

Mr. President, I yield the floor.

#### TRIBUTE TO ROBERT JULIANO

Mr. DURBIN. Mr. President, I rise today to take note of the 65th birthday of Robert Juliano.

Robert Juliano has spent more time working on Capitol Hill than most Members of Congress. He is a longtime political adviser, labor representative, and champion of philanthropic causes.

He recently received the Sons of Italy in America 2006 Humanitarian Award for his support of charitable causes, including the National Coalition for Breast Cancer, the Lions Club, and the Crusade of Mercy.

I am proud that Bob hails from the city of Big Shoulders, the son of an Italian immigrant. Bob grew up on the West Side of Chicago and worked in that great city's hotel industry in the 1960s and 1970s starting as an elevator operator. From there, he came to Washington, DC, to serve as legislative representative for the Hotel and Restaurant Employees International Union. He served as chairman and vice chairman of the U.S. Government's Travel and Tourism Advisory Board in the 1980s and 1990s. He has worked to protect the health care benefits of retired miners and worked on nearly every major piece of labor legislation over the last 30 years.

It is clear Bob Juliano never forgot his roots. And he never forgot the workers who need a strong voice for their values. One of the reasons Bob has been so successful is his ability to bring people of all political persuasions together to work on the most pressing issues we face. It is a skill that is in great shortage these days.

I wish Bob Juliano well on his 65th birthday.

#### HONORING OUR ARMED FORCES

SPECIALIST BOBBY WEST

Mrs. LINCOLN. Mr. President, I rise today in honor of our Nation's fallen, Army SPC Bobby West. He died defending this Nation so that others might have the same freedoms we cherish as Americans. For those who knew Specialist West, he will be remembered for the laughter he brought to the lives of those around him. He will also be remembered for acting on his conviction of defending and fighting for the values and liberties we hold so dear as Americans.

At 17, after graduating from Beebe High school, Bobby enlisted with the Arkansas National Guard. Like so many of us, he was deeply affected by the terrorist attacks that took place on September 11, 2001. However, he felt that the burden to defend our country rested squarely on his shoulders and shortly thereafter he enlisted in the Army with his older brother Patrick. Specialist West served our country in Egypt's Sinai Peninsula before being sent to Iraq. Tragically, he was serving

his second tour of duty in Iraq and was killed when a roadside bomb detonated while he was on foot patrol with his unit in Baghdad on May 30. His unit was scheduled to leave Iraq in the fall.

I am honored to stand here today and pay tribute to a great soldier and more importantly a loving son, brother and friend. His loved ones remember how much laughter he brought to their lives with his quick wit and sense of humor. His fellow soldiers will remember him not only for the burden he carried with him to defend this Nation and bring freedom to others, but also for the competitiveness he brought to everything he did in life. His fellow soldiers tell the story of the fierce competitiveness he brought to a pickup basketball game while stationed in Egypt. Regardless of the fact that they were playing in a tin building in 125-135 degree heat, Bobby wouldn't let his opponents leave until they could beat him. It is this sense of commitment and dedication that he brought to his military service. He also believed in what he was doing and loved being a soldier. It is people like Bobby West who make our military the strongest in the world.

I am grateful for the service of Bobby West. I am also reminded of the tragic human cost of war and am saddened at the death of another Arkansas soldier. In the words of his brother, Bobby "was born to defend the greatest Nation on Earth." He gave his life defending the greatest Nation on Earth and we owe him and all others who have made that sacrifice an enormous debt of gratitude. Our prayers are with his father Ricky West, his mother Linda Wiggins West, and his older brother Patrick West, and we all pray for the safe return of Patrick who is serving in Iraq with the 101st Airborne Division.

#### FLAG DESECRATION AMENDMENT

Mr. REED. Mr. President, yesterday I opposed Senate Joint Resolution 12, which would have created a constitutional amendment allowing Congress to ban desecration of the flag.

As a graduate of the U.S. Military Academy and a former officer in the Army, I am deeply offended when people burn or otherwise abuse this precious national symbol.

I also believe, however, that the values and beliefs that the American flag represents are more important than the cloth from which this symbol was created. Prominent among these beliefs are the right to voice views that are unpopular, and the right to protest. In fact, these fundamental values, preserved by our Constitution, have distinguished our Nation for more than 200 years. The Framers understood that democracy cannot thrive, or even survive, without freedom of expression. Colin Powell has rightfully said, "The first amendment exists to ensure 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 that great shield of democracy to hammer a few miscreants. The flag will be flying proudly long after they have slunk away."

I oppose this amendment not because I condone desecration of our flag, but because I celebrate the values our flag represents. Flag burning is despicable. However, the issue is whether we should amend our great charter document, the Constitution, to proscribe it.

In *The Federalist*, James Madison declared that the Constitution should be amended for "certain great and extraordinary occasions." Except for the prohibition amendments, since the adoption of the Bill of Rights, we have only amended the Constitution for "great and extraordinary occasions:" abolishing slavery and giving African Americans the right to vote; extending voting rights to women; and regulating elections and the tenure of the Presidency. Of the 27 amendments, 17 protect individual rights and liberties. In fact, we have never amended the Constitution to constrict rights that other amendments already guarantee.

So are we facing a "great and extraordinary occasion" justifying the use of a constitutional amendment? I would argue no.

First, an amendment permitting government restraints on free expression cannot compel loyalty to or love for either our country or our flag. The proposed amendment would pronounce to the world that we value free speech, except when it offends, that we tolerate free expression, except when it is demoralizes.

Second, is this a problem needing such strong medicine? Are we facing an epidemic of flag burnings? In fact, over the past 10 years, only 7 incidents of flag desecration have occurred per year on average, most of which have been successfully prosecuted under laws prohibiting vandalism, theft, disorderly conduct, and disturbance of peace. Indeed, passing such an amendment would probably do more to promote flag burning by malcontents than any other action this Congress could take.

Third, proponents of such an amendment declare that it would boost the morale of our troops and help restore some of the American values so basic to the fabric of our country. But, as one veteran recently wrote, "I did not believe then, nor do I believe now, that I was defending just a piece of geography, but a way of life. If this amendment becomes a part of our Constitution, this way of life will be diminished." I cannot help but believe that a more appropriate expression of support for our troops would be providing them with the equipment they need in the field, better benefits for their families, and an adequately funded medical system at home.

Although I oppose a constitutional amendment, I did support an alternative approach offered by Senator DURBIN. Senator DURBIN's amendment contained two elements. First, it would

have created a statutory prohibition against desecration of our flag. This part of his amendment was drafted to follow the guidance of the 2003 Supreme Court decision in *Virginia v. Black*, which upheld a Virginia law banning cross burning that is intended to intimidate. The Durbin amendment took a similar approach and prohibited desecration of the flag when it is intended to incite violence. The Durbin amendment also would have promoted respect for families of deceased members of the Armed Forces by prohibiting demonstrations at their funerals. The amendment was narrowly tailored to make these disrespectful demonstrations punishable.

In sum, debating a constitutional amendment on desecration of the flag, although politically popular, is not how the Senate should be spending its few remaining legislative weeks. But this is a campaign year, and the majority appears to want the Senate to spend time on topics which defer and deflect us from concentrating finding solutions to pressing issues facing our Nation: restoring fiscal discipline, creating safe and affordable housing for working families, securing our borders, expanding health insurance coverage to the uninsured, ensuring students have the skills and tools to compete in an ever-expanding global economy, and re-deploying our troops as quickly as possible out of Iraq. Unfortunately, the majority has provided limited time to debate most of these issues.

I hope that with the rapidly dwindling number of days left in this session we will work to address the very real concerns that impact American families every day. I fear, however, that this debate is only a harbinger of what is to come and very clearly signals why we need a new direction.

Mr. DORGAN. Mr. President, 17 years ago the U.S. Supreme Court, in a 5-to-4 decision, struck down a Texas flag protection statute. The Supreme Court ruled that burning an American flag was a form of "speech," and therefore protected under the first amendment of the Constitution.

I disagreed with the Court's decision then and I still do. I don't believe that the act of desecrating a flag is an act of speech. And I believe that our flag, as our national symbol, can and should be protected by law.

In the intervening years since the Supreme Court decision, I have supported Federal legislation that would make flag desecration illegal. Yet on several occasions, I have also voted against amendments to the Constitution to do the same.

I voted that way because, while I believe that flag desecration is despicable conduct that should be prohibited by law, I also believe that amending our Constitution is a step that should be taken only rarely, and then only as a last resort.

In the past year I have once again reviewed in detail nearly all of the legal opinions and written materials pub-

lished by constitutional scholars and courts on all sides of this issue.

After that review, I have concluded that there remains a way to protect our flag without having to alter the Constitution of the United States. That is why I have cosponsored S. 1370, a bipartisan piece of legislation introduced by Senator BENNETT of Utah.

S. 1370 protects the flag by criminalizing flag desecration when its intended purpose is to incite violence. This is the same standard which makes it illegal to falsely cry "fire" in a crowded theater. Reckless speech that is likely to cause violence is not protected under the "fighting words" standard, long recognized by the Supreme Court of the United States. The Congressional Research Service believes that this type of statute will be upheld by the U.S. Supreme Court.

Last night, I voted for an amendment offered by Senator DURBIN, which incorporates many of the provisions of S. 1370, the bipartisan bill of which I am a cosponsor. The Durbin amendment would also prohibit the disruption of military funerals by demonstrators. This amendment would protect the flag, but do so without altering the Constitution.

I know that supporters of a constitutional amendment will be disappointed by my decision to support this statutory remedy to protect the flag, rather than support an amendment to the U.S. Constitution. I know they are impatient to correct a decision by the Supreme Court that they and I believe was wrong.

I have wrestled with this issue for a long time, and I respect those who passionately believe that we must amend the Constitution to protect the flag.

More than 11,000 constitutional amendments have been proposed since our Constitution was ratified. However, since the ratification of the Bill of Rights in 1791, only 17 amendments have been enacted.

Protecting the American flag can be accomplished without amending the Constitution, and that is a critically important point. I believe that future generations, and our founding fathers, would agree that it is worthwhile for us to find a way to protect our flag without altering the Constitution.

#### LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On June 10, 2006, Queens, NY, three gay men were out walking when a group of eight men began shouting

antigay slurs at them. The group then surrounded and attacked them, striking one victim in the head with a baseball bat.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

#### HEALTHY FAMILIES ACT

Mr. KERRY. Mr. President, today I am proud to cosponsor the Healthy Families Act, S. 932 and S. 1085, introduced by my friend, Senator TED KENNEDY. This legislation will provide full-time employees with up to 7 paid sick days a year so that they can take care of their own medical needs or the medical needs of family members. Part-time employees would receive a prorata amount of paid sick leave. All employers—public and private—with at least 15 employees would be covered by the Healthy Families Act.

Today, 86 million workers in the United States do not have paid sick days. Thus, when faced with either a personal or family medical issue, they are forced to choose between caring for themselves or their loved ones and going to work to keep food on the table and a paycheck in the mail. This is not acceptable. People get sick every day. They should have the right to get medical treatment without jeopardizing their jobs or harming the people around them. The Healthy Families Act would guarantee them that right.

According to Harvard University's Global Working Families Project, 139 nations provide some sort of paid sick days; 177 of those nations guarantee at least a week of annual sick pay. The United States, however, has no such guarantee—the Federal Family and Medical Leave Act provides only unpaid sick leave for serious personal or family illnesses. This lack of paid sick leave puts our Nation's workforce, both present and future, at risk.

As ranking member of the Committee on Small Business and Entrepreneurship, I am extremely conscious of the regulatory burden that our businesses face particularly our small businesses. I believe that government should avoid weighing down small businesses with unnecessary regulations. However, the more I have examined this issue, the more obvious it becomes that this legislation benefits both employees and employers.

It does not take a rocket scientist to figure out that healthy employees are the key to a productive and vibrant economy. Healthy employees are more productive and often more efficient. But, without paid sick days, many employees will go to work rather than take time off to get regular preventative medical checkups or to recover from an attacking illness or to care for