

Kempthorne	Nunn	Smith
Kyl	Pressler	Snowe
Lott	Reid	Specter
Lugar	Rockefeller	Stevens
Mack	Roth	Thomas
McCain	Santorum	Thompson
Murkowski	Shelby	Thurmond
Nickles	Simpson	Warner

NAYS—36

Akaka	Feingold	Lieberman
Bennett	Glenn	McConnell
Biden	Harkin	Mikulski
Bingaman	Inouye	Moseley-Braun
Boxer	Jeffords	Moynihan
Bradley	Kennedy	Murray
Bumpers	Kerrey	Pell
Chafee	Kerry	Pryor
Conrad	Kohl	Robb
Daschle	Lautenberg	Sarbanes
Dodd	Leahy	Simon
Dorgan	Levin	Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 63, the nays are 36. Two-thirds of the Senators voting not having voted in the affirmative, the joint resolution is rejected.

Mr. CHAFEE. Mr. President, I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator will wait until we get order.

UNANIMOUS-CONSENT REQUEST

Mr. MCCAIN. Mr. President, I ask unanimous consent the Foreign Relations Committee be discharged of further consideration of H.R. 2606 with reference to the use of funds for troops in Bosnia and the Senate then turn to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. MCCAIN. President, I would like to make known the wishes of the majority leader.

Mr. NUNN. Reserving the right to object.

Mr. HATCH addressed the Chair.

The PRESIDING OFFICER. The Senator from Utah.

FLAG DESECRATION
CONSTITUTIONAL AMENDMENT

Mr. HATCH. Mr. President, while they are resolving this difficulty, let me say a few words about the flag amendment. I ask unanimous consent I be given a few minutes to say a few words about the flag amendment.

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

The Senator will suspend until we get the attention of the Senate. I ask that conversations be removed to the Cloakroom.

The Senator from Utah.

Mr. HATCH. Mr. President, I am, of course, disappointed by the outcome. But I predicted at the beginning unless we got three more Democrats, we were not going to be able to prevail, and we could not do that.

I respect the decision of the Senate. I congratulate those on the other side of the issue.

In particular, I congratulate the most important leader of the opposition. Of course, that is President Clinton. President Clinton won this battle. The American people, in my opinion, lost. The President's strong, uncompromising opposition to any amendment protecting the flag whatsoever, expressed on June 6, in testimony before the Constitutional Subcommittee, was too much for the Citizens Flag Alliance and those of us here to overcome.

Had the President supported this amendment, I have no doubt, we would have prevailed. I do not think there is any question about it. So I congratulate the President on this victory.

I assure my colleagues, this amendment is not going to go away. It is a simple amendment. It is a constitutional amendment. It is written in good constitutional form. Frankly, it is not going to go away. The American people are not going to allow it. We will debate it in the next Congress. I hope we have some changes that will enable us to pass it at that time.

I want to particularly thank Senator HEFLIN and Senator FEINSTEIN for their efforts.

I also thank chief counsel Winston Lett, counsel Jim Whiddon, and a former Heflin staffer who worked very hard on this, Gregg Butrus, now at the Notre Dame Law School. I also want to express appreciation to Senator FEINSTEIN and her counsel, Jamie Grodsky.

On my staff, I want to thank John Yoo, Steven Schlesinger, Jasen Adams, and Mark Disler. These people worked long and hard, very sincerely, on this amendment.

This has been not only an important debate but an interesting debate. I think both sides have had a full and fair opportunity to explain their side. I am sorry we lost. On the other hand, we have done the best we can under the circumstances.

Unless there is a change in the U.S. Senate, I do not believe we are going to be able to pass this amendment with the current Senate, so we are hoping in the next Congress we will have enough votes to pass it. Be that as it may, it is going to come up again, whether we do or do not, and we are going to keep bringing it up until we pass it and protect the Nation's national symbol.

I have to say, anybody who really argues this is a denigration of the first amendment just plain does not understand constitutional law, does not understand the more than 21 cases where we have limited the first amendment, and does not understand that this is, full and simple and very plain, to prevent conduct that is offensive to the flag, offensive to the country, and offensive to almost every citizen, and, frankly, the way they have spoken, to every Senator in the U.S. Senate.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Utah.

Mr. BENNETT. Mr. President, I want to take occasion to pay tribute to my senior colleague, Senator HATCH, for

his leadership on this debate on the flag amendment. My one regret in this whole debate has been that some people in the State of Utah have characterized this as an issue that has divided Senator HATCH and me and tried to force us into picking sides.

I did, indeed, vote against the amendment. It was a close vote. These votes are always close matters. My reasoning is that the Constitution of the United States is our basic law and, as such, should be held inviolate from legislative activities.

I realize this was enabling legislation, but I have the fear that, if we start the precedent of amending the Constitution every time there is a Supreme Court decision with which we disagree, we run the risk of seeing the Constitution turned into something other than basic law.

Coming out of a political science background and a lifetime of studying the Constitution, that is where I came down on this particular issue. But I want to make it very clear that I am not backing down from my admiration for and respect for my senior colleague and his scholarship and his leadership.

I hope the people of Utah will understand that this has been an intellectual disagreement between us, and not an emotional disagreement between us. We spent many hours with each other—each trying to understand the other's point of view. I am sure Senator HATCH understands and respects my point of view, as I certainly understand and respect his.

So I hope the people of Utah will understand that this is not something that has driven a wedge between their two Senators.

While I am on the floor, I would like to read into the RECORD just one letter that I have received that I think is illustrative of the way this debate has gone in the State of Utah. The proponents of the amendment have been mounting an advertising campaign in Utah putting up television ads urging the people of our State to contact, write, fax, or phone Senator BENNETT and urge that he vote in favor of this amendment. That, of course, is their appropriate constitutional right. I received this letter in response to that campaign. I would like to read it into the RECORD. It is addressed to the Office of Senator BENNETT regarding the flag burning amendment.

DEAR SENATOR BENNETT: I read the article in this morning's Salt Lake Tribune indicating that your position on the flag burning amendment differs from that of Senator HATCH. I also saw the commercial obviously put on by supporters of the amendment urging that I write you about this issue. I commend you for your independent and thoughtful position as indicated in the Tribune article.

I am a West Point graduate and served with the 3rd Armored Division in Germany and the 5th Special Forces group in Vietnam. I am not in favor of flag burning. But I really don't think we need a constitutional amendment about flag burning. I am strongly convinced that the constitutional provisions