

interpretation, "desecration" and "flag"—who knows what "flag" means? Mr. President, the American experience of 200-plus years teaches us what the word "flag" means, and "desecration" has meaning which can be interpreted by judges of good will.

The Bill of Rights and the 14th amendment to the U.S. Constitution are filled with general statements which the Framers of the Constitution and of the 14th amendment clearly understood need to be phrased relatively generally in order to deal with the variety of circumstances to which they would be applied. Words like "establishment of religion," "unreasonable searches and seizures," leaving "unreasonable" to the interpretation of the courts. "Due process of law"—I can hear the arguments now. What do you mean by "due process"? What do you mean by "just compensation," by "speedy trial"? You need to define it.

Mr. President, one of the geniuses of the Constitution is that it is not defined with all of the precision that we apply to legislation, to laws, and the even greater precision that is applied to regulations to execute those laws. That is the genius of the Constitution.

So, all of the generalized phrases, the "cruel and unusual punishment," "equal protection of the laws," and other generalized statements have served us very well for over 200 years. Certainly for words like "flag," which I suggest has a pretty specific meaning, and even "desecration," which is less so, it is possible to interpret those words in a meaningful and consistent way, particularly, as was noted earlier, if we amend the proposal here to provide for the Federal Government, the Congress, rather than the States, to adopt the legislation that would provide for the protection of the flag.

So, much more will be said about this amendment. Senator HATCH will be here in a moment to discuss the amendment in more detail, to explain the reasons why the Judiciary Committee was able to pass it out with such an overwhelming majority.

I am going to close by quoting from Chief Justice Rehnquist in his dissenting opinion on the decision in the Texas versus Johnson case, which precluded the Congress and the States from any longer protecting the flag. I think these words are appropriate as we think about the possibility that American soldiers will again be sent to foreign lands to fight, and the concern for those people who we put in harm's way, people who defend the ideals of our country. It is appropriate to reflect upon the value of the flag as a symbol to those people.

Let me quote again, as I said, from the dissenting opinion of Justice Rehnquist in Texas versus Johnson. He said:

At Iwo Jima, United States Marines fought hand to hand against thousands of Japanese. By the time the Marines reached the top of Mt. Suribachi they raised a piece of pipe upright and from one end fluttered a flag. That ascent had cost nearly 6,000 lives.

Mr. President, that sacrifice could never be put adequately into words, but the flag symbolizes perfectly what words cannot describe. And it is that symbol that we see when we go to the monument just a couple of miles south of here and see the flag being raised over Mt. Suribachi that recalls so many memories and evokes so many emotions among Americans, that we come to the conclusion that this one very special symbol of America and everything for which it stands should receive minimal protection by the people of the United States. That is why I urge my colleagues to follow the lead of the House of Representatives and submit this question to the people of the United States to determine whether or not they want to amend the Constitution to protect the flag from desecration.

Mr. President, I yield the floor to Senator ROTH. At the time that Senator HATCH comes, he will speak further to the issue of the flag.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, first of all, let me express my appreciation to the distinguished Senator from Arizona for his courtesy and compliment him on his most eloquent statement.

Mr. President, I ask unanimous consent to speak as in morning business.

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

#### WELFARE REFORM

Mr. ROTH. Mr. President, there are alarming signals coming from the White House that President Clinton may veto welfare reform. Instead of ending welfare as we know it, the Administration apparently intends to continue politics as usual.

From the early days of his administration, President Clinton promised welfare reform to the American people. On February 2, 1993, he told the Nation's Governors that he would announce the formation of a welfare reform group within 10 days to work with the Governors to develop a welfare reform plan. At that meeting, the President outlined four principles which would guide his administration to reform welfare.

The first principle as outlined by the President is that "welfare should be a second chance, not a way of life." In further defining what these means, the President stated that people should work within 2 years and that, "there must be—a time-certain beyond which people don't draw a check for doing nothing when they can do something." On July 13, 1993, President Clinton went even further and told the National Association of County Officials that a 2-year limit could be put on welfare. He said, "you shouldn't be able to stay on welfare without working for more than a couple of years. After that, you should have to work and earn income just like everybody else." He went on to say, "And if you put the

building blocks in, you can have a 2-year limit on welfare as we know it. You would end the system as it now exists."

Mr. President, that is a strong statement and a bold challenge. H.R. 4, the "Personal Responsibility and Work Opportunity Act of 1995," meets this first principle. We require people to work after 2 years and place a 5-year limit on the receipt of Federal benefits. Let me repeat this. We provide not a 2-year limit on benefits, but a 5-year limit. And, I might add, the conference report on H.R. 4 allows the States to exempt up to 15 percent of their caseload from this limit.

The President's support for time limits, by the way, is one of the many ironies throughout the welfare reform debate. A good deal of attention has been focused on the analysis done by the Department of Health and Human Services on the impact the various welfare bills would have on families and children. The single greatest reason families would become ineligible for benefits is the 5 year limit. It is a bit inconsistent for the President to embrace a time limit but invite criticism of our proposal for a 5-year limit on benefits.

The second principle, as outlined by the President, is "we need to make work pay." The President indicated, that through the earned income credit program, "we ought to be able to lift people who work 40 hours a week, with kids in their home, out of poverty."

The Republican balanced budget plan is consistent with this second principle outlined by the President. Under our plan, the EIC continues to grow. We are targeting the EIC program to those most in need.

The administration has criticized the Balanced Budget Act for its provisions on EIC. But I believe it is both fair and accurate to point out that in expanding the EIC, the Clinton administration and the Democratic 103d Congress went far beyond the President's stated goal as well as beyond the original goals of this program. For example, they expanded the credit to individuals who did not have children at home.

We have found unacceptable levels of errors, abuse, and waste in this program. Spending for the EIC is quite simply out of control. We have proposed a responsible and reasonable reform of the EIC program separate from H.R. 4. Our welfare bill does not conflict with the President's principle on work.

The third principle of welfare reform outlined by President Clinton some 34 months ago is that tougher child support enforcement is needed. H.R. 4 fully meets this principle. In an October 18, 1995 letter, the Director of the Office of Management and Budget informed the majority leader that:

The Administration strongly supports bipartisan provisions in both the House and Senate bills to streamline paternity establishment, require new hire reporting, establish State registries, make child support laws uniform across State lines, and require

States to use the threat of denying drivers' and professional licenses to parents who refuse to pay child support.

Clearly H.R. 4 meets the President's position on child support enforcement.

The fourth principle outlined by the President was his commitment to encourage experimentation in the States. To his credit, his administration has approved a number of waivers to allow the States the flexibility to experiment. But waivers are not enough as the President himself, as a former Governor, realizes.

When he spoke to the Governors again this year on June 6, in Baltimore, the President told the Governors,

You could not design a program that would be too tough on work for me. You could not design a program that would give the States any more flexibility than I want to give them as long as we recognize that we . . . have a responsibility to our children and to that in the end, our political and economic policies must reinforce the culture we are trying to create. They must be pro-family and pro-work.

At the same time, President Clinton also told the Governors that, "we can save some money and reduce the deficit in this welfare area."

Then, on July 20 this year, he told the National Conference of State Legislatures that "what I want to do in the welfare reform debate is to give you the maximum amount of flexibility, consistent with some simple objectives. I do think the only place we need Federal rules and welfare reform \* \* \* is in the area of child support enforcement because so many of those cases cross State lines."

The President went on to say, "so I am going to do my best to get you a welfare reform proposal which gives more flexibility to the States and doesn't have a lot of ideological prescriptions \* \* \* and just focuses on one or two big things that need to be done. I think that is the right way to do it."

Mr. President, we will provide the opportunity to make good on these words.

The President has told the Governors he wants to protect the States even when there is an economic downturn. We have done this with an \$800 million contingency fund and a \$1.7 billion loan fund. President told them he wanted funding for child care. H.R. 4 provides \$17 billion for child care for welfare and low-income families. This is over \$700 million more than under current law. He told the Governors the problem with a block grant was that States would cut their own funding and therefore he wanted requirements for States to maintain their own funding. H.R. 4 imposes such requirements. Furthermore, the conference agreement provides \$3.5 billion in more funding for the block grants to States for temporary assistance for needy families than under the Senate bill which passed 87-12.

The President indicated his interest in a performance bonus which forces the bureaucracy and recipients to focus

on work. Establishing performance standards is a subject which I have personally worked on for years. H.R. 4 includes work-based performance standards.

It is clear we have responded positively to all of these concerns.

The President also indicated he was willing to give the States more flexibility in child nutrition, adoption, and child protective services. H.R. 4 protects the current entitlements of foster care and adoption assistance maintenance payments. Between 1995 and 2002, funding for foster care will increase by nearly 80 percent. Funding for child nutrition will increase from less than \$8 billion in fiscal year 1995 to over \$11 billion in 2002.

These are the fundamental principles the President outlined to the Governors and to the Nation. Congress will shortly send a welfare reform bill which meets these principles. It would be regrettable if the President walks away from all of these things which he so recently pledged.

The need to reform the welfare system is as critical today as it was nearly 3 years ago when the President took office. The number of children receiving AFDC increased nearly threefold between 1965 and 1993. By comparison, the total number of children in the United States aged 0 to 18 declined by 5.5 percent during this period.

In 1965, the average monthly number of children receiving AFDC was 3.3 million; in 1970, it was 6.2 million; in 1980, it was 7.4 million; and in 1993, there were nearly 9.6 million children receiving AFDC benefits.

The Department of Health and Human Services has estimated that 12 million children will receive AFDC benefits by the year 2005 under current law. If he vetoes welfare reform, President Clinton will be accepting the status quo in which another two and one-half million children will fall into the welfare system.

If the President vetoes welfare reform, he will be preserving a system which costs and wastes billions of taxpayers dollars. The General Accounting Office has estimated, for example, that nearly \$1.8 billion in overpayments were made in the Food Stamp Program in 1993 alone.

A critical point of welfare reform is to give the States both the authority and the responsibility for efficiently, compassionately, and effectively administering these programs. As a former Governor, the President surely knows well the duplication in the delivery of benefits. It costs over \$6 billion just to administer the AFDC and Food Stamp Programs. When you include the cost of errors, fraud, and abuse in these two programs, another \$3 billion is wasted.

We have therefore proposed an optional block grant for the Food Stamp Program. At a town meeting this past June, the President told the people of New Hampshire that his administration has given 29 states waivers to use

food stamps and welfare checks to employers as a wage supplement. If it is good policy as a waiver, it is good policy to allow Governors to accept an optional block grant.

Another important area of reform is the Supplemental Security Income Program. The SSI Program was established 21 years ago principally to provide a welfare retirement program for aged and disabled adults who were unable to contribute enough into the Social Security system. With this purpose in mind, one would think that the cost of this program should at least be stable as the elderly SSI population has actually declined by more than one-third since 1974.

Instead, SSI is the largest cash assistance program for the poor and one of the fastest growing entitlement programs. Programs costs have grown 20 percent annually in the last 4 years.

The SSI reforms in H.R. 4 are designed to slow the growth in the two populations which have seen tremendous increases in recent years, noncitizens and children. In 1982, noncitizens constituted 3 percent of all SSI recipients. In 1993, noncitizens constituted nearly 12 percent of the entire SSI caseload. From 1986 through 1993, the number of aged or disabled noncitizen recipients grew an average of 15 percent annually, reaching nearly 700,000 in 1993. Today, almost one out of every four elderly SSI recipients is a noncitizen. GAO calculates that noncitizens are actually more likely to receive SSI than citizens. The majority of these elderly noncitizens, 57 percent, have been in the United States less than 5 years.

In total, our reforms directed at noncitizens will save the taxpayers more than \$20 billion. If President Clinton vetoes H.R. 4, these savings will be lost.

According to the General Accounting Office, the growth in the number of disabled children receiving cash payments under SSI was moderate before 1990, averaging 3 percent annually between 1984 and 1990. Then, from the beginning of 1990 through 1994, the growth averaged 25 percent annually, and the number tripled to nearly 900,000. Their share of the disabled SSI population grew from about 12 percent before 1990 to 22 percent in 1994. The number of children who are disabled and receive benefits has increased by 166 percent just since 1990.

I would remind my colleagues that the changes in the definition of childhood disability included in H.R. 4 was adopted on a bipartisan basis.

The conference agreement maintains the commitment to children who are disabled. All children currently receiving SSI benefits will continue to receive the full cash benefit to which they are entitled through January 1, 1997.

The conference report increases Federal spending on welfare programs. Expenditures for the programs under H.R. 4 totaled \$83.2 billion in 1995. Under

H.R. 4, they will increase by one-third to total \$111.3 billion in 2002. Between 1995 and 2002, total expenditures for these programs will be \$753.7 billion.

The conference report also provides support for other areas in which the President has indicated support. The President has called for action to prevent teen pregnancies. We provide \$75 million for abstinence education.

The President has called for tough child support enforcement. Our welfare reform bill includes significant improvements in child support enforcement which will help families avoid and escape poverty.

The failure of an absent parent to pay child support is a major reason the number of children living in poverty has increased. Between 1980 and 1992, the nationwide child support enforcement caseload grew 180 percent, from 5.4 to 15.2 million cases. The sheer growth in the caseload has strained the system.

There have been improvements in the child support enforcement system as collections have increased to \$10 billion per year, but we clearly need to do better. The House and Senate have included a number of child support enforcement reforms. These include expansion of the Federal Parent Locator Service, adoption of the Uniform Interstate Family Support Act—UIFSA—use of Social Security numbers for child support enforcement, improvements in administration of interstate cases, new hire reporting, and reporting arrearages to credit bureaus. Our conference report provides increased funding for child support data automation.

As I have already mentioned, these provisions have been endorsed by the administration. Let me also note that I recently received a letter from the American Bar Association in which the ABA states it "strongly supports the child support provisions in the conference report." The letter goes on to say, "If these child support reforms are enacted, it will be an historic stride forward for children in our nation." If the President vetoes welfare reform, he will forfeit this historic opportunity.

On January 24, 1995 President Clinton declared at a joint session of Congress, "Nothing has done more to undermine our sense of common responsibility than our failed welfare system.

Mr. President, vetoing welfare reform will seriously undermine the American people's confidence in our political system. The American people know the welfare system is a failure. They are also tired of empty rhetoric from politicians. Words without deeds are meaningless. The time to enact welfare reform is now.

Mr. President, I yield the floor.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

## FLAG DESECRATION CONSTITUTIONAL AMENDMENT

The Senate continued with the consideration of the joint resolution.

Mr. McCONNELL. Mr. President, on Monday I will be offering an amendment in the nature of a substitute to the underlying proposed constitutional amendment, and I ask unanimous consent that this amendment appear in the RECORD at this point. It will be co-sponsored by Senator BENNETT of Utah, Senator DORGAN, and Senator BUMPERS.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

### PROPOSED AMENDMENT

Strike all after the enacting clause and inserting the following:

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Flag Protection and Free Speech Act of 1995".

#### SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the flag of the United States is a unique symbol of national unity and represents the values of liberty, justice, and equality that make this Nation an example of freedom unmatched throughout the world;

(2) the Bill of Rights is a guarantee of those freedoms and should not be amended in a manner that could be interpreted to restrict freedom, a course that is regularly resorted to by authoritarian governments which fear freedom and not by free and democratic nations;

(3) abuse of the flag of the United States causes more than pain and distress to the overwhelming majority of the American people and may amount to fighting words or a direct threat to the physical and emotional well-being of individuals at whom the threat is targeted; and

(4) destruction of the flag of the United States can be intended to incite a violent response rather than make a political statement and such conduct is outside the protections afforded by the first amendment to the United States Constitution.

(b) PURPOSE.—It is the purpose of this Act to provide the maximum protection against the use of the flag of the United States to promote violence while respecting the liberties that it symbolizes.

#### SEC. 3. PROTECTION OF THE FLAG OF THE UNITED STATES AGAINST USE FOR PROMOTING VIOLENCE.

(a) IN GENERAL.—Section 700 of title 18, United States Code, is amended to read as follows:

**"§700. Incitement; damage or destruction of property involving the flag of the United States**

**"(a) ACTIONS PROMOTING VIOLENCE.—**Any person who destroys or damages a flag of the United States with the primary purpose and intent to incite or produce imminent violence or a breach of the peace, and in circumstances where the person knows it is reasonably likely to produce imminent violence or a breach of the peace, shall be fined not more than \$100,000 or imprisoned not more than 1 year, or both.

**"(b) DAMAGING A FLAG BELONGING TO THE UNITED STATES.—**Any person who steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to the United States and intentionally destroys or damages that flag shall be fined not more than \$250,000 or imprisoned not more than 2 years, or both.

**"(c) DAMAGING A FLAG OF ANOTHER ON FEDERAL LAND.—**Any person who, within any

lands reserved for the use of the United States, or under the exclusive or concurrent jurisdiction of the United States, steals or knowingly converts to his or her use, or to the use of another, a flag of the United States belonging to another person, and intentionally destroys or damages that flag shall be fined not more than \$250,000 or imprisoned not more than 2 years, or both.

**"(d) CONSTRUCTION.—**Nothing in this section shall be construed to indicate an intent on the part of Congress to deprive any State, territory or possession of the United States, or the Commonwealth of Puerto Rico of jurisdiction over any offense over which it would have jurisdiction in the absence of this section.

**"(e) DEFINITION.—**As used in this section, the term 'flag of the United States' means any flag of the United States, or any part thereof, made of any substance, in any size, in a form that is commonly displayed as a flag and would be taken to be a flag by the reasonable observer."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 33 of title 18, United States Code, is amended by striking the item relating to section 700 and inserting the following new item:

"700. Incitement; damage or destruction of property involving the flag of the United States."

Amend the title so as to read: "A joint resolution to provide for the protection of the flag of the United States and free speech, and for other purposes."

Mr. McCONNELL. Mr. President, every single Senator believes in the sanctity of the American flag. It is our most precious national symbol. The flag represents the ideas, values and traditions that unify us as a people and as a nation. Brave men and women have fought and given their lives and are now entering a war-torn region in defense of the freedom and way of life that our flag represents.

For all these reasons, those who desecrate the flag deserve our contempt. After all, when they defile the flag, they dishonor America. But the issue before this body is: How do we appropriately deal with the misfits who burn the flag?

Many of my colleagues who support a constitutional amendment to ban flag-burning say the only way to ensure flag-burners get the punishment they deserve is to amend the Bill of Rights for the first time in over 200 years. The first amendment, which they propose to alter, contains our most fundamental rights: free speech, religion, assembly, and the right to petition the Government. The freedoms set forth in the first amendment, arguably, were the foundation on which this great Republic was established.

Amending the Constitution was made an arduous process by the Founding Fathers for good reason. The requirements—approval by two-thirds of each House of Congress and ratification by three-fourths of the State legislatures—ensure that highly emotional issues of the day will not tear at the fabric of the Constitution. Since the addition of the Bill of Rights, the Constitution has been amended on only 17 occasions.

Let me repeat, Mr. President, after the initial 10 amendments known as