



Written by [Thomas R. Eddlem](#) on July 9, 2009

Hastings' Amendment Attack on First Amendment

The measure, offered by Armed Services Committee member and Florida Democrat Alcee Hastings (and a former federal judge impeached on bribery and perjury charges) uses a particularly liberal definition of "violence" that would define a person as extremist, including:



- "Groups or organizations that espouse an intention *or expectation of* armed revolutionary activity against the United States Government, or the violent overthrow of the United States Government" (Emphasis added.);
- "Groups or organizations that espouse an intention *or expectation of* armed activity in a 'race war'" (Emphasis added.);
- "Other groups or organizations that are determined by the Attorney General to be of a violent, extremist nature."

By giving the attorney general sole discretion over what constitutes a "hate group," the measure invites political persecution of unfavored political activism. Though the amendment generally defines a "hate group" as one advocating "violence," the amendment does define as "evidence of affiliation or association with hate group" being "involved in online activities with a hate group, including being engaged in online discussion groups or blog or other postings that support, encourage, or affirm the group's extremist or violent views and goals" and having "attended meetings, rallies, conferences, or other activities sponsored by a hate group."

Examples of "violent extremists" who would therefore be exempted from military service under this amendment would include:

- Persons who attend "Tea Party" events if they were sponsored by one or more "violent" groups designated by the attorney general (How many people vet all of the sponsors of a rally before they choose to attend? How many organizers of rallies have time to fret about turning away co-sponsors, even if they could?);
- Persons who blog or chat on a site sponsored by a group the attorney general designated "violent" (How many people check the owner of a website before they leave comments at the bottom of an article?);
- Persons who chronicle how policies of the current administration in Washington could lead the United States unnecessarily into a race war and counsel against it (Remember, the phrase in the definition is "or expectation of," not just advocate in favor of.);
- Libertarians and libertarian websites who praise Shay's Rebellion or the Whiskey Rebellion in America's distant past for anti-tax activities (advocacy of violence against government).

There are more examples, but you get the idea. The Hastings amendment is designed not to ban violent



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revolutionaries from using military training to create terrorist acts, as this hasn't happened and isn't likely to occur. Even Hastings acknowledges that there are already regulations on the books to stop actual violent terrorists from joining the military: "The Armed Forces already have a great many regulations in place regarding the prohibition on extremist activities by military personnel," Hastings acknowledged in a press release on his own congressional web page.

The measure also met with some strong language from Republicans, including Representative Trent Franks (R-Ariz.), who said on the House floor: "I want to state unequivocally that I believe that it is not the intent of this Congress to label pro-lifers, federalism proponents, and pro-immigration enforcement groups and their affiliates as extremists under the bill. My colleagues on the other side of the aisle should make a strong effort to assuage these concerns and make our intentions clear. If the intent of this amendment is to go after citizens because of their political views and moral convictions, then the amendment is unconstitutional."

Franks, however, voted in favor of passage of the Defense Authorization bill that contained the Hastings amendment along with the overwhelming majority of both parties. Only two Republicans voted against the bill on final passage (Ron Paul of Texas and John Duncan of Tennessee), along with 20 Democrats.



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