

The Lexecon decision has prevented the federal court system from adjudicating complex cases even when all parties to a case have agreed on the wisdom of a transfer. That is not the most efficient and effective way for the management of our federal courts.

Our transferee judges are federal judicial experts. We must provide them with the freedom they need so they can supervise day-to-day pretrial proceedings, which include the underlying facts, laws and the possibility of a settlement.

Mr. Speaker, I urge my colleagues to support this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1768, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### COMMUNITY RECOGNITION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3095) to amend title 4, United States Code, to make sure the rules of etiquette for flying the flag of the United States do not preclude the flying of flags at half mast when ordered by city and local officials, as amended.

The Clerk read as follows:

H.R. 3095

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

*This Act may be cited as the "Community Recognition Act of 2004".*

#### SEC. 2. FLAG CODE AMENDMENT.

*Section 7(m) of title 4, United States Code, is amended by inserting after the sentence beginning "In the event of the death of a present or former official of the government of any State" the following: "In the event of the death of a present or former official of any city or other locality, the chief elected official of that locality may proclaim that the National flag shall be flown at half staff."*

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

#### GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 3095, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3095 simply clarifies title 4 of the United States Code to permit the chief elected officer of a city or locality to order the United States flag flown at half mast to honor the death of a present or former official of that locality. Though current law does not expressly prohibit a local official from executing this decision, it does not specifically grant this authority either. In the unfortunate event of a death of a local official, the law's lack of clarity regarding this authority has forced local officials to seek permission from either the President of the United States or the Governor of their respective State, both of whom have explicit authority under current law to order the flag lowered.

As we all recognize, an individual's death often cannot be anticipated, and when a community is faced with such a loss, the President or Governor may not be able to give immediate consideration to the request to lower the flag. Recognizing this problem, I believe that it is important that we vest our local officials with this authority rather than run the risk of missing an opportunity to honor and recognize the service of the deceased local official.

I would note that similar legislation was passed by the House in the 107th Congress by a vote of 420 to nothing, but unfortunately no action was ever taken by the other body.

I urge my colleagues to once again support this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Let me, first of all, thank the chairman and say that we have an expression of recognition bill that all of us can support and is protected by the first amendment, and that is H.R. 3095, the Community Recognition Act, in which the question is not one of free speech but of recognition.

Mr. Speaker, I rise in support of H.R. 3095, the Community Recognition Act of 2003. This legislation is identical to H.R. 1022, which passed the House by a vote of 420 to zero. I am aware of no opposition to this bill. The chairman has clearly explained the bill, and I urge my colleagues enthusiastically to support H.R. 3095.

Mr. Speaker, I rise in support of this legislation, H.R. 3095, the Community Recognition Act. In January of this year, my colleagues

and I of the Committee on the Judiciary held a markup hearing to consider this bill, and I supported it at that time. This legislation is identical to H.R. 1022, which was reported by the Judiciary Committee in the 107th Congress by voice vote with no debate and which passed the House by a vote of 420-0. However, it did not receive consideration by the Senate.

H.R. 3095 would amend the "Flag Code" to allow local officials to order the flag of the United States in that jurisdiction flown at half-staff in the event of the death of a present or former official of that locality. Current law specifies instances in which the flag should be flown at half-staff, who is authorized to order it, the manner in which it should be displayed, and how long it should be so flown in honor of different individuals. It grants this authority to the President and to the governors to order that the flag be flown at half-staff, but does not mention local officials. This bill would include local officials.

Current law, including the Flag Code, does not prohibit anyone flying the flag at half-staff for any reason at any time. Moreover, the Constitution allows anyone to do anything they wish with a flag, including burn it as an act of protest. Let us not forget about the case of Texas v. Johnson in 1989 where during the 1984 Republican National Convention in Dallas, Texas, Gregory Johnson accepted a United States flag taken from a flagpole outside the convention center, doused the flag with kerosene, and set the flag on fire. Arrested by police officers on the scene, Johnson was prosecuted and convicted under a Texas law which prohibited desecration of the Texas and United States flags. The law defined desecration as "physical mistreatment of such objects in a way which the [accused] knows will offend one or more persons likely to observe or discover the act." Several witnesses testified that they had been seriously offended by the flag burning.

The use of the American flag in this instance does not present strong challenges to rights under the First Amendment. Instead, it would make clear that local officials also have the authority to order the flag flown at half-staff under certain circumstances.

The flag of the United States serves as a symbol of the nation. In the case of West Virginia v. Barnett, 1943, the Court struck down a West Virginia law requiring a salute to the flag, commenting: "Those who begin coercive limitation of dissent soon find themselves exterminating dissenters." The Court went on to say, "There is no mysticism in the American concept of the State or of the nature or origin of its authority. We set up government by consent of the governed, and the Bill of Rights denies those in power any legal opportunity to coerce the consent. Authority here is to be controlled by public opinion, not public opinion by authority. . . ."

In Texas, the Government Code, Section 3100.072 sets forth the Governor's authority regarding the flag and limitations on governmental subdivisions or agencies. However, some states and jurisdictions do not have similar state legislation in place to grant this authority. Therefore, H.R. 3095 will add much needed uniformity to the United States Code.

Mr. Speaker, I support this legislation for the above reasons.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3095, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays. The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

# RECOGNIZING AND HONORING UNITED STATES ARMED FORCES AND SUPPORTING NATIONAL MILITARY APPRECIATION MONTH

Mrs. MILLER of Michigan. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 328) recognizing and honoring the United States Armed Forces and supporting the designation of a National Military Appreciation Month, as amended.

The Clerk read as follows:

H. CON. RES. 328

Whereas the vigilance of the members of the Armed Forces has been instrumental to the preservation of the freedom, security, and prosperity enjoyed by the people of the United States;

Whereas the success of the Armed Forces depends on the dedicated service of its members, their families, and the civilian employees of the Department of Defense and the Coast Guard;

Whereas the role of the United States as a world leader requires a military force that is well-trained, well-equipped, and appropriately sized;

Whereas to maintain such a force, the youth of the United States must possess a commitment to military service sufficient to achieve the levels of recruitment and retention necessary to sustain the strength, vitality, and character of the Armed Forces;

Whereas to foster and sustain such a commitment it is vital for the youth of the United States to understand that the service provided by members of the Armed Forces is an honorable legacy that protects the freedoms enjoyed by citizens of the United States as well as citizens of many other nations;

Whereas the Federal Government has a responsibility to raise awareness of and respect for this aspect of the heritage of the United States and to encourage the people of the United States to dedicate themselves to the values and principles for which Americans have served and sacrificed throughout the history of the Nation;

Whereas service in the Armed Forces entails special hazards and demands extraordinary sacrifices from service members and their families;

Whereas the support of the families of service members enhances the effectiveness and capabilities of the Armed Forces;

Whereas the observance of events recognizing the contributions of the Armed Forces is a tangible and highly effective way of sustaining morale and improving quality of life for service members and their families;

Whereas on April 30, 1999, the Senate passed S. Res. 33 (106th Congress), entitled "Designating May 1999 as 'National Military Appreciation Month'", calling on the people of the United States, in a symbolic act of unity, to observe a National Military Appreciation Month in May 1999, to honor the current and former members of the Armed Forces, including those who have died in the pursuit of freedom and peace; and

Whereas it is important to emphasize to the people of the United States the relevance of the history and activities of the Armed Forces through an annual National Military Appreciation Month that includes associated local and national observances and activities: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) supports the goals and objectives of a National Military Appreciation Month;

(2) urges the President to issue a proclamation calling on the people of the United States, all Federal departments and agencies, States, localities, organizations and media to annually observe a National Military Appreciation Month with appropriate ceremonies and activities; and

(3) urges the White House Commission on Remembrance, established by Congress to honor those who died in service to the United States and those who continue to serve the Nation, to work to support the goals and objectives of a National Military Appreciation Month.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Michigan (Mrs. MILLER) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Michigan (Mrs. MILLER).

□ 1045

## GENERAL LEAVE

Mrs. MILLER of Michigan. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 328, as amended.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentlewoman from Michigan?

There was no objection.

Mrs. MILLER of Michigan. Mr. Speaker, I yield myself such time as may consume.

Mr. Speaker, on behalf of the Committee on Government Reform, I am very pleased that the House is considering House Concurrent Resolution 328. During the 106th Congress, on April 30, 1999, the United States Senate passed Senate Resolution 99 that called for May of 1999 to be signified as National Military Appreciation Month. Today's resolution, House Concurrent Resolution 328, supports the goals and ideals of National Military Appreciation Month. As the war on terror continues, this is an appropriate piece of legislation for the House to pass today.

The Members of our Armed Forces have fought to preserve freedom for the

American people for over 200 years. Recently, new challenges have confronted our brave military men and women since the horrific attacks on our Nation of September 11, 2001. Our soldiers have courageously and effectively carried out remarkable missions in Afghanistan and Iraq that respectively intended to disrupt the terrorist networks and to end the regime of dictator Saddam Hussein.

In addition, Mr. Speaker, the United States Armed Forces have dramatically expanded their presence in the Middle East and Central Asia into once unthinkable locations, such as former Soviet republics. These new bases seek to strengthen American alliances with friendly countries and to protect the citizens of countless nations across the globe.

Indeed, the war on terror has tested our armed services, and I am proud to reported that our servicemen and women have responded very honorably.

In addition to the war on terror, nearly 1,800 United States soldiers have defended the Haitian capital Port-au-Prince in recent weeks as well. Unquestionably, our great Nation and, indeed, the entire world is a safer place because of their commitment and their sacrifice.

Mr. Speaker, I know that the sponsor of this resolution, the distinguished chairman of the Committee on Government Reform, wanted to be here for consideration of this legislation. Consistent with my earlier request for general leave, I will submit his statement on House Concurrent Resolution 328 in writing. I commend the gentleman from Virginia (Chairman TOM DAVIS) for this important resolution, and I urge every Member of this House to support its adoption.

I salute all of our Nation's gallant servicemen and women.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is no greater gift a person can give to his or her country than to serve in the Armed Forces. Today, we honor the thousands of soldiers, men and women, serving our country at home in the United States and around the world, as well as the millions of Americans who have served in years past.

While our reasons for going to Iraq, or any other war, for that matter, can be questioned and scrutinized, one issue that should remain above the political fray is the profound courage that has always been exhibited by our troops. They have always honored America by protecting our Nation both at home and abroad in a manner befitting a great nation. Today our Nation turns to them and says, "Thank you."

Over 500 Americans have lost their lives thus far in Iraq, and it is crucial to the future of both our Nation and other nations that Americans, both young and old, understand that without these soldiers and the countless