

but our Constitution was established to protect the rights of the minority. For when the majority is allowed to rule without a check and balance, tyranny is not far behind.

I don't doubt that the vast majority of Americans oppose, as do I, the desecration of our flag, but we were elected to preserve and protect the Constitution of the United States and I simply do not see how we defend the Constitution by chipping away at its very foundation.

Mr. President, there are many reasons to oppose amending the first amendment for the first time in our Nation's history and for this particular purpose. As several of our colleagues have pointed out, we are not experiencing an epidemic of flag burning in the country. But we likely will, if this amendment passes and Congress goes on to ban acts of desecration.

I also share the concerns raised yesterday by my friend from Vermont, Senator LEAHY, that while the Senate takes 3 or 4 days to debate this amendment, we have not taken the time to address other issues that are extremely important, especially to our Nation's veterans and to our Armed Forces. One example is S. 2003, of which I am a co-sponsor and that begins to address the issue of the Federal Government keeping its promises to our veterans in the area of health care. I wish the Senate would take up and pass S. 2003 but we can't seem to find time to do that. Likewise, I recently introduced legislation that would compensate the remaining survivors of the Bataan Death March for the incredible suffering they endured on behalf of their country. I would like to see the Senate take up and pass that legislation but we haven't.

Mr. President, I think our Constitution and Nation are strong enough to handle a few miscreants who want to burn a flag. I think the drafters of the Constitution envisioned that it would survive speech which the majority finds offensive. I believe that a vote against this amendment is a vote for the Constitution and for the most important principle embedded in that document, the right of every American to free speech.

Ms. MIKULSKI. Mr. President. I oppose the burning of our Nation's flag. I oppose it today as I always have. I am deeply concerned about the desecration of the United States flag because of what it says about our culture, our values and our patriotism.

Our flag is the lasting symbol of America. To me, every thread in every American flag represents individuals who have laid down their lives in the name of freedom and democracy.

Yet I cannot support an Amendment to the United States Constitution which would, for the first time in our nation's history, narrow the reach of the First Amendment guarantee of freedom of speech. Instead of expanding the rights of Americans, this Amendment would constrict the freedoms which we fought so hard to win.

Instead, we should enact legislation that accomplishes the same goal—without trampling on our fundamental American rights. I have voted several times for legislation that would have provided protection of the flag through a statute, rather than a Constitutional amendment.

Senator MCCONNELL offered an alternative that sought to create a statutory solution that could have passed the muster of the Supreme Court. The McConnell amendment would have provided for fines or imprisonment for anyone who destroys a flag with the intent to incite violence or breach of peace. This amendment would have protected both our flag and our Constitution. I'm disappointed that it did not pass.

Our flag is a symbol of the principles that have kept our country strong and free. When we think of our flag, we think of everything that is good about this country—patriotism, courage, loyalty, duty and honor. Our responsibility is to live up to these standards—and to foster a new sense of citizenship and a new sense of duty.

We should honor our flag by rekindling these principles—not by amending our Constitution.

The PRESIDING OFFICER (Mr. DEWINE). Who yields time?

Mr. HATCH. Mr. President, I yield 5 minutes to the distinguished Senator from Florida.

Mr. MACK. Mr. President, I intend to speak on another issue. I ask unanimous consent to speak as in morning business for not to exceed 5 minutes.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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#### IN SUPPORT OF A PRIVATE RELIEF BILL FOR ELIAN GONZALEZ-BROTONS

Mr. MACK. Mr. President, I come to the floor of the Senate to speak about an incident that occurred just before Thanksgiving Day 1999, when a mother who so loved her son that she tried to bring him to the shores of the United States of America from Cuba. Had she succeeded, she would have joined her family members already in the United States. Instead, she met with tragedy in the Florida straits. The mother died. The five-year-old boy survived. Now, we are being forced to consider young Elian's future.

Today, the freedom sought by a mother for her son is being mocked. Elian Gonzalez finds himself in the middle of a struggle between his Miami family and the Department of Justice, an agency unwilling to consider what is in the best interest of the child, an agency continually impairing a fair presentation of the merits of this case.

I ask my colleagues to open their minds and their hearts and listen to why the current process being used by the DOJ and the INS represents a grave injustice and denies a decision that should be based upon Elian's best inter-

est. Remember when Elian first arrived, the INS stated that the matter was a custody decision for a Florida state family court. Forty-eight hours after Castro threatened the United States, the decision flipped, and continues to bend to Castro's will. Now the administration wants to rush an appeals process to send him back to a country that Human Rights Watch states has "highly developed machinery of repression."

In the past week, the Department of Justice has put unrealistic demands on the family of Elian to expedite the appeal of the federal district court decision. The Department of Justice has repeatedly threatened to revoke Elian's parole and remove the child to Cuba if the family fails to agree to their demand that both sides have an appellate brief prepared in one week. These unprecedented tactics short-circuit and dismantle the judicial process in which an appellate is typically allotted a minimum of 30-60 days to prepare a brief. This is plain and simple—Elián's family's civil rights are being denied.

This past Monday, the family under great pressure filed a motion with the Eleventh Circuit to expedite the appeals process, and still, the government's threats have continued. In a letter sent to the family at 10 p.m. on Monday night, the government demanded that the family's attorneys appear for a meeting on Tuesday morning at 9 a.m. with INS officials to discuss the revocation of Elian's parole. The government has continually dictated the terms of all meetings and has bulldozed over the right of Elian and his Miami family.

Today, the Department of Justice has summoned Elian's great-uncle, Lazaro Gonzalez, to a meeting where he is expected by the INS to sign a unilateral demand "to comply with the instructions of the INS," yet the INS has failed to provide the attorneys and the family with what those instructions will be. After all this child has been through, is it too much to ask how the government plans on removing him from the only home he now knows? Should his family agree to having INS agents come to his Miami home and take him? Probably not. But one thing is for sure: they should know the details of what they are agreeing to.

Keep in mind that this same agreement, if signed, destroys any shred of dignity left in our judicial process. It demands that the family's attorneys have a brief prepared to submit to the Supreme Court within 5 days of the appellate court decision, a time line virtually impossible to meet.

In its effort to dictate terms for the family's appeal, the government has betrayed the very integrity for which the Attorney General is charged with defending—equal protection under the law and the right to pursue justice in a free America. In the past week, I've heard justice department officials say they are taking more aggressive action against the family because they want

to prevent them from invoking more "legal maneuvers." These "legal maneuvers" happen to be the legal rights of Americans—properly exercised in the middle of an appeals process. These "legal maneuvers" are tools in which all Americans are empowered to seek a fair hearing in the United States of America. I find it unconscionable that the justice department would so blatantly express their desire to dictate terms and influence the outcome of this case.

My reason for coming to the floor today is express my sheer frustration and anger in the manner in which the DOJ and the INS has handled this case. The recent acts of these two agencies demonstrate that the administration is no longer interested in resolving this case in a fair, unbiased way. The offer by the Department of Justice is a deeply flawed offer, one that no American would ever accept, one that no person in America should ever have to accept. Elian's mother sacrificed her life for the freedoms of America, freedoms she never had in Cuba, freedoms she never thought our country would deny her son in his moment of need. We should all, despite our views on this issue, be deeply ashamed at any attempt to short circuit justice in order to reach a resolution in the quickest possible way.

In the United States, we stand up to injustice in the world by zealously guarding our laws. We consistently and rightly argue that our strength and power come from our commitment to America's principles: freedom, justice, democracy and the protection of basic human rights. We are a nation founded upon these principles and we remain strong because we defend them. Mr. President, today and throughout the course of Elian's stay in the United States the INS and our Attorney General have not stood up for the one thing they are supposed to defend—justice for all.

Mr. President, I yield the floor.

Mr. JEFFORDS. Mr. President, I ask unanimous consent to proceed as in morning business for a period not to exceed 5 minutes.

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

The remarks of Mr. JEFFORDS pertaining to the introduction of S. 2311 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

#### FLAG DESECRATION CONSTITUTIONAL AMENDMENT—Continued

The PRESIDING OFFICER. Who yields time?

Mr. DASCHLE. Mr. President, I will take whatever time may be required and use my leader time.

Mr. President, the debate over the last two days has been deeply moving. When we began this debate, I thought to myself how much I would prefer it if we were talking about veterans' health care, prescription drugs, or raising the minimum wage.

But, I stand corrected. This debate has proved meaningful and proved that our reputation as the deliberative body is earned.

I thank especially the distinguished Senior Senator from Vermont, the Ranking Member of the Judiciary Committee, Senator LEAHY for his fine stewardship of this debate. As always Senator LEAHY has offered much wisdom and demonstrated much skill as he managed this amendment.

This afternoon, as we close this debate I want to draw my colleagues' attention to the statements of Senator ROBERT BYRD and Senator CHUCK ROBB. Both men gave eloquent statements about how they came to their decision to oppose this constitutional amendment. These statements moved me and I dwell on them because they represent my views so well. For neither of these men, was their decision easy. I have come to believe, however, that it is not in easy decisions that you find the measure of a Senator—it is the hard decisions that distinguish the men and women we remember long after they leave this place.

Senator BYRD, in his usual way, reminded us why the Bill of Rights has never been amended in our history. Why? Because it was our founders' design. They set the bar for passage of a constitutional amendment high because they strongly believed that the Constitution should be amended in only the rarest of circumstances. And that has been the case. As Senator BYRD points out, setting aside the amendments involving prohibition, the Constitution has been amended only 15 times in 209 years.

As Senator BYRD noted, "In the final analysis, it is the Constitution—not the flag—that is the foundation and guarantor of the people's liberties." Thus, Senator BYRD conceded that, as much as he loves the flag, and as much as he salutes the patriotism of those who support this measure, he must oppose the amendment. His sentiments reflect so well the struggle I have felt over the years when we have considered this amendment in the past.

I, like other veterans, love the flag that has united us at so many critical times. I cannot understand why anyone would burn the flag simply to call attention to a cause. But as Senator ROBB reminded me—it was to protect the rights of such an unpopular dissenter that I once wore a military uniform. Senator ROBB noted that there will always be another flag to hold high, when one is defiled, but there will be no other Constitution—should we defile it.

Senator ROBB held dying men in his arms in Southeast Asia. He understands the sacrifices men and women will make to save this democracy. This afternoon, as we cast this vote, I am proud to stand with him, to stand with Senator BYRD, to stand with Senators BOB KERREY and JOHN KERRY, and others, to fight here—today—to preserve the principals and ideals these patriots fought for.

As Senator BYRD said today: "From Tripoli in 1805 to Iwo Jima in 1945 to the moon in 1969, the flag has been raised to commemorate some of America's proudest moments." By honoring and preserving the Constitution, we ensure that this symbol—our flag—continues to represent a country devoted to democracy and free speech.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, could I inquire about the time remaining?

The PRESIDING OFFICER. The majority leader has 15 minutes.

Mr. LOTT. Is that the only time left before the vote?

The PRESIDING OFFICER. No. Senator LEAHY has 21 minutes. Senator HATCH has 31 minutes.

Mr. LOTT. Thank you, Mr. President. Mr. President, I yield to Senator HATCH for a request.

Mr. HATCH. Mr. President, I am prepared to yield the remainder of our time, if the minority will yield the remainder of its time. Senator LOTT will be the last speaker.

Mr. LOTT. Mr. President, I believe it was the plan for the leaders to yield the remainder of time. I believe Senator DASCHLE did that. After all time had been used on both sides, I would be the final speaker, and then we would go to a recorded vote. We indicated we would vote sometime around 4:30.

I ask Senator LEAHY, are we prepared to yield back time on both sides at the conclusion of my remarks?

Mr. LEAHY. Mr. President, it is my understanding that the Senator from Utah was going to yield back his time.

Mr. LOTT. That is correct.

Mr. LEAHY. Has the Democratic leader yielded his time?

Mr. LOTT. He completed his remarks and has yielded the remainder of his time.

Mr. LEAHY. Of course, I understand that in the normal course the distinguished leader would be given the right to make final remarks.

I yield my time.

Mr. LOTT. Thank you very much.

Mr. HATCH. I yield the remainder of my time.

The PRESIDING OFFICER. All time is yielded.

The majority leader is recognized.

Mr. LOTT. Thank you, Mr. President.

Mr. President, I commend those who have been involved in the debate on this very important issue over the past 3 days. It is occasions such as this when I think the Senate quite often rises to the greatest height, but it should, because we are debating very important issues here, symbols of our freedom and our democracy, the Constitution, the flag.

I am pleased we have had this discussion. I think the American people want the Senate to act in this area. Now we are prepared to vote.

I rise in support of Senate Joint Resolution 14, the constitutional amendment to protect the flag of the United