On the first day of this Congress, Members took turns reading the Constitution aloud on the floor of this House. It was a worthwhile exercise. However, some parts were omitted.

There was no recital of the amendment that established Prohibition, or the clause requiring fugitive slaves to be returned to their owners, or the one equating slaves with three-fifths of a human being. I guess nobody wanted to be the one who was stuck reading those parts. And I can understand that.

But it got me thinking. Lately, there really has been a lot of talk about the Constitution. And that's a good thing. The Constitution is our national charter. It protects our basic freedoms. It grants powers to the government and puts limits on those powers.

All of us in this body take an oath to support it. We *should* talk a lot about the Constitution. But we should talk about it the right way. Some of my colleagues here seem to think that all we have to do is *read* the Constitution together and we'll all see the light, that the literal words on the page will answer all of our questions. For them, the Framers had all the answers.

I guess that's the real reason they didn't want to read the embarrassing parts out loud on the House floor. To do that would be to admit that the Framers got some things wrong, that their document was a first draft of liberty, a blueprint for justice, not the last word. Some might call this way of thinking *constitutional fundamentalism*. When it comes to the Constitution, fundamentalism is misguided. Let me explain why.

No one doubts that some parts of the Constitution are meant to be read literally and rigidly. Every state gets two Senators. You have to be at least 25 years old to be elected to Congress. Cut and dried. But in many of the most important passages of the Constitution, the Framers deliberately used broad, open-ended language because they wanted their words to be read flexibly as times changed.

"Freedom of speech." "Due process of law." These terms don't define themselves. The Fourth Amendment protects "the right of the people against unreasonable searches and seizures." The Eighth Amendment outlaws "cruel and unusual punishments." What makes a search unreasonable, or a punishment cruel? The document itself doesn't tell us.

The constitutional fundamentalists tell us we should interpret the words of the Constitution as they were understood at the time they were written, more than 200 years ago. But they can't really mean that. At that time, all felonies were subject to the death penalty, and flogging was a common punishment for crime. Today, we consider such punishments cruel and unusual, thank goodness.

The words the Framers chose are not just broad and open-ended. More importantly, they express basic values. To enforce basic values, you need to make value judgments. And value judgments change as the world changes, even when the underlying values stay the same.

The Supreme Court has always understood this. Almost 200 years ago, the great Chief Justice John Marshall made clear that the Court was going to read the broad phrases of the Constitution differently than it might read a tax statute or a building code.

Marshall wrote, "If we apply this principle of construction to any of the powers of the government, we shall find it so pernicious in its operation that we shall be compelled to discard it." Marshall and his successors on the High Court understood that when we freeze the meaning of the Constitution in place, we limit our capacity to make progress as a people.

Progress hasn't come easy. It wasn't until the 1940s that the Court applied the First Amendment's Establishment Clause to state and local governments, ensuring the separation of

church and state. It wasn't until the 1950s and *Brown v. Board of Education* that the Court declared government-sponsored racial segregation unconstitutional. Not until the 1960s did the Court finally recognize the principle of one person, one vote. And not until the 1970s did the Court enforce constitutional equality for women.

If we interpreted the Document in a static and literal way, we would find ourselves in a country we didn't recognize. Constitutional fundamentalism makes difficult choices look easy by papering over the ambiguities of the Document and ignoring the complexities of our history.

I'd much rather acknowledge the ambiguities, and debate and discuss and argue about the complexities. I think it's significant that when we amend the Constitution, we don't redact the superseded parts. Leaving them in serves as an antidote to collective amnesia about our past mistakes; it undermines efforts to sanitize our troubled history, as many in power throughout the world often do with their own history.

I close with the words of Thomas Jefferson, who wrote: "Some men look at constitutions with sanctimonious reverence, and deem them like the ark of the covenant, too sacred to be touched. Let us follow no such examples, nor weakly believe that one generation is not as capable of taking care of itself, and ordering its own affairs."

Thank you.