

Approved 1-31-91
Date

MINUTES OF THE Senate COMMITTEE ON Federal and State Affairs

The meeting was called to order by Sen. Edward F. Reilly, Jr. at
Chairperson

11:00 a.m./~~p.m.~~ on January 29, 1991 in room 254-E of the Capitol.

All members were present except:

Committee staff present:

Mary Galligan, Legislative Research Department
Mary Torrence, Office of Revisor of Statutes
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Mr. Lee Stolfus, American Legion, Emporia, Ks.

Lee Stolfus addressed the committee on behalf of Charles Yunker, Adjutant, Kansas American Legion. He urged support of a resolution urging Congress to pass a Constitutional Amendment prohibiting desecration of the American flag. (Attachment 1) Attached to his testimony was a set of questions and answers. Also distributed to the committee was the American Legion suggested amendment, along with an editorial by National Commander Miles S. Epling. (Attachment 2)

A motion was made by Sen. Anderson and seconded by Sen. Strick that such a resolution be introduced. The motion carried.

The meeting was adjourned at 11:30 a.m.

SENATE STATE AND FEDERAL AFFAIRS COMMITTEE
BY CHARLES M. YUNKER, ADJUTANT
KANSAS AMERICAN LEGION
JANUARY 29, 1991

Thank you for allowing me the opportunity to address this Committee today in support of a Memorializing Resolution to protect the Flag of our Country from desecration.

As you know the U.S. Supreme Court overturned the Texas vs Johnson case on June 21, 1989 which was followed by Congress passing of a law to protect the flag from desecration. Unfortunately that law was also overturned by the Supreme Court.

Both Houses of Congress then narrowly failed to pass a Constitutional Amendment for ratification by the States to protect the flag. In both the House and Senate a majority voted in favor of an amendment but those actions did not receive the required two-thirds majority for a Constitutional Amendment. Congress has since indicated they would not act upon this issue again unless the overwhelming majority of states request that Congress do so. Thus the purpose of a Memorializing Resolution.

We of The American Legion are mindful that once a Supreme Court decision has been made that decision becomes a part of the supreme law of the land. We recognize that law is merely an expression of social forces; an expression of what society deems is right and what it deems is wrong. Most of the people in this country feel it is wrong to burn the flag of the United States. This was evidenced by the fact that 48 states and the federal government had passed laws prohibiting the desecration of the flag.

The American Legion does not feel the passage of a Constitutional Amendment would infringe on anyone's right or

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Att. 1

ability of freedom of speech as provided under the First Amendment. The First Amendment would continue to read as it currently does; the only change would be the addition of a 27th Amendment which would empower the states and federal government to pass laws to prohibit the desecration of the United States Flag.

Our freedoms and our liberties in this country have never been absolute. We have always had to weigh our right to do things based upon the effect our actions have on others. There are limits in regard to indecent exposure, obscenity, words which constitute "fighting words," words which constitute libel, slander, threats and so on.

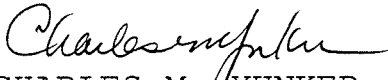
What was really expressed by the burning of the flag in the case of Texas vs Johnson? In our view really nothing was expressed. They were allowed to say and do anything, whatever they wanted to before they burned the flag. The only reason why they burned our flag was to bring attention to themselves. Had they instead of burning the flag indecently exposed themselves, they would have been immediately arrested and we suggest that conviction would have stood. Why, because it was offensive to the people and society has decided through its laws that they are not going to put up with that. We suggest that the value of any expression in burning our flag is so greatly outweighed by the offense it creates and the slap in the face that it gives to the hundreds of thousands of American soldiers who served under that flag and gave their lives for it that the law needs to be changed and it needs to be changed by Constitutional Amendment. For someone to argue that there would be inadequate means of

expressing oneself in this country without burning the flag would be similar to somebody going into a huge supermarket and contending that there was not enough food available to feed his or her family because there didn't happen to be any asparagus on the shelf that day.

The American Legion's number one priority is to obtain a Constitutional Amendment to protect the Flag of the United States. The Legion's desire for such an amendment has received support throughout this nation; indeed every poll taken by the Legion, the media and others overwhelmingly support a Constitutional Amendment and those same polls indicate a majority does not feel such an amendment would restrict their freedom of speech. The Knights of Columbus passed a resolution calling for an flag amendment during their recent National Convention; the DAR and Jaycees have expressed similar opinions and attached to this testimony is a list of those organizations and bodies of government in Kansas who support such an amendment. I might add that our office is receiving more and more resolutions in support of our efforts on a daily basis.

Also attached to this testimony is a copy of key questions and answers regarding this issue. Thank you for allowing me this opportunity to address you this morning and I urge your support to protect the Flag of the United States.

Respectfully submitted by,


CHARLES M. YUNKER, State Adjutant
Kansas American Legion

**RESOLUTIONS FOR A CONSTITUTIONAL AMENDMENT
TO PROTECT THE AMERICAN FLAG FROM DESECRATION**

AGENDA:

City of Agenda

AGRA:

American Legion Auxiliary Unit 357
American Legion Post 357
City of Agra

ALMENA:

American Legion Auxiliary Unit 266

ALTON:

American Legion Post 87

ANDOVER:

American Legion Auxiliary Unit 406
American Legion Post 406

ARMA:

American Legion Post 182

ATCHISON:

American Legion Unit 6

ATWOOD:

American Legion Post 46

AUGUSTA:

American Legion Post 189

AXTELL:

American Legion Post 214

BAXTER SPRINGS:

American Legion Post 206
DAV Chapter 40

BAZINE:

American Legion Post 392
City of Bazine

BEATTIE:

American Legion Auxiliary 244
American Legion Post 244
City of Beattie
Lions Club

BELLEVILLE:

American Legion Auxiliary Unit 133
American Legion Post 133

BUCKLIN:

American Legion Post 269
City of Bucklin
Jaycees

JURDETT:

American Legion Post 280

BURR OAK:

American Legion Auxiliary Unit 263

BUTLER COUNTY COMMISSIONERS

CANEY:

American Legion Auxiliary Unit 138
American Legion Post 138
City of Caney
Golf Club
Masonic Lodge 324
VFW 9768

CANTON:

Canton American Legion Post 192
City of Canton

CHASE-LYON AMERICAN LEGION COUNTY COUNCIL

CHEROKEE:

American Legion Post 35
City of Cherokee

CLAY CENTER:

American Legion Post 101

CLIFTON:

American Legion Post 227
American Legion Auxiliary Unit 227
Chamber of Commerce
City of Clifton
Sons of The American Legion Squadron 227

CLYDE:

VFW Post 7515

COFFEYVILLE:

Rotary Club

COLBY:

American Legion Post 363
City of Colby
Knights of Columbus

CONCORDIA:

American Legion Auxiliary Unit 76
American Legion Post 76

COPELAND:

American Legion Post 369

COUNCIL GROVE:

American Legion Post 121

CRAWFORD COUNTY COMMISSIONERS

JBA:

American Legion Post 345
Jr. Eagles Lodge 362
Veterans Wives Club

CUNNINGHAM:

American Legion Post 114

DERBY:

American Legion Auxiliary Unit 408
American Legion Post 408

DIGHTON:

American Legion Auxiliary Unit 190
American Legion Post 190

DODGE CITY:

American Legion Post 47
VFW Post 1714

DORRANCE:

American Legion Post 334
Sons of The American Legion Squadron 334

DOUGLASS:

American Legion Post 202
City of Douglass

DOWNS:

American Legion Auxiliary Unit 11

DRESDEN:

American Legion Auxiliary Unit

DWIGHT:

City of Dwight

EL DORADO:

American Legion Auxiliary Unit 81
American Legion Post 81
City of El Dorado

ELLINWOOD:

American Legion Auxiliary 320
American Legion Post 320
Lions Club
Lodge 217 AFM
VFW 5657

ELLIS:

American Legion Post 151
City of Ellis
County of Ellis Commission

ELLSWORTH:

American Legion Auxiliary Unit 174
American Legion Post 174
Lodge #146 AF & AM
Sons of The American Legion Squadron 174

EMPORIA:

American Legion Auxiliary Unit 5
American Legion Post 5
Kiwanis Club
La Sertomo
VFW Post 1980

ESBON:

American Legion Auxliary Unit 368

EUREKA:

American Legion Auxiliary Unit 50
American Legion Post 50

FINNEY COUNTY COMMISSIONERS

FOROMOSA:

Athena Jr. Women's Club

FORT DODGE:

American Legion Post 107

FRANKFORT:

City of Frankfort
Rotary Club

FRONTENAC:

American Legion Post 43
City of Frontenac
Knights of Columbus 10032
Rotary Club

GALVA:

City of Galva

GARDEN CITY:

American Legion Auxiliary Unit 9
American Legion Post 9
Knights of Colubus 2795
Lakin Post 208
Optimist Club

GARDNER:

American Legion Post 19

GARFIELD:

American Legion Auxiliary Unit 300
American Legion Post 300

GOODLAND:

American Legion Auxiliary Unit 117
American Legion Post 117
Kiwanis

GRAINFIELD:

American Legion Auxiliary Unit 301

GREAT BEND:

American Legion Post 180
Sons of The American Legion Squadron 180

GREENSBURG:

American Legion Post 103
Kiowa Lodge 293

GREENWOOD:

Business Women
County of Greenwood
County Commissioners
VFW

GRIDLEY:

The American Legion Post 296

HANOVER:

American Legion Post 306

HAYS:

40 et 8 Voiture 1543
American Legion Auxiliary Unit 173
American Legion Post 173
City of Hays
DAV 18
Family Support Network
Kiwanis
Knights of Columbus
Marine Corps League
Rotary Club
Sons of The American Legion Squadron 173
VFW Auxiliary 9076
VFW 9076

HERNDON:

VFW 1368

HILLSBORO:

American Legion Post 366

HOISINGTON:

American Legion Post 286
Phi Beta Psi Sorority
Serendipity Camping Club
Voiture 324

HOLYROOD:

Holyrood American Legion Auxiliary Unit 200
American Legion Post 200

HUTCHINSON:

American Legion Post 68
City of Hutchinson
City of South Hutchinson

INDEPENDENCE:

American Legion Auxiliary Unit 139

JOHNSON COUNTY AMERICAN LEGION COUNTY COUNCIL

JUNCTION CITY:

American Legion Auxiliary 45
American Legion Post 45
La Societe de 40 et 8 Voiture 1029

KANOPOLIS:

American Legion Post 329

KANSAS CITY:

American Legion Post 83
American Legion Post 188
American Legion Post 199
American Legion Post 346
La Societe de 40 et 8 Voiture 762

KENSINGTON:

American Legion Auxiliary Unit 166
American Legion Post 166
Sons of The American Legion Squadron 166

KINSLEY:

American Legion Post 113

KIRWIN:

American Legion Auxiliary Unit 277

LACROSSE:

American Legion Post 33

LAWRENCE:

American Legion Auxiliary Unit 14
American Legion Post 14

LEAVENWORTH:

American Legion Post 23

LEBO:

American Legion Auxiliary Unit 323
American Legion Post 323

LIBERAL:

American Legion Post 80

LINDSBORG:

American Legion Post 140
City of Lindsborg

LOUISBURG

American Legion Post 250

NORTON:

American Legion Auxiliary Unit 63
American Legion Post 63
Lions Club

OAKLEY:

American Legion Post 339

OBERLIN:

American Legion Auxiliary Unit 70
American Legion Post 70
Sons of The American Legion Squadron 70

OLATHE:

American Legion Post 153
U.A.W. Local 1021
U.A.W. Retirees Chapter Local 1021
VFW 2993
VFW Auxiliary 2993

OLPE:

American Legion Post 342

OTTAWA:

American Legion Post 60
City of Ottawa

OVERLAND PARK:

American Legion Post 370

PARSONS:

American Legion Post 56
American Legion Post 120
Police Department

PEABODY:

American Legion Post 95

PITTSBURG:

American Legion Auxiliary Unit 64
American Legion Post 64
American Legion Post 394
City of Pittsburg
VFW 1158
VFW Auxiliary 1158

PRATT:

American Legion Auxiliary Unit 86
American Legion Post 86
City of Pratt
County of Pratt
Sons of The American Legion Squadron 86
VFW 1362

PRESTON:

American Legion Post 375

RENO:

County Commissioners

LYONS:

American Legion Auxiliary Unit 129
American Legion Post 129
DAV Chapter 36
DAV Unit 36
Lions Club
Rice County Amateur Radio Club
St. Marks Episcopal Church

MADISON:

American Legion Auxiliary Unit 124

MANHATTAN:

American Legion Auxiliary Unit 17
American Legion Post 17
Harmony Rebekah Lodge 685

MAPLE HILL:

American Legion Auxiliary Unit 130
American Legion Post 130

MARQUETTE:

American Legion Auxiliary Unit 253
American Legion Post 253

MARSHALL COUNTY COMMISSIONERS

MARYSVILLE:

American Legion Post 163
American Legion Unit 163
VFW Post 2699
VFW Auxiliary 2699

McPHERSON:

American Legion Post 24
City of McPherson
McPherson County Council

MONTGOMERY COUNTY COMMISSION

MOUNDRIDGE:

American Legion Post 340
City of Moundridge

MULBERRY:

American Legion Auxiliary Unit 176
American Legion Post 176

NESS CITY:

American Legion Auxiliary Unit 152
American Legion Post 152
Board of Ness County Commissioners
City of Ness City

NEWTON:

American Legion Post 2
City of Newton
IOOf No. 100
Lions Club
Masonic Bodies

AFFORD:

American Legion Auxiliary Unit 131
American Legion Post 131

STRONG CITY:

American Legion Post 123
Clarks Farm Store

SUBLETTE:

American Legion Post 205

SYLVAN GROVE:

American Legion Auxiliary Unit 359

THOMAS COUNTY COMMISSIONERS

TIPTON:

American Legion Auxiliary Unit 278
American Legion Post 278
Knights of Columbus

TOPEKA:

American Legion Auxiliary Unit 400
American Legion Post 1
American Legion Post 400
Moose Lodge 555
Sons of The American Legion Squadron 1

TURON:

American Legion Post 264
Senior Citizens Club

WAKEENEY:

American Legion Post 199

WALNUT:

American Legion Post 292
Puritan Club

WELLINGTON:

J.C. Society
Mile Square Club

WESTMORELAND:

American Legion Post 186
Burkman Auto Service
Connie Lou's Cafe
High School
Jammers Coop Assn.
Lodge 257
Park Board
Pottawatomie County Commission
Pottawatomie County Extension Office
Pottawatomie County Health Dept.
Westy Care Home
Westy Community Care Home Resident Board
Housing Authority, Inc.

RILEY COUNTY:

Board of Commissioners

RUSH COUNTY:

VFW

RUSSELL:

American Legion Auxiliary Unit 99

American Legion Post 99

Elks Lodge 1715

Past Presidents of the American Legion Auxiliary Parley

Sons of The American Legion Squadron 99

SABETHA:

American Legion Post 126

City of Sabetha

Knights of Columbus

Lions Club

SALINA:

AMVETS Post 89

American Legion Auxiliary Unit 62

American Legion Post 62

Country Cousin Home Extension Unit

Marine Corps League

POW/MIA Awareness Group

Sons of The American Legion Squadron 62

La Societe Voiture 1190

SATANTA:

American Legion Unit 276

American Legion Post 276

SCANDIA:

American Legion Post 193

SCOTT CITY:

American Legion Auxiliary Unit 183

American Legion Post 183

City of Scott City

SEDGWICK:

American Legion Post 268

American Legion Sedgwick County Council

SELDEN:

American Legion Post 321

SHAWNEE COUNTY PAST COMMANDERS CLUB

SMITH CENTER:

American Legion Post 220

Marine Corps League

ST. GEORGE:

American Legion Auxiliary Unit 260

American Legion Post 260

E.W.U.

EST MINERAL:

American Legion Post 349

WETMORE:

American Legion Post 202
Lions Club

WHITEWATER:

American Legion Auxiliary Unit 65
American Legion Post 65

WICHITA:

American Legion Auxiliary Unit 273
American Legion Auxiliary Unit 401
American Legion Post 108
American Legion Post 256
American Legion Post 273
American Legion Post 401
DAV Chapter 4
Military Order of the Purple Heart

WILSON:

American Legion Post 262

WINDOM:

City of Windom

WINFIELD:

American Legion Post 10
Sons of The American Legion Squadron 10

**PROTECTING THE U.S. FLAG
KEY QUESTIONS AND ANSWERS**

Why is The American Legion in favor of abridging the First Amendment and taking away some of our right to freedom of speech?

That's an interesting question. It's interesting, because it implies that freedom of speech is an absolute freedom and that no court or legislative body has ever defined any limits to free speech. In fact, that is not true at all.

In the first place, an amendment protecting our flag from desecration would deal solely with that act. It would have no effect on the First Amendment's guarantee of free speech or even the expanded idea of "free expression". The real issue here is the curtailment of a disagreeable act, not a disagreeable thought.

Secondly, freedom of speech is not an absolute freedom, nor has it ever been. That's why there are laws against libel and slander. That's why we have obscenity laws, public decency laws and perjury laws. Our freedom of political expression is also limited. For instance, we can't spray paint graffiti on the Supreme Court building or the Washington Monument, no matter how much we wish to protest a particular government policy or law.

With hundreds of ways available to each citizen by which he or she can express disagreement with our government or a particular social situation, we do not believe it curtails our First Amendment rights to insist upon a special protective status for our American flag.

Most laws that prohibit certain acts or which set limits on the freedom of speech do so because the acts or speech would harm someone. What harm is done to anyone by burning a flag?

I might ask the same question of you. What harm is done to anyone by disallowing the burning of our flag? What we have here is, perhaps, a disagreement about the extent of our rights. Under the system of government that we enjoy, both sides should have the opportunity to present their arguments as persuasively as possible, and then let the American people decide which argument has the most merit. That is all The American Legion is asking. Let "We, the people" decide if we should have a constitutional amendment to protect the flag.

With so many other pressing problems facing our nation, why is The American Legion attempting to focus all of our energies on this one minor problem?

We agree that there are a number of tough issues that need to be tackled, and that's why we are very distraught that so much time is being spent debating an issue that for more than 200 years was not an issue at all. We believe virtually every American realizes that burning our country's flag is wrong, and that it sends a message of disunity and lack of patriotism to the entire world. We believe that all of the political posturing is merely an attempt to elevate a reprehensible act to some degree of intellectual respectability.

After all, the flag is just a symbol. It's only a piece of cloth like so many other pieces of cloth. Why the big deal?

The American Legion, and the vast majority of Americans, believe the flag is the most visible symbol of everything for which our nation stands.

To the Gold Star mother, the folded flag is her only link with a son who died in battle protecting our nation and all that our flag symbolizes. To many veterans, the flag is a sacred symbol of the sacrifices made by their buddies, and it was draped in honored glory on their caskets. To many who came to the United States from oppressed nations where there was no religious freedom, our flag standing in their house of worship is a symbol of a very real freedom. The examples are endless.

Since the majority of us hold our flag dear, and the few have many ways in which they can express their protest, we think that common decency and fairness dictate that the right of the majority be considered also. That's why The American Legion is asking Congress to send a constitutional amendment to the people so they can decide this issue.

Doesn't The American Legion respect the rights of those who wish to express political dissent by burning the flag?

Veterans fought for the rights of those who wish to disagree with our government, and we would not want one single right taken away. However, we don't believe that flag-burning -- a repugnant act -- has ever been a right. Anyone who burns a flag must also tell those who are watching why he is doing it. The telling is protected as free speech; the burning of a flag should not be.

What about the rights of the minority?

It may seem a strange thing to say, but the majority also have rights in our society. When those rights come into conflict, as you seem to be indicating they are on this issue, then we have a method of deciding who will prevail -- the ballot box. The minority shall be heard and accorded the full protection of the law, but the majority shall rule. Disallowing a vocal minority the legal sanction to burn a flag will in no way curtail the expression of ideas; it will merely make a certain disagreeable act a crime.

If you have the right to wave a flag, why shouldn't others have the right to burn it?

Political protest does not exonerate lawlessness. It is only when someone lacks the eloquence or intelligence to express an idea -- or when the idea is not accepted by the vast majority of citizens -- that he resorts to this shocking display of vulgarity in order to get attention. We believe the explanation should be protected under the First Amendment; we don't believe the act, in this case, deserves the same constitutional protection. That is why The American Legion and 71 percent of the American people favor a narrowly-drawn constitutional amendment to protect the flag.

Some would argue that no one is burning "the flag", but only "a flag". What about that?

This is pure semantics; word twisting in an attempt to dignify an undignified act. We know that flag-burning is wrong and it sends a message of disrespect to our nation, its people and the rest of the world. Every reasonable person knows that a flag is a flag, and burning it is wrong.

Why does the Legion want to curtail freedom of speech?

The American Legion does not wish to curtail freedom of speech. We wholeheartedly support freedom of speech, even that speech with which we disagree. However, there is a marked difference between thoughtful dissent and mindless acts of vulgarity which demonstrate nothing but selfish assertiveness -- such "political expression" is not what was intended when the First Amendment was ratified by the states.

If I burn a flag and it is my own flag, why should any law stop me from disposing of my own property? That is a violation of not only my First Amendment rights but my right to own property, which is a cornerstone of our Republic.

On the surface, that argument appears to make sense to some who are misinformed about property rights. Ownership of many items in our society is not "absolute". The ownership of numerous things comes burdened with certain responsibilities, which are not considered onerous in the law. For instance, you own the money in your pocket, but you are not free to deface it, under penalty of law. You own your mailbox, but your property rights are limited as to how you can use that mailbox. You own your automobile, but its use is heavily regulated. You may own certain weapons, and not others, but you are prohibited from using them except in a lawful manner. You can't even set fire to your own home without incurring legal penalties.

It is not an alien concept to allow a person to own a flag, and then require that he accept certain burdens of responsibility in his exercise of that ownership.

You seem to want to censor objectionable ideas.

We are not talking about censoring objectionable ideas. Thoughtful dissent has always been protected. What each flag-burner has said has never been at issue, no matter how objectionable. What we are talking about is preventing objectionable behavior.

Why is it that The American Legion and others applauded the peoples of Eastern Europe when they desecrated their flags because they viewed them as representative of an oppressive government, but you condemn free people in our own country who desecrate our flag because they view it as representative of an oppressive government?

We're not opposed to burning any flag, just the United States Flag. The analogy you suggest is not lost on us, but there is a significant difference in the two actions. Those Eastern Europeans desecrated their flag at their own peril; like our Founding Fathers, they defied their government at risk to their lives. They didn't ask for the sanction of the government they were seeking to destroy. Americans who wish to burn the American flag need not have the sanction of the law to do so. They need only the courage of their convictions and the fortitude to place themselves at risk for what they believe. We think it rather cowardly to flout the American system, express a desire to bring it down, and then attempt to hide behind the protective apron of our Constitution when taken to task for one's illegal act of defiance.

What this whole issue boils down to is The American Legion is trying to compel patriotism and compel respect for the flag, and that cannot be done.

The American Legion does not believe this debate is about compelling patriotism or respect for the flag. No one is advocating that anyone respect the flag or be patriotic, any more than they are compelling that you respect me. However, while the law cannot compel your respect, it can compel that you do not physically harm me. That is all we are asking for the flag. Respect if you will, but don't desecrate it. Say whatever you want about our country or our flag, but don't desecrate it. Exercise your freedom of speech, but do not resort to illegal acts of violence to make your point.

Isn't this really about some super patriots trying to push their own brand of patriotism off on the rest of the nation?

Some are, indeed, trying to portray this situation as a debate between those who love freedom and want to exercise their constitutional rights and those who belong to some fringe element that, if permitted, would bring back inquisitions and administer loyalty oaths to every citizen. That's not the case at all.

Most of the 91 percent of the American people who disagreed with the Supreme Court's ruling, and the 71 percent who want a constitutional amendment passed, are just hard-working, honest Americans who love our country, respect our flag and believe that it isn't asking too much to have it protected from desecration. If someone doesn't respect the flag, we believe he or she should at least be civil enough to respect the sensibilities of the majority who love the flag and want it protected from physical desecration. The American Legion doesn't believe it's asking too much to recognize that the majority have rights too.

Why all the fuss about flag protection when it's only burned once in a while?

Such an argument is akin to making robbery legal because most of us don't mug anyone, or not prosecuting a murderer because he killed only once. An act is right or wrong based on standards, not on frequency of occurrence. Secondly, we might ask a similar question: If the flag is only rarely burned, and only by a very few, who would be hurt by making such a repugnant act a crime?



By NATIONAL COMMANDER Miles S. Epling

BANNER Of LIBERTY, Symbol Of SACRIFICE

WHenever I am in Washington, D.C., I go to the Vietnam Veterans Memorial to spend a few moments with my buddies. During that quiet time near dawn, I remember each of them as they were. As I touch each name on the Wall, I can still see their faces and hear their voices. We were so young, so full of life. Death had not touched us, and we bore no scars of battle.

Dying was a concept as abstract as patriotism, yet each of us—as had the generations before us—soon came to understand the meaning of both. Those of us who eventually made it home had left

our youth in Vietnam, but we returned with a commitment to our friends who will be forever young.

Our commitment is not to their memory alone, but also to the ideals and values they died believing in. I'm not ashamed to admit it; our flag, to me, is the living symbol of all those things, good and true, that my buddies laid down their lives for. In life, they respected it and loved what it stands for.

And in death, it draped their caskets in honored glory, and in memory of who they were, what they did, and why they did it.

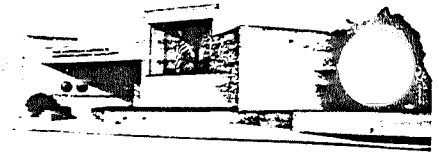
When someone burns that flag, or spits on it, or tramples it, then he is desecrating not just the flag, but also the memory of those brave men and women. To accord such repugnant acts of disrespect and defiance, constitutional protection based on some legal interpretation of "free speech" defies logic and must not be permitted to continue.

"We, the people" have the right and the obligation to protect our flag by adopting a narrowly drawn constitutional amendment which will settle this issue once and for all. Statutes which existed prior to *Texas v. Johnson* have been overturned. Congress' attempt to draft new flag-protection legislation now faces the constitutional challenge we predicted it would.

The only sure course is the one that made the most sense from the beginning: amend the Constitution. The articles in this special issue provide the information you need to help us accomplish this objective.

Our flag deserves this protection. It is the torch the poet spoke of that we the living must hold high and pass on to future generations. We have a commitment to those who are no longer with us, as well as to those who will follow us, to Stand By Our Flag.

The American Legion



1314 TOPEKA AVENUE TOPEKA, KANSAS 66612 (913) 232-9315

KANSAS DEPARTMENT

RESOLUTION

WHEREAS, The United States Supreme Court has held that the burning of the American Flag is a protected form of free speech under the First Amendment of the United States Constitution; and

WHEREAS, The American Flag has served as a rallying force for American fighting men from Yorktown to Khe Sanh and the Persian Gulf; and

WHEREAS, Millions of Americans hold the American Flag in deep reverence. This is evidenced by the fact that Flag desecration was prohibited by an act of Congress and by the laws of 48 of the 50 states; and

WHEREAS, The American Flag symbolizes the ideas of liberty and equality. It symbolizes what our nation is and what it values. No other American symbol has been as universally honored as the American Flag; and

WHEREAS, Kansans find the desecration of the American Flag to be highly offensive and are appalled by the Supreme Court's decision allowing this type of repugnant behavior to go unpunished; and

WHEREAS, Kansans believe that the right to express displeasure with government is a cherished right protected by the First Amendment. The Flag, however, represents the ideals and beliefs of the nation. Kansans believe that the desecration of the American Flag is an atrocious act which should be prohibited;

NOW THEREFORE, Be it resolved by the House of Representatives of the State of Kansas, the Senate concurring therein: That the Legislature memorialize the Congress of the United States to propose an amendment of the United States Constitution, for ratification by the states, specifying that Congress and the states shall have the power to prohibit the physical desecration of the Flag of the United States; and be it further

RESOLVED, That copies of that resolution be transmitted to the Speaker of the U.S. House of Representatives, the President of the U.S. Senate and all members of the congressional delegation from the State of Kansas.

Charles Yunker
Charles M. Yunker

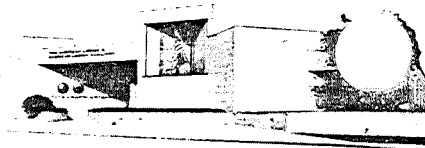
Adjutant, Department of Kansas

Bill Angell
Bill Angell

Commander, Department of Kansas

cc:Governor Joan Finney
Members of House Federal and State Affairs Committee
Senator Edward Riley
Members of Senate Federal and State Affairs Committee

The American Legion



1314 TOPEKA AVENUE TOPEKA, KANSAS 66612 (913) 232-9315

KANSAS DEPARTMENT

January 21, 1990

The Honorable Edward Riley
Chairman, Senate Federal and State Affairs Committee
State House
Topeka, KS 66612

Dear Senator Riley:

During the 1990 Legislative session there was introduced House Concurrent Resolution No. 5036 urging the United States Congress to support an amendment to the United States Constitution that would prohibit the desecration of the American Flag. This resolution died in conference committee late in the session. The resolution has been amended and it is our belief that the amendment was the principal reason it was not passed.

The American Legion of the State of Kansas herewith submits a similar resolution regarding the desecration of the American Flag and respectfully requests that your committee introduce this resolution for the consideration of the entire Legislature.

This seems to us to be particularly appropriate at this time so our men in combat know that we are protecting this symbol of all they are fighting for.

This is a high priority program for The American Legion at both the State and National levels.

The State Headquarters has already received hundreds of resolutions from organizations throughout the state requesting action, with more coming daily.

Thank you for your help and consideration.

Charles Yunker

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