

SENATE BILL REPORT

SJM 8008

AS PASSED SENATE, FEBRUARY 7, 1992

Brief Description: Requesting Congress to propose a Constitutional amendment to prohibit physical desecration of the United States flag.

SPONSORS: Senators Owen, Thorsness, Johnson, Oke, Nelson, Erwin, Rasmussen, Vognild, Stratton, Matson, McCaslin, Conner, Craswell, Saling, Madsen and Bauer.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.

Signed by Senators Nelson, Chairman; Thorsness, Vice Chairman; Erwin, Hayner, Madsen, Newhouse, and Rasmussen.

Staff: Dick Armstrong (786-7460)

Hearing Dates: February 28, 1991

BACKGROUND:

In 1989, Congress passed the Flag Protection Act, which made it a crime to knowingly mutilate, deface or burn a United States flag. In 1990, the United States Supreme Court held that such a law was unconstitutional, because flag burning was protected by the First Amendment to the United States Constitution. The court held that the government may not statutorily prohibit the expression of an idea simply because society finds the idea offensive or disagreeable.

SUMMARY:

Congress is requested to propose an amendment to the United States Constitution, for ratification by the states, specifying that Congress and the states have the power to prohibit the physical desecration of the flag.

Appropriation: none

Revenue: none

Fiscal Note: none requested

TESTIMONY FOR:

The flag is a national symbol of our country and deserves the respect of all citizens. National polls show a strong majority of citizens believe that flag burning should be prohibited. The American Legion is supporting nationally a request for Congress to propose a constitutional amendment to prohibit the desecration of the flag.

TESTIMONY AGAINST:

It is dangerous and inappropriate for the government to restrict in any way the freedom of speech of any citizen who wants to express his or her political views.

TESTIFIED: Senator Brad Owen; Gary Foote, American Legion (pro); Gene Foley, Commander, State of Washington American Legion (pro); Keith Sherman, Chmn, Vets Legis. Coalition (pro); Jerry Sheehan, ACLU (con)