



✚ Texas v. Johnson, 491 U.S. 397 (1989) (USSC+)

✚ Syllabus

✚ During the 1984 Republican National Convention, respondent Johnson participated in a political demonstration to protest the policies of the Reagan administration and some Dallas-based corporations. After a march through the city streets, Johnson burned an American flag while protesters chanted. No one was physically injured or threatened with injury, although several witnesses were seriously offended by the flag burning. Johnson was convicted of desecration of a venerated object in violation of a Texas statute, and a state court of appeals affirmed. However, the Texas Court of Criminal Appeals reversed, holding that the State, consistent with the First Amendment, could not punish Johnson for burning the flag in these circumstances. The court first found that Johnson's burning of the flag was expressive conduct protected by the First Amendment. The court concluded that the State could not criminally sanction flag desecration in order to preserve the flag as a symbol of national unity. It also held that the statute did not meet the State's goal of preventing breaches of the peace, since it was not drawn narrowly enough to encompass only those flag burnings that would likely result in a serious disturbance, and since the flag burning in this case did not threaten such a reaction. Further, it stressed that another Texas statute prohibited breaches of the peace and could be used to prevent disturbances without punishing this flag desecration.

✚ *Held*: Johnson's conviction for flag desecration is inconsistent with the First Amendment. Pp. 402-420 .

✚ (a) Under the circumstances, Johnson's burning of the flag constituted expressive conduct, permitting him to invoke the First Amendment. The State conceded that the conduct was expressive. Occurring as it did at the end of a demonstration coinciding with the Republican National Convention, the expressive, overtly political nature of the conduct was both intentional and overwhelmingly apparent. Pp. 402-406 .

✚ (b) Texas has not asserted an interest in support of Johnson's conviction that is unrelated to the suppression of expression and would therefore permit application of the test set forth in *United States v. O'Brien*, 391 U.S. 367 , whereby an important governmental interest in regulating nonspeech can justify incidental limitations on First Amendment freedoms when speech and nonspeech elements are combined in the same course of conduct. An interest in preventing breaches of the peace is not implicated on this record. Expression may not be prohibited [p*398] on the basis that an audience that takes serious offense to the expression may disturb the peace, since the Government cannot assume that every expression of a provocative idea will incite a riot, but must look to the actual circumstances surrounding the expression. Johnson's expression of dissatisfaction with the Federal Government's policies also does not fall within the class of "fighting words" likely to be seen as a direct personal insult or an invitation to exchange fisticuffs. This Court's holding does not forbid a State to prevent "imminent lawless action" and, in fact, Texas has a law specifically prohibiting breaches of the peace. Texas' interest in preserving the flag as a symbol of nationhood and national unity is related to expression in this case and, thus, falls outside the *O'Brien* test. Pp. 406-410 .

✚ (c) The latter interest does not justify Johnson's conviction. The restriction on Johnson's political expression is content based, since the Texas statute is not aimed at protecting the physical integrity of the flag in all circumstances, but is designed to protect it from intentional and knowing abuse that causes

serious offense to others. It is therefore subject to "the most exacting scrutiny." *Boos v. Barry*, 485 U.S. 312 . The Government may not prohibit the verbal or nonverbal expression of an idea merely because society finds the idea offensive or disagreeable, even where our flag is involved. Nor may a State foster its own view of the flag by prohibiting expressive conduct relating to it, since the Government may not permit designated symbols to be used to communicate a limited set of messages. Moreover, this Court will not create an exception to these principles protected by the First Amendment for the American flag alone. Pp. 410-422 .

✚ 755 S.W.2d 92, affirmed.

✚ BRENNAN, J., delivered the opinion of the Court, in which MARSHALL, BLACKMUN, SCALIA, and KENNEDY, JJ., joined. KENNEDY, J., filed a concurring opinion, *post*, p. 420 . REHNQUIST, C.J., filed a dissenting opinion, in which WHITE and O'CONNOR, JJ., joined, *post*, p. 421 . STEVENS, J., filed a dissenting opinion, *post*, p. 436 . [p*399]

✚ Opinions

✚ BRENNAN, J., Opinion of the Court

✚ JUSTICE BRENNAN delivered the opinion of the Court.

✚ After publicly burning an American flag as a means of political protest, Gregory Lee Johnson was convicted of desecrating a flag in violation of Texas law. This case presents the question whether his conviction is consistent with the First Amendment. We hold that it is not.

✚ I

✚ While the Republican National Convention was taking place in Dallas in 1984, respondent Johnson participated in a political demonstration dubbed the "Republican War Chest Tour." As explained in literature distributed by the demonstrators and in speeches made by them, the purpose of this event was to protest the policies of the Reagan administration and of certain Dallas-based corporations. The demonstrators marched through the Dallas streets, chanting political slogans and stopping at several corporate locations to stage "die-ins" intended to dramatize the consequences of nuclear war. On several occasions they spray-painted the walls of buildings and overturned potted plants, but Johnson himself took no part in such activities. He did, however, accept an American flag handed to him by a fellow protestor who had taken it from a flagpole outside one of the targeted buildings.

✚ The demonstration ended in front of Dallas City Hall, where Johnson unfurled the American flag, doused it with kerosene, and set it on fire. While the flag burned, the protestors chanted, "America, the red, white, and blue, we spit on you." After the demonstrators dispersed, a witness to the flag burning collected the flag's remains and buried them in his backyard. No one was physically injured or threatened with injury, though several witnesses testified that they had been seriously offended by the flag burning. [p*400]

✚ Of the approximately 100 demonstrators, Johnson alone was charged with a crime. The only criminal offense with which he was charged was the desecration of a venerated object in violation of Tex.Penal Code Ann. § 42.09(a)(3) (1989).^[n1] After a trial, he was convicted, sentenced to one year in prison, and fined \$2,000. The Court of Appeals for the Fifth District of Texas at Dallas affirmed Johnson's conviction, 706 S.W.2d 120 (1986), but the Texas Court of Criminal Appeals reversed, 755 S.W.2d 92 (1988), holding that the State could not, consistent with the First Amendment, punish

FLAG LETTERS

Answer Key

Use the letters assigned to answer the following questions.

1. From who and what state did the letters originate?

Responses can include any number of the following:

Frank Sinatra – citizen and celebrity– California

Alexander Stark – citizen and President of the American Jewish Congress – Maryland

Loren F. Ghiglione – citizen and President of the American Society of Newspaper Editors – Massachusetts

Gary Farmer – citizen – Texas

Diva O. DaSilva – citizen - Arizona

Betty Riley Shaw – citizen – New Hampshire

Donald J. Snowden – citizen and cartoonist – Washington

Carolyn Ward – citizen and President of the Massachusetts Town Clerks' Association – Massachusetts

Carl A. Keyser – citizen – New Hampshire

Gene Moore – citizen and Mayor of Boynton Beach – Florida

Robert a. Marshall – citizen and Mayor of San Bruno – California

2. Notice the White House "tracking" worksheet included with the letters. How many people read the letter?

There are three tracking worksheets included in the student packets.

Carolyn Ward (Massachusetts Town Clerks' Association) – 3 people

Gene Moore (Mayor of Boynton Beach) – 4 people

Robert A. Marshall (Mayor of San Bruno) – 3 people

3. Who responded to the letter? What is his/her position in the government?

Responses can include any number of the following:

Frank Sinatra – President of the United States George Bush, 41

Diva O. DaSilva – President of the United States George Bush, 41

Betty Riley Shaw – First Lady Barbara Bush

Donald J. Snowden – Kristin Clark Taylor, Director of Media Relations

Carolyn Ward – President of the United States George Bush, 41

Carl A. Keyser – John H. Sununu, Chief of Staff

Gene Moore – President of the United States George Bush, 41

Robert A. Marshall – President of the United States George Bush, 41

4. If the President responded, why did he answer that particular letter?

He responded to Frank Sinatra personally because they were friends. In the other four letters, he is responding to a letter from a citizen and stating his stance on the issue of flag burning.

5. What points of support did the writer make?

Responses can include any number of the following:

Frank Sinatra – supports President Bush’s call for a ban on flag burning; believes that flag burning should not be considered “free speech”; urges President Bush to speak out against flag burning

Alexander Stark – writing on behalf of the American Jewish Congress; disagrees with the introduction of a flag burning ban; believes that a ban on the practice is endangering the principles that the flag stands for

Loren F. Ghiglione – writing on behalf of the American Society of Newspaper Editors; is against outlawing flag burning; believes that such a move would endanger freedom of speech; argues that the flag itself represents the freedoms that such a ban would curtail

Gary Farmer – supports a ban on flag burning; expresses support through patriotic poetry; supports a constitutional amendment banning flag burning

Diva O. DaSilva – supports the President’s stance against flag burning

Betsy Riley Shaw – supports a ban on flag burning; equates flag burning with other illegal actions that society has taken upon itself to declare illegal; says there is a difference between a riot and a peaceful protest, just as there is a difference between a written protest and burning the flag

Donald J. Snowden – showed his support for a ban on flag burning by drawing a cartoon illustrating his stance and publishing it in the local

Carolyn Ward – writing in representation of the Massachusetts Town Clerks’ Association; they support a ban on flag burning and support a constitutional amendment to enforce it

Carl A. Keyser – supports a ban on flag burning, but believes that it is the responsibility of the state and local governments and not the national government; restates the 10th Article of the Constitution to communicate that he believes the federal government has no business making such laws, even if he agrees with the logic behind them

Gene Moore – pledges his full support for an amendment banning flag burning should it come to a vote in Florida; believes it to be a patriotic issue

Robert A. Marshall – supports an amendment banning flag burning; finds the Supreme Court’s decision “distressing” and urges President Bush to continue his efforts to protect the American flag from desecration

6. How did the writer express his/her feelings about the case and its connection to the First Amendment?

Answers may vary – see question #5

Johnson for burning the flag in these circumstances.

✚ The Court of Criminal Appeals began by recognizing that Johnson's conduct was symbolic speech protected by the First Amendment:

✚ Given the context of an organized demonstration, speeches, slogans, and the distribution of literature, anyone who observed appellant's act would have understood the message that appellant intended to convey. The act for which appellant was convicted was clearly "speech" contemplated by the First Amendment.

✚ *Id.* at 95. To justify Johnson's conviction for engaging in symbolic speech, the State asserted two interests: preserving the flag as a symbol of national unity and preventing breaches of the peace. The Court of Criminal Appeals held that neither interest supported his conviction. [p*401]



✚ Case Information

✚ Texas v. Johnson

✚ No. 88-155

✚ SUPREME COURT OF THE UNITED STATES

✚ 491 U.S. 397

✚ March 21, 1989

✚ June 21, 1989

✚ CERTIORARI TO THE COURT OF CRIMINAL APPEALS OF TEXAS

✚ Syllabus

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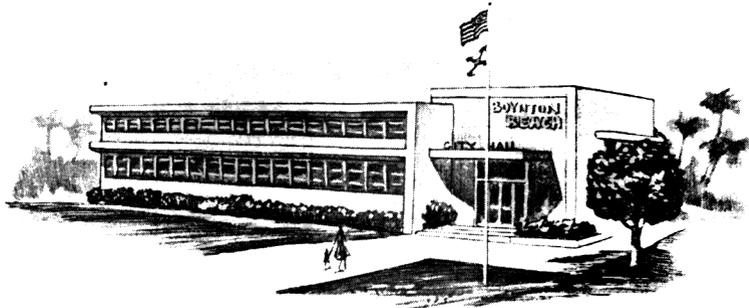
✚ Opinions

✚ BRENNAN, J., Opinion of the Court

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CITY of BOYNTON BEACH



211 S. Federal Highway
P. O. Box 310
Boynton Beach, FL 33425-0310

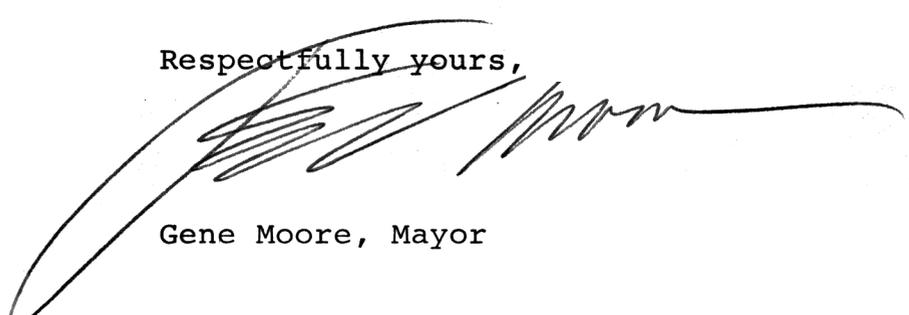
June 28 1989

Hon. George Bush
President of the
United States of America
Oval Office
White House, Washington, D.C.

Dear President Bush:

I commend you on your patriotic stand in opposition to Flag burning. I pledge to you my full support on the issue when the proposed Constitutional Amendment is considered by our Florida Legislation for ratification.

Respectfully yours,



Gene Moore, Mayor

P.S. Ted is presently in Massachusetts General Hospital for knee surgery. Maybe you can beat him in a game of tennis after this operation. He is also having his conscience removed. (A minor operation.)

GM/bar

cc Ted Williams

August 3, 1989

Dear Mayor Moore:

Thank you for your recent message. I appreciate your concerns regarding the Supreme Court's decision on flag burning.

While I have the highest respect for the Supreme Court and an individual's right to protest government action, I am nevertheless deeply disturbed by the Court's decision, which, for the first time, recognizes an individual's right to burn the flag. To burn the flag is to dishonor it, and this is simply wrong. In allowing such conduct, we turn our backs on our history; on the ideals of honor, freedom, and justice; and on all those who fought and died to protect our democracy.

I believe that the surest way to preserve these ideals is to support a Constitutional amendment to protect the flag. I have worked closely with Congressional leaders to draft an amendment that gives the Congress and the States a narrow power to prohibit physical desecration of the flag. In my opinion, this proposed amendment also preserves the widest possible range of freedom of expression.

Be assured I understand the sentiments that prompted you to write, and I appreciate having your views on this issue.

With best wishes,

Sincerely,

GEORGE BUSH

The Honorable Gene Moore
Mayor of Boynton Beach
Post Office Box 310
Boynton Beach, Florida 33425-0310

890808

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P-39



COUNTY OF PRINCE GEORGE

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OFFICE OF THE
COUNTY ADMINISTRATOR
JOHN G. KINES, JR.

June 28, 1989

BOARD OF SUPERVISORS
SAMUEL L. BLAND
HARRY G. KING
JOHN H. MINOR
HENRY D. PARKER, JR.
MARION B. WILLIAMS

The Honorable George Bush
The White House Office
1600 Pennsylvania Avenue NW
Washington, D.C. 20500

Mr. President:

Enclosed is a resolution adopted by the Prince George County Board of Supervisors on June 27, 1989, opposing the United States Supreme Court decision that legalizes the desecrating of the United States Flag. The Board requests that you support constitutional legislation overturning the decision.

This decision by the Supreme Court has shocked the Nation and has disillusioned many patriotic Americans. Your efforts to correct this grievous decision will be much appreciated.

Sincerely,

John G. Kines, Jr.
County Administrator

JGK:rf

Board of Supervisors
County of Prince George
Prince George, Virginia

Resolution

At a regular meeting of the Board of Supervisors of the County of Prince George held in the Circuit Courtroom of the County of Prince George on the 27th day of June, 1989:

Present:

Vote:

Harry G. King, Chairman	Yea
Henry D. Parker, Jr., Vice Chairman	Yea
Samuel L. Bland	Yea
John H. Minor	Yea
Marion B. Williams	Yea

On motion of Mr. Bland, which carried unanimously, the following resolution was adopted:

WHEREAS the United States Supreme Court has ruled that our Nation's Flag may be burned or desecrated as an act of opposition or revolt; and

WHEREAS this ruling by the Supreme Court that voids laws against flag burning in forty-eight states shakes the very foundation upon which this Nation was formed; and

WHEREAS the Bill of Rights of the United States Constitution does not permit desecration of this symbol that represents our Nation; and

WHEREAS combat veterans have lost their lives defending the right of United States citizens to fly the United States Flag; and

WHEREAS the Flag is the single-most important symbol of our nationalism; and

WHEREAS the Flag is a symbol of our national pride representing the fairness, equality and equal opportunity upon which our Nation exists; and

WHEREAS the American Flag is a symbol of hope to immigrants that seek to become Americans and a source of encouragement for freedom-seeking individuals in other Nations;

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Prince George County this 27th day of June, 1989, that it condemns and opposes the Supreme Court decision that legalizes the desecration of the United States Flag; and

BE IT FURTHER RESOLVED that the Board urges that the United States Congress and the President adopt constitutional legislation for approval by State legislatures to overturn this Supreme Court decision.

A Copy Teste:



John G. Kines, Jr.
County Administrator

THE WHITE HOUSE

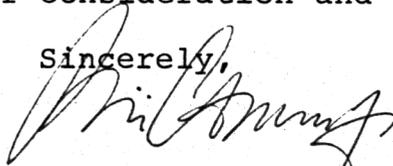
WASHINGTON

July 7, 1989

Dear Mr Kines:

On behalf of the President, I would like to thank you for forwarding resolution #R-89-109. I have taken the liberty of sharing your resolution with the appropriate officials in the Administration for their consideration and review.

Sincerely,



William J. Canary, Jr.
Special Assistant to the President
for Intergovernmental Affairs

Mr. John G. Kines, Jr.
Administrator, County of Prince George
Office of County Administrator
P.O. Box 68
Prince George, Virginia 23875



City of San Bruno

567 EL CAMINO REAL
SAN BRUNO, CALIFORNIA 94066

(415) 877-8856

June 27, 1989

The President of the United States,
George H.W. Bush
The White House
Washington, DC 20500

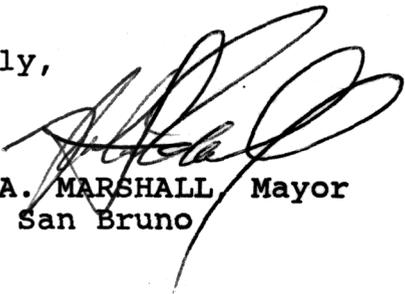
Dear Mr. President:

A unanimous San Bruno City Council applauds and supports your recent call for a constitutional amendment to overturn the recent Supreme Court ruling of Texas vs. Johnson. The City of San Bruno finds the Supreme Court's ruling in this matter both distressing and repugnant.

Chief Justice Rehnquist was correct in his dissent stating that democracies should legislate against conduct that is so "profoundly offensive to the majority." A constitutional amendment against flag desecration would correctly reflect our community's feelings.

Again, the City of San Bruno strongly supports your efforts to protect the American Flag from further desecration under the misnomer of "free speech."

Sincerely,



ROBERT A. MARSHALL, Mayor
City of San Bruno

August 11, 1989

Dear Mayor Marshall:

Thank you for your recent message. I appreciate your concerns regarding the Supreme Court's decision on flag burning.

While I have the highest respect for the Supreme Court and an individual's right to protest government action, I am nevertheless deeply disturbed by the Court's decision, which, for the first time, recognizes an individual's right to burn the flag. To burn the flag is to dishonor it, and this is simply wrong. In allowing such conduct, we turn our backs on our history; on the ideals of honor, freedom, and justice; and on all those who fought and died to protect our democracy.

I believe that the surest way to preserve these ideals is to support a Constitutional amendment to protect the flag. I have worked closely with Congressional leaders to draft an amendment that gives the Congress and the States a narrow power to prohibit physical desecration of the flag. In my opinion, this proposed amendment also preserves the widest possible range of freedom of expression.

Be assured I understand the sentiments that prompted you to write, and I appreciate having your views on this issue.

With best wishes,

Sincerely,

GEORGE BUSH 

The Honorable Robert A. Marshall
Mayor of San Bruno
567 El Camino Real
San Bruno, California 94066

GB/RVL/COUNSEL/SMG/JC/lynn--(PC4--HD)
P-39

890816

City of North Vernon

101 Madison Avenue
North Vernon, Indiana 47265

Jerry A. Lamb, Mayor

(812) 346-3789

President George Bush
The White House
Washington D.C. 20500

June 26, 1989

Dear President Bush:

I am writing to voice my disgust with the Supreme Court decision concerning the burning of our flag and the decision concerning dial-a-porn.

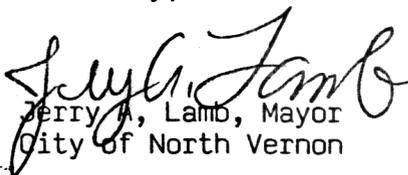
I am a father of three, mayor, small business man, Sunday school teacher and a Vietnam Veteran and a Christian. I try to instill in my children and the church I attend that the only thing that matters is God and Country. The Supreme Court has made a mockery of this.

To hide behind "Freedom Of Speech" is a cop out. I feel the members of the court should be held responsible for this ludicrous decision. If our Fore-fathers had any idea this type of disgusting ruling would be played under the name of free speech they would have never formed a country as great as ours.

The Bible teaches us to respect man's law until it goes against God's law. The only Supreme Court we should worry about is the one in Heaven.

I don't need an answer, my answer will be in getting this decision over turned. And in getting the Judges off the bench. Surely they answer to someone.

Sincerely,


Jerry A. Lamb, Mayor
City of North Vernon



357 Court Avenue
Memphis, TN 38103-2365
(901) 527-5481

JUL 25 1989

President George Bush
The White House
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Dear President Bush:

I have been appalled as millions of other Americans at the corruption of justice in this land based upon recent decisions of our judicial system. For example, it is incomprehensible that all who have pledged allegiance to our flag both in war and peace for appromixately two centuries, now must tolerate those in our midst who would desecrate the very emblem of our nation, just as enemies on foreign soil.

It is even more appalling that we have legalized the shedding of innocent blood of twenty-three million unborn when our Declaration of Independence proclaimed our commitment to protect life 200 years ago.

A third area of concern has to do with the erosion of the liberty guaranteed under the first Amendment to freely practice the religion of our forefathers. We call ourselves "One Nation under God" and yet the state is setting itself above God, by removing the freedom to express our faith in our Maker, by requiring evolutionary teaching to our children, at the same time prohibiting the historic and more logical scientific creation view, by removing the Ten Commandments and the historic Judeo-Christian values of our nation from our classrooms and other reminders of our religious heritage from our public buildings-this is all a total contradiction of 200 years of our identification as a free people who could freely express our faith that we are "One Nation under God" and that it is "in God we trust."

It is incomprehensible to think that as Americans with our Constitutional guarantees of freedom of religion, that nine people unelected to public office, can tell almost 250,000,000 people they can no longer communicate their faith to their children as we have done for almost two centuries. This tells me that our President must be especially careful in any future appointments made to this powerful unelected court that is supposed to be the final court of all justice.

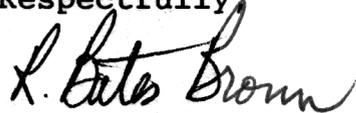
President George Bush
July 13, 1989
Page Two

When writing the First Amendment in the Bill of Rights, our forefathers stated clearly that Congress should pass no laws restricting the free exercise of religion in these United States, thinking that only the legislative branch had the privilege of passing such laws, never considering that nine justices would later take upon themselves to restrict the rights of Americans in the free exercise of their religious heritage. Mr. President, we must get only those on the court who respect the Constitution as it was intended and interpreted until the latter half of this Century, or we will soon be a socialist state with nine people (an unelected politburo) making all decisions for the other 240,000,000 of us.

I do haste to move on to a fourth and final area of concern and shame—that we are in the process of prosecuting and yes persecuting some of our most loyal American citizens who have sworn themselves to protect this country from its enemies, as members of the National Security Council and armed forces serving under the direction of their Commander-in-Chief, the President of the United States. Their putting their lives on the line to free American hostages from Iran and seeking to put an end to terrorist attacks, and seeking to enforce the Monroe doctrine, which has been the official policy of this country going back to its earliest days, has been rewarded with fines, threatened personal bankruptcy and imprisonment.

If our nation's highest leadership allows the continued prosecution of some of America's finest citizens, who are seeking to keep the world safe for democracy, are to be treated with such contempt, how can we hope to continue to recruit loyal young Americans who will defend us from our enemies. I am utterly ashamed and offended that millions of our tax dollars (over 10 times the amount raised from our private citizens to help the freedom fighters) is being used to seek to punish those seeking to carry out the policies of their President and Commander-in-Chief. I do hope you will rectify this shameful and disgraceful situation by granting full pardon to all these loyal Americans. Millions of us are counting on you to do all in your power to do what is right in overturning the court decisions that are corrupting our nation and ending our freedom. I look forward to hearing from you.

Respectfully



R. Bates Brown

RBB/ao

THE WHITE HOUSE
WASHINGTON

October 17, 1989

Dear Mr. Brown:

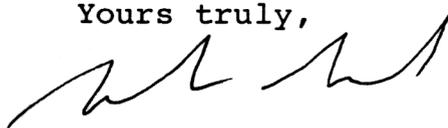
Your letter to the President of July 13 has been referred to me for reply. In your letter, you criticized a number of judicial decisions and urged the President to do what he can to secure changes that you regard as desirable.

We have studied your letter carefully, and appreciate your taking the time to share your views. As I am sure you know, the President has already taken steps consistent with a number of your recommendations. He has, for example, publicly stated his support for a constitutional amendment protecting the lives of unborn children. He also responded to the Supreme Court's recent flag-burning decision by supporting a constitutional amendment that would permit government to outlaw desecration of the flag.

No vacancies have occurred on the Supreme Court during this Administration. Should that happen, the President will certainly exercise the greatest care in choosing a nominee with exceptional qualifications and an appropriate judicial philosophy.

Your letter reflects a deep concern with important matters of public policy, and we welcome the opportunity to consider your input on these issues. Thank you again for writing.

Yours truly,



Nelson Lund
Associate Counsel to the President

Mr. R. Bates Brown
Riverside Press
357 Court Avenue
Memphis, TN 38103-2365



BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES
383 HALL OF ADMINISTRATION / LOS ANGELES, CALIFORNIA 90012

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MICHAEL D. ANTONOVICH

LARRY J. MONTEILH, EXECUTIVE OFFICER
(213) 974-1411

July 6, 1989

The President
The White House
Washington, DC 20500

Dear Mr. President:

We are outraged at the recent Supreme Court decision to allow desecration of the United States Flag, this Nation's most sacred symbol of freedom and liberty for all.

Therefore, we strongly urge Congress to promptly enact legislation that would make it illegal to destroy or desecrate the United States Flag.

Sincerely yours,

EDMUND D. EDELMAN
CHAIRMAN
SUPERVISOR, 3rd DISTRICT

KENNETH HAHN
SUPERVISOR, 2nd DISTRICT

DEANE DANA
SUPERVISOR, 4th DISTRICT

MICHAEL D. ANTONOVICH
SUPERVISOR, 5th DISTRICT

LJM-11.L1

September 27, 1989

Dear Mr. Edelman:

Thank you for your message. I agree with you and Supervisors Hahn, Dana, and Antonovich on the need to protect our flag.

While I have the highest respect for the Supreme Court and an individual's right to protest government action, I am nevertheless deeply disturbed by the Court's decision, which, for the first time, recognizes an individual's right to burn the flag. To burn the flag is to dishonor it, and this is simply wrong. In allowing such conduct, we turn our backs on our history; on the ideals of honor, freedom, and justice; and on all those who fought and died to protect our democracy.

I believe that the surest way to preserve these ideals is to support a Constitutional amendment to protect the flag. I have worked closely with Congressional leaders to draft an amendment that gives the Congress and the States a narrow power to prohibit physical desecration of the flag. In my opinion, this proposed amendment also preserves the widest possible range of freedom of expression.

Be assured I understand the sentiments that prompted you to write, and I appreciate having your views on this issue.

With best wishes,

Sincerely,

GEORGE BUSH

The Honorable Edmund D. Edelman
Chairman
Board of Supervisors of the
County of Los Angeles
383 Hall of Administration
Los Angeles, California 90012

GB/RVL/COUNSEL/SMG/TL/JC/ckb (9PMNE)
P-39var

cc: David Tiffany

891003

June 26, 1989

M E M O R A N D U M

TO: SENATOR DOLE
FROM: DENNIS SHEA
SUBJECT: CONGRESSIONAL RESPONSE TO FLAG-BURNING DECISION

Constitutional Amendments

Last week, Senators Thurmond, Wilson, Grassley, and Hatch introduced constitutional amendments aimed at prohibiting flag desecration.

A. Thurmond Amendment

The constitutional amendment introduced by Senator Thurmond reads as follows: "The Congress of the United States and the States have the power to prohibit the desecrating, mutilating, defacing, defiling, or burning of the flag of the United States."

Problem: This amendment does not prohibit the act of laying the flag on the ground or the floor -- the very conduct proscribed by the Dole/Dixon bill.

B. Wilson Amendment

The constitutional amendment introduced by Senator Wilson reads as follows: "The Congress shall have the power to protect the integrity of the flag of the United States by appropriate legislation."

Problem: This amendment is too open-ended. It will spawn litigation over what Congress actually meant by the phrase "the integrity of the flag."

C. Hatch Amendment

The constitutional amendment introduced by Senator Hatch reads as follows: "Congress shall have the power to prohibit public conduct which knowingly casts contempt upon the flag of the United States....No provision of this Constitution shall be construed as limiting the power of the several States to prohibit public conduct which knowingly casts contempt upon the flag of the United States."

Problem: Like the Wilson amendment, this amendment is too open-ended. It will spawn litigation over what Congress actually meant by the phrase "knowingly casts contempt."

D. Grassley Amendment

The constitutional amendment introduced by Senator Grassley reads as follows: "The Congress shall have the power to enact any law that prohibits conduct against the flag including publicly mutilating, defacing, defiling, burning, or trampling upon any flag of the United States, including appropriate civil and criminal penalties. The Congress shall have the power to enforce this article by appropriate legislation."

Problem: This amendment is the best of the four amendments. Nevertheless, it does not specifically proscribe the act of "laying the flag on the ground or the floor." Unlike the Thurmond amendment, it also does not give specific legislative authority to the States to proscribe flag desecration.

D. Proposed Dole Amendment

In light of these deficiencies in the Thurmond, Wilson, Hatch, and Grassley amendments, you may want to introduce your own constitutional amendment. Your amendment would essentially graft the language of the Dole/Dixon bill onto the Grassley amendment.

Of course, your decision to introduce a separate constitutional amendment may depend upon the timing of the Administration's decision to transmit its own constitutional amendment.

The proposed Dole amendment would read as follows: "The Congress of the United States and the States shall have the power to enact any law that prohibits the desecrating, mutilating, defacing, defiling, burning, or trampling of the flag of the United States, or the laying of the flag of the United States on the ground or on the floor in a public area. The Congress and the States shall have the power to enforce this article by appropriate legislation, including legislation creating appropriate civil and criminal penalties."

White House Meeting

Later today, I will be attending a meeting of the White House staff and the staffs of Senator Thurmond and Rep. Michel. The purpose of the meeting is to discuss the President's proposal to transmit a constitutional amendment to Congress.

At the meeting, I will recommend the language contained in the proposed Dole amendment. I will also express your strong desire to introduce in the Senate the constitutional amendment that is ultimately transmitted to Congress by the President.

PROPOSED DOLE AMENDMENT TO THE CONSTITUTION

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within seven years from the date of its submission by the Congress:

Section 1. The Congress of the United States and the States shall have the power to prohibit the desecrating, mutilating, defacing, defiling, burning, or trampling of the flag of the United States, or the laying of the flag of the United States on the ground or on the floor in a public area.

Section 2. The Congress and the States shall have the power to enforce this article by appropriate legislation, including legislation creating appropriate civil and criminal penalties.

THE WHITE HOUSE
WASHINGTON

July 31, 1989

Dear Mr. Cox:

Thank you for your recent letters to the President, expressing your views regarding the Supreme Court's decision, which, for the first time, recognizes an individual's right to burn the flag.

This Administration has the highest respect for the Supreme Court and an individual's right to protest government action. However, to burn the flag is to dishonor it, and this is simply wrong. In allowing such conduct, we turn our backs on our history, on the ideals of honor, freedom and justice; and on all those who fought and died to protect our democracy.

The surest way to preserve these ideals is to support a Constitutional amendment to protect the flag. We have worked closely with Congressional leaders to draft an amendment that gives the Congress and the States a narrow power to prohibit physical desecration of the flag. This proposed amendment also preserves the widest possible range of freedom of expression.

Be assured that we understand the sentiments that prompted you to write to the President, and we appreciate having your views on this issue.

Sincerely,



Brent O. Hatch
Associate Counsel to the President

Mr. Elmer F. Cox
President and Executive Director
Friends of the United States Flag, Inc.
1445 Mac Arthur Road
Madison, Wisconsin 53714

Friends Of The United States Flag, Inc.

1445 Mac Arthur Road, Madison, Wisconsin 53714

(608)249-0938

June 22, 1989

The Honorable George Bush,
President, The United States of America
Washington, D/ C., with Copies to the
United States Supreme Court and Members of Congress

Dear Mr President,

As Vegerans Of World War Two, and Korean and members of the VFW and American Legion and Auxiliaries, we Deplore the Action of the U.S. Supreme Court in condoning the burning of a United States Flag. This will, no doubt result in a Rash of Flag Burnings for various excuses .

In a recent Case in Federal Court for the Western District of Wisconsin, Federal Judge John Shabaz , said regarding misuse of the United States , that the Federal Flag Code of 1976, carries no Federal Penalties, and that we should go to Congress for remedies for misuse of the United States Flag.

The 1942 Flag Code as signed into Law by former President Franklin Roosevelt did have Penalties as shown by Par 700, copy enclosed.

We also enclose a copy of the finding of the 9th District Court of Appeals re. misuse of the United States Flag.

We ask you to ask the Supreme Court to review this Permission for Flag Burning as a Political Protest , in behalf of the many Millions of Men and Women Veterans who fought for that Flag, as well as the United States Public, who, I noted yesterday, were outraged and crestfallen by this decision.

As I volunteered to former Predident Ronald Reagan, I would be willing to serve on a new Flag Code Board, to try to strngthen the Pro tion of the United States Flag.

In Patriotism,

Elmer F. Cox
Elmer F. Cox

President and Executive Director
Copies, U.S. Supreme Court ,Members of Congress.

NON-PROFIT CORPORATION, ORGANIZED TO PROMOTE PROPER FLYING AND USE OF THE FLAG OF THE UNITED STATES OF AMERICA, AND TO REPORT TO AUTHORITIES FLAGRANT VIOLATIONS OF THAT FLAG.

PLEDGE OF ALLEGIANCE TO THE FLAG

"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."

Information copy of Flag desecration cases.

who were communicating ideas by marching, picketing, and patrolling on streets and highways.

During the Vietnam War some of those opposed to that conflict argued that the burning of draft cards was a form of symbolic speech, and that laws prohibiting it were constitutional. The Supreme Court disagreed and upheld the convictions of draft card burners.

Apparently prompted by the burning of draft cards, Congress decided to amend the law dealing with flag profanation in the District of Columbia. On July 5, 1968 it passed a law "to prohibit desecration of the flag, and for other purposes," which became the major federal legislation on the subject. The law states that: "Whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it shall be fined not more than \$1,000 or imprisoned for not more than one year, or both." The constitutionality of this law was soon challenged.

On January 20, 1969, while waiting for the start of the inaugural parade in Washington, D.C., Thomas Wayne Joyce removed a small American flag from a stick he was carrying, tore the fabric so that it could be tied to his right index finger, and waved his right hand above his head in a V sign. A detective who witnessed the act arrested Joyce for mutilating a flag and a District of Columbia court found him guilty. In appealing his case, Joyce argued that the law against desecration was too broad and unconstitutionally vague, and that it abridged his freedom of speech. The United States Court of Appeals of the District of Columbia rejected these arguments. It ruled that there was a difference between physical acts and free speech, and that the United States had a substantial, genuine and important interest in protecting the flag.

Sixteen months after Joyce's action a flag was burned in Arizona as part of a protest against the war in Vietnam. On May 6, 1970 a group of students assembled in the R.O.T.C. building at the University of Arizona. Sharon K. Crosson and another woman carried a fifty-star United States flag into the gathering. Mrs. Crosson put the flag on the floor, sprayed it with a substance from a can, and lighted it with a match. Several of the bystanders also threw lighted matches on the flag. These actions were observed by undercover agents of the Arizona Department of Public Safety, and Mrs. Crosson was arrested, tried and convicted for publicly burning a United States flag. She was sentenced to four months in jail and fined. Crosson appealed her case and the District Court of Arizona found that her action was symbolic speech, agreeing with her contention that the state law against flag desecration should be declared unconstitutional.

The case was then referred to the United States Court of Appeals, 9th District, which on May 26, 1972, ruled against Mrs. Crosson. It struck down the argument about symbolic speech, and found her guilty of violating the federal law against flag desecration. It ruled that the law was not unconstitutionally vague, and that the sentence did not constitute cruel and unusual punishment. So, in both the Joyce and Crosson cases the courts upheld the federal law against flag desecration.

With the end of the Vietnam War in 1975 public protests by Americans that involved acts of disrespect to the flag became rare. The Bicentennial years, and especially the public celebrations in 1976 and 1977, provided an opportunity for Americans to reflect upon their heritage and on the ideas and symbols that united them. In 1976 Congress further clarified points in the laws regarding individual conduct during the playing of the national anthem and the manner

pursuant to this Act shall be fined not more than \$10,000 or imprisoned for not more than two years, or both; but if the amount so embezzled, misapplied, stolen, or obtained by fraud does not exceed \$100, he shall be fined not more than \$1,000, or imprisoned not more than one year, or both.

(b) Whoever, by threat of procuring dismissal of any person from employment or of refusal to employ or refusal to renew a contract of employment in connection with a grant or contract of assistance under the Comprehensive Employment and Training Act of 1973, induces any person to give up any money or thing of any value to any person (including such grantee agency) shall be fined not more than \$1,000, or imprisoned not more than one year, or both..

(Added Pub. L. 93-203, title VII, § 711(a), formerly title VI, § 611(a), Dec. 28, 1973, 87 Stat. 881, renumbered Pub. L. 93-567, title I, § 101, Dec. 31, 1974, 88 Stat. 1845.)

REFERENCES IN TEXT

The Comprehensive Employment and Training Act of 1973, referred to in text, is Pub. L. 93-203, Dec. 28, 1973, 87 Stat. 839, which is classified principally to chapter 17 (§ 801 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 801 of Title 29 and Tables volume.

CHAPTER 33—EMBLEMS, INSIGNIA AND NAMES

- Sec. 700. Desecration of the flag of the United States; penalties.
- 701. Official badges, identification cards, other insignia.
- 702. Uniform of armed forces and Public Health Service.
- 703. Uniform of friendly nation.
- 704. Military medals or decorations.
- 705. Badge or medal of veterans' organizations.
- 706. Red Cross.
- 707. 4-H Club emblem fraudulently used.
- 708. Swiss Confederation coat of arms.
- 709. False advertising or misuse of names to indicate Federal agency.
- 710. Cremation urns for military use.
- 711. "Smokey Bear" character or name.
- 711a. "Woodsy Owl" character, name, or slogan.
- 712. Misuse of names, words, emblems, or insignia.
- 713. Use of likenesses of the great seal of the United States, and of the seals of the President and Vice President.
- 714. "Johnny Horizon" character or name.
- 715. "The Golden Eagle Insignia".

AMENDMENTS

- 1974—Pub. L. 93-318, § 8, June 22, 1974, 88 Stat. 245, added item 711a.
- 1973—Pub. L. 93-147, § 1(b), Nov. 3, 1973, 87 Stat. 855, substituted "Misuse of names, words, emblems, or insignia" for "Misuse of names by collecting agencies to indicate Federal agency" in item 712.
- 1972—Pub. L. 92-347, § 3(c), July 11, 1972, 86 Stat. 462, added item 715.
- 1971—Pub. L. 91-451, § 2, Jan. 8, 1971, 84 Stat. 1941, added, "and of the seals of the President and Vice President," following "United States" in item 713.
- 1970—Pub. L. 91-419, § 4, Sept. 25, 1970, 84 Stat. 871, added item 714.
- 1968—Pub. L. 90-381, § 2, July 5, 1968, 82 Stat. 291, added item 700.
- 1966—Pub. L. 89-807, § 1(b), Nov. 11, 1966, 80 Stat. 1525, added item 713.

1959—Pub. L. 86-291, § 3, Sept. 21, 1959, 73 Stat. 570, added item 712

1952 Act May 21, 1952, ch. 327, § 2, 66 Stat. 92

1950 Act Sept. 28, 1950, ch. 1092, § 1(a), 64 Stat. 1077, added item 710

1949—Act May 24, 1949, ch. 139, § 14, 63 Stat. 91, inserted "Uniform of armed forces and Public Health Service" in lieu of enumerating the specific branches for section 702.

§ 700. Desecration of the flag of the United States; penalties

(a) Whoever knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it shall be fined not more than \$1,000 or imprisoned for not more than one year, or both.

(b) The term "flag of the United States" as used in this section, shall include any flag, standard colors, ensign, or any picture or representation of either, or of any part or parts of either, made of any substance or represented on any substance, of any size evidently purporting to be either of said flag, standard, color, or ensign of the United States of America, or a picture or a representation of either, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or of any part or parts of either, by which the average person seeing the same without deliberation may believe the same to represent the flag, standards, colors, or ensign of the United States of America.

(c) Nothing in this section shall be construed as indicating an intent on the part of Congress to deprive any State, territory, possession, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

(Added Pub. L. 90-381, § 1, July 5, 1968, 82 Stat. 291.)

CROSS REFERENCES

Penalty for mutilation or use of flag for advertising purposes, see section 3 of Title 4, Flag and Seal, Seat of Government, and the States.

§ 701. Official badges, identification cards, other insignia

Whoever manufactures, sells, or possesses any badge, identification card, or other insignia, of the design prescribed by the head of any department or agency of the United States for use by any officer or employee thereof, or any colorable imitation thereof, or photographs, prints, or in any other manner makes or executes any engraving, photograph, print, or impression in the likeness of any such badge, identification card, or other insignia, or any colorable imitation thereof, except as authorized under regulations made pursuant to law, shall be fined not more than \$250 or imprisoned not more than six months, or both.

(June 25, 1948, ch. 645, 62 Stat. 731.)

HISTORICAL AND REVISION NOTES

Based on title 18, U.S.C., 1940 ed., §§ 76a, 76b (June 29, 1932, ch. 306, §§ 1, 2, 47 Stat. 342; May 22, 1939, ch. 141, 53 Stat. 752).

Sections were consolidated.

September 27, 1989

Dear Mr. Burnham:

Thank you for your recent message. I appreciate your concerns regarding the Supreme Court's decision on flag burning.

While I have the highest respect for the Supreme Court and an individual's right to protest government action, I am nevertheless deeply disturbed by the Court's decision, which, for the first time, recognizes an individual's right to burn the flag. To burn the flag is to dishonor it, and this is simply wrong. In allowing such conduct, we turn our backs on our history; on the ideals of honor, freedom, and justice; and on all those who fought and died to protect our democracy.

I believe that the surest way to preserve these ideals is to support a Constitutional amendment to protect the flag. I have worked closely with Congressional leaders to draft an amendment that gives the Congress and the States a narrow power to prohibit physical desecration of the flag. In my opinion, this proposed amendment also preserves the widest possible range of freedom of expression.

Be assured I understand the sentiments that prompted you to write, and I appreciate having your views on this issue.

With best wishes,

Sincerely,

GEORGE BUSH 

Mr. Darrell E. Burnham
President
National Lodge
American Association of
State Troopers, Inc.
Post Office Box 1108
Tallahassee, Florida 32302

GB/SMG/CH/emu (PC3)
P-39cc

890928

American Association Of State Troopers, Inc.

Post Office Box 1108 - Tallahassee, Florida 32302

July 4, 1989

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

The recent Supreme Court decision allowing the desecration of the flag of the United States of America is a disgrace to every American who believes in our country or who has ever served to sustain our way of life whether in the military or the legal system and their families, as well as those that disagree with our country.

The right to disagree is and should be protected because it is freedom of speech and expression. But to willfully and maliciously desecrate any of our symbols of freedom should be a crime of disgrace and dishonor to the perpetrator and should carry a penalty that will forever be a reminder of the value of our freedoms.

The very people that would dishonor our flag in political protest are actually condemning their own right to disagree and will be the first to try to hide behind her protection. It is our democratic principals that allow them this right and I cannot understand how anyone could slander any symbol of our country that reminds us of our rights and freedoms, especially in light of what recently occurred in the communist country of China.

Our freedom allows us to raise our voices in disagreement without fear of being terrorized, imprisoned or murdered for our beliefs and we can seek truth! We protect the rights of those that disagree. We don't punish or hide political opponents in hospitals, prisons or place them in exile for making mistakes or for speaking out.

As a Florida State Trooper, I risk my life and limb each day to help guarantee the safety and freedoms of our citizens. By protecting the rights of our citizens, I protect my rights. If a citizens rights can be infringed upon by me, then my rights are subject to be infringed upon.

I have just exercised my right to disagree with those that believe Old Glory is nothing more than a piece of cloth and have forgotten her true meaning or would destroy her and I did not have to resort to desecrating any symbol of our countrys freedoms to accomplish my goal. I pray that by the grace of God and with his blessings that she will wave, untarnished, proud, and ever forgiving, over the United States of America, a nation dedicated to freedom, forever.

Yours respectfully,

Darrell E. Burnham

Darrell E. Burnham, President
National Lodge

6-29-89
655 S. Clinton, 6B
Denver, CO 80231

J. Boyden Gray
Counsel to the President
The White House
1600 Pennsylvania Av., N.W.
Washington, DC 20500

Dear Mr. Gray:

I hope you will convey my message to President Bush.

I am alarmed that the Supreme Court voted NOT to prosecute the burning of OUR FLAG!

I'm hoping and praying that the Supreme Court will over-turn the Roe vs Wade decision, and make it illegal to take the lives of innocent babies, when there are thousands of childless couples begging for, and waiting for 5-7 years to adopt a baby. Abortion is wrongfully being used for birth-control and an excuse for promiscuity. Not much is being told the public of the millions of dollars that Planned Parenthood is already receiving from the Federal Government, as they promote abortion, while we're trying to reduce the Nat'l Debt. If abortion on request passes millions more of innocent human lives will be snuffed out, and taxpayer's burdens will increase, including those who are totally against killing babies. Nothing much is told us either about the post-abortion trauma and the guilt these women experience afterward. They experience emotional and psychological problems the rest of their lives.

I have heard that U.S. Attorney, Bob Bonner of Los Angeles is stepping down from his post which will necessitate his replacement. As you counsel the President will you please stress the importance of getting someone who is very well informed on the very critical problem of obscenity and pornography, which is very serious in that area, and that he have a background of law enforcement in that field, and in crime.

From President Bush's inaugural speech, etc., he has made it known that he is against abortion, obscenity and pornography, and sees a need of social and legal reforms. Please remind him of these promises.

I thank God that he was elected, and pray that he will be given the wisdom, strength and determination to bring about some good and needful changes in our beloved country. I think he has been doing very well and I'm proud of him. I do hope he will receive a full-hearted support from his Cabinet.

God bless America, and all of you guiding our SHIP OF STATE!

Most sincerely,

Mrs. Anne E. Arnold

THE WHITE HOUSE
WASHINGTON

July 31, 1989

Dear Mrs. Arnold:

Thank you for your recent letter to C. Boyden Gray, expressing your views regarding the Supreme Court's decision, which, for the first time, recognizes an individual's right to burn the flag.

This Administration has the highest respect for the Supreme Court and an individual's right to protest government action. However, to burn the flag is to dishonor it, and this is simply wrong. In allowing such conduct, we turn our backs on our history, on the ideals of honor, freedom and justice; and on all those who fought and died to protect our democracy.

The surest way to preserve these ideals is to support a Constitutional amendment to protect the flag. We have worked closely with Congressional leaders to draft an amendment that gives the Congress and the States a narrow power to prohibit physical desecration of the flag. This proposed amendment also preserves the widest possible range of freedom of expression.

Be assured that we understand the sentiments that prompted you to write, and we appreciate having your views on this issue.

Sincerely,



Brent O. Hatch
Associate Counsel to the President

Mrs. Anne E. Arnold
655 South Clinton, 6B
Denver, Colorado 80231

FRANK SINATRA

June 29, 1989

PHOTOCOPY
MISC. HANDWRITING

Dear Mr. President:

I applaud you long and loud for your reaction to the Supreme Court ruling which permits the burning of the banner you so proudly hail to the world.

Be assured, Sir, I march in your parade with millions of our fellow countrymen and women who are outraged at the behavior of those to whom our flag in flames receive the benediction of the First Amendment behind which too many have hidden for too long.

And I must add that if torching the ultimate symbol of decency and freedom in the world is our generation's expression of freedom of speech then surely the matter now rejected by the Court must enter the legislative arena where this monumental wrong must be righted.

I urge you to be the Washington and Jefferson and Lincoln of our time and continue speaking out as I feel they would have spoken out had such an insult been legalized in their occupancy of what is now your office.

God bless you and your Barbara. The mountains you climb are taller than ours. We know that. We also know our faith in you extends from the East to the West and that our dreams and hopes are in safe hands. You have, as always, my prayers.

Respectfully,

Francis Albert

President George Bush
The White House
Washington, D.C. 20500

FROM
THE WHITE HOUSE
WASHINGTON, D.C.

Mr. Francis Albert Sinatra
1041 North Formosa Avenue
Hollywood, California 90046



THE PRESIDENT

7-7-89

Dear Frank,

I was moved by
your supportive letter on
the flag. Some of the
columnists are tearing me up
but I am right on this one,
and I won't change

890710

my views —

Thanks, my friend —

Cez /



Dear Friends Con Flag Amends

American Jewish Congress

MARYLAND CHAPTER

7504 Seven Mile Lane • Baltimore, Maryland 21208 • 484-8863

SMG-1
ENT

June 20, 1990

Alexander Stark

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The President
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. Bush:

At a recent general membership meeting of this organization I was directed to write to you.

We are dismayed by the proposal for an amendment to the Bill of Rights in reaction to some instances of flag burning. We stand with the decision of the Supreme Court protecting unpopular and even odious expressions of opinion. In our view, an amendment to the Bill of Rights endangers what our flag stands for.

We respectfully ask that you lend the weight of your office to an affirmation of the Bill of Rights and against its erosion.

Sincerely,

Alexander Stark
President
Maryland Chapter
American Jewish
Congress

AS:pn

cc: Maryland Senators
and Congressmen
AJC Maryland Board Members
AJC National Office
AJC Washington Office

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Tel. (703) 648-1144 Fax (703) 620-4557

July 21, 1989

Honorable George Bush
The White House
Washington, DC 20500

Dear Mr. President:

The concept of free speech has been America's single greatest contribution to the human experience. It has served the country and its citizens well for two centuries, in war and peace, prosperity and depression. The proposals Congress is considering in connection with the flag burning issue are profoundly troubling as well as unnecessary.

To give away even a small part of America's great right to free speech would be a historic retrenchment from the basic freedoms that Americans have always enjoyed.

The U.S. Supreme Court correctly held that a law prohibiting the burning of the flag violates the First Amendment's guarantee of free speech.

The First Amendment has been a cornerstone of all the freedoms enjoyed by the American people. The Constitution heretofore has protected dissenting speech, even when it is unpopular or offensive to some segments of the population, or even to the majority of Americans.

Americans who cherish our flag -- and that includes almost all of us -- should refrain from undermining the long-established freedoms that are symbolized in the flag itself.

Sincerely,

Loren F. Ghiglione, President
The News
25 Elm Street
Southbridge, MA 01550

cc: Members of the U.S. Senate and House of Representatives

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POEMS
From the desk of
Gary Farmer



(GB ? modify K-39)
SLR

President George Bush
1600 Pennsylvania Ave.
Washington, D.C. 20500

Dear Sir,

I have enclosed some poems composed by my wife and myself. They declare our position about our Flag, our Soldiers, and our Country. My wife and I support a Constitutional Ammendment that prohibits burning the Flag.

Sincerely,
Gary Farmer
Gary Farmer



P.O. Box 143 Hubbard, Texas 76648



OLD GLORY

JUST THE OTHER DAY
I HEARD SOMEONE SAY
THEY HAVE A RIGHT
TO BURN OLD GLORY

BRAVE MEN FOUGHT AND DIED
MOTHER'S GAVE THEIR SONS AND CRIED
FATHER'S PRAYED SIDE BY SIDE
TO SAVE OLD GLORY

FOR TWO HUNDRED YEARS
SHE'S BEEN STEADFAST AND TRUE
THAT RED, WHITE, AND BLUE
LET HER PROUDLY WAVE, OLD GLORY

FREEDOM STILL RINGS
AND NO ONE HAS A RIGHT
TO BURN OLD GLORY

THE SOLDIER

BRAVE AND STRONG AND TRUE
THE SOLDIER
FIGHTS FOR FREEDOM
IN FAR AND DISTANT LANDS
THE SOLDIER
WILL FIGHT AND DIE
AND NEVER ONCE ASK WHY
THE SOLDIER
DEFENDS MEN'S RIGHT
TO PRAY FOR GOD'S HOLY LIGHT
THE SOLDIER
STANDS ON THE FRONT LINE
WHILE POLITICIANS WINE AND DINE
THE SOLDIER
GIVES HIS ALL
AND ANSWERS HIS COUNTRY'S CALL
THE SOLDIER
BRAVE AND STRONG AND TRUE

MR. LINCOLN SIR

JUST THE OTHER DAY
I HEARD MR. LINCOLN SAY
HOW FARES THE UNION
DOES OLD GLORY PROUDLY WAVE
OVER THE HOME OF THE BRAVE
DOES FREEDOM STILL RING
DO WE STILL SING
OF GOD'S SAVING GRACE
FOR THOSE WHO FOUGHT AND DIED
FROM SEA TO SEA
FOR SWEET LIBERTY
DOES GOD'S BANNER YET WAVE
MR. LINCOLN SIR
THE HEATHEN SAY
IT'S NOT RIGHT TO PRAY
MR. LINCOLN SIR I WONDER
WHAT THE HEATHEN WILL SAY
ON JUDGEMENT DAY

THE WHITE HOUSE

WASHINGTON

September 21, 1989

Dear Ms. DaSilva:

Thank you for your lovely handmade card. Your artwork is a wonderful expression of your patriotism.

I appreciate your taking the time to share with me your concerns regarding the Supreme Court's decision on flag burning. While I have the highest respect for the Supreme Court and an individual's right to protest government action, I am nevertheless deeply disturbed by the Court's decision, which, for the first time, recognizes an individual's right to burn the flag. To burn the flag is to dishonor it, and this is simply wrong. In allowing such conduct, we turn our backs on our history; on the ideals of honor, freedom, and justice; and on all those who fought and died to protect our democracy.

I believe that the surest way to preserve these ideals is to support a Constitutional amendment to protect the flag. I have worked closely with Congressional leaders to draft an amendment that gives the Congress and the States a narrow power to prohibit physical desecration of the flag. In my opinion, this proposed amendment also preserves the widest possible range of freedom of expression.

Be assured I understand the sentiments that prompted you to write, and I appreciate having your views on this issue.

With best wishes,

Sincerely,



Ms. Diva O. DaSilva
318 Winthrop Circle
Mesa, Arizona 85213

890922

Dear President Bush
I'm so proud of you
I support your resolution
about the flag.

I am an emigrant and
when I see the beautiful
flag rise in the
air my heart trembles with
love and respect

when I see my flag
I see my country.

No one would burn
my flag in front of me
I would Crash them.

God bless you M. President.

Sincerely

Scrimshaw Farm
Box 57, Pleasant Street
Alstead, NH 03602

I know you don't have time to answer this but I just wanted you to know how our double service widow feels so George would have something very personal to quote if he needs it - Love Belts

Dear Barbara

God knows no one has given more for their country than my two husbands - one his life - the other his life's work and his health - twice I have been handed a triangular folded flag as you will if you own a Poppy - the only way I know to get my message over is to write you as you wrote me when Jim died (for which I thank you both from the bottom of my heart) - May I suggest that we have many laws governing people's actions - Rape is against the law - it is the law that you may not destroy private property - nor public property - as a means of protest you may not beat up a policeman - Then why is it not perfectly permissible to pass a bill that says you may not desecrate the flag without going to the odious lengths of a

OR a long winded amendment

Constitutional convention to oversee
The supreme court decision - There is,
after all, a difference between a
lawful protest and a riot - what is
The difference then between a written
protest and a burning of a flag - So
far as I can see it is a law, passed
by the legislature, agreeable to the
vast majority of the people - an
action not acceptable just as rape
is not acceptable either in or out of
marriage -

And so I give you my
own thinking - My two folded flags
mean a great deal to me - However I
treasure my right to protest on any
subject I choose to and don't want the
Constitution opened to the whims of
any radical group - So please - a law
that can be passed quickly - NOT an
amendment that can open a can of worms

My best affection to you
both and all success in protecting the
flag (including flag underwear)

Betsy Riley Shaw

THE WHITE HOUSE

August 10, 1989

Dear Bettsy,

Thanks for sharing your thoughts on the flag situation. We know how strongly you feel, and you will be happy to know that many share your concern on this issue.

George joins me in sending our very best wishes.

Warmly,



Mrs. Bettsy Riley Shaw
Scrimshaw Farm
Box 57, Pleasant Street
Alstead, New Hampshire 03602

Joe passed your note on to
George.

THE WHITE HOUSE
WASHINGTON

July 31, 1989

Mr. and Mrs. Donald J. Snowden
11819 - 122nd Avenue KPN
Gig Harbor, Washington 98335

Dear Mr. and Mrs. Snowden:

On behalf of President Bush, thank you for your letter and cartoon.

The President appreciates your support and he welcomes your comments and kind words.

With appreciation of your support and best wishes,

Sincerely,



Kristin Clark Taylor
Director of Media Relations

KCT:vf

JUL 31 REC'D

July 6, 1989

Dear President Bush:

Wanted you to have a copy of my husband's editorial cartoon that was printed in the Peninsula Gateway recently.

The cartoon ran two days before your press conference by the statue of Iwo Jima. Must be great minds running in the same channel!

God bless you for the fine work you are doing.
We are proud of you!

Sincerely,

Mr. & Mrs. Donald J. Snowden

Mr. and Mrs. Donald J. Snowden
11819 - 122nd Avenue KPN
Gig Harbor, WA. 98335





MASSACHUSETTS TOWN CLERKS' ASSOCIATION

Town Clerk Carolyn Ward, President
Town Hall
Winchester, MA 01890
617-721-7130

July 10, 1989

President George Bush
The White House
Washington, D.C. 20510

Dear Mr. President:

I am writing to express the anger and dismay of the Massachusetts Town Clerks' Association over the recent Supreme Judicial Court decision concerning flag burning.

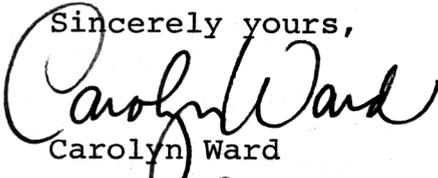
Our association learned of the decision during our summer conference in June attended by over one hundred fifty town clerks from the Commonwealth of Massachusetts. On a motion made by Doris Hill, Town Clerk of Auburn, a resolution was passed to ask the president of the association to communicate our feelings.

As representatives of both large and small municipal governments, who are sworn and authorized to swear others to uphold democracy and all that our flag stands for, we stand behind you in your drive to enact a constitutional amendment to overturn the dismal decision of the Court.

As you and I are summer neighbors in Kennebunkport (I'm in the fish house with the blue shutters at Turbat's Creek - straight ahead as you shoot down the "cross creek" from Cape Porpoise Harbor at high tide), I thought I would try to communicate with you directly.

We applaud your efforts on behalf of our flag and we stand ready to assist in any way we can.

Sincerely yours,


Carolyn Ward
Town Clerk
Winchester, MA

August 11, 1989

Dear Ms. Ward:

Thank you for your recent message. I appreciate your concerns regarding the Supreme Court's decision on flag burning.

While I have the highest respect for the Supreme Court and an individual's right to protest government action, I am nevertheless deeply disturbed by the Court's decision, which, for the first time, recognizes an individual's right to burn the flag. To burn the flag is to dishonor it, and this is simply wrong. In allowing such conduct, we turn our backs on our history; on the ideals of honor, freedom, and justice; and on all those who fought and died to protect our democracy.

I believe that the surest way to preserve these ideals is to support a Constitutional amendment to protect the flag. I have worked closely with Congressional leaders to draft an amendment that gives the Congress and the States a narrow power to prohibit physical desecration of the flag. In my opinion, this proposed amendment also preserves the widest possible range of freedom of expression.

Be assured I understand the sentiments that prompted you to write, and I appreciate having your views on this issue.

With best wishes,

Sincerely,

GEORGE BUSH

Ms. Carolyn Ward
President
Massachusetts Town Clerks' Association
Town Hall
Winchester, Massachusetts 01890

GB/RVL/COUNSEL/SMG/JC/lynn--(PC4--HD)
P-39

890816



CARL A. KEYSER
P. O. Box 441
Rye Beach, NH 03871

June 28, 1989

The Honorable John Sununu
Executive Offices
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C.

Dear Governor:

Perhaps I misunderstand what is written or have missed some of the fine print, but hasn't anyone, a Supreme Court justice, some lawyer practising far from the beltway, a state attorney general, or governor, used car dealer, or even Alan Dershowitz bothered to read the United States Constitution? I quote

"Article I

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

It reads CONGRESS SHALL MAKE NO LAW... , it does not read STATE LEGISLATURES SHALL MAKE NO LAW... .

And the Constitution further states

"ARTICLE X

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States, respectively, or to the people."

So all the twaddle about pornography being protected by the freedom of the press clause, about burning the flag being protected under freedom of the speech (now perverted to mean freedom of expression) clause, about prayer in schools being prohibited by the establishment of a religion clause, about sanctifying abortion, etc. is just that. If it is claimed that this behavior is now protected by past decisions that have now become tradition, then why is even longer standing tradition ignored in the case of pornography, flag desecration, abortion, prayer in schools, and etc.? Why can't state legislatures or even city councils pass laws requiring prayer in schools, laws calling for pledges of allegiance, laws against desecration of the flag and other sacred symbols (including sacrilegious treatises like Rushdie's Satanic Verses or The Last Temptation of Christ), pornography, abortion, etc., etc.? And if the mayor and city council of Center Falls want to put a Christmas tree, or Menorah, or Crescent, etc. on the town common, there is nothing in the Constitution to prevent it even though legal nitwits with the help of ACLU demons have ruled otherwise. All these rights would seem to be rights not delegated to the Congress and reserved to the states and the people, and not denied by the Constitution. What goes on here? Has the Federal Octopus acting through the Supreme Court perverted the words of the Constitution and overwhelmed common sense? Have States' Rights and rights reserved to the people been too long ignored?

An amendment to protect the flag it would seem is unnecessary and should be avoided as it would unnecessarily lengthen a Constitution that is already grown too long. A simple

resolution of Congress reaffirming the Article X should be all that is necessary. However, if Congress surrenders to the popular cry for an amendment the amendment should reaffirm the right of the states and the people to define and prohibit desecration of the sacred symbols (flag, religious artifacts, pictures, etc.), define and prohibit pornography, prohibit abortion or specify the conditions under which it is permitted, prohibit or specify the crimes for which execution is a permitted punishment, etc.

And what about 5 to 4 decisions? Do they mean that some erudite determination of the Court is only 55.556 percent constitutional and 44.444. percent unconstitutional. How can that be? Legislation may be achieved by compromise, but not interpretation of law. Logic would seem to require laws be viewed as either wholly constitutional or wholly un-constitutional. Shouldn't decisions require unanimity? Shouldn't constitutionality or unconstitutionality be absolute?

Sincerely,


Carl A. Keyser

July 7, 1989

Dear Mr. Keyser:

Thank you for your recent message.

I appreciate having the benefit of your views in these matters, and your suggestions will be shared with others in the Administration as well.

With best wishes,

Sincerely,

John H. Sununu
Chief of Staff

Mr. Carl A. Keyser
Post Office Box 441
Rye Beach, New Hampshire 03871

JHS/KW/MO/dsf5
JHS-06

cc: Mike Ortega, 60 OEOB