

But what counts as desecration of the flag? What if someone desecrated something made up to look like a flag with some flaw, like the wrong number of stars or stripes? Does that count? What if a flag is used in art that some people consider rude or unpatriotic? Does that count as desecration?

The arguments could rage on and on, enriching lawyers and diminishing the nation.

A ban on flag burning would set a dangerous precedent.

The proposed amendment is a reaction to 1989 and 1990 Supreme Court rulings that invalidated federal and state laws banning flag desecration. The court ruled that peaceful flag desecration is symbolic speech, protected by the First Amendment freedom of speech clause.

Supporters of a ban on flag burning argue that burning a flag is not symbolic speech at all but hateful action. But if today's cause is to ban flag burning because it is hateful action, tomorrow's cause may be to ban the display of the Confederate flag because many people consider it to be hateful action. Or to ban the use of racial or sexist comments because they amount to hateful actions. And on and on until we have given up our freedoms because we are intolerant.

The right to protest is central to democracy.

A democracy must protect the right to protest against authority, or it is hardly a democracy. It is plainly undemocratic to take away from dissenters the freedom to protest against authority by peacefully burning or otherwise desecrating a flag as the symbol of that authority.

If the protesters turn violent or if they steal a flag to burn, existing laws can be used to punish them.

Flag burners are not worth a constitutional amendment.

A good rule of thumb about amending the U.S. Constitution is: Think twice, then think twice again. Flag burning is not an issue that merits changing the two-centuries-old blueprint for our democracy.

This nation's founding fathers understood the value of dissent and, moreover, the value of the liberty to dissent. So should we.

[From the La Crosse Tribune, June 7, 1995]

#### EDITORIAL

The U.S. Supreme Court ruled in a Texas case in 1989 that flag burning is protected by the First Amendment as a form of speech. The court's decision didn't go over very well with friends of Old Glory then, and six years later that ruling still sticks in the craw of many patriots—so much so that constitutional amendments protecting the flag against desecration have picked up 276 co-sponsors in the U.S. House of Representatives and 54 in the Senate.

The House Judiciary Committee takes up the amendment today, with a floor vote expected on June 28. The Senate Judiciary Committee tackled a similar amendment on Tuesday.

For two centuries soldiers have given their lives to keep the American flag flying. It is a symbol of freedom and hope for millions. That is what infuses the stars and strips with meaning and inspires the vast majority of Americans to treat it with respect. But to take away the choice in the matter, to make respect for the flag compulsory, diminishes the very freedom represented by the flag.

Do we follow a constitutional amendment banning flag desecration with an amendment requiring everyone to actually sing along when the national anthem is played at sports events? An amendment making attendance at Memorial Day parades compulsory?

Sen. Howell Heflin, D-Ala., argues that the flag unites us and therefore should be pro-

TECTED. But Heflin and like minded amendment supporters are confusing cause and effect. The flag is a symbol of our unity, not the source of it.

Banning flag burning is simply the flip side of the same coin that makes other shows of patriotism compulsory. What are the names of the countries that makes shows of patriotism compulsory? Try China, Iraq. The old Soviet Union.

Coerced respect for the flag isn't respect at all, and an amendment protecting the American flag would actually denigrate that flag.

Allegiance that is voluntary is something beyond price. But allegiance extracted by statute—or, worse yet, but constitutional fiat—wouldn't be worth the paper the amendment was drafted on. It is the very fact that the flag is voluntarily honored that makes it a great and powerful symbol.

The possibility of the Balkanization of the American people into bickering special interest groups based on ethnicity or gender or age or class frightens all of us, and it's tempting to try to impose some sort of artificial unity. But can the flag unit us? No. We can be united under the flag, but we can't expect the flag to do the job of uniting us.

We oppose flag burning—or any other show of disrespect for the American flag. There are better ways to communicate dissent than trashing a symbol Americans treasure. But making respect for the flag compulsory would, in the long run, decrease real respect for the flag.

The 104th Congress should put the flag burning issue behind it and move on to the nuts-and-bolts goal it was elected to pursue: a smaller, less intrusive, fiscally responsible federal government. A constitutional amendment protecting the flag runs precisely counter to that goal.

[From the Oshkosh Northwestern, May 28, 1995]

#### BEWARE TRIVIALIZING OUR CONSTITUTION

It is difficult to come out against anything so sacrosanct as the American flag amendment—difficult but not impossible.

An amendment to protect the flag from desecration is before Congress and has all the lobbying in its favor.

The trouble is, it is an attempt to solve, through the Constitutional amendment process, a problem that really is not a problem.

Flag burning is not rampant. It occurs occasionally; it brings, usually, society's scorn upon the arsonist, and does no one any harm, except the sensitivities of some.

These sensitivities give rise to the effort to abridge the freedom of expression guaranteed by the First Amendment, which has been held by the courts to include expressions of exasperation with government by burning its banner.

At worst, this flag protection is an opening wedge in trimming away at the basic rights of all Americans to criticize its leaders. That right was so highly esteemed by the Founding Fathers that they made free speech virtually absolute.

At best, the flag protection amendment trivializes the Constitution.

That is no small consideration. The Constitution was trivialized once before. The prohibition amendment had no business being made a constitutional chapter. It was not of constitutional stature. It could not have been done by statute alone. Its repeal showed that it was a transitory matter rather than being one of transcendent, eternal concern.

The flag protection amendment is trivial in that flag burning is not always and everywhere a problem. If the amendment succeeds, what else is out there to further trivialize the document?

Must the bald eagle be put under constitutional protection if it is no longer an endangered bird?

This is a "feel good" campaign. People feel they accomplish something good by protecting the flag from burning. (Isn't the approved method of disposing of tattered flags to burn them, by the way?)

But it offers about the same protection to flags that the 18th offered to teetotaling.

If someone has a political statement to make and feels strongly enough, he'll do the burning and accept the consequences. The consequences surely will not be draconian enough that flag burning would rank next best thing to a capital offense.

Congress has more pressing things to do than put time into this amendment.●

Mr. DOLE. Mr. President, was leaders' time reserved?

The PRESIDING OFFICER. The Senator is correct.

#### DEATH OF HARRY KAUFMAN

Mr. DOLE. Mr. President, last month, two thugs squirted a bottle of flammable liquid into a subway token booth in Brooklyn's Bedford-Stuyvesant neighborhood. They then lit a match, igniting an explosion that blew the token booth apart.

Engulfed in flames, the booth's operator, 50-year-old Harry Kaufman, suffered second- and third-degree burns over nearly 80 percent of his body as well as severe lung injuries. Mr. Kaufman was subsequently taken to the New York Hospital-Cornell Medical Center. The two men who committed this vicious crime continue to remain at large.

The Brooklyn attack closely resembled two scenes depicted in the new movie "The Money Train," a Columbia Pictures production starring Woody Harrelson and Wesley Snipes. Since the movie's November 22 debut, there have been a total of seven separate copycat fire attacks on New York City subway token booths.

Yesterday, after a 14-day fight for his life, Harry Kaufman passed away.

I take this opportunity to publicly express my deepest condolences to Stella Kaufman, Harry Kaufman's wife, to their 17-year-old son Adrian, and to the rest of the Kaufman family.

#### A NEW PARTNERSHIP

Mr. DOLE. Mr. President, when Americans changed the party in control of Congress last November, they also changed the relationship between Capitol Hill and our 50 State capitols.

The Washington, DC-knows-best attitude that was the hallmark of the Democrat Congress has been replaced by a return to the 10th amendment. Paternalism has been replaced by a new partnership between Congress and America's Governors.

One of the most talented of those Governors is William Weld of Massachusetts, who has provided innovative solutions in the areas of health care reform and welfare reform—reducing government spending, and cutting taxes while he was at it.