

flag of the United States adopted by Congress by law, or any part thereof, made of any substance, of any size, in a form that is commonly displayed.

"SECTION 3. The Congress shall have the power to prescribe appropriate penalties for the violation of a statute adopted pursuant to section 1."

#### HATCH (AND OTHERS) AMENDMENT NO. 3094

Mr. HATCH (for himself, Mr. HEFLIN, and Mrs. FEINSTEIN) proposed an amendment to the joint resolution (S.J. Res. 31) supra; as follows:

Strike all after the resolving clause and insert the following: That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution if ratified by the legislatures of three-fourths of the several States within seven years after its submission to the States for ratification:

#### "ARTICLE —

"The Congress shall have power to prohibit the physical desecration of the flag of the United States."

#### HOLLINGS AMENDMENTS NOS. 3095–3096

Mr. HOLLINGS proposed two amendments to the joint resolution (S.J. Res. 31) supra; as follows:

#### AMENDMENT NO. 3095

After the first article add the following:

#### "ARTICLE

"SECTION 1. Total outlays for any fiscal year shall not exceed total receipts for that fiscal year, unless three-fifths of the whole number of each House of Congress shall provide by law for a specific excess of outlays over receipts by a rollcall vote.

"SECTION 2. The limit on the debt of the United States held by the public shall not be increased, unless three-fifths of the whole number of each House shall provide by law for such an increase by a rollcall vote.

"SECTION 3. Prior to each fiscal year, the President shall transmit to the Congress a proposed budget for the United States government for that fiscal year, in which total outlays do not exceed total receipts.

"SECTION 4. No bill to increase revenue shall become law unless approved by a majority of the whole number of each House by a rollcall vote.

"SECTION 5. The Congress may waive the provisions of this article for any fiscal year in which a declaration of war is in effect. The provisions of this article may be waived for any fiscal year in which the United States is engaged in military conflict which causes an imminent and serious military threat to national security and is so declared by a joint resolution, adopted by a majority of the whole number of each House, which becomes law.

"SECTION 6. The Congress shall enforce and implement this article by appropriate legislation, which may rely on estimates of outlays and receipts. The judicial power of the United States shall not extend to any case or controversy arising under this article except as may be specifically authorized by legislation adopted pursuant to this section.

"SECTION 7. Total receipts shall include all receipts of the United States government except those derived from borrowing. Total outlays shall include all outlays of the United States government except those for repayment of debt principal. The receipts (including attributable interest) and outlays

of the Federal Old-Age and Survivors Insurance Trust Fund and Federal Disability Insurance Trust Fund (as and if modified to preserve the solvency of the funds) used to provide old age, survivors, and disabilities benefits shall not be counted as receipts or outlays for the purpose of this article.

"SECTION 8. This article shall take effect beginning with fiscal year 2002 or with the second fiscal year beginning after its ratification, whichever is later."

#### AMENDMENT NO. 3096

After the first article add the following:

#### "ARTICLE

"SECTION 1. Congress shall have power to set reasonable limit on expenditures made in support of or in opposition to the nomination or election of any person to Federal office.

"SECTION 2. Each State shall have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to State office.

"SECTION 3. Each local government of general jurisdiction shall have power to set reasonable limits on expenditures made in support of or in opposition to the nomination or election of any person to office in that government. No State shall have power to limit the power established by this section.

"SECTION 4. Congress shall have power to implement and enforce this article by appropriate legislation."

#### MCCONNELL (AND OTHERS) AMENDMENT NO. 3097

Mr. MCCONNELL (for himself, Mr. BENNETT, Mr. DORGAN, and Mr. BUMPERS) proposed an amendment to the joint resolution (S.J. Res. 31) supra; as follows:

Strike all after the resolving clause and insert the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Flag Protection and Free Speech Act of 1995".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world.

(2) the Bill of Rights is a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course that is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;

(3) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the physical and emotional well-being of individuals at whom the threat is targeted; and

(4) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment to the United States Constitution.

(b) PURPOSE.—It is the purpose of this Act to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

#### SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.

(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

#### "§ 700. Incitement; damage or destruction of property involving the flag of the United States

"(a) ACTIONS PROMOTING VIOLENCE.—Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and in circumstances where the person knows it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than \$100,000 or imprisoned not more than 1 year, or both.

"(b) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States and intentionally destroys or damages that flag shall be fined not more than \$250,000 or imprisoned not more than 2 years, or both.

"(c) DAMAGING A FLAG OF ANOTHER ON FEDERAL LAND.—Any person who, within any lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and intentionally destroys or damages that flag shall be fined not more than \$250,000 or imprisoned not more than 2 years, or both.

"(d) CONSTRUCTION.—Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

"(e) DEFINITION.—As used in this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and would be taken to be a flag by the reasonable observer."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following new item:

"700. Incitement; damage or destruction of property involving the flag of the United States."

#### ADDITIONAL STATEMENTS

#### SENATE HOMEPAGE RATED TOP 5 PERCENT

● Mr. WARNER. Mr. President, in October of this year I announced the Senate presence on the World Wide Web. Today I am pleased to announce the Senate's Homepage on the World Wide Web has been rated among the top 5 percent of all Web sites on the Internet by an independent group. This group, Point Survey, called the Senate's Web presentation "the best place to learn about how the Senate really works" and call it "a valuable site."

The Senate Homepage is proving to be a tool that allows citizens to better understand the constitutional and historical role of this institution, and its underlying responsibilities within our society.

Again I would like to acknowledge the hard work of Howard O. Greene, Senate Sergeant at Arms; Kelly D. Johnston, Secretary of the Senate; and

Paul D. Steel, director of Information Systems and Technology, Committee on Rules and Administration for making this effort a success.●

#### PRESIDENT ROBINSON'S ADDRESS ON HUMAN RIGHTS

● Mr. KENNEDY. Mr. President, yesterday was International Human Rights Day, a day to mark how far the world has come toward respect for human rights, and also a day to reflect on how far we have to go.

In October, President Mary Robinson of Ireland gave an address at Yale Law School in which she discussed the often inadequate response to extreme human rights crises around the world. She spoke of the universal acceptance of the key principles of the international human rights movement and the value of activities by the United Nations and regional organizations which set human rights standards. Having recently returned from Rwanda and Zaire, she poignantly described the gross human rights violations there and the failure of the world to make an adequate response. At the end of her address, she notes that these basic principles of human rights are also at stake in Bosnia.

When President Clinton visited Ireland 10 days ago, he invited President Robinson to the United States for a state visit in June 1996. I look forward to her visit, and I ask that her address at Yale be printed in the RECORD.

The address follows:

#### THE NEED TO HONOUR DEVELOPING HUMAN RIGHTS COMMITMENTS

SPEECH BY PRESIDENT MARY ROBINSON

It is an enormous pleasure to be here this evening. I recall when I was studying law at a place just outside Boston in the late '60s, this institution was referred to as "that other place in New Haven". The compliment implied in not naming that other place naturally whetted my interest, but this is the first opportunity I have had to visit. I am greatly honoured to be here as the 1995 Sherril lecturer.

The title of my address this evening—the need to honour developing human rights commitments—has been carefully chosen to provide me with an opportunity to comment on the state of our commitment at the end of the century.

I use the term "honour" as opposed to "compliance" or "conformity" because the lives and integrity of human beings are at stake and because it calls on our notions of dignity and moral obligation. The word "commitment" has been chosen because it goes further than both legal or moral obligation—while encompassing both. It also connotes the idea of being "committed" to a great cause at a higher level of obligation, as well as a preparedness to take steps to promote and further that cause, without interrogating the legal necessity or obligation to do so. In the area of human rights one can find no greater elucidation of the meaning of "commitment" than in the Preamble to the Universal Declaration of Human Rights. Lastly, I am conscious that our human rights commitments are dynamic and not static. They are constantly evolving and developing. At the end of this millennium the honouring of developing human rights commitments, to the best of our abilities and re-

sources, is a first order principle of national and international life.

Yet we are all aware that major problems persist. Torture, inhuman prison conditions, unfair trials, and famine have not been eradicated although we take a certain pride in the institutions and procedures that we have set up to deal with them. Ethnic cleansing and the daily spectacle of civilian casualties in Sarajevo remind us that the evils of the past cast a long shadow. In a real sense the World Conference on Women's Rights in Beijing was all about the failure to honour our commitments to women, particularly in the areas of protection against violence and sexual abuse.

We do not have cause for satisfaction. The essential theme of my remarks, having returned a few days ago from Rwanda, is that we should reflect even more on our political commitment to invest our human rights mission with the resources that match the strength of our beliefs, and that our failure to do so—when confronted with situations such as that in Rwanda which cry out for a more committed, more integrated and more resourced response—compromises our achievements, blunts our sensitivities to situations where gross violations are taking place and diminishes our capacity to transmit these values meaningfully to succeeding generations. In other words, acquiescence to a low level of response is an affront to the principle of the universality of human rights.

As you will have gathered, I have chosen this title with great anxiety—the anxiety, firstly, of a lawyer confronted by the contradictions between promise and performance. The anxiety, secondly, of a Head of State returning from a visit to Rwanda and Zaire, who has been exposed in the literal sense of that term, and for the second time, to the terrible humanitarian aftermath of genocide and its accompanying social, political and economic disintegration. A witness also to the continued inability of the international community to rouse itself sufficiently to bring greater hope and promise to that land of despair and tragedy. The anxiety, lastly, of a witness left speechless and fumbling for the correct and appropriate response in the face of our own inadequacies as a community of human beings when faced, eyeball to eyeball, with human disaster on such an overwhelming scale.

The contradiction, witnessed painfully in Rwanda, between, our lofty human rights values on the one hand, and the pressure of reality on the other, provokes a natural and human response. I hear the words "Never again"—the call that became the leitmotif for the development of human rights this century—and am deeply dismayed and angered at the human capacity for self-delusion.

But this despair should not lead us to be distracted from the real advances that have been made, at both the regional and the universal level, in the protection and promotion of human rights and in the central position that the concept of human rights now occupies in the world stage.

In a very short space of time three key ideas which underpin the entire international human rights movement have come to be accepted universally. They are all connected to what can be called the principle of universality.

First, that countries can no longer say that how they treat their inhabitants is solely their own business. The concept of human rights has torn down (though not completely destroyed) the sometimes oppressive veil of domestic jurisdiction. The role of the media in showing us the dramatic pictures of civilians being cut down in Sarajevo, of the famine in Somalia or of the genocide in Rwanda,

has contributed immeasurably to strengthening this development. The global village has highlighted our global responsibilities.

Second, that the effective protection of human rights is indissociably linked to international peace and security. Internal disorder, civil war, heightened regional and international tension can in our recent history, be causally related to violations of human or minority rights. Respect for human rights is thus essential for genuine peace.

Third, that human rights are universal and indivisible. The principle of universality of human rights was asserted by the Universal Declaration of Human Rights. It is the central pillar on which all else rests and has come under increasing attack over the last decade under the guise of "regional particularities". To the great credit of the World Conference on Human Rights, the principle that the protection of human rights is a duty for all states, irrespective of their political, economical or cultural system, was emphatically re-affirmed. Let me quote from Paragraph 3 of the *Vienna Declaration and Programme of Action*, adopted by consensus by the member states of the United Nations:

"All human rights are universal, indivisible and interdependent and inter-related. The international community must treat human rights globally in a fair and equal manner, on the same footing and with the same emphasis."

Side by side with the development of what I have called the principle of universality stand the vital standard-setting activities of the United Nations and regional bodies such as the Council of Europe, the Organisation of American States and the Organisation of African Unity. The catalogue of human rights and freedoms set out *inter alia* in the United Nations Covenants, the European Convention on Human Rights, the American Convention on Human Rights, the African Charter of Human and People's Rights and other major human rights treaties form the central core of a corpus of universal human rights standards encompassing both civil and political as well as social, economic and cultural rights.

There are several remarkable features about standard-setting activities which merit being highlighted in an era where the emphasis—quite properly—is on enforcement and effectiveness.

The first is that the relevant treaty standards not only define the States' international obligations to its inhabitants and to the international community at large but also directly impact on the content and quality of national law. In many countries these standards have the force of law and can be enforced directly through local courts. Indeed, some of the most important principles, for example the prohibition against torture and slavery, have become part of the customary law of nations. International norms have also become an essential *vade-mecum* for NGO's, providing them with a focused set of standards to guide them in their work and judgment. In these different ways, the specificity of international human rights law can exercise a vitally important influence on national arrangements and can lead to an improvement in people's lives. I believe that the role human rights law has played, and continues to play, in shaping the legislative agendas of the new democracies in eastern and central Europe, not to mention the new South Africa, cannot be underestimated. The authoritative interpretation of these standards by the European and American Courts of Human Rights and by other treaty bodies, adds a further important dimension to the effectiveness of this process.