

Testimony of

Maj. Gen. Patrick Brady

March 10, 2004

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Maj. Gen. Patrick H. Brady, US Army (Ret.)
Chairman of the Board

The Citizens Flag Alliance, Inc.
Indianapolis, Indiana

before the

Judiciary Committee
of the
United States Senate
on

Senate Joint Resolution 4

The Hatch-Feinstein Flag Protection Constitutional Amendment

March 10, 2004

The Citizens Flag Alliance, Inc.

My name is Pat Brady. On behalf of the Citizens Flag Alliance, I thank you for hearing us.

The Citizens Flag Alliance, Inc., is a coalition of organizations that have come together for one purpose: the passage of a constitutional amendment that will return to the people the right to protect their flag.

More than 140 organizations make up the CFA, with collective membership around 20 million. Drawing its strength from grassroots activism, the CFA is organized in every state.

Membership is open to and includes fraternal, ethnic, civic, veteran organizations, corporations, and businesses by application. Everyone who donates to the CFA, or signs a petition supporting passage of the amendment, becomes an individual member. Although it is hoped that member organizations would donate to the CFA as funds are available, there is no fee to belong, but it is expected that:

- ? member organizations will have the endorsement of their governing body;
- ? will promote the campaign to return to the people the right to protect the flag among their members and the general public;
- ? will allow the publication of their name as a member organization of the CFA; and
- ? will participate in legislative activities and grassroots lobbying of The Citizens Flag Alliance, Inc.

In 1989 the Supreme Court, in response to a flag burning by a communist, amended the Constitution by inserting flag burning into the Bill of Rights. Their decision took away a fundamental right of the American people, a right we possessed since our birth as a nation, the right to protect our flag. We believe that decision was an egregious error

and distorted our Constitution. We do not believe the freedom to burn the American flag is a legacy of the freedoms bestowed on us by Madison and Jefferson and Washington and the other architects of our Constitution. To distort the work of these great men unable to defend themselves, to put flag burning side by side with pornography as protected speech, is outrageous.

We believe that some elements in our society seek to amend the Constitution through the courts out of the bright light of the public square where they would surely fail. The ACLU has said they are the guardians of the Constitution and that their hope for their agenda is through the courts. We believe that our hope is in the Constitution as defined by our Founding Fathers and that we the people are the guardians of the Constitution. One judge said the Constitution is what the courts say it is! We believe the Constitution is what the Founding Fathers said it was and it cannot be amended without the will of the people.

President Lincoln warned, "If the policy of the government upon vital questions affecting the whole people is to be irrevocably fixed by decisions of the Supreme Court ... the people will have ceased to be their own rulers." Abraham Lincoln also warned, "Don't interfere with anything in the Constitution. That must be maintained, for it is the only safeguard of our liberties."

The Courts are interfering with the Constitution; they are systematically amending it in violation of the Constitution itself. A few of many examples: They have declared the Pledge and the display of the Decalogue unconstitutional, overthrowing our right to acknowledge God as defined in the Declaration and protected by the First Amendment; they are proselytizing sodomy and promiscuity, redefining marriage, protecting child pornography and imposing racial quotas. Whatever one may think of the issues involved, these actions are not sanctioned for the courts to decide by the Constitution - they belong to the people to decide.

Many Americans have raised their right hand and sworn an oath to protect and defend the Constitution from all enemies, both foreign and domestic. We believe that all Americans who put their right hand over their heart and recite the Pledge take that same oath. Both the oath and the pledge are taken in the presence of Old Glory to emphasize that our flag is the symbol of our Constitution. We believe that we the people must exercise our right to rule by insuring that the Court's decision on flag burning is not irrevocably fixed.

We believe that legalizing flag burning, in addition to disfiguring the Constitution, also raises values issues and questions the kind of people we have been and want to be. We believe that our laws should reflect our values. Flag burning is not a value of the American people.

We believe the highest form of patriotism is service to our children and a premier worth of respect for the flag is the values it teaches our children, the values embedded in our Constitution as embodied by Old Glory. We agree with Pearl Buck who describes how precious a symbol the flag is to the treasure that is our children and how important it is to their development. She said, "Children are our national treasure. With what measure we mete to them in their childhood, they will mete to our nation in their lifetime." We believe our children should be raised as patriots full of respect for the flag and the constitutional values it represents. How can they respect something they are free to burn?

We believe symbols are indispensable in a democracy. They have been called the natural speech of the soul. Our gratitude for the great bounty that is America is expressed through symbols: grave stones, obelisks, walls and the greatest of all symbols, Old Glory. The word "symbol" is from the Greek meaning a half token, which when united with its other half identified the owner. It is meant to recognize something far more elaborate than itself. That something, the other half token of the flag, is the Constitution and we the people are the owners. September 11 reminded all Americans of what veterans have always known: the unifying, comforting and inspirational magic of Old Glory, its unique and indispensable value to our society.

Thomas Jefferson said, "Democracy is cumbersome, slow and inefficient, but in time the voice of the people will be heard and their latent wisdom will prevail." We believe that all Americans, once they realize that our Constitution was never intended to include flag burning, will be outraged, energized and mobilized against those who deliberately or inadvertently despoil that cherished document. We believe that if we persevere, eventually the voice of the people will be heard and our Constitution will be restored. The courts are forcing us to accept flag burning. We are not trying to force the people to love Old Glory. We are trying to force the courts to restore the truth to our Constitution.

We believe our battle for our flag is a battle for our Constitution. Our concern is not those who desecrate the flag; our concern is those who desecrate our Constitution by calling flag burning "speech." If we did not act on our belief, and correct the errors of the Court, we would violate our oath and our pledge. We would be cowards not worthy of the sweat and blood and tears of those who gave us our Constitution and all we have. We could not face the greatest generation, or the silent generations; we could not face our children; we could not face ourselves. This is a sacred debt to our Founders, to America's nobility - our veterans - to our patriots and to America's future.

History of the Fight to Return to the People the Right to Protect Old Glory

Organizations of The Citizens Flag Alliance, Inc. have, since 1989, stood side-by-side in the battle to secure a flag amendment. Below are highlights of the campaign.

Forty-eight states and the federal government had flag-protection laws on the books during the summer of 1984 when Gregory Johnson (a leader of the Revolutionary Communist Youth Brigade) participated in an anti-America demonstration in Dallas, Texas. As the demonstrators marched from the site of the Republican National Convention to the steps of the Dallas City Hall, they defaced buildings with spray paint, turned over potted plants, stole an American flag from a Dallas bank, and generally made nuisances of themselves.

Then, as Texans watched in outrage and anger, Johnson torched the flag. While engaging in this offensive conduct, he chanted, "America, the red, white and blue . . . we spit on you." The Dallas police arrested Johnson. He was not arrested for anything he said about our government, our leaders, or our flag. He was arrested, charged, tried and convicted of desecration of a venerated object in violation of a Texas statute.

Five years later the U.S. Supreme Court heard the case. On June 21, 1989, in a 5-4 decision, the court ruled that Johnson had been denied his rights under the free speech provisions of the First Amendment. *Texas v. Johnson*, by one vote, took away the right of the people to protect the flag of our nation from intentional, public, physical desecration, a right we enjoyed since our birth as a nation.

JUNE 21, 1989 - By a 5-4 vote, the Supreme Court rules in *Texas v. Johnson* that burning the American flag is free speech protected under the First Amendment. This invalidates flag protection statutes in 48 states and in Washington, DC.

JULY-AUGUST 1989 - The American Legion and American Legion Auxiliary launch a petition drive to collect one million signatures of Americans demanding a flag amendment that will return to the people the right to protect the flag. The goal is reached within 60 days and the petitions are presented to Congress.

SEPTEMBER 5, 1989 - Delegates to The American Legion National Convention in Baltimore unanimously approve a resolution seeking adoption and ratification of a constitutional amendment that would return to the people the right to protect the flag. In the months that ensue, The Knights of Columbus, The Benevolent and Protective Order of Elks, the Scottish Rite of Freemasonry, the Veterans of Foreign Wars and many other organizations pass similar resolutions at their national meetings.

OCTOBER 12, 1989 - House and Senate adopt House Resolution 2978, the "Flag Protection Act of 1989," a federal statute, to protect the flag.

OCTOBER 28, 1989 - HR 2978 becomes Public Law 101-131 and U.S. Flags are burned on the steps of the U.S. Capitol to protest enactment of the law.

FEBRUARY - MARCH 1990 - Federal judges in Seattle and Washington, DC rule PL 101-131, the Flag Protection Act of 1989, unconstitutional.

JUNE 11, 1990 - U.S. Supreme Court, in *U.S. v. Eichman*, rules PL 101-131 unconstitutional.

JUNE 21, 1990 - By a vote of 254-177, the House fails to obtain the two-thirds majority required to pass a constitutional amendment that would return to the people the right to protect the flag.

JUNE 26, 1990 - By a vote of 58-42, the Senate fails to obtain two-thirds majority for the flag amendment.

FOR THE REMAINDER OF 1990 - The American Legion focuses on memorializing resolution campaigns in the states. The non-binding resolutions urge the Congress to adopt an amendment allowing "Congress and the states" to enact and enforce flag-protection laws.

AUGUST 25, 1992 - Presidential candidate Bill Clinton tells The American Legion National Convention delegates in Chicago that he opposes flag burning and leaves the impression that he would support a flag-protection constitutional amendment that would return to the people the right to protect the flag. "In 1989, when the flag burning controversy arose, I joined with The American Legion in taking steps to react. I signed legislation outlawing flag burning or defacing the flag, but I also wanted to stop flag burning before it starts. So, together with The American Legion, we established one of the finest flag education programs in the country. Volunteers of The American Legion and other veterans groups launched an all-out assault on our grade schools, instilling in our young students the deep patriotism which gives us a lump in our throat and a stir in our hearts when we see Old Glory go up the flag pole. I am proud of my record in support of our veterans."

THROUGHOUT 1992 AND 1993 - Memorializing resolution campaign gains steam. By the end of 1993, 35 state legislatures have approved resolutions. Gallup Organization polls show overwhelming public support for an amendment that would return to the people the right to protect the flag.

MAY 1994 -The American Legion approves a resolution authorizing the funding of The Citizens Flag Alliance, Inc. (CFA). CFA is chartered in Virginia as a 501(c) 4 corporation. To promote the flag amendment and flag education, the CFA seeks membership of other civic, social, veterans and fraternal organizations. The CFA organizes in all 50 states and the membership grows to 112 member organizations by December 1995.

AUGUST 24-26, 1994 - CFA convenes a constitutional scholars' forum at Williamsburg, VA to determine the underlying merit and political viability of the many options available to prevent the public dishonoring of the American Flag. Prof. Arthur Miller of Harvard University School of Law moderates the forum that is attended by scholars from the nation's finest legal institutions, advocacy groups and public policy research organizations. To ensure an accurate breadth of ideological input, the forum is evenly divided between scholars supporting and opposing a flag amendment.

MARCH 21, 1995 - Senators Orrin Hatch (R-Utah) and Howell Heflin (D-Ala.) introduce Senate Joint Resolution 31, calling for a constitutional amendment that reads "The Congress and the states shall have power to prohibit the physical desecration of the flag of the United States." Representatives Gerald Solomon (R-N.Y.) and G. V. "Sonny" Montgomery (D-Miss.) introduce HJR 79, the same resolution, in the House of Representatives.

JUNE 6, 1995 - Assistant Attorney General for Legal Counsel Walter Dellinger testifies before Senate Judiciary Committee and says President Clinton opposes the flag amendment that would return to the people the right to protect the flag.

JUNE 28, 1995 - HJR 79 clears House 312-120, 22 votes more than the 290 needed to pass the flag amendment.

JULY 20, 1995 - SJR 31 passes Senate Judiciary Committee, 12-6.

AUGUST 1995 - Fifty-six Senators are co-sponsors of SJR 31.

DECEMBER 12, 1995 - Senate rejects SJR 31 by a vote of 63-36; the amendment fails by 3 votes.

JANUARY 1996 - CFA launches nationwide campaign to tell citizens how their lawmakers voted on the flag amendment.

MARCH - NOVEMBER 1996 - CFA launches massive "Get Out the Vote" and public information effort. The nationwide campaign includes press events, voter registration and voter education drives.

NOVEMBER 1996 - Flag amendment supporters capture 25 of the 34 Senate seats and 290 plus House seats. The Citizens Flag Alliance reaffirms its flag amendment commitment.

FEBRUARY 13, 1997 - Reps. Gerald Solomon (R-N.Y.) and William O. Lipinski (D-Ill.) introduce into the 105th Congress House Joint Resolution 54, the flag amendment. CFA officials vigorously encourage member organizations and individuals to persuade their representatives to become co-sponsors.

APRIL 30, 1997 - The U.S. House of Representatives Judiciary Subcommittee on the Constitution holds hearing on HJR 54. Those testifying in favor of the amendment include Maribeth Seely, an elementary teacher from New Jersey; Francis Sweeney, Steamfitters Union, Pittsburgh, Pa.; Carol Van Kirk, member of the American Legion Auxiliary of Nebraska; Alan Lance, Idaho Attorney General; Harvard Law Professor Richard Parker; Major General Patrick H. Brady, Medal of Honor Recipient; and the Honorable Robert Zukowski, Wisconsin State Legislature.

JUNE 12, 1997 - HJR 54 passes House 310-114, 20 votes more than needed.

AUGUST 1997 - The so-called Citizens for the Constitution is formed to, in their words, "call attention to the adverse effects of fast-paced constitutional tinkering." They begin by creating eight "standards," which they claim are intended to address when and how the Constitution should be amended. They lobby Congress to adopt these standards that will govern how the amendment process should, in their opinion, unfold. (Note: Citizens for the Constitution has since dissolved.)

FEBRUARY 4, 1998 - Sens. Orrin Hatch (R-Utah) and Max Cleland (D-Ga.) introduce into the 105th Congress SJR 40 that reads "The Congress shall have power to prohibit the physical desecration of the flag of the United States." The amendment has 61 co-sponsors.

JULY 8, 1998 - Senate Judiciary Committee holds hearings on SJR 40. Those testifying in favor of the amendment that would return to the people the right to protect the flag include Tommy Lasorda, John Schneider and Harvard Law Professor Richard Parker.

OCTOBER 7, 1998 - Sen. Majority Leader Trent Lott brings SJR 40 to the floor of the U.S. Senate asking unanimous consent to proceed to debate and vote. Sens. Robert Kerrey (D-Neb.) and Patrick Leahy (D-Vt.) object to consideration of the resolution, citing lack of time to sufficiently debate the amendment. With that, the measure is lost in the 105th Congress.

NOVEMBER 4, 1998 - Election analysis indicates the CFA is a step closer to passage of the flag amendment in the U.S. Senate in the 106th Congress. Newly elected Senators who support the flag amendment include Sens. Blanche Lambert Lincoln (D-Ark.), Peter Fitzgerald (R-Ill.) and George Voinovich (R-Ohio). All three Senators replace incumbents who were on record as "no" votes, thus enhancing the amendment's chance for passage in the Senate.

FEBRUARY 24, 1999 - Reps. Randy "Duke" Cunningham (R-Calif.) and John Murtha (D-Pa.) introduce HJR 33, a constitutional amendment that reads, "The Congress shall have power to prohibit the physical desecration of the flag of the United States."

MARCH 17, 1999 - Sens. Orrin Hatch (R-Utah) and Max Cleland (D-Ga.) introduce SJR 14. The amendment has 54 co-sponsors. In all, 64 Senators pledge their support of the flag amendment.

MARCH 23, 1999 - House Judiciary Subcommittee holds hearings on HJR 33. Witnesses testifying in favor of the amendment that would return to the people the right to protect the flag include Stephen Presser, Professor of Law at Northwestern University School of Law; Maj. Gen. Patrick H. Brady, USA (Ret.), Medal of Honor recipient and Chairman of the Board of The Citizens Flag Alliance, Inc.; Stephan Ross, a holocaust survivor who was liberated from Dachau by the U.S. Army; former Miss America, Shawntel Smith; and Bishop Carlton Pearson, the presiding Bishop for more than 500 churches and ministries throughout the Azusa Interdenominational Fellowship.

JUNE 24, 1999 - The U.S. House of Representatives passes HJR 33, 305-124, 15 votes more than needed for passage of a constitutional amendment.

MARCH 29, 2000 - SJR 14, the flag amendment, falls four short of the necessary 67 votes (63-37) in the United States Senate. The Citizens Flag Alliance notes deep disappointment in two Senators [Robert Byrd (D-W. Va.) and Richard Bryan (D-Nev.)] whose support was withdrawn without notice at the last minute.

MARCH 13, 2001 - Reps. Randy Cunningham (R-Calif.) and John Murtha (D-Pa.) introduce HJR 36. Sens. Orrin Hatch (R-Utah) and Max Cleland (D-Ga.) introduce SJR 7.

JULY 17, 2001 - The flag amendment, HJR 36 passes the House, 298-125, for the fourth time in consecutive Congresses.

JANUARY 10, 2002 - The Vermont State legislature becomes the 50th state to pass a Memorial Resolution that calls on Congress to pass the flag amendment.

MARCH 13, 2002 - Results of polling, done to determine support for the amendment and released at a Washington, DC press conference, reveal a "new" group of strong supporters of the flag amendment. With 75 percent favoring the amendment that would return to the people the right to protect the flag, 18-24 year olds are the second most supportive - and "new" - age group. Only those respondents 65 and older are more pro flag at 85 percent.

JANUARY-DECEMBER 2002 - A change in Senate leadership gives amendment opponents control over the destiny of the measure. It is held hostage through the Second Session of the 107th Congress and never allowed on the floor.

DECEMBER 2002 - Results of the November mid-term elections reveals that more than 300 Representatives and 64 Senators who support the right of the people to protect the flag will take seats in the 108th Congress.

JANUARY 7, 2003 - On the opening day of the 108th Congress, flag amendment chief co-sponsors John Murtha (D-Pa.) and Randy "Duke" Cunningham (R-Calif.) introduced HJR 4 that states, "The Congress shall have power to prohibit the physical desecration of the flag of the United States." Twenty-four colleagues joined them as cosponsors. The following week, on Jan. 15, Sens. Orrin Hatch (R-Utah) and Dianne Feinstein (D-Calif.) introduced an identical measure in the Senate. In addition to the two chief cosponsors, SJR 4 enjoys co-sponsorship from 41 other Senators.

MAY 7, 2003 - House Judiciary Subcommittee holds hearings on HJR 4. Witnesses testifying in favor of the flag amendment include Dr. Richard Parker, Professor of Law at Harvard Law School; Maj. Gen. Patrick H. Brady, USA (Ret.), Medal of Honor recipient and Chairman of the Board of The Citizens Flag Alliance, Inc.; and Lieutenant Antonio J. Scannella, New York/New Jersey Port Authority Police Department.

JUNE 3, 2003 - HJR 4, in a 300-125 vote, sails easily through the US House of Representatives for the fifth time in eight years. SJ Res. 4 is pending action by the Senate with 64 supporters of record, 57 of which are cosponsors.

Fact and Fiction on The Right of the People to Protect Old Glory

FICTION: Burning the American flag is protected "speech" as defined by the First Amendment to the Constitution.

FACT: Flag burning is not speech as defined by our Founding Fathers in the First Amendment, which reads: "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."

James Madison, who wrote the First Amendment, condemned flag burning as a crime. Thomas Jefferson agreed with Madison and made clear in his writings that "speech" in the First Amendment meant the spoken word, not expressive conduct. To say otherwise made freedom "of the press" a redundancy. In fact, the words "expression" and

"expressive conduct" are not in the Bill of Rights, and for good reason. Activist judges have added them to the Constitution in order to promote their own political agenda.

Since our birth as a nation, we the people have exercised our right to protect our flag. This right has been confirmed by every Chief Justice of the United States and Justices on five Courts in the last century who denied that flag burning was "speech." This fact is also confirmed by current constitutional experts, 70 percent of the Congress, the legislatures of all 50 states and more than three out of four Americans.

FICTION: The flag amendment would amend the Bill of Rights for the first time.

FACT: The Supreme Court amended the Bill of Rights in 1989 when they erroneously called flag burning protected speech and took away our freedom to protect our flag. And they did so without the consent of we the people, an act forbidden by the Constitution. The flag amendment is an exercise of the true ownership of we the people over our Constitution. The flag amendment restores the Bill of Rights to the meaning intended by the Founders. The flag amendment takes ownership of our flag back from the Court and returns it to the people where it belongs and where it resided since our birth as a nation. Our question to those who spout this fiction: If the Supreme Court in 1989 had voted to protect the flag, would they then have amended the Bill of Rights?

FICTION: The flag can be protected by law without the amendment.

FACT: The Supreme Court has made it clear that it will strike down any effort to protect the flag by statute, and did so in 1990. Most lawmakers know this and have also struck down efforts by their colleagues to hide behind flag protection statutes. The fact is that the only way to protect the flag is by statute, but it must come after the passage of the flag amendment. The flag amendment by itself changes nothing, but requires follow-on legislation to return to the people the right to protect the flag.

FICTION: The Supreme Court is the final word on the Constitution.

FACT: The people have the final word on the Constitution. The Supreme Court has boasted that it speaks before all others and has actually contended that it is important to accept their unconstitutional decisions rather than undermine their legitimacy.

The Founders in their wisdom put Article V in the Constitution to protect us from such arrogance. It protects us, too, from the constitutional and cultural pirates who seek to amend the Constitution in the dim light of the courts, away from the bright democratic light of the public square and without the consent of the people. Article V is designed to ensure that the people rule. It protects us from the tyranny of a minority on the courts, or anywhere else, who attack our Constitution. Those who would deny the right of the people to protect their flag tell us that the majority counts when it wears black robes but not when it wears working clothes. The Constitution itself is the result of the opinion of the majority and so is the Bill of Rights. The Founders feared minority rule, which is why they broke from the monarchy. The Constitution is the strongest historical statement against minority rule.

FICTION: Flag burnings are rare and not important enough to justify changing the Constitution to punish a few miscreants.

FACT: First, there have been hundreds of flag desecrations since the Supreme Court's 1989 decision. Second, the flag amendment does not change the Constitution, but restores it. In America the frequency of an evil has nothing to do with laws against that evil. Shouting "fire" in a crowded theatre or speaking of weapons in an airport are rare occurrences, but we have laws against them and we should. It is important to understand that those who would restore the right of the people to protect the flag are not concerned with punishing miscreants who desecrate it. They are not the problem. The problem is from those miscreants who desecrate the Constitution by calling flag burning "speech." We are not amending the Constitution only to protect the flag. We are doing it primarily to protect the Constitution.

FICTION: If the flag is my property, I can do with it as I wish, as with any of my property.

FACT: There are so many governmental restrictions on private property that one can't even formulate a general rule about private property. For instance, you can own your automobile, but how you use it is strictly regulated. Most states even require that you have periodic safety inspections, pay property taxes on it, and wear a seatbelt when operating it. The same is true for privately owned firearms and controlled drugs.

You can own the lot that your home sets on, but you can't use the property for any purpose you want that doesn't comply with zoning ordinances. The same is true for U.S. currency, your own mailbox, and military uniforms and decorations. You can own a billboard, but what you can display on it is regulated. And the same is true with the flag.

Justice Byron White said each flag is the property of all the people. Our society has always believed that a citizen could purchase a flag, but ownership remained with the people. And possession of a flag carried with it a responsibility or duty to treat it with dignity and respect.

FICTION: It is impossible to enforce flag protection, as it is impossible to legally define "desecration" or "flag."

FACT: For most of our history we have had laws defining flag desecration and our courts had no problem until the Supreme Court mis-defined flag desecration as "speech." Any fifth grade child knows the difference between an American flag and a flag-embroidered bikini or toilet paper with a printed flag replica.

For those who feign concern over prosecution for burning flag-marked bikinis or toilet paper, and can't discern the two from a flag, we ask: Would you put toilet paper or a bikini on the coffin of a veteran or their own coffin, or raise them from a flagpole during retreat? This is not only a non-issue, it is nonsense.

FICTION: The flag symbolizes my freedom to burn it.

FACT: On the one hand they are saying the flag is a rag to be burned with impunity. And on the other hand they are saying it represents our freedoms. Can't have it both ways. The truth is our flag embodies the values embedded in our Constitution. The word "symbol" is from the Greek word meaning a half-token, which when united with its other half identified the owner. It is meant to recognize something far more elaborate than itself. The other half of the token of the flag is the Constitution and it identifies its owners, the people. There is nothing in the Constitution that authorizes flag burning and the people are fighting to defeat this fiction.

More Medals of Honor, our nation's highest military award, have been awarded for flag protection than for any other act. Some actually died just to keep the flag from touching the ground. Are those who propose this fiction saying that our soldiers who died on America's battlefields to keep dictators and tyrants from defiling our flag did so in order that it could be burned on the streets of America? Who would say this to our warriors?

Supreme Court Justice Felix Frankfurter said, "We live by symbols." Symbols are vital in a democracy. How can one separate ideals from the symbols that house them? It is like separating a person from his soul. Symbols are precious in our lives and our country and all our precious symbols are protected, except our most precious symbol - Old Glory.

FICTION: Dictators protect their flag; protecting our flag aligns us with dictators.

FACT: What American could ever compare Old Glory, designed by the father of our country and protected according to the will of a free people, to the hammer and sickle, or swastika, protected according to the will of a despot?

Madison and Jefferson believed our flag should be protected. Does that align them with Stalin and Hitler? Someone said, "Under majority rule, heads are counted; under minority rule, heads are cracked." It is vital that the will of the majority rule. In a democracy it is the wisdom of the majority that protects us from the tyranny of the minority whether the minority be dictators or those who compare the will of the majority to the will of dictators. How would one say a pledge to a dictator's flag: "I pledge allegiance to the flag of the Communist party and to the totalitarian government for which it stands, one dictatorship, without a god, with oppression and injustice for all"?

The people who compare those that would protect Old Glory with dictators live in a values vacuum and are certainly lost to the ideals of the Founders. But worse, they are distorting the Constitution to achieve their political agenda.

Consider: The California Supreme Court, in breaking new ground on free speech, has ruled that courts may legally ban the use of racial slurs on the job, a ruling promoted and supported by the ACLU. The ACLU said the decision was appropriate and did not represent a threat to freedom of speech. They opined that it is not a novel idea to say that the courts are able to enjoin illegal activity, even when part of that illegal activity involves speech. Really? Burning the flag was illegal in Texas when the courts decided it was speech. The ACLU went on to say that "even though the First Amendment protects speech, it does not protect the right to make terrorist threats, commit fraud, threaten someone, or commit extortion." Nor does it protect flag-burning. That statement mirrors the CFA's argument for the flag amendment.

On flag burning, the ACLU remains hypocritical and has continually stressed that an essential aspect of freedom of expression is the right to choose precisely the manner in which one's ideas are conveyed, even if - indeed, especially if - the manner chosen is deliberately provocative or offensive. What else are racial slurs? The ACLU is enthralled with Justice Harlan's words: "It is often true that one man's vulgarity is another's lyric." A racial slur is not a lyric and neither is flag-burning. Neither should be protected by the First Amendment.

FICTION: Patriotism should not be forced.

FACT: The leftist elite in America are fond of finding good in conduct the majority finds evil or offensive. For example, the ACLU defends flag desecration and pedophilic solicitation of our children on the Internet as "free speech." Not surprisingly, these elite typically find evil in good - patriotism for example.

Patriots are those who love, support and defend their country. "Support and defend" are the operative words. Love is difficult to pin down, but best known by its fruits. To understand the love of a patriot, it is important to understand that sacrifice is best defined as love in action. Those who willingly sacrifice - that is, support and defend - do so out of love. But the love of a patriot is not blind. Just as it is impossible to care for anyone and not correct them, one cannot care for America and not seek to correct its errors.

We must guarantee that dissent and debate are robust, but never damage or be directed against our Constitution, the foundation of our freedoms. It is the wisdom of the people, ultimately the majority of an informed active people, which is our protection from tyranny. The will of the majority should define patriotism, not the will of an elite minority.

"Country" is easily defined as the people, our neighbors, the land, and our leaders. One need not love his neighbors, but he may not harm them. That is against the law. One may not love the land, but he may not pollute it. Is protecting our people and our land forcing patriotism? Yes it is. Is it forcing patriotism to draft citizens to give their life in war to protect and defend their country? It certainly is. Is it forcing patriotism to force our citizens to ration in time of war to support the effort? You bet it is. We may not love our leaders but we are obliged to obey their laws. Is it forcing patriotism to force obedience to the law? What are laws for if not to force the unpatriotic to act patriotic? Patriots, good citizens, don't need laws. Any person who accepts the protection and prosperity of a nation ought to be obedient to the laws of that nation and willing to support and defend it in peace and at war.

No one has a right to control what anyone thinks, believes or loves, but we have every right, indeed an obligation, to control how citizens act.

It is insane to say that a free people cannot control conduct (i.e. flag burning), and that it is unpatriotic to do so. It should be obvious that demanding -- indeed, forcing -- patriotism is the bedrock of our freedom. It should also be clear that patriotism is the lifeblood of any nation. No nation can survive if its people refuse to support and defend it.

FICTION: The flag amendment would start a slippery slope toward other amendments and restrictions on desecrating of other things, such as copies of the Constitution.

FACT: Laws protecting the flag existed since our birth as a nation and promoted no other amendments. Each amendment must stand on its own merit. In fact, there have been over 11,000 attempts to amend the Constitution and the people have allowed it only 27 times. They take this responsibility very seriously.

It is important to remember the difference between a copy of the Constitution and our flag. While many would object to the burning of a copy of the Constitution, few would want a law against it. But no one would say it is OK to burn the original Constitution, which is heavily protected. The difference in burning a copy of the Constitution and a flag is that each flag is an original; there are no copies.

The slippery slope that the elite really fear is that the flag amendment will be the first step by the people to rescue their Constitution from the elite in the courtrooms, the classrooms, the cloakrooms and the newsrooms and return it to the living rooms where it belongs.

Statements by Prominent Americans in Support of the Flag Amendment

"Surely one of the high purposes of a democratic society is to legislate against conduct that is regarded as evil and profoundly offensive to the majority of people - whether it be murder, embezzlement, pollution, or flag burning..."

Chief Justice William H. Rehnquist, *Texas v. Johnson*, 1989

"The American flag, then, throughout more than 200 years of our history, has come to be the visible symbol embodying our Nation. It does not represent the views of any particular political party, and it does not represent any particular political philosophy. The flag is not simply another 'idea' or 'point of view' competing for recognition in the marketplace of ideas. Millions and millions of Americans regard it with an almost mystical reverence regardless of what sort of social, political, or philosophical beliefs they may have."

Chief Justice William H. Rehnquist, *Texas v. Johnson*, 1989

"It passes my belief that anything in the Federal Constitution bars . . . making the deliberate burning of the America flag an offense."

Associate Justice Hugo Black, *Street v. New York*, 1969

"This flag means more than association and reward.
It is the symbol of our national unity, our national endeavor, our national aspiration. It tells you of the struggle for independence, of union preserved, of liberty and union one and inseparable, of the sacrifices of brave men and women to whom the ideals and honor of this nation have been dearer than life."
Associate Justice Charles Evans Hughes, 1916

"I believe that the States and the Federal Government do have power to protect the flag from acts of desecration and disgrace."
Chief Justice Earl Warren, *Street v. New York*, 1969

"The flag is a special kind of personality. Its use is traditionally and universally subject to special rules and regulations . . . The States and the Federal Government have the power to protect the flag from acts of desecration."
Associate Justice Abe Fortas, *Street v. New York*, 1969

"[L]ove both of the common country and of the State will diminish in proportion as respect for the flag is weakened. Therefore, a State will be wanting in care for the well-being of its people if it ignores the fact that they regard the flag as a symbol of their country's power and prestige, and will be impatient if any disrespect is shown toward it."
Associate Justice John Harlan, *Halter v. Nebraska*, 1907

"In my considered judgment, sanctioning the public desecration of the flag will tarnish its value - both for those who cherish the ideals for which it waves and for those who desire to don the robes of martyrdom by burning it. That tarnish is not justified by the trivial burden on free expression occasioned by requiring that an available, alternative mode of expression -- including uttering words critical of the flag... be employed."
Associate Justice John Paul Stevens, *Texas v. Johnson*, 1989

"Burning and destruction of the flag is not speech. It is an act. An act that inflicts insult - insult that strikes at the very core of who we are as Americans and why so many of us fought, and many died, for this country. No, this is not a debate about free speech. Our flag stands for free speech and always will."
U.S. Rep. John Murtha (D-Pa.)

"Flag burning is not free speech. It is an act of hatred and nihilism. It is not a call for reform. It is a disgrace. The right to dissent does not include the right to desecrate. To desecrate the flag crosses a line of ugliness."
U.S. Rep. Chris Smith (R-N.J.)

"The Supreme Court made a mistake [on flag desecration], is not absolute and we should never kow-tow to any other branch of government regardless of their decision."
US Rep. Bill Pascrell (D-N.J.)

"I regard legal protections for our flag as an absolute necessity and a matter of critical importance to our nation. The American flag, far from being a mere symbol or a piece of cloth, is an embodiment of our hopes, freedoms and unity. The flag is our national identity."
General Norman Schwarzkopf, USA (Ret.)
In a letter to Sen. John Edwards (D-N.C.), et al, April 1999

"The First Amendment protects freedom of speech, not expression, and, whereas all speech may be expression of a sort, not all expression is speech, and there is good reason why the framers of the First Amendment protected the one and not the other."

Walter Berns, Making Patriots, p.139

"We are told that the freedom of speech includes the freedom to desecrate the flag. But setting a flag afire is no more speech than vandalizing a cemetery, or scrawling slogans on a church or synagogue, or spray-painting a national monument - all of which are acts properly forbidden by the laws of a civilized country. Not to mention simple public decency." "Because the law is a great teacher, one thing it needs to teach in a less-and-less civil society is a little respect."

Paul Greenberg, Pulitzer Prize winning journalist

"Speech is when you talk."

Baseball great, Tommy Lasorda

Entertainer and recording artist Pat Boone,
another supporter of a flag amendment, once suggested
to those who say they love the flag, but do nothing to prevent its desecration,
"It's like saying you love your mother,
but it's okay to slap her around."

"The flag speaks. The only inanimate object that speaks. It says what it is and what it stands for. When draped on a coffin it says, 'Herein is someone honorably dead.' There are happy flags, e.g., Halloween. There are proud flags, example: organizations and corporations. All flags so far mentioned are colorful with symbolism. There is a flag without color. Awesomely powerful. It is white. It says we surrender - the saddest negative speech. By its power it stops the creation of death. I saw the white flag. Stopped our guns. Watched the retrieval of the wounded. Our flag is beautiful, proud, serene, untiring, always there. It speaks, our flag is the ultimate voice."

Jim Burt, Medal of Honor Recipient

"Burning a flag is not speech and should not fall under First Amendment protection."

Judge Robert Bork, Supreme Court nominee

"Why is flag burning protected speech and prayer is not? What is said when you burn a flag? If speech can be other than verbal, why isn't flying the flag speech?"

And burning the flag an assault on speech?"

Major General Patrick H. Brady, USA (Ret.)

Medal of Honor Recipient

The American Legion Magazine, May 1999

The American values we share are a legacy most of us want to pass on to our children and grandchildren. These American values have their basis in our Declaration of Independence and our Constitution. The Flag of the United States symbolizes these values.

Throughout our history, that flag has inspired defenders of our freedoms to press on to the goal, to achieve great deeds when nothing less would suffice. The mere sight of Old Glory waving majestically reminded them of America, their home - a home and a flag worth defending.

Immigrants to Ellis Island and San Francisco knew its meaning. It was not the flag of their king or of their fathers. It was their flag...and it would be the flag of their children. It would be respected, as a symbol of hope, not despair; a symbol of freedom, not oppression.

Our patriots understand how precious free speech is and they would die for it. Many have. What they would not understand is how desecrating the flag is speech. And they know how precious the Constitution is. It was written in their blood.

What are children being taught about love of country? What are they being taught about the greatness of America? How many of them will start each school day pledging their allegiance to our flag, as most of us did? How many of them will learn the proper way to respect the flag, and what it means and why patriotism is important? And what of those who grow up learning that the flag is just one symbol among many, just one point of view, not deserving of any special recognition, dignity or respect? How will they reconcile the idea that we prove our love for our nation's flag by allowing those who hate America to desecrate it without penalty?

The greatest tragedy in flag mutilation is the disrespect it teaches our children, disrespect for the values it embodies, and disrespect to those who have sacrificed for those values. Disrespect is the genesis of hate, it provokes the dissolution of our unity, a unity which has only one symbol - the flag.

You cannot separate the values issue from our children and what kind of world we want to leave them. Our values are formed, theirs are not. The flag is our greatest teaching aid for values and for patriotism.

In a culture that glorifies the repugnant, how can we expect the youth of America to share our sense of reverence for the flag? How can we expect our young people to feel true allegiance to something the Supreme Court says can be defiled, defaced and desecrated?

The flag represents the core of what we have been; burning the flag represents what we are becoming. Waving the flag has ignited the flame of patriotism in the hearts of countless Americans; burning the flag will put that fire out.

America is ruled today, not by what the Founders put in the Constitution, but what the Courts are finding there. And much of what the Courts are finding there is the agenda of a small minority of elitists, most of whom were raised on a different playing field than the rest of us, who never served on a battlefield, and who are convinced they know what is best for America.

In our hearts, we all know it's wrong to desecrate our flag. All of the opposition starts every speech by talking about how much they love our flag, and about how they would never burn it, but they can't quite see their way clear to protecting it. But have we considered this - to do nothing when the flag is desecrated is not simply to let violence bear it away - but it's to join the mob, to aid and abet by our silence, to give barbarism our permission. To allow the legal desecration of our flag is to condone the general disintegration of society - to participate in the devaluing of the world's foremost symbol of freedom.

The flag amendment is about holding the line on respect, on the values that many risked our lives to preserve. We live in a society that respects little and honors less. The great majority of us can trace most of today's ills to a breakdown in respect ... for laws, for traditions, for people, for the things held dear.

The flag burners are not the enemies to our Constitution. It is those who call flag burning "speech," who seek to control our Constitution, who are the real enemies.

According to Webster's Dictionary, "speech" is "the act of expressing thoughts, feelings, or perceptions by articulation of words; something spoken; vocal communication, conversation."

Our courts wrongly tell us that prayer is not protected speech, but pornography is; they will not allow the Bible or the Ten Commandments in our schools. The Supreme Court prohibits any demonstration on its steps, but allows Old Glory to be burned on our streets.

Abraham Lincoln once asked how many legs would a dog have if you called his tail a leg. The answer is four. The Supreme Court counted the tail when it said burning the flag was "speech." They were wrong. Desecration of the flag is clearly conduct. However, what concerns us most is not those who defile our flag, but those who defile our Constitution by calling flag burning speech.

Returning to the people the right to protect the flag is not about free speech. It is not about tinkering with the Constitution. It is not about toleration of those with different views. It is about the kind of people we are. It is about different kinds of people wrestling for the soul of America. It is about a minority who fear the democratic process and

show disdain for the Founding Fathers who wanted the majority of the people to control the Constitution - through their representatives, if possible; through the amendment process, if necessary.

The issue no longer centers on the wisdom of protecting the flag, but on whether or not the people should have the freedom to protect their flag. The amendment itself does not provide protection; it merely provides an avenue for protection, if that is the will of "We the People."

To argue against flag protection as a reason not to pass the amendment is to argue against the American people having the right to decide the issue for themselves. And if not the people, who would we have decide the issue? Is not our government based on trusting the collective wisdom of the people? Did not Thomas Jefferson say: "It is my principle that the will of the majority should always prevail"?

The fight to protect the flag is not on the battlefield, but at the ballot box. When Americans go to the polls they'll help decide the fate of the flag by choosing members of Congress and state legislatures who will vote for a constitutional amendment that will return to the people the right to protect the flag.

Failure to protect our flag by law is not a celebration of liberty; it is the celebration of evil. A great nation cannot preserve its greatness by turning a blind eye and a deaf ear to that which is wrong, to that which is destructive, to that which is immoral and evil.

The Constitution is too important to be left to the Courts and so is the flag. They both belong to the people and it is time for this body to let the people decide.