



June 13, 2013

RE: Oppose Hunter (#158) Amendment to H.R. 1960, the FY14 National Defense Authorization Act

Dear Representative:

On behalf of the American Civil Liberties Union, please find attached our vote recommendations for anticipated votes on the Hunter (#158) Amendment to H.R. 1960, the FY14 National Defense Authorization Act (NDAA). A vote on this amendment may occur during the floor consideration of the legislation.

Please call Legislative Counsel, Dena Sher, with any questions at (202) 715-0829.

Regards,

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ACLU Vote Recommendation
Hunter Amendment (#158) to FY14 NDAA (H.R. 1960):
“Inclusion of Emblems of Belief as Part of Military Memorials”

The American Civil Liberties Union recommends a NO vote on the Hunter Amendment (#158).

The amendment 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.

The amendment 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 Christianity 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.

This amendment endorses the false notion that all veterans are honored by war memorials that include only one religion’s sacred symbol. 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 non-Christian.² The four-story high Christian cross at the Mt. Soledad war memorial (which prompted this amendment) 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 is clear, however, that all of those who served should be equally respected regardless of their religion.

This amendment 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 amendment 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 amendment 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 oppose the Hunter amendment (#158).

For more information, please contact Dena Sher, Legislative Counsel, at (202) 715-0829 or dsheer@aclu.org.

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