and exclusion. It suggests that the government is so connected to a particular religion that it treats that religion's symbolism as its own, as universal. To many non-Christian veterans, this claim of universality is alienating.⁴

It is clear, however, that all of those who served should be equally respected regardless of their religion.

This bill should be seen for what it is: playing politics with religion. Religious freedom includes two protections: the right to religious belief and expression, and a guarantee that the government neither promotes nor disparages religion or any particular faith. Because of these protections, we are all free to believe, or not believe, according to the dictates of our conscience. These beliefs are too precious to be used for political gain.

Furthermore, this bill is not necessary to protect religious symbols found on headstones in military cemeteries throughout the country. These religious symbols reflect the personal faith of fallen soldiers, sailors, airmen, and Marines and the choice of which religious symbol, if any, to carve on a headstone is made by individual service members and their families. This is a cherished and protected individual right of expression. In such cases, government simply respects and facilitates an expression of an individual's personal beliefs. With a war memorial, however, government is making an active choice to favor one religion over all others.

Finally, enactment of a statute would not overcome the constitutional prohibition on government endorsement of one religion over others (or religion over non-religion)—even at Mt. Soledad or other war memorials. Congress may not authorize violations of the First Amendment. Even if this bill passes, a religious symbol included in a war memorial favoring one religion over others would be no more constitutional than it was before such a law.

Because the government should not try to assign secular meanings to religious symbols and Congress should not use religion for political gain, we urge you to also oppose H.R. 1497.

Please contact Legislative Counsel Dena Sher at (202) 715-0829 or dsher@dcacclu.org if you would like further information on this matter.

Sincerely,



Laura W. Murphy
Director, Washington Legislative Office



Dena S. Sher
Legislative Counsel

cc: Members of the Committee

³ Religious Diversity in the U.S. Military, Military Leadership Diversity Comm'n, Issue Paper No. 22 (June 2010).

⁴ *Trunk*, 629 F. 3d at 1024–25.