

Lt. General Claudia J. Kennedy (USA, Ret.)

May 24, 2005

Representative F. James Sensenbrenner, Jr., Chairman  
House Committee on the Judiciary  
2449 Rayburn House Office Building  
Washington, DC 20515-4905

Representative John Conyers, Jr., Ranking Minority Member  
House Committee on the Judiciary  
2426 Rayburn House Office Building  
Washington, DC 20515-2214

Dear Representatives Sensenbrenner and Conyers,

I understand you are considering the proposed constitutional amendment to prohibit "desecration" of the flag. Thank you for this opportunity to share my views on that measure. I believe firmly that true patriotism requires us to stand in defense of the freedoms upon which this great nation was built. I urge you to oppose the amendment.

After devoting most of my career to working in military intelligence, I was made Army Deputy Chief of Staff for Intelligence in 1997. I served in that position until my retirement in 2000. I am well acquainted with the many threats facing the United States, and I must say that flag burning does not begin to rise to a level of threat justifying the attention of this distinguished body. At a time of mounting danger to the United States and growing responsibilities for our military, I question the wisdom of directing such focus on this attempt to amend the nation's founding document.

Our military is engaged in active conflict in Iraq and Afghanistan. The threat of terrorist violence against US military and civilian installations around the world continues to be serious. And the development and potential testing of nuclear weapons by rogue states is as grave a concern for our intelligence and defense services as I have seen. The challenges to our security are many, and the responsibility of our nation and this Congress to meet them is great.

Here at home, the Veterans Administration is stretched thin providing services to our returning servicemembers. Our fighting men and women injured in combat need acute care now, and will require continuing treatment for years to come. Many disabled veterans will rely on VA benefits for the rest of their lives. Yet just last week, the House Appropriations Committee approved a VA funding bill that fails to adequately meet the needs of our veterans. Despite a net increase over last year's budget, the appropriation under funds the Veterans Health Administration and other programs. There are now more than 300,000 veterans of Operation Iraqi Freedom and Operation Enduring Freedom. Many of them are now or will soon be placing demands on the VA system, and I suggest that Congress would be wise to ensure that their needs are met.

Among these threats to our national security and to the health and well-being of our veterans, I do not count acts of flag desecration. It disturbs me that Congress is spending such time and energy attempting to amend the Constitution to prohibit “desecration” of the flag. Make no mistake, I abhor flag burning. But the issue simply does not rise to the level of a constitutional amendment.

Upon my retirement, I was presented with a United States flag. That flag will remain one of my most prized possessions for the rest of my life. The thought that some in this country would defile that great symbol of this nation offends me, and I condemn those who would express themselves through such crude speech. But at the same time, I must defend their right to do so. When I joined the Army in 1968, at the height of the Vietnam War, I swore to support and defend the Constitution of the United States, as do all members of the military. This proposed amendment is not only a dangerous distraction from the true concerns of our day, but an outright attack on the Constitution of the United States.

There is no rash of flag burning compelling consideration of this proposed amendment. Even if there were, I would oppose the measure. The Bill of Rights was intended to safeguard the right to peaceful protest, however offensive that protest might be. If passed, the proposed flag amendment would empower Congress to make it a crime to “desecrate” one’s own flag in an act of nonviolent political speech. Countries like Cuba, Iran, and North Korea are known for jailing political protestors. The United States, with our distinguished history of constitutionally protected individual liberty, is not. I am offended by burning of the flag, but just because this form of expression causes offense to me and others does not mean that it should be banned.

I served in the United States Army, like my father before me, to defend fundamental American liberties. To begin the trend of amending the First Amendment each time a particular form of speech is found to be offensive sets a dangerous precedent, and undermines the very freedoms for which I and my fellow servicemembers served. In fact, this proposed amendment undermines the very principles for which the flag stands. To attempt to protect a symbol, the flag, at the expense of the freedoms it represents is misguided.

I believe the proposed flag amendment is ill-conceived and ultimately harmful. The right to nonviolent protest – even when it is deeply offensive – is fundamental to American democracy. Our Bill of Rights has never, in its 214 years, been successfully amended to take away a protected liberty. I implore you not to do so now. Please, do not waste the time of Congress on this dangerous measure. Rather, I ask you to address the true concerns of our day – the threats to our security and the pressing needs of our active military and returning veterans.

Sincerely,

A handwritten signature in cursive script that reads "Claudia Kennedy". The ink is dark and the signature is fluid, with a large, stylized 'C' and 'K'.

Lt. General Claudia J. Kennedy (USA, Ret.)

Lieutenant General Kennedy is a 32-year veteran of the United States Army, and the highest-ranking woman ever to serve in that branch. She held a number of staff and command positions during her career, working chiefly in intelligence. General Kennedy was confirmed by the Senate for promotion to Lieutenant General and assigned to the position of Deputy Chief of Staff for Intelligence as of May 21, 1997. She retired from the U.S. Army in July, 2000.