



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 106<sup>th</sup> CONGRESS, SECOND SESSION

Vol. 146

WASHINGTON, WEDNESDAY, MARCH 29, 2000

No. 37

## Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

### PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Let us pray:

Loving Father, You open Your heart to us. You assure us of Your unqualified, unlimited love. In spite of all the changes in our lives, You never change. We hear Your assurance, "I love you. I will never let you go. You are mine. I have you chosen and called you to know, love, and serve Me."

In response, we open our hearts to You. We choose to be chosen. We accept Your love and forgiveness and turn our lives over to Your control. We confess anything we have said or done that deserves Your judgment. Cleanse our memories of any failure that would haunt us today and give us the courage to act on the specific guidance You have given that we have been reluctant to put into action. We commit to You our families, friends, and those with whom we work. Help us to communicate Your creative delight in each person's uniqueness and potential.

We dedicate today's work in the Senate. Bless the Senators with a renewed sense of Your presence, a rededication to their calling to serve You and our Nation, and a reaffirmation of their dependence on You. You are our Lord and Saviour. Amen.

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### PLEDGE OF ALLEGIANCE

The Honorable WAYNE ALLARD, a Senator from the State of Colorado, led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

### RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDING OFFICER (Mr. ALLARD). The acting majority leader is recognized.

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### SCHEDULE

Mr. HATCH. Mr. President, today the Senate will resume consideration of the pending flag desecration resolution for 30 minutes prior to a cloture vote on the resolution. Therefore, Senators can anticipate the cloture vote to occur at approximately 10 a.m. Following the vote, the Senate will be in a period of morning business until 12:30 p.m. with the time under the control of Senators BROWNBACK, COVERDELL, and DURBIN.

It is hoped an agreement regarding final passage of the flag resolution can be made so that the vote can occur during today's session. As a reminder, cloture on the motion to proceed to the gas tax legislation was filed on Tuesday, and that vote will occur on Thursday at a time to be determined. Also on Thursday, the Senate is expected to begin consideration of the loan guarantees legislation.

I thank all Members for their attention.

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### MEASURE PLACED ON THE CALENDAR—S.J. RES. 43

Mr. HATCH. Mr. President, I understand there is a joint resolution at the desk due for its second reading.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The bill clerk read as follows:

A joint resolution (S.J. Res. 43) expressing the sense of the Congress that the President of the United States should encourage free and fair elections and respect for democracy in Peru.

Mr. HATCH. I object to further proceeding on the resolution at this time.

The PRESIDING OFFICER. The resolution will be placed on the calendar.

### FLAG DESECRATION CONSTITUTIONAL AMENDMENT—Resumed

Mr. HATCH. I ask unanimous consent that the oversized posters we use this morning be permitted.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, during the past 2 days, we have heard several Senators who oppose the flag desecration amendment speak about the American flag as only a symbol or a piece of cloth that should not be confused with the real freedoms that we as Americans enjoy. They want to know why we get so worked up over a symbol, a mere piece of cloth. They want to know why we should care if someone urinates or defecates on the American flag. They ask: Aren't we strong enough as a nation to overlook such behavior?

The U.S. flag is a lot more than a symbol and a lot more than a piece of cloth. Don't take my word for it. Listen to the story of how Mike Christian feels about the American flag. Mike Christian was one of Senator John MCCAIN's cellmates at the "Hanoi Hilton" during the Vietnam war. He sewed an American flag on the inside of his shirt, and he often led his prisoners of war in the Pledge of Allegiance to the flag. One day, his captors found that flag and they beat him severely for possessing it. Despite the risk of even more life-threatening abuse, Mr. Christian sharpened a little piece of bamboo into a needle and painstakingly made another flag out of bits of cloth. His new flag, and the heroics it inspired, helped the other American prisoners survive their prolonged captivity under brutal conditions.

If a makeshift flag can stir such emotions, it is illogical for the Senate to ignore the feelings of the overwhelming number of Americans who support flag protection. The flag is not just a piece of cloth or a symbol. It is the embodiment of our heritage, our liberties, and indeed our sovereignty as

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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a nation. The American flag unites Americans because it embodies shared values and history.

Gen. Norman Schwarzkopf, commander of the U.S. and allied forces during the gulf war, summed this up eloquently in his letter supporting the flag amendment. General Schwarzkopf wrote:

We are a diverse people living in a complicated fragmented society. I believe we are imperiled by a growing cynicism by certain traditions that bind us, particularly service to our Nation. The flag remains the single preeminent connection to each other and to our country. Legally sanctioning flag desecration only serves to undermine this national unity and identity which must be preserved.

That was General Schwarzkopf, one of the great heroes of our country.

I have a few flags that will help illustrate what the flag means to our shared history. These flags tell part of the story of how this Nation we all call ours came to be so great.

The flag with the circle of 13 stars was the first official flag of the United States. It was adopted by an act of Congress on June 14, 1777. According to legend, a group headed by George Washington came up with this design and commissioned seamstress Betsy Ross to execute it for presentation to Congress. It is a beautiful flag.

Let me go to the next flag. This design is believed by many authorities to be the stars and stripes used by the American land troops during the Revolutionary War. A flag such as this was flown over the military stores at Bennington, VT, on August 16, 1777, when Gen. John Stark's militia led Americans to victory over a British raiding force. The original of that flag is preserved in the Bennington, VT, museum.

The 15 stars and 15 stripes design was adopted prior to the War of 1812 after two States were added to the Union. Notice that it not only has 15 stars but also 15 stripes. This is the design that flew over Fort McHenry during a naval bombardment and inspired Francis Scott Key to compose what later became our national anthem. The actual flag that survived that night over Fort McHenry has been restored and now hangs in the Smithsonian.

Today's flag has 50 stars and 13 stripes. Its design was born of the need for a more practical way of adding states than adding both a star and a stripe for each one. Congress approved this design—seven red and six white stripes, and a star for each state—on April 4, 1818. The 50-star flag has been in use since July 4, 1960. It's a flag like this that Mike Christian tried to fashion from his cell in the Hanoi Hilton. It's a flag like this that flies over the Capitol and our Federal buildings around the world. It is a flag like this that we pledge allegiance to every day when we open the Senate.

Mr. President, do we mean what we say when we stand here each morning and pledge allegiance to the flag, or is it simply a hollow gesture? I fear that

the significance of these flags, and their meaning to Americans, is being belittled by some who suggest the Senate's time is too important for the flag protection constitutional amendment.

Listen to the American people. That is what I would like to say to the Members of the Senate. The vast majority of our citizens support amending the Constitution to protect our Nation's flag. To us, protecting the flag as the symbol of our national community—and utilizing the constitutional amendment process to do so—is no trivial matter.

There are tens of thousands of veterans living on our country today who have put their lives on the line to defend our flag and the principles for which it stands. Those are the fortunate ones who were not required to make the ultimate sacrifice, as did my brother and my brother-in-law. For every one of those, there is someone who has traded the life of a loved one for a flag, folded at a funeral. Let's think about that trade—and about the people who made that sacrifice for us—before deciding whether the flag is important enough to be addressed in the Senate.

Would it really trivialize the Constitution, as some critics suggest, to pass an amendment that is supported by a vast majority of Americans? Is it somehow frivolous to employ the amendment process that our Founding Fathers wrote into Article V of the Constitution? Are we irresponsible if we simply restore the law as it existed for centuries prior to two recent Supreme Court decisions?

The Constitution itself establishes the process for its own amendment. It says that the Constitution will be amended when two-thirds of Congress and three-fourths of the states want to do so. It does not say that this procedure is reserved for issues that some law professors think are important, or for an issue that would immediately crush the foundations of our great republic if left unaddressed. If "government by the people" means anything, it means that the people can decide the fundamental questions concerning the checks and balances in our government. It means the people can choose whether it is Congress or the Supreme Court that decides whether flag desecration is against the law. The people have said that they want Congress to decide it in the state legislatures.

I urge my colleagues to think hard about what they consider "important" before they conclude that the Senate should ignore the people's desire to make decisions about the government which governs them. The flag amendment is the very essence of "government by the people" because it reflects the people's decision to give Congress a power that the Supreme Court has taken away. This question is very important. It involved the separation of power doctrine of our Constitution.

I think we all have a pretty good idea of where the votes are on this amend-

ment. The question is why my colleagues wish to delay a vote on this important measure. Perhaps they feel the need to turn a few more votes . . . I don't know. Whatever the reason, I urge all my colleagues, whether they support the flag amendment or not, to vote for cloture so we can then have an up and down vote on the merits of S.J. Res. 14.

Finally, all this amendment does is give Congress the power to prohibit the physical desecration of the flag of the United States. I happen to think that is a wise thing to do. The vast majority of the American people think it is a wise thing to do. A vast majority of the House of Representatives think it is a wise thing to do. And a majority here—although, alas, probably not enough—do believe it is a wise thing to do as well.

I reserve the remainder of my time.

Mr. LEAHY. Mr. President, how much time is available to the Senator from Utah and the Senator from Vermont?

The PRESIDING OFFICER. The Senator from Utah has 3 minutes remaining. The Senator from Vermont has 13 minutes remaining.

Mr. LEAHY. Thirteen? I thought the Senator from Vermont had half the time, which would have been 15 minutes.

The PRESIDING OFFICER. Half the time is 13 minutes to the side since the Senate started at 9:30.

Mr. HATCH. Mr. President, I ask unanimous consent we extend debate for 30 minutes so he can have 15.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I note we had discussion about whether people want to prolong this debate. We do want to have debate on the constitutional amendment. People have given tremendous speeches, pro and con, on this issue. I hope everybody will vote for cloture, for example. But let us not have any suggestion that anybody here is trying to stop a vote on this constitutional amendment. We all want it. But most Senators believe, if you are going to amend the Constitution, it requires at least more debate and more time than we might give to a simple resolution.

I yield 5 minutes to the distinguished Senator from Wisconsin.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. FEINGOLD. I thank the Senator for his tremendous leadership in opposition to this constitutional amendment. I thank him for his leadership on this whole issue.

THE BILL OF RIGHTS AND FREEDOM OF  
EXPRESSION

Honoring the flag demands that we consider carefully the history of the Bill of Rights before we choose to alter it. Many of our Founders sought a Bill of Rights because, in their view, the Constitution failed properly to consider and protect the basic and fundamental rights of individuals.

Although many Federalists, including James Madison, felt that the limited powers conferred on the government by the Constitution were sufficiently narrow so as to leave those rights unquestioned, the Bill of Rights was adopted in order to provide reluctant states with the assurances necessary for approval of the Constitution.

From this beginning in compromise 209 years ago, the Bill of Rights has evolved into the single greatest protector of individual freedom in history. It has done so, in large measure, because attempts to narrow it have, to date, been rejected.

It was fundamental to the founding of this Nation that individuals should be free to express themselves, secure in the knowledge that government will not suppress their expression because of its content. Our Nation's Founders created this new country to escape oppression at the hands of the state. They firmly believed that government should not limit one's ability to speak out. They wrote into our fundamental charter the ten simple words: "Congress shall make no law . . . abridging the freedom of speech."

Over time, this Nation has grappled with the boundaries of free speech, regulating defamation or obscenity. That government may regulate some expression, however, does not change the law's presumption against content-based regulation. In the words of Justice Scalia: "[T]he government may proscribe libel; but it may not make the further content discrimination of proscribing only libel critical of the government."

We need not concern ourselves with the parameters of speech that can be proscribed, because the expression in question—political expression—is clearly protected under the first amendment. The defining standard that has marked the history of free expression in this Nation is that speech may not be regulated based upon its content.

The presumptive invalidity of content regulation protects all forms of speech—that with which we agree, as well as that to which we object. To do otherwise would make hollow, at best, the promise of free speech. As the Supreme Court held in *Street v. New York*: "[F]reedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order."

My colleagues, this amendment departs from that noble and time-honored standard. It seeks instead to prohibit expression solely because of its content.

Proponents of this amendment have made plain that they direct their effort at expression that they deem "disrespectful." Even more troubling is that this amendment leaves the determination of what is disrespectful to the government.

For the promise of free expression to be fulfilled, the first amendment must

protect those who rise to challenge the existing wisdom—to raise those views that may anger or offend. As Justice William O. Douglas observed, free speech, "may indeed serve its high purpose when it induces a condition of unrest, creates dissatisfaction with conditions as they are, or even stirs people to anger."

Adherence to this ideal is what separates America from oppressive regimes across the world. We tolerate dissent and protect dissenters. They suppress dissent and jail dissenters, or condemn dissenters to a fate still more grave.

The first amendment to the United States Constitution is not infallible. It cannot sanitize free expression any more than it can impart wisdom to thoughts which otherwise have none. Nor can the first amendment ensure that free expression will always comport with the views of a majority of the American people or the American government.

What the first amendment does promise, however, is the right of each individual in this Nation to stand and make a case, regardless of particular point of view, and to do so absent fear of government censor. This right is worthy of preserving. It is this right that is at risk today. When we start down the road to distinguishing between whose message is appropriate and whose is not, we risk something far greater than the right to burn a flag as political expression.

Much of what is clearly protected expression can easily be deemed objectionable. So it is with flag burning. As the Supreme Court has repeatedly stated, the act of flag burning cannot be divorced from the context in which it occurs—that of political expression. This Nation has a proud and storied history of political expression—much of which could easily be characterized as objectionable.

Does any Member of this body believe that if the question had been put to the crown as to whether or not the speech and expression emanating from the colonies, in the form of Thomas Paine's "Common Sense" or the Articles of Confederation, should be sustained, the answer would have been anything but a resounding no? Could not the same be said of messages of the civil rights and suffrage movements?

This Nation was born of dissent. Contrary to the view that it weakens our democracy, this Nation stands today as the leader of the free world because we tolerate these varying forms of dissent—not because we persecute them.

In seeking to protect the American flag, this amendment asks us to depart from the fundamental ideal that government shall not suppress expression solely because it is disagreeable. As Justice Brennan wrote for the majority in *Texas v. Johnson*:

If there is a bedrock principle underlying the first amendment, it is that the government may not prohibit expression of an idea simply because society finds the idea itself offensive or disagreeable. We have not recog-

nized an exception to this principle even where our flag has been involved.

So this amendment runs counter to the very premise of the Bill of Rights—that the rights of individuals should remain beyond the purview of unwarranted government intervention. That is what led to the adoption of the Bill of Rights. In the words of Justice Jackson, speaking for the Supreme Court in 1943:

The very purpose of the Bill of Rights was to withdraw certain subjects from the vicissitudes of political controversy, to place them beyond the reach of majorities and officials, to establish them as legal principles to be applied by the courts. One's right to life, liberty, and property, to free speech, a free press, freedom of worship and assembly, and other fundamental rights may not be submitted to vote; they depend on the outcome of no elections.

Yet, this amendment would do exactly that. It would subject the fate of one of our most fundamental rights to turn upon the outcome of elections. What comfort is a first amendment that tells the people that the appropriateness of their political expression will be left to the government?

In charting a divergent course, this amendment would create that exception—an exception at odds with free expression and with our history of liberty. If adopted, this amendment would for the first time in our history, signal an unprecedented, misguided, and troubling departure from our history as a free society.

#### VALUES

During this debate and debates like it that often occur in years divisible by four, we often hear a great deal about values. We often hear a great deal about the kinds of things we are teaching our children. We often hear aspirations for this amendment that appear at least a little exaggerated: that it's going to stop the downward slide that our culture has supposedly been on since the 1940s, that it's going to improve our schools, that it even might help get rid of bad movies. All kidding aside, when some proponents of the amendment start talking about this amendment as a fight over values, I get nervous. It reminds me of the "culture war" that some have invoked in the past decade. We do not need to create one more source of division and divisiveness. We need understanding and tolerance and community.

In any event, I am skeptical as to whether the alleged increased incidence of disrespect for the flag, supposedly stemming from a Supreme Court decision in 1989, has caused the purported deterioration in our culture that some have cited. If it is, passing this amendment is surely not going to stop it.

What this amendment will do is abridge the most precious freedom and the most important principle that our country stands for, the right of free speech. I do not say "most precious" and "most important" lightly. What message is curtailing that freedom going to send to our children? What

values are we upholding by taking this extreme step to deal with a problem that by all accounts is not severe at all?

A fine piece in the March 22 Milwaukee Journal Sentinel reported that "[o]ne academic research found fewer than 45 flag burnings between 1777, when the flag was adopted, and 1989."

Similarly, when the Judiciary Committee examined the issue last year, the Congressional Research Service found 36 reported cases of flag burning or other physical acts of disrespect to the flag. And for that we are going to amend, with unknown consequences, the most basic right of our citizens?

I respectfully disagree with the supporters of the amendment about the effect that this issue has on children. We can send no better, no stronger, no more meaningful message to our children about the principles and the values of this country than to explain to them that the beauty and the strength of this country is in its freedoms, not in its symbols. When we uphold first amendment freedoms despite the efforts of misguided and despicable people who want to provoke our wrath, we send a message to our children of what America is really about. Our country is far too strong to be threatened by those who burn the flag. We need to teach our children, and we should teach our children, and virtually all of us do teach our children, that it is wrong to burn the flag. We don't need to empower the government to put people in jail for doing it in order to make that lesson plain and powerful.

Ironically, some supporters of the amendment have said that the amendment was going to help create community in this country. As if a law that attempts to legislate patriotism can create community. As if bringing the full wrath of the criminal law and the power of the state down on political dissenters is going to do anything other than encourage more people who want to grandstand their dissent and imagine themselves "martyrs for the cause."

We all know that's what will happen the minute this amendment goes into force. More flag burnings and other despicable acts of disrespect to the flag, not fewer. Will the amendment make these acts any more despicable than they are today? Certainly not. Will it make us love the flag any more than we do today? No. Will the new law deter these acts? I doubt it.

I particularly doubt it in light of the testimony we heard before the Judiciary Committee that supporters of the amendment think that the punishment for violators of the statute that this amendment will allow Congress to pass ought to be a citation and a fine, or maybe some community service or required classes, not jail time. So now it turns out we are going to amend the Bill of Rights, the very heart of the Constitution, in order to give the Congress of the United States the power to issue what the ranking Democratic

member of the Judiciary Committee, Senator LEAHY, aptly called "traffic tickets" to people who burn the flag. To me that makes no sense at all.

General Brady of the Citizens Flag Alliance told the Judiciary Committee that the government ought to require flag burners to attend classes on the meaning and importance of the flag. Frankly that sanction is even more troubling. As a sanction for expressing political dissent, the government is going to force people to take classes to understand the "politically correct" way to think about the flag. Are "re-education" programs to become the American way?

What this debate is really about is not whether flag burning is a good idea, not whether we love and respect our flag, but whether the threat to our country from those who would burn the flag is so great that we must sacrifice the power and majesty of the first amendment to the Constitution in order to prosecute them.

#### IS FLAG BURNING A PROBLEM?

Some argue that we must amend the Constitution in order to preserve the symbolic value of the U.S. flag. They do so, however, in the absence of any evidence that flag burning is rampant today, or that it may be in the future. Perhaps more importantly, this amendment is offered in the absence of any evidence that the symbolic value of the flag has in any way been compromised.

No evidence has been offered to show that the handful of misguided individuals who may burn a flag each year have any effect whatsoever on this Nation's love of the flag or our democratic way of life. Respect of this Nation for the flag is unparalleled. The citizens of this Nation love and respect the flag for varied and deeply personal reasons—not because the Constitution imposes this responsibility upon them. As an editorial in the Lacrosse, Wisconsin, Tribune pointed out:

Allegiance that is voluntary is something beyond price. But allegiance extracted by statute—or, worse yet, by Constitutional fiat—wouldn't be worth the paper the amendment was drafted on. It is the very fact that the flag is voluntarily honored that makes it a great and powerful symbol.

The suggestion that we can mandate, through an amendment to the Constitution, respect for the flag or any other symbol ignores the premise underlying patriotism. More importantly, it belies the traditional notions of freedom found in our Constitution.

#### CONCLUSION

Mr. President, the rights at the heart of this debate are far too fundamental and far too important to be subjected to the uncertainty created by this amendment. We must not abandon two centuries of free expression in favor of an unwarranted and ill-defined standard which allows government to choose whose political message is worthy of protection and whose is not. This is counter to the very freedoms the flag symbolizes.

The very idea that a handful of misguided people could cause this Nation—

a Nation which has, from its inception been a beacon of individual liberty, a Nation which has defended, both at home and abroad, the right of individuals to be free—to retreat from the fundamental American principle that speech should not be regulated based upon its content is cause for great concern.

We will be paying false tribute to the flag if in our zeal to protect it we diminish the very freedoms it represents. The true promise of this great Nation is rooted in our Constitution. Ultimately, the fulfillment of this promise lies in preservation of this great covenant, not just our symbols. If we sacrifice our principles, ultimately our symbols will represent something less than they should.

The Capitol dome is not our Constitution. The national anthem is not our form of government. And the flag, by itself, is not our Nation.

Yes, let us honor the "broad stripes and bright stars \* \* \* so gallantly streaming." But we best honor that for which our flag stands when we protect the Constitution and its Bill of Rights. In that way, we will best ensure that our Star Spangled Banner shall yet wave over a land that is still free.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Wisconsin, the ranking Democrat on the Constitution Subcommittee. He has been a leader on this issue and so many other constitutional issues that protect the rights of all of us. He has done that ever since he came to the Senate. I applaud him, not only for what he said here but for his active work in the committee.

I yield 5 minutes to the distinguished Senator, and my friend, from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the Senator from Vermont. I know this letter has been referenced previously, but I want to re-reference it in light of what the Senator read from General Schwarzkopf. No less a distinguished general, Gen. Colin Powell, has written a letter to Senator LEAHY:

I love our flag, our Constitution and our country with a love that has no bounds. I defended all three for 35 years as a soldier and was willing to give my life in their defense.

I am skipping down a paragraph:

I understand how strongly so many of my fellow veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we found outrageous.

I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away.

Mr. President, I ask unanimous consent to print in the RECORD this letter from Gen. Colin Powell.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GEN. COLIN L. POWELL, USA (RET),  
Alexandria, VA, May 18, 1999.

Hon. PATRICK LEAHY,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR LEAHY: Thank you for your recent letter asking my views on the proposed flag protection amendment.

I love our flag, our Constitution and our country with a love that has no bounds. I defended all three for 35 years as a soldier and was willing to give my life in their defense.

Americans revere their flag as a symbol of the Nation. Indeed, it is because of that reverence that the amendment is under consideration. Few countries in the world would think of amending their Constitution for the purpose of protecting such a symbol.

We are rightfully outraged when anyone attacks or desecrates our flag. Few Americans do such things and when they do they are subject to the rightful condemnation of their fellow citizens. They may be destroying a piece of cloth, but they do no damage to our system of freedom which tolerates such desecration.

If they are destroying a flag that belongs to someone else, that's a prosecutable crime. If it is a flag they own, I really don't want to amend the Constitution to prosecute someone for foolishly desecrating their own property. We should condemn them and pity them instead.

I understand how strongly so many of my fellow veterans and citizens feel about the flag and I understand the powerful sentiment in state legislatures for such an amendment. I feel the same sense of outrage. But I step back from amending the Constitution to relieve that outrage. The First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous.

I would not amend the great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away.

Finally, I shudder to think of the legal morass we will create trying to implement the body of law that will emerge from such an amendment.

If I were a member of Congress, I would not vote for the proposed amendment and would fully understand and respect the views of those who would. For or against, we all love our flag with equal devotion.

Sincerely,

COLIN L. POWELL.

P.S. The attached 1989 article by a Vietnam POW gave me further inspiration for my position.

WHEN THEY BURNED THE FLAG BACK HOME:  
THOUGHTS OF A FORMER POW  
(By James H. Warner)

In March of 1973, when we were released from a prisoner of war camp in North Vietnam, we were flown to Clark Air Force base in the Philippines. As I stepped out of the aircraft I looked up and saw the flag. I caught my breath, then, as tears filled my eyes, I saluted it. I never loved my country more than at that moment. Although I have received the Silver Star Medal and two Purple Hearts, they were nothing compared with the gratitude I felt then for having been allowed to serve the cause of freedom.

Because the mere sight of the flag meant so much to me when I saw it for the first time after 5½ years, it hurts me to see other Americans willfully desecrate it. But I have been in a Communist prison where I looked into the pit of hell. I cannot compromise on

freedom. It hurts to see the flag burned, but I part company with those who want to punish the flag burners. Let me explain myself.

Early in the imprisonment the Communists told us that we did not have to stay there. If we would only admit we were wrong, if we would only apologize, we could be released early. If we did not, we would be punished. A handful accepted, most did not. In our minds, early release under those conditions would amount to a betrayal, of our comrades of our country and of our flag.

Because we would not say the words they wanted us to say, they made our lives wretched. Most of us were tortured, and some of my comrades died. I was tortured for most of the summer of 1969. I developed beriberi from malnutrition. I had long bouts of dysentery. I was infested with intestinal parasites. I spent 13 months in solitary confinement. Was our cause worth all of this. Yes, it was worth all this and more.

Rose Wilder Lane, in her magnificent book "The Discovery of Freedom," said there are two fundamental truths that men must know in order to be free. They must know that all men are brothers, and they must know that all men are born free. Once men accept these two ideas, they will never accept bondage. The power of these ideas explains why it was illegal to teach slaves to read.

One can teach these ideas, even in a Communist prison camp. Marxists believe that ideas are merely the product of material conditions; change those material conditions, and one will change the ideas they produce. They tried to "re-educate" us. If we could show them that we would not abandon our belief in fundamental principles, then we could prove the falseness of their doctrine. We could subvert them by teaching them about freedom through our example. We could show them the power of ideas.

I did not appreciate this power before I was a prisoner of war. I remember one interrogation when I was shown a photograph of some Americans protesting the war by burning a flag. "There," the officer said, "People in your country protest against your cause. That proves that you are wrong."

"No," I said, "That proves that I am right. In my country we are not afraid of freedom, even if it means that people disagree with us." The officer was on his feet in an instant, his face purple with rage. He smashed his fist onto the table and screamed at me to shut up. While he was ranting I was astonished to see pain, compounded by fear, in his eyes. I have never forgotten that look, nor have I forgotten the satisfaction I felt at using his tool, the picture of the burning flag, against him.

Aneurin Bevan, former official of the British Labor Party, was once asked by Nikita Khrushchev how the British definition of democracy differed from the Soviet view. Bevan responded, forcefully, that if Khrushchev really wanted to know the difference, he should read the funeral oration of Pericles.

In that speech, recorded in the Second Book of Thucydides' "History of the Peloponnesian War," Pericles contrasted democratic Athens with totalitarian Sparta. Unlike the Spartans, he said, the Athenians did not fear freedom. Rather, they viewed freedom as the very source of their strength. As it was for Athens, so it is for America—our freedom is not to be feared, but our freedom is our strength.

We don't need to amend the Constitution in order to punish those who burn our flag. They burn the flag because they hate America and they are afraid of freedom. What better way to hurt them than with the subversive idea of freedom? Spread freedom. The flag in Dallas was burned to protest the nomination of Ronald Reagan, and he told us how

to spread the idea of freedom when he said that we should turn America into "a city shining on a hill, a light to all nations." Don't be afraid of freedom, it is the best weapon we have.

Mr. KERRY. Mr. President, I have enormous respect for the patriotism and the passion which so many of my fellow veterans bring to the effort to protect the flag of our country. Many of them are my friends, and it is never easy to disagree with friends on issues of conscience and emotion. While, obviously, out of approximately 250 million Americans there are a few miscreants, as Gen. Colin Powell says, who might choose to desecrate the flag, the vast majority of Americans know better.

Americans rightfully love the Stars and Stripes for all it symbolizes, for all the history, the glory, the promise, and the possibilities that are carried within its four corners. As most Americans, I feel the long honor roll of battles won and lost when I see Old Glory marched in for the presentation of colors. I feel unbridled pride watching her ripple in the breeze when we join together to sing the national anthem. I feel the cloak of patriotism draped over the coffin of a veteran to whom we bid farewell. Our flag is a stunning symbol of all that has made us who we are.

In the end, it is a symbol. It is not who we are. Who we are is embodied in the rights and obligations in the Constitution itself. A desecrated flag is replaceable. Desecrated rights are lost forever to those who experience the loss. What makes the United States different and, in many ways, stronger than any other nation is our aspiration for tolerance and diversity. Thanks to our Constitution, we are the leading proponent on the face of this planet for the greatest experiment in freedom that is set forth in words and in practice.

At the close of our national anthem, we sing, "land of the free and home of the brave." Were this amendment to pass, make no mistake about it, we would certainly be a little less free and a lot less brave.

In the final analysis, there are eight powerful reasons for anyone, but I think particularly for a veteran, to vote against this constitutional retreat. They are: Iran, Iraq, Libya, North Korea, China, Cuba, Syria, and Sudan. These are the nations of the world that have laws banning flag desecration. They used to be joined by the South Africa of apartheid and Nazi Germany.

I ask my fellow Senators: Is that what we want to do with the freedom of the United States of America? Is this in keeping with all that our great Stars and Stripes stands for? Is this for what soldiers fought and died, so we could join this list of discredited, dictatorial regimes?

Does the United States of America, in response to an occasional act of defiance, ignorance, stupidity, and insolence, want to tremble and, for the first time in an extraordinary 224 years

of challenges, alter the Constitution to diminish someone's right to be stupid?

Our flag is stronger than any of those individual acts will ever be, quite simply because our country is bigger and stronger than any of those acts, and our country is bigger and stronger because of our Constitution and particularly the Bill of Rights.

This vote is not a test of patriotism because patriotism is, after all, love of country and loyal support of one's country. Our country is defined by the rights we protect, and my oath as a Senator is to defend the Constitution which defines those rights. That is how I will vote, and that is how I think my colleagues should vote.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from Vermont has 3 minutes. The Senator from Utah has 5 minutes.

Mr. LEAHY. Mr. President, I applaud the distinguished Senator from Massachusetts for his statement as a decorated war veteran. He does not have to prove his courage or his commitment to our country or our symbols. He has already done that. He has done that in combat, and he has done it to honor himself but also the country.

Everybody is talking about when we will come to this vote and whether we should cut off debate. That will be a nonissue. I urge all Senators to vote for cloture.

I also point out that if this is so important—we are going to set aside all kinds of time today to do other things—we ought to spend time on this. We are talking about amending the Constitution, and we are talking about amending the Bill of Rights, contrary to what has been said on this floor, to amend the Bill of Rights for the first time in our 200-year history. I hope we will not do it.

There has been reference to one of our first flags, a flag that was designed in my State of Vermont and flew in battles there. I have that same flag in my office. As we all know, any flag, once used by the United States, can be used as a legitimate symbol of our country. I chose to fly the flag in Vermont.

Like all Vermonters, I revere the symbol. Every day when I am home in Vermont, that flag flies bravely and safely because nobody would touch it. Nobody would seek to destroy it. Nobody would burn the flag that flies in my front yard. We revere it and we praise it, not because we are required by law to do so, but because we want to as Americans, as Vermonters.

Every town hall in Vermont flies the American flag. Every one of our public meetings shows the Vermont flag. But I point out to all Senators, that one of the first flags of the country came from the State of Vermont. I will also tell you, Vermont is the only State in the Union that has not asked for a constitutional amendment on burning the

flag. Why? Because we Vermonters do not need to be told by law or Constitution that we should show respect for the symbols of our country. We do it because we want to. We do not do it because the law requires us.

We are not like Cuba or China or Libya or Iraq or Iran or those countries that require a law to make people respect their flags and their symbols. We do it from our heart and from our sense of patriotism. That is the way most Americans are. We do not need a law to tell us to be patriotic.

Mr. President, yesterday, the Senate finally began the debate on S.J. Res. 14, the proposal to amend the First Amendment of the Constitution to cut back on political protest and expression for the first time in our history. Earlier this week, on Monday and Tuesday morning, the debate was focused on the Hollings amendment and the McConnell amendment in accordance with the Senate agreement governing this matter.

Only Senator HATCH and I spoke for any length of time at all on the underlying proposed amendment on Tuesday morning. The debate then resumed after the votes on Tuesday afternoon. By my estimate, the Senate has spent less than 3 hours debating the proposed constitutional amendment.

Rather than continue that debate and conclude it, the majority is insisting that we now divert ourselves with an unnecessary cloture vote. The interruption of debate for this vote is unfortunate. I have said to the Republican manager from the outset that I did not believe the debate would be extended unnecessarily, but that I wanted to ensure that Senators had their rights protected so that any Senator who wished to be heard on this proposal to amend the Constitution, could be heard.

On Monday, the Senate heard from Senators MCCONNELL, BENNETT, DORGAN, CONRAD, HOLLINGS, SMITH and SESSIONS. Yesterday, thoughtful statements were made by Senators FEINGOLD, DURBIN, WELLSTONE, KENNEDY, KERREY, ROBB and MOYNIHAN articulating a number of reasons for opposing the amendment. In addition, the Senate heard from Senators HATCH and FEINSTEIN in favor of the amendment. Today, I expect to hear from Senators BYRD, DASCHLE, KERRY, FEINGOLD, CHAFEE and perhaps others.

At the outset we were confronted by a demand that we agree to limit statements in opposition to the proposed constitutional amendment to a total of 2 hours. Amending the Constitution is a serious matter, entitled to more time than the Senate spends on ceremonial resolutions. Two hours seemed unnecessarily restrictive.

Had we so limited the debate we may not have had the benefit of the extraordinary moments on the Senate floor last night when Senator BOB KERREY, who was awarded the Congressional Medal of Honor for his valor in Vietnam, spoke to us from his heart about our country, our values and our flag.

We may not have heard a riveting address from Senator CHARLES ROBB, himself a Marine highly-decorated for his service in Vietnam, in which he demonstrated his strength and consistency as one who fights for the Constitution and the values that make this country great.

We may have missed the opportunity to hear from Senator DANIEL PATRICK MOYNIHAN, a veteran of World War II, and the most knowledgeable of Senators, whom we will sorely miss when he retires at the end of this Congress after his extraordinary service to this nation. I urge those who were not here to experience that debate to read their thoughts and wise counsel.

I have every expectation that we could conclude the debate today in an orderly fashion. I know of no Senator who has threatened a filibuster on this matter. I know of no Senator who intends to engage in dilatory tactics. I know of no Senator who intends to offer any additional amendments or series of amendments. I know of no Senator who is using the rules of the Senate to delay the final vote on this matter. Accordingly, I know of no reason for the Republican leadership to have filed this petition for cloture and know of no reason for them to persist in insisting on this cloture vote this morning.

The Republican majority's timing of this debate has been strange for a long time. Last Congress, there was a half-hearted attempt to have the Senate consider the proposed constitutional amendment toward the end of a session when the majority knew that Senator Glenn was necessarily absent in connection with his NASA mission. Last year there was a rush to report the proposed constitutional amendment from the Judiciary Committee in April and then no effort to consider it before the full Senate. Indeed, while the matter was voted out of the Committee on April 29, 1999, the Committee Report was not filed until 11 months later. The Republican leadership took almost a year to decide to turn to the matter, then filed a cloture petition on the first day of debate and now insists on a vote on cloture after just 3 hours of debate on the merits of the proposed constitutional amendment.

In fact, this cloture vote and our debate on it only diverts us from finishing the debate on the merits of the proposed constitutional amendment. This cloture petition and vote say more about the lack of seriousness of the Republican leadership with regard to this debate than anything else.

I have no doubt that the Senate will invoke cloture this morning. I also have no doubt that this hour would have been better spent debating the merits of the proposal.

Does the Senate know what we will do after cloture is invoked this morning? Lest anyone think that we will be staying on the proposed constitutional amendment to conclude debate and proceed to vote on the merits, let me

disabuse them of any such notion. No, following the cloture vote, the Senate is scheduled to proceed to two hours of unrelated debate and the introduction of other matter in morning business.

We will not be resuming debate on the proposed constitutional amendment until at least 12:30 this afternoon. At that time many of us in the Senate leadership are scheduled to be meeting with the President of Egypt. So this closing debate on the amendment will take place later this afternoon and possibly into this evening.

Just as the Bill of Rights serves to protect the minority in the country and the First Amendment protects even unpopular speech, so it is the role of the minority manager to protect the rights of those who wish to be heard in opposition to a Senate proposal. The rules of the Senate accord us at least that right. I know of at least five Senators who still wish to be heard in opposition to the amendment. As the minority manager of the bill, I am seeking to accommodate them and then to proceed to the final vote. I fully expect that we will reach the appropriate time for the vote long before the 30 hours of post-cloture debate would be consumed. I look forward to cooperating with the Democratic leader, the majority leader, and the Republican manager of the proposed constitutional amendment to bring this matter to conclusion at the earliest appropriate time after the completion of debate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been interested in these arguments because, if I recall it correctly, the distinguished Senator from Massachusetts has said that basically America is different from the long list of repressive regimes or dictatorial regimes—from Cuba, to North Korea, to Nazi Germany—because we do not have a law prohibiting flag desecration.

But until 1989, we had State laws, in nearly all of the States, prohibiting flag desecration. If I recall it correctly, I believe the distinguished Senator from Massachusetts is saying we should not have a State law protecting the flag. If I recall it correctly, he voted for the flag statute to protect the flag back in 1989, and just yesterday voted for the McConnell amendment which would have done the same thing.

Now look, there is a certain "elitism" around here in this country that literally is saying: We are above having to protect the flag of the United States. If somebody defecates on it or urinates on it, we do not want to give them any publicity for that.

It is kind of the "high society" approach to things. If you want to be a member of the "high society" group, then don't do the "unintellectual" thing to protect our flag. That is what is getting me about this.

We had, for 200 years, in 48 States, anti-flag-desecration statutes that pro-

tected the flag. These very people who are saying we cannot do this in a constitutional amendment, to give the Congress the power, the coequal right, to protect our flag, and ignore the Supreme Court, that is wrong in these 5-4 decisions, these two decisions—they said we cannot do this in this constitutional amendment—yet many of them voted for an anti-flag-desecration statute back in 1989, and yesterday many of them voted for the McConnell amendment.

Until the Supreme Court struck down these 48 States' statutes in 1990, we had a Federal statute protecting the flag. I cannot believe the distinguished Senator from Massachusetts was arguing that in those days, when we had flag protection statutes in the States and the Federal Government, we were like Nazi Germany or Cuba or North Korea or Iran or Iraq. That is something that really bothers me.

I look at those marines risking their lives in raising the flag on Iwo Jima. They revered that flag, just as we do today. Eighty percent of the people in this country revere this flag—in fact, I hope everybody does—and want this constitutional amendment.

If we had any sense of proportion, we Members of Congress should want to overrule those two Supreme Court decisions. The only way we can do it is with a constitutional amendment. In that process, we prove we are coequal to the judicial branch of Government and will protect our flag in the process. We will be a better Nation for it.

If we do it, we will create a debate on morals and values around this country in all 50 States that, sadly, is lacking at this particular time. We will, for once in our lives, stand up and say to our children, there are some values and some symbols—at least one symbol in our country that is extremely important to us, and that happens to be this flag of the United States of America.

I think there are very sincere people on the other side of this issue. I do not mean to malign them. But I have to say, I get particularly upset when I hear these arguments, as I have heard this morning, when, in fact, they vote for statutes that would protect the flag, the very thing they are arguing against. It seems a little inconsistent to me.

All we are saying is, give the Congress the power to do this, and then we will enact a statute for which they voted.

CLOTURE MOTION

The PRESIDING OFFICER (Mr. L. CHAFEE). The Senator's time has expired.

Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar

No. 98, S. J. Res. 14, an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States.

Trent Lott, Orrin Hatch, Bill Roth, Peter Fitzgerald, Rod Grams, Ted Stevens, Chuck Hagel, Thad Cochran, Paul Coverdell, Pat Roberts, Phil Gramm, Frank H. Murkowski, Don Nickles, Bob Smith of New Hampshire, Susan Collins, and Tim Hutchinson.

The PRESIDING OFFICER. By unanimous consent, the quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on S.J. Res. 14, a joint resolution proposing an amendment to the Constitution of the United States authorizing the Congress to prohibit the physical desecration of the flag of the United States, shall be brought to a close?

The yeas and nays are required under the rule. The clerk will call the roll.

The senior assistant bill clerk called the roll.

The yeas and nays resulted—yeas 100, nays 0, as follows:

[Rollcall Vote No. 47 Leg.]  
YEAS—100

Abraham	Feingold	Mack
Akaka	Feinstein	McCain
Allard	Fitzgerald	McConnell
Ashcroft	Frist	Mikulski
Baucus	Gorton	Moynihan
Bayh	Graham	Murkowski
Bennett	Gramm	Murray
Biden	Grams	Nickles
Bingaman	Grassley	Reed
Bond	Gregg	Reid
Boxer	Hagel	Robb
Breaux	Harkin	Roberts
Brownback	Hatch	Rockefeller
Bryan	Helms	Roth
Bunning	Hollings	Santorum
Burns	Hutchinson	Sarbanes
Byrd	Hutchison	Schumer
Campbell	Inhofe	Sessions
Chafee, L.	Inouye	Shelby
Cleland	Jeffords	Smith (NH)
Cochran	Johnson	Smith (OR)
Collins	Kennedy	Snowe
Conrad	Kerrey	Specter
Coverdell	Kerry	Stevens
Craig	Kohl	Thomas
Crapo	Kyl	Thompson
Daschle	Landrieu	Thurmond
DeWine	Lautenberg	Torricelli
Dodd	Leahy	Voinovich
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lincoln	Wyden
Edwards	Lott	
Enzi	Lugar	

The PRESIDING OFFICER. On this vote, the yeas are 100, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. HATCH. Mr. President, I ask unanimous consent that a number of letters and other statements pertaining to this amendment be printed in the RECORD at a cost of \$1,300.00.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARCH 22, 2000.

Hon. ORRIN G. HATCH,  
Chairman, Senate Judiciary Committee, U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: As you prepare for the introduction of the flag protection amendment in the United States Senate, on behalf of the Citizens Flag Alliance and our millions of members and supporters, I want



to again extend our thanks and commend you for the commitment you made, long ago, in support of the right of the people to protect our flag. Thanks to the leadership of you and Senator Max Cleland we are very close to victory.

Of all the horrors of combat, none is greater than the loneliness. In death and near death experiences, the warrior is ultimately alone with his fears and hopes. In their loneliness, soldiers look to symbols for comfort—a letter, a photo, a holy medal, a lock of hair. And they look to the greatest conqueror of fear, the greatest symbol of hope, the constant companion of our warriors and their supreme inspiration—Old Glory. No other symbol, nothing, says better, “you are not alone.”

For many veterans much of what they have, their very dignity, is based on their service and sacrifice under that flag. It was the defining moment of their life. An attack on Old Glory is an attack on their dignity. These great men and women know how important speech is in a democracy, many have died for it. What they do not understand is that defecating on our flag is “speech.” And neither did the author of the Bill of Rights, James Madison and his colleague, Thomas Jefferson. Both denounced flag burning.

Abraham Lincoln warned, “Don’t interfere with anything in the Constitution. That must be maintained, for it is the only safeguard of our liberties.” It is not the colored cloth that is at the core of the flag amendment debate, it is our sacred Constitution. All veterans once raised their hand and swore to protect and defend the Constitution. Each of us does the same when we pledge allegiance to the flag. The Supreme Court has interfered with our Constitution and we have an obligation to correct their error. The flag amendment does not change the Constitution, it restores it.

To those of your colleagues who are yet to join in support of the measure, we hope they would come to recognize as we have, that there are good and learned people on both sides of this issue, as well as varying opinions. There is, however, only one fact and that is that the people of America want returned to them the right to protect their flag.

In the final analysis this issue is truly about free speech, the right of the people to speak, to be heard and to be heeded.

Sincerely,

PATRICK H. BRADY,  
Major General (USA Ret),  
Chairman of the Board.

THE CITIZENS FLAG ALLIANCE, INC.,  
Indianapolis, IN, April 22, 1999.

BALTIMORE SUN,  
Baltimore, MD.

TO THE EDITOR: This is in response to your editorial on April 10 titled, “Burning Issue; Constitutional Ban: Flag Desecration Amendment Would Chip Away At Free-Speech Rights.”

The scarcity of flag burning has nothing to do with the evil of flag burning. People do not frequently shout, “fire” in a crowded theater or burn crosses, but we still should, and do, have laws against these evils. Laws in our society have never been based on frequency but on right and wrong.

Flag desecration is conduct not speech. One could make the argument that defacing the Washington Monument or spray painting graffiti on the Vietnam Veterans Memorial is a form of “political demonstration or protest.” That argument, however, would not hold up in a court of law. And it’s wrong to hold that defacing the Flag of the United States is any different.

If free speech is to truly flourish, we must protect the bond that unites us, including

the substantive parameters of the right of free expression. We must strengthen the bonds that hold us together, and so make it possible to engage in robust disagreement with each other. Protecting the flag lays the foundation for this objective.

The great strength of our democratic system is that we have the ability to determine the laws that govern our society. Our forefathers had the insight to create a document that allowed for WE THE PEOPLE to determine the future of our country. As George Washington admitted, “The Constitution is an imperfect document made more perfect by the amendment process.” Apparently the editors mistrust the good judgment of the American people. And George Washington.

Sincerely,

MARTY JUSTIS,  
Executive Director.

THE CITIZENS FLAG ALLIANCE, INC.,  
Indianapolis, IN, April 23, 1999.

WASHINGTON POST,  
Letters to the Editor,  
Washington, DC.

TO THE EDITOR: The Clinton Administration apparently was miffed at the thought of a Justice Department official being upstaged by a Harvard Law Professor and a Medal of Honor Recipient (“In The Loop,” April 21).

On Tuesday, April 20 I was seated in the Senate Judiciary Committee hearing room, flanked by five Medal of Honor Recipients from World War II and Korea. All were awarded our nation’s highest award for valor. In most cases, the Medal of Honor is presented to its recipient by the President of the United States of America in the name of Congress. So it is ironic that the Administration would consider it “inappropriate” to testify on the same panel as our nation’s Recipients.

But the irony does not stop there. At the same time our President is sending men and women into Kosova to serve under the flag, our Administration is testifying against protecting the very same symbol that will drape the coffins of those whose final earthly embrace will be in the folds of Old Glory. If our flag is not deserving of protection, then it is not worthy to be draped on the coffins of our dead soldiers.

Several months ago, the fate of our President resided in the hands of Congress. But the American people ultimately had the final voice in the debate. Polls show that the American people consistently and overwhelmingly want to see their flag protected. If polling figures saved the President, then they can save our flag. Ultimately, the American people will decide this issue. That is justice even the Justice Department cannot ignore.

Sincerely,

DANIEL S. WHEELER,  
President.

GRAND LODGE, BENEVOLENT AND  
PROTECTIVE ORDER OF ELKS,  
Gainesville, FL, May 4, 1999.

Senator ORRIN HATCH,  
Chairman, Senate Judiciary Committee, Dirksen  
Senate Office Building, Washington, DC.

DEAR SENATOR HATCH: It was a pleasure meeting you last week just prior to the start of the hearing on the Flag Amendment. You were most kind to make time in your busy schedule to speak with me. As the National President of the Elks, I can tell you that our million plus membership is fiercely patriotic and hard at work seeking the passage of an Amendment which would prohibit the desecration of our beloved American Flag. In our Order’s Ritual we refer to the flag as follows:

“This is the flag of our Country, the emblem of freedom and the symbol of unity. As

Americans and patriots we first place it beside our Altar. And as the American Flag typifies the glory of our nation we have adopted it as emblematic of the cardinal principle of our Order—Charity.”

Please know that the Elks are among your greatest supporters. We admire your even temperament and your outstanding leadership and take comfort in knowing men of your caliber are at the reins of our government.

Thank you and God bless you.

Sincerely,

C. VALENTINE BATES,  
Grand Exalted Ruler.

KNIGHTS OF COLUMBUS,  
New Haven, CT, March 16, 1999.

Hon. ORRIN G. HATCH,  
Senate Judiciary Committee,  
U.S. Senate, Washington, DC.

DEAR SENATOR HATCH: As Supreme Knight of the Knights of Columbus, with approximately one million members—plus our families—in the United States, and one of the 137 member organizations of the Citizens Flag Alliance, Inc., I ask you to support the Hatch Flag Protection Constitutional Amendment. I urge you to follow the wisdom of the American people who, in poll after poll, have indicated strong support for protection of “The Stars and Stripes.”

This issue is not about freedom of speech, nor is it about protecting a piece of colored cloth. It is about the American people reclaiming the right to protect their flag. This is a right we enjoyed for 200 years prior to the 1989 Supreme Court decision in *Texas v. Johnson*.

Nearly everyone agrees that desecration of the flag is wrong, but the lesson it teaches our children is worse. Therefore, when you consider your vote, I ask that you think about not just America’s flag, but America’s young people. The support you give to this issue will determine the legacy we leave for our children—a nation of respect and pride in country, or a society void of responsibility and moral compass.

With best wishes, I am,

Sincerely,

VIRGIL C. DECHANT,  
Supreme Knight.

FRATERNAL ORDER OF POLICE,  
NATIONAL LEGISLATIVE PROGRAM,  
Washington, DC, April 13, 1999.

Hon. ORRIN HATCH,  
Chairman, Senate Committee on the Judiciary,  
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing this letter on behalf of the more than 277,000 members of the Grand Lodge, Fraternal Order of Police to advise you of the strong support of S.J. Res. 14, which would amend the Constitution to give Congress to power to prohibit the physical desecration of our nation’s flag.

Attempts by the Congress to protect the flag statutorily have failed to withstand judicial review. The Supreme Court has, in two narrow 5-4 decisions, overturned statutes prohibiting physical desecration of the flag. Amending the Constitution is the only way to return to the American people the right to protect their flag.

Flag burning is not free speech; it is an act of vandalism—a hate crime, pure and simple. What is the difference in the political statement made by a vandal torching the American flag and a terrorist who makes his political statement by blowing up government buildings? Quite simply, there is no difference. The American people recognize that, and Congress ought to recognize it by passing this amendment.

When we bury a hero, a brother or sister from the ranks of our military or our police



departments, a flag is draped over the coffin. It is folded solemnly and presented to the surviving members of the family in remembrance of the one who gave his or her life. Whether a soldier fighting a foreign enemy on a foreign shore, or a police officer killed in the line of duty—the sacrifice of each is symbolized by the flag. To desecrate this symbol is to dishonor that sacrifice. To use freedom or liberty as a shield to commit a crime is no more than base cynicism and a very real miscomprehension of the American concept of liberty.

I salute you, Mr. Chairman, for your sponsorship of Senate Joint Resolution 14, and join you in urging all members of the United States Senate to protect our flag from those who would dishonor our nation and its heroes.

If we can be of any further assistance to you in moving this bill forward, please do not hesitate to contact me or Executive Director Jim Pasco at my Washington office, (202) 547-8189.

Sincerely,

GILBERT GALLEGOS,  
*National President.*

THE AMERICAN LEGION,  
WASHINGTON OFFICE,  
Washington, DC, April 14, 1999.

Hon. ORRIN HATCH,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR HATCH: On behalf of the 4 million members of the American Legion family, I want to personally thank you for sponsoring S.J. Res. 14, the Flag Protection Constitutional Amendment. We truly realize how important passage of this amendment is to the future of our children. It is imperative that we return to the American people the right to protect the U.S. Flag. I can assure you that Legionnaires and their families will do everything possible throughout our great nation to assist you in getting S.J. Res. 14 passed this year.

The majority of Americans support this amendment. Polling during the past 10 years has consistently shown nearly 80 percent of voters believe protecting the U.S. Flag through a constitutional amendment is the right thing to do. They do not believe such protection is a threat to freedom of speech.

I am certain you were as touched as I in reading the reports of our stealth pilot rescued from Yugoslavia. He carried an American flag, folded under his flight suit. The flag was given to him by an airman before he took off from Aviano Air Base in Italy. Following his rescue the pilot told reporters, "For me, it (the flag) was representative of all the people who I knew were praying. It was a piece of everyone and very comforting. It helped me not go of hope. Hope gives you strength \* \* \* it gives you endurance."

My heart also swelled with pride when I saw an Associated Press photo of a flyer from the 31st Air Expeditionary Wing at Aviano waving an American flag to boost morale as U.S. war planes prepared to launch another series of strikes in support of NATO's Operation ALLIED FORCE.

The U.S. Flag is a powerful symbol. A living symbol of our great nation. Providing a special place in the U.S. Constitution that protects our flag is what Americans want and deserve.

I stand ready to assist you in any way that will help assure passage of this amendment. I know that your encouragement of your fellow Senators will make the crucial difference.

Thank you again for your sponsorship of S.J. Res. 14.

Sincerely,

HAROLD L. "BUTCH" MILLER,  
*National Commander.*

AIR FORCE SERGEANTS ASSOCIATION,  
*Temple Hills, MD, April 14, 1999.*  
Hon. ORRIN HATCH,  
Chairman, Committee on the Judiciary, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: I respectfully request that you permit consideration of and introduction into the record the attached statement concerning Flag Protection. The statement reflects the position of the 150,000 members of this association which represents active and retired enlisted members of the active and reserve components of the United States Air Force.

The statement would coincide with the hearing scheduled before your committee for April 20, 1999, concerning the same project. Thank you for the opportunity to share the concerns of our members with your committee.

Sincerely,

JAMES D. STATON,  
*Executive Director.*

Attachment.

STATEMENT BY JAMES D. STATON, CHIEF MASTER SERGEANT, USAF (RET.), EXECUTIVE DIRECTOR, AIR FORCE SERGEANTS ASSOCIATION

Mr. Chairman and distinguished committee members, numerous polls in recent times have shown that over 80 percent of the American people say that they should have the right to decide the question of flag protection through the constitutional amendment process. In fact, all but one state have passed memorializing resolutions asking Congress to send the flag protection amendment question to the states. Senate Joint Resolution 14 would give the American people the opportunity they desire to protect their flag through law. S.J. Res. 14 would send to the people a very simple article: "The Congress shall have power to prohibit the physical desecration of the flag of the United States." The 150,000 members of the Air Force Sergeants Association urge you to support this resolution. AFSA represents the millions of active duty and retired enlisted Air Force, Air Force Reserve, and Air National Guard members and their families. These Americans, perhaps more than any others, have a vested interest in that they put their lives on the line under the banner of this sacred symbol of greatness and sovereignty.

All members of the 106th Congress should support this resolution in order to put this important decision in the hands of the people. If the congressional representatives truly represent the will of the people, there should be no delay in acting upon the wishes of the people by allowing them to rule on this question. The personal feelings and opinions of elected representatives on this issue should be subordinated to opinions held by those to whom the elected officials are responsible—those who own the process. Our members have strongly communicated their concern over the need to protect the flag and, at the same time, to have a role in deciding the laws governing that protection.

For enlisted military members, whose work is characterized by dedicated sacrifice, the flag is a reminder of why they serve. For those stationed overseas, it is a symbol of America, seen every day. For all military members, the flag represents the principles for which they are prepared to sacrifice. Supreme Court Justice John Paul Stevens once wrote:

"A country's flag is a symbol of more than nationhood and national unity. It also signifies the ideas that characterize the society that has chosen that emblem as well as the special history that has animated the growth and power of those ideas. \* \* \* So, too, the

American flag is more than a proud symbol of the courage, the determination, and the gifts of a nation that transformed 13 fledgling colonies into a world power. It is a symbol of freedom, of equal opportunity, of religious tolerance, and of goodwill for other people who share our aspirations."

Military members serve so that they can protect this country, putting their lives on the line if necessary, and they revere our nation's most visible symbol—Old Glory. It is the one hallowed symbol all patriots hold sacred. Most importantly, the flag plays a central role in ceremonies that honor those who have fought, suffered and died. They know full well that this very flag may drape their coffins as a result of their unselfish service. Denying protection and, thereby allowing desecration, of this important symbol of sacrifice insults the memories of those who are honored in these ceremonies.

The American people, especially those in the military, deserve the opportunity to make the decision if they want to put flag protection into the law. Through their sacrifice and dedication, those who have served have earned your support in giving them the ability to make this decision.

Mr. Chairman and committee members, we urge your full support of S.J. Res. 14. Some questions of governance and law are of such importance to a people that they deserve the opportunity to speak directly to those issues. This is one such question. We thank you for this opportunity to present our views on this important matter. As always, AFSA is ready to support you on matters of mutual concern.

THE AMERICAN LEGION,  
NATIONAL HEADQUARTERS,  
Indianapolis, April 23, 1999.

Hon. ORRIN HATCH,  
U.S. Senate,  
Washington, DC.

DEAR SENATOR HATCH: On September 5, 1989, American Legion delegates at the National Convention in Baltimore, Maryland, unanimously adopted a resolution seeking adoption and ratification of a flag-protection amendment. In every year since, the issue has been debated at every national convention and at every meeting of the National Executive Committee, and a new resolution authorizing continuation of the campaign has been adopted. Each resolution supporting a flag-protection amendment passed unanimously with all Past National Commanders having a right to be heard. Past National Commander Keith Kreul, who, as a PNC and delegate to the National Conventions, has both a voice and a vote in the making of Legion policy, has never publicly uttered a word in opposition.

As National Commander, it is my duty, and privilege, to serve a one-year term as the executive head of The American Legion with full power to enforce the provisions of the National Constitution and by-laws as well as the resolutions of the National Convention. And this national commander fervently supports the flag-protection amendment, as do all living Past National Commanders of The American Legion, save one.

In honor of their service, I would like to enter into the record the 28 Past National Commanders of The American Legion who have given of themselves for God and Country and who stand with me in their support of an amendment which would return to the American people the right to protect their flag. They are listed below in order of service.

E. Roy Stone, Jr.—South Carolina  
Erle Cocke, Jr.—Georgia  
J. Addington Wagner—Michigan  
Preston J. Moore—Oklahoma

William R. Burke—California  
 Hon. Daniel F. Foley—Minnesota  
 Donald E. Johnson—Iowa  
 William E. Galbraith—Nebraska  
 John H. Geiger—Illinois  
 Joe L. Matthews—Texas  
 James M. Wagonseller—Ohio  
 William J. Rogers—Maine  
 John M. Carey—Michigan  
 Frank I. Hamilton—Indiana  
 Michael J. Kogutuk—New York  
 Clarence M. Bacon—Maryland  
 Hon. James P. Dean—Mississippi  
 John P. Comer—Massachusetts  
 Hon. H.F. Gierke—North Dakota  
 Miles S. Epling—West Virginia  
 Robert S. Turner—Georgia  
 Dominic D. DiFrancesco—Pennsylvania  
 Roger A. Munson—Ohio  
 Bruce Thiesen—California  
 William M. Detweiler—Louisiana  
 Daniel A. Ludwig—Minnesota  
 Joseph J. Frank—Missouri  
 Anthony G. Jordan—Maine

Their service spans nearly five decades. Many served in their position in an era when our flag was protected under law. Only ten of us have served since the erroneous 1989 Texas v. Johnson Supreme Court decision which invalidated flag protection laws in 48 states and the District of Columbia.

I am proud to be among this elite group of distinguished gentlemen who stand united in a common goal—passage of a flag-protection amendment.

Sincerely,

HAROLD L. "BUTCH" MILLER,  
*National Commander.*

THE OHIO AMERICAN LEGION,  
 DEPARTMENT HEADQUARTERS,  
*Columbus OH, March 10, 1999.*

Hon. ORRIN HATCH,  
*U.S. Senate, Senate Office Building,  
 Washington, DC.*

DEAR SENATOR HATCH: The Ohio American Legion, consisting of 165,000 members, is supportive of a Constitutional Amendment to protect the U.S. Flag from physical desecration.

We urge your favorable consideration and vote for a measure that will allow the American people what polls have shown for years they favor, the right to have their flag protected by laws of the land.

Sincerely,

CARL SWISHER,  
*Department Commander.*

LOS ANGELES DODGERS,  
*Los Angeles, CA, March 22, 2000.*

Senator ORRIN HATCH,  
*U.S. Senate,  
 Washington, DC.*

DEAR SENATOR HATCH: As I have said many, many times before, we live in the land of opportunity and the United States flag represents a strong bond between the States and the diversity of the greatest nation on the fact of the earth. At no time, should our flag be destroyed in any manner.

During my career, I was fortunate to be involved in many exciting baseball games. Yet, one of the proudest moments occurred in 1976 when Rick Monday saved the American flag from being burned by a pair of protestors at Dodger Stadium. This act was one of the most recognizable moments of the Bicentennial Celebration and remains one of the great moments in stadium history.

I tell this story to every patriotic group whenever the subject of the American flag arises. Therefore, I lend my full support to the SJR-14, The Hatch-Cleland Flag Protection Constitutional Amendment, which will

protect and defend our flag as it was designed by the framers of the Constitution.

Sincerely,

TOMMY LASORDA,  
*Senior Vice President.*

SALON NATIONAL LA BOUTIQUE,  
*Washington, UT, March 13, 1999.*

To: The U.S. Senate Judiciary Committee,  
 Washington, DC.

GENTLEMEN: I am writing as the National Chapeau of the Eight and Forty a subsidiary organization of the American Legion Auxiliary, consisting of 17,144 Partners (members). We are asking that when the measure to pass a constitutional amendment to protect our flag comes before you that you unanimously approve the bill.

I have just recently had the opportunity to help judge girls who are in their Junior year of High School to attend the American Legion Auxiliary Girls State. One of the questions we asked each applicant was how they felt regarding a bill to protect our flag and each and every girl said she felt that there should be a law protecting our flag from desecration.

So for both the young people of our country and the older people who have fought to protect our country, we of the Eight and Forty ask you to support this bill.

Yours in Service to our Country,

WANDA S. NORTH,  
*Le Chapeau National.*

NCOA,  
*Alexandria, VA, April 15, 1999.*

Hon. ORRIN G. HATCH,  
*U.S. Senate, Senate Russell Office Building,  
 Washington, DC.*

DEAR SENATOR HATCH: The Noncommissioned Officers Association of the USA (NCOA) has joined with the Citizens Flag Alliance (CFA) to support the efforts of many in Congress to pass a Flag protection amendment. NCOA's 148,000 members are solidly committed to the passage of Flag protection legislation and have placed the issue among their very highest legislative priorities. In this regard NCOA is delighted with the recent introduction of S.J. Res. 14 in the U.S. Senate.

On behalf of NCOA's noncommissioned and petty officer members, I fully expect the members of Senate Judiciary Committee to approve legislation and pave the way for the matter of Flag protection to be brought to the Senate floor for vote in an expeditious manner. NCOA urges your support of S.J. Res. 14.

In closing allow me to reiterate the importance of this matter to NCOA members and their families. The will never give up on this issue and look to you to support their desires to see Flag protection legislation passed during the 1st Session of the 106th Congress.

Sincerely,

ROGER W. PUTNAM,  
*President/CEO.*

THE RETIRED OFFICERS ASSOCIATION,  
*Alexandria, VA, March 23, 2000.*

Hon. ORRIN G. HATCH,  
*U.S. Senate,  
 Washington, DC.*

DEAR SENATOR HATCH: On behalf of The Retired Officers Association, I am writing to urge you to cosponsor and vote for final passage of S.J. Res. 14, "Proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States."

The fundamental principle in supporting the Resolution is that it will allow the people to exercise their will. This is a very important distinction. We do not believe it's

appropriate that a minority in Congress, in this case 34 Senators, should have the power to keep this important decision from being considered by the people. Consistent with the democratic principles that have governed this country for more than two centuries, the Flag Amendment restores the decision on flag desecration to the people and if ratified by 38 states, flag desecration could be prohibited.

That's a second important distinction. The proposed amendment will not change the Constitution to prohibit flag desecration. It would authorize Congress to pass a law prohibiting physical desecration of the flag and as is the case with any law, it would be subject to Presidential veto. This language is a change from the 104th Congress when the resolution said Congress, or the states, may pass laws prohibiting flag desecration. That could have led to 50 different laws resulting in consistent standards of respect for the flag.

Based on the foregoing, I urge you to vote for passage of S.J. Res. 14 to return control of the flag to the people where it resided for more than 200 years before the United States Supreme Court ruled in 1989 that flag desecration was essentially freedom of speech.

Sincerely,

MICHAEL A. NELSON,  
*President.*

CONGRESS OF THE UNITED STATES,  
*Washington, DC, March 28, 2000.*

DEAR SENATOR HATCH: We appreciate your efforts in bringing S.J. Res. 14 through the Senate Judiciary Committee and to the Senate floor. We recognize the importance of this important legislation to protect the flag of the United States.

Many people are concerned that such an amendment would limit our prized right of free speech. However, the right of free speech is not an absolute right. The Supreme Court unanimously ruled in *Chaplinsky v. New Hampshire*, 315 U.S. 568 (1942):

"Allowing the broadest scope to the language and purpose of the Fourteenth Amendment, it is well understood that the right of free speech is not absolute at all times and under all circumstances. There are certain well-defined and narrowly limited classes of speech, the prevention and punishment of which have never been thought to raise any Constitutional problem. These include the lewd and obscene, the profane, the libelous, and the insulting or 'fighting' words—those which by their very utterance inflict injury or tend to incite an immediate breach of the peace. It has been well observed that such utterances are no essential part of any exposition of ideas, and are of such slight social value as a step to truth that any benefit that may be derived from them is clearly outweighed by the social interest in order and morality."

Burning the Nation's flag is anything but a necessary part of a political speech or exposition of ideas. It seems that little can be gained by burning or spitting on a flag which could not be accomplished through words, signs, newspapers, rallies, buttons, bullhorns, or petitions. The act of burning the nation's flag by its very nature antagonizes and incites violent reaction. It is conduct, not speech.

This amendment authorizes legislative bodies to prohibit physical desecration with regard to one object, and one object only, our nation's flag. We can protect this one unique object from physical desecration without damaging our freedom of speech in any way.

In the words of Chief Justice Rehnquist, "The American flag . . . throughout more than 200 years of our history, has come to be the visible symbol embodying our Nation. It

does not represent the views of any particular political party, and it does not represent any particular political philosophy. The flag is not simply another "idea" or "point of view" competing for recognition in the marketplace of ideas." Let us act now to protect the symbol of our nation's liberty and freedom.

Sincerely,

JAMES V. HANSEN,  
CHRIS CANNON,  
MERRILL J. COOK.

GEORGE W. BUSH,  
GOVERNOR OF TEXAS,  
Austin, TX, March 24, 2000.

Greetings to: The Members of the American Legion.

Congratulations as you gather with family and friends in the capital of a grateful nation that you served so bravely. Coming together in Washington, D.C., is a powerful reminder that those who want to lead America accept two important obligations. One is to use our military power wisely, remembering the costs of war. The other is to remember our soldiers who have paid those costs.

The American Legion helps us to carry out those obligations. You defend and recall America's history of sacrifice. You stand as a friend to the families of our fallen soldiers. You serve America's communities in countless ways—an example of true service in a comfortable age.

One of the most enduring symbols of your sacrifice and service is our nation's flag. Brave Americans have fought and died to protect the ideals of democracy that it represents. That is why I strongly support a constitutional amendment protecting the flag from desecration—to honor our courageous veterans and to send the unmistakable message that Old Glory is a sacred symbol of freedom to all Americans.

I believe our government should honor our commitments to our veterans as you have honored yours.

Laura joins me in sending our best wishes to each and every one of you.

Sincerely,

GEORGE W. BUSH.

APRIL 5, 1999.

DEAR SENATOR HATCH: I am writing to express my support and gratitude for your sponsorship of the flag protection constitutional amendment (S.J. Res. 14), which I understand may come before the Senate for a vote in the near future. Like you, I regard legal protections for our flag as an absolute necessity and a matter of critical importance to our nation. The American flag, far from a mere symbol or a piece of cloth, is an embodiment of our hopes, freedoms and unity. The flag is our national identity.

I am honored to have commanded our troops in the Persian Gulf War and humbled by the bravery, sacrifice and "love of country" so many great Americans exhibited in that conflict. These men and women fought and died for the freedoms contained in the Constitution and the Bill of Rights and for the flag that represents these freedoms, and their service and valor are worthy of our eternal respect. Most of these great heroes share my view that there is no threat to any right or freedom in protecting the flag for which they fought. Perhaps as much as any American, they embrace the right to free speech. Indeed, they risked death to protect it.

I do see a very real threat in the defilement of our flag. We are a diverse people, living in a complicated, fragmented society. And I believe we are imperiled by a growing cynicism toward certain traditions that bind us, particularly service to our nation. The

flag remains the single, preeminent connection among all Americans. It represents our basic commitment to each other and to our country. Legally sanctioned flag desecration can only serve to further undermine this national unity and identity that must be preserved.

I am proud to lend my voice to those of a vast majority of Americans who support returning legal protections for the flag. This is an effort inspired by our nation's history and our common traditions and understanding, under which, until a very recent and controversial Supreme Court decision, the American flag was afforded legal protection from acts of desecration. The flag protection constitutional amendment is the only means of returning to the people the right to protect their flag, and your leadership will undoubtedly help to ensure the success of this important campaign.

Sincerely,

H. NORMAN SCHWARZKOPF,  
General, U.S. Army, Retired.

THE CITIZENS FLAG ALLIANCE, INC.,  
Indianapolis, IN, April 22, 1999.

USA TODAY,  
Arlington, VA.

TO THE EDITOR: To say that to, "ban flag burning gains ground by hiding risks," ("Don't Amend Bill Of Rights," editorial, April 21, 1999) hides the truth. You also hide the truth by saying the First Amendment has never been amended. The truth is Americans had the right to protect their flag from our birth until 1989 when the Supreme Court amended the First Amendment by calling flag burning "speech." What were the risks? You denigrate the "political opportunists who want to rewrite the wisdom of James Madison." Those political opportunists are the vast majority of the American people, and James Madison agrees with them. He denounced flag burning, as did another founding father, Thomas Jefferson.

This issue has nothing to do with "feel-good politics." Flag burning is wrong but what it teaches our children about respect, about our values, about who owns the Constitution and the demeaning of the will of the majority, is worse.

The majority of Americans understand the importance of free speech; many have died for it. What they do not understand is that defecating on the flag is "speech." The only majority in America who feel good about the freedom to burn the American flag are the media and 5 out of 9 judges on the Supreme Court.

Sincerely,

Maj. Gen. PATRICK BRADY,  
U.S. Army, Ret.,  
Chairman of the Board.

APRIL 26, 1999.

ST. LOUIS POST DISPATCH,  
Attention: Letters to the Editor,  
Reached via fax: (314) 340-3139.

DEAR EDITOR: The recent editorial, "Desecrating the Constitution" (April 21), is a clear example of the complete disregard by a slim minority of the media to follow the good judgement of the American people.

The editors of the Post Dispatch should undertake a more studied analysis of the flag amendment before jumping to conclusions. The first line of the editorial reads, "Our nation has made it through 208 years without amending the First Amendment." The U.S. Flag, which predates the Constitution, was protected under our nation's law and traditions for 200 years. A razor thin, five-Justice majority of the Supreme Court wrested this right from the American people in 1989 when they invalidated flag-protection laws in 48 states and the District of Columbia.

This tradition and precedent has been recognized by Justices on five previous Supreme

Courts. In fact, Justice Hugo Black, perhaps the staunchest defender of individual rights ever to sit on the Supreme Court, stated, "It passes my belief that anything in the Federal Constitution bars . . . making the deliberate burning of the American flag an offense."

In every sense, an amendment to return to the American people the right to protect their flag would change nothing in the Constitution. Nor would it infringe our precious First Amendment rights. On the contrary, it would restore the Constitution and the First Amendment to a time-honored interpretation and understanding that existed for all but the last ten years of our history.

The editors mention an invisible "slippery slope" if a flag-protection amendment passes. Over 10,000 amendments have been proposed and only twenty-seven have been ratified—the first ten are the Bill of Rights. If there is any "slope" in amending the Constitution, it is a steep incline.

Finally, for the record, burning a cross on anyone's lawn is a hate crime punishable under law. Burning a flag is a hate crime against all Americans and should also be punishable under law.

If our flag is not deserving of protection, then it is not worthy to be draped on the coffins of our dead soldiers. Senator Ashcroft understands the intrinsic value of the flag. Unfortunately, its meaning is lost on the editors of the Post-Dispatch.

Sincerely,

JOSEPH J. FRANK,  
Past National Commander,  
The American Legion.

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#### MILLENNIUM DIGITAL COMMERCE ACT

Mr. LOTT. Mr. President, I ask the Chair lay before the Senate a message from the House of Representatives on the bill (S. 761) to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and other purposes.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

*Resolved*, That the bill from the Senate (S. 761) entitled "An Act to regulate interstate commerce by electronic means by permitting and encouraging the continued expansion of electronic commerce through the operation of free market forces, and other purposes", do pass with the following amendments:

Strike out all after the enacting clause and insert:

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Electronic Signatures in Global and National Commerce Act".*

#### TITLE I—VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES FOR COMMERCE

##### SEC. 101. GENERAL RULE OF VALIDITY.

(a) GENERAL RULE.—With respect to any contract, agreement, or record entered into or provided in, or affecting, interstate or foreign commerce, notwithstanding any statute, regulation, or other rule of law, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied—

(1) on the ground that the contract, agreement, or record is not in writing if the contract, agreement, or record is an electronic record; or

(2) on the ground that the contract, agreement, or record is not signed or is not affirmed by a signature if the contract, agreement, or