

Public Hearing

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before

ASSEMBLY VETERANS AND MILITARY AFFAIRS COMMITTEE

Assembly Concurrent Resolution No. 82

(Memorializes Congress to propose a constitutional amendment prohibiting the physical desecration of the American flag)

LOCATION: Legislative Office Building
Room 11
Trenton, New Jersey

DATE: May 6, 1993
10:00 a.m.

MEMBERS OF COMMITTEE PRESENT:

Assemblyman Joseph Azzolina, Chair
Assemblywoman Priscilla B. Anderson, Vice-Chair
Assemblyman Melvin Cottrell
Assemblyman Jeffrey W. Moran
Assemblyman Patrick J. Roma
Assemblyman George Hudak
Assemblyman Raul "Rudy" Garcia

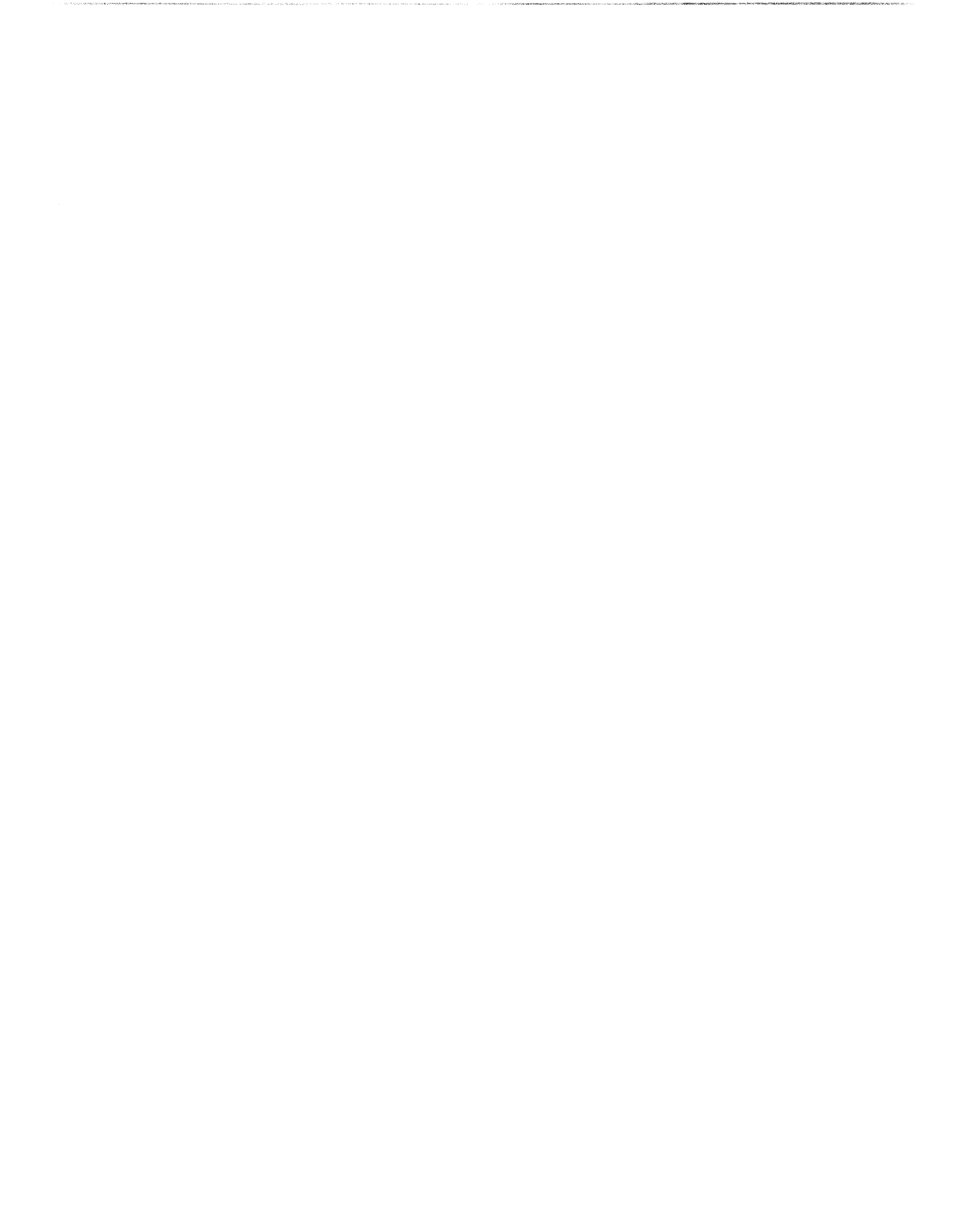


ALSO PRESENT:

Frank J. Parisi,
Office of Legislative Services
Aide, Assembly Veterans and Military
Affairs Committee

New Jersey State Library

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JOSEPH AZZOLINA
Chair
PRISCILLA B. ANDERSON
Vice-Chair
MELVIN COTTRELL
JEFFREY W. MORAN
PATRICK J. ROMA
GEORGE HUDAK

Raul Garcia

New Jersey State Legislature

ASSEMBLY VETERANS AND MILITARY AFFAIRS COMMITTEE
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COMMITTEE NOTICE

TO: MEMBERS OF THE ASSEMBLY VETERANS AND MILITARY AFFAIRS COMMITTEE

FROM: ASSEMBLYMAN JOSEPH AZZOLINA, CHAIR

SUBJECT: **COMMITTEE MEETING/PUBLIC HEARING - May 6, 1993**

The public may address comments and questions to Frank J. Parisi, Committee Aide, or make bill status and scheduling inquiries to Kathleen J. Lieblang, Secretary, at (609) 292-9106.

The Assembly Veterans and Military Affairs Committee will meet on **Thursday, May 6, 1993 at 10 AM in Committee Room 11 of the Legislative Office Building, Trenton, New Jersey.**

The following bills will be considered:

AJR-45 Anderson/Azzolina (pending intro & referral)	Designates the month of May as "Women Veterans Awareness Month."
AR-18 Azzolina/Anderson	Calls on federal Department of Defense to halt plan to further downsize the New Jersey National Guard.
AR-122 Hartmann	Memorializes the Base Closure and Realignment Commission, the President, and the Congress in connection with proposed closing of Naval Air Warfare Center in Ewing Township.

In addition, the committee will hold a public hearing on the following:

ACR-82 Anderson/Roma	Memorializes Congress to propose a constitutional amendment prohibiting the physical desecration of the American flag.
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Issued 04/26/93

ASSEMBLY CONCURRENT RESOLUTION No. 82

STATE OF NEW JERSEY

INTRODUCED MAY 18, 1992

By Assemblywoman ANDERSON and Assemblyman ROMA

1 **A CONCURRENT RESOLUTION** memorializing the Congress of
2 the United States to propose an amendment to the United
3 States Constitution, for ratification by the states, providing
4 that Congress and the states shall have the power to prohibit
5 the physical desecration of the American flag.
6
7 WHEREAS, There are national symbols, such as the Washington
8 Monument, the United States Capitol Building, and the Lincoln
9 Memorial, which belong to every American and which should be
10 protected from desecration and dishonor; and
11 WHEREAS, The American flag is not only such a symbol but is
12 also an integral part of this nation's history and spirit; and
13 WHEREAS, Our flag was born in the struggle for independence
14 that began with "The Shot Heard Round the World" in Concord,
15 Massachusetts; and
16 WHEREAS, During the War of 1812, the American flag
17 symbolized the stand of a young and brave nation against
18 foreign invasion and inspired our national anthem; and
19 WHEREAS, During World War II, the Stars and Stripes was the
20 banner that led American forces against fascist imperialism,
21 from the depths of Pearl Harbor to the mountaintop on Iwo
22 Jima and from defeat in North Africa's Kasserine Pass to
23 victory in the streets of Hitler's Germany; and
24 WHEREAS, Old Glory symbolizes the ideals for which good and
25 decent people fought and died in Vietnam, often suffering cruel
26 condemnation at home in that effort; and
27 WHEREAS, Our flag stands for the democratic values which were
28 advanced in the struggle for civil rights for all Americans; and
29 WHEREAS, The American flag was carried to the moon as a
30 banner of goodwill, vision, and triumph on behalf of all
31 mankind; and
32 WHEREAS, The American flag is the honorable and worthy
33 banner of a nation which is thankful for its strengths,
34 committed to curing its faults, and which still remains the
35 beacon of hope for millions of immigrants attracted by the
36 American dream; and
37 WHEREAS, The United States Supreme Court has mistakenly
38 decided to take away from the Stars and Stripes the protection
39 and respect which it deserves; and
40 WHEREAS, The right of free speech was never intended to mean
41 that our flag should be subjected to desecration and dishonor
42 under the guise of freedom of expression; and
43 WHEREAS, It is fitting and proper that people everywhere lend
44 their voices to a forceful call for the protection of Old Glory
45 under the laws of the federal and state governments; now,
46 therefore,

1 BE IT RESOLVED *by the General Assembly of the State of*
2 *New Jersey (the Senate concurring):*

3 1. The Congress of the United States is respectfully
4 memorialized to propose an amendment to the United States
5 Constitution, for ratification by the states, providing that
6 Congress and the states shall have the power to prohibit the
7 physical desecration of the flag of the United States.

8 2. Duly authenticated copies of this resolution, signed by the
9 President of the Senate and the Speaker of the General Assembly
10 and attested by the Secretary of the Senate and the Clerk of the
11 General Assembly, shall be transmitted to the Vice-President of
12 the United States, the Speaker of the House of Representatives,
13 and every member of Congress elected thereto from the State of
14 New Jersey.

15
16

17 STATEMENT

18
19 This concurrent resolution memorializes the Congress of the
20 United States to propose an amendment to the United States
21 Constitution, for ratification by the states, providing that
22 Congress and the states shall have the power to prohibit the
23 physical desecration of the American flag.

24
25

26 _____
27
28 Memorializes Congress to propose a constitutional amendment
29 prohibiting the physical desecration of the American flag.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY CONCURRENT RESOLUTION No. 82

STATE OF NEW JERSEY

DATED: FEBRUARY 22, 1993

The Assembly State Government Committee reports favorably
Assembly Concurrent Resolution No. 82.

This concurrent resolution memorializes the Congress of the
United States to propose an amendment to the United States
Constitution, for ratification by the states, providing that Congress
and the states shall have the power to prohibit the physical
desecration of the American flag.

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ASSEMBLYMAN JOSEPH AZZOLINA (Chair): We're holding a public hearing on the flag burning bill because it's required by law. Has it already been heard in the Government Committee?

MR. PARISI (Committee Aide): State Government Committee, that's correct.

ASSEMBLYMAN AZZOLINA: Has it been approved there yet?

MR. PARISI: Yes, it has.

ASSEMBLYMAN AZZOLINA: Okay. By law you need a public hearing, and this Committee is holding a public hearing on it. So do you want to read the statement, or whatever?

MR. PARISI: Assembly Concurrent Resolution No. 82 memorializes the Congress of the United States to propose an amendment to the United States Constitution, for ratification by the states, providing that Congress and the State shall have the power to prohibit the physical desecration of the American flag.

ASSEMBLYMAN AZZOLINA: Thank you. Who is the sponsor of that bill?

ASSEMBLYMAN ROMA: Priscilla Anderson and myself.

ASSEMBLYMAN AZZOLINA: Okay. All right, would you like to make a statement?

ASSEMBLYMAN ROMA: Sure, thank you.

Mr. Chairman, members of the Committee, this most important resolution was introduced in a prior session. Unfortunately, as we all know, Congress on two previous occasions has passed a law which our Supreme Court has found to be unconstitutional. So it is a fact that unless the Constitution is changed, another law would be struck down. It is unconscionable in this day and age that the American flag would be desecrated or burned. And obviously, Mr. Chairman, it's done in order to cause people to be upset and to cause them to riot. It's not right. Yet, up until now there really has been no amendment to stop this.

I commend the sponsor, Assemblywoman Anderson, in moving ahead with this resolution. Mr Chairman, it's about time that we acted. Unfortunately, there has been a lot of political rhetoric, and Congress has not seen fit to protect what is our national symbol.

I'll read from a quote of Charles Evans Hughes--

ASSEMBLYMAN AZZOLINA: Excuse me for a minute.

ASSEMBLYMAN ROMA: Sure.

ASSEMBLYMAN AZZOLINA: I have to go to another meeting quickly, and I'll be back. But I would quickly like to say-- Assemblyman Roma will run the meeting while I'm out, and he will continue his statement.

I spent 42 years both in the active Navy and active reserve, and I've been taught that you don't burn the flag; you don't let it fall on the ground; you don't do anything to disgrace the flag. A lot of us in the room here, and others, fought for the flag; that was the symbol we fought for. And I think it's a disgrace that people would be permitted to, under freedom of speech, burn a flag. I think it's absolutely wrong.

Assemblyman Roma would you-- I support the bill.

I'll be back. Why don't you sit up here.

ASSEMBLYMAN ROMA: (Assemblyman Roma complies) As I mentioned before, this resolution was brought up in a previous session. Unfortunately, that resolution was amended and it made the resolution meaningless. We have an opportunity today not only to have a public hearing, but to move ahead with a most important resolution.

There will always be dissenters, people who feel that whatever the reason might be, it's okay to burn the American flag. But in order to truly have an ability to stop the desecration and burning of the flag, we cannot have a third passage of a bill in our Congress. It's unfortunate that it took two decisions to realize that.

I mentioned before, in the words of Charles Evans Hughes: "The 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 honors of this nation have been dearer than life." I think that says it all.

I want to thank the Chairman and the members of the Committee for this opportunity to have this hearing, and of course, Assemblywoman Anderson, who has just joined us, for the sponsorship of this most important resolution.

As soon as Assemblywoman Anderson gets seated, I'm sure she will have comments to make about this important legislation.

Good morning, Assemblywoman.

ASSEMBLYWOMAN ANDERSON: Good morning, it's good to see you.

ASSEMBLYMAN ROMA: We are hearing your resolution at this moment.

ASSEMBLYWOMAN ANDERSON: That's right. Would you like me to make some remarks?

ASSEMBLYMAN ROMA: Absolutely.

ASSEMBLYWOMAN ANDERSON: Okay.

ASSEMBLYMAN MORAN: Mr. Chairman, while Priscilla is getting ready, if I may -- if there's some time?

ASSEMBLYMAN ROMA: Yes.

ASSEMBLYMAN MORAN: I take a great deal of pride in being a cosponsor of this piece of legislation, as a veteran, and as someone who has fought for and defended our rights. There wasn't a time aboard ship when we pulled in or pulled out of port, when we raised or lowered the flag, that some of us aboard ship didn't have tears in our eyes. When you're fighting to preserve and protect the guarantees that each and

every one of us has under the Constitution, I think it's only right that we defend to the utmost the flag, the emblem which represents that freedom.

I want to personally thank Priscilla for her persistence and yours, Mr. Roma, because I think it's things like this that have to bring the morale of the country and our people back to the surface. Hopefully, this will shed some light on the fact that each and every one of us is a proud American and the flag represents everything which we fought for and we live for.

Thank you.

ASSEMBLYMAN ROMA: Thank you, Assemblyman.

Assemblywoman Anderson?

ASSEMBLYWOMAN ANDERSON: Thank you very much. I'm very happy that you and Assemblyman Moran, and others have joined us, because this is a very important issue. I mean, we're just thinking now of the possibilities of Bosnia, what's going on over there. Our troops have just come out of, or are coming out of Somalia. Certainly, the proud men and women here who have served us during many other wars and have kept our soils here free -- that we don't have to worry the same as those people over there; that we see the terrible things happening in these very countries-- And it's because of those of you out there -- many people like you that we take-- Some of us take our freedoms for granted. We really do.

I would like to thank my cosponsor, Assemblyman Roma. He has long sought a constitutional amendment prohibiting the physical desecration of the American flag, and that is what ACR-82 does. We are sending a message to our Federal representatives asking that such an amendment be moved forward.

The battle of this issue was raised nearly three years ago when the Supreme Court, in a narrow five to four vote, held that the defacement of the flag by burning and other means was

protected by the First Amendment. A year later the U.S. House of Representatives considered an amendment to reverse the high court's finding. But the House failed by a mere, I think it's 37 votes -- I don't have my glasses on -- to muster the two-thirds vote needed. Today we want this to continue, and ask the Congress to again renew this battle.

The history of the Court's flag burning decision is really recent. The outrage of millions of Americans, including all of us -- or I would say all of us, almost all of the people that I know, my friends and family and associates-- We know that we just don't want our flag to be treated in such a matter of disrespect.

As I said, we looked at those such as you, who have served this nation and its principles in our armed forces. Having served and having defended this flag throughout the world, we don't want it to be treated in any manner-- It is not a handkerchief; it is not an article of clothing; it is not a dust rag; it's our flag.

You know, we can stand here and argue about the fine points of constitutional law, the meaning of the First Amendment, and I am sure that we will hear that again. But in the end it comes down to this: In the course of our history, in the anecdotes of rebellions, massacres and protests, the flag has remained sacred. I would be the first to speak out, to protest if we were denied -- the minority, of which I am one -- the right to be heard. But that is not the case here today.

All we're saying is that the burning and trampling of the flag is where we draw the line. I think that's reasonable. I hope my colleagues on both sides of the aisle will join me in moving this resolution and moving forward with this.

Again, I want to thank you, Assemblyman Roma, and all who do support this, who have joined us as cosponsors on this.

I certainly hope that this will move forward, and our Congress will be able to pass this when it comes through again.

ASSEMBLYMAN ROMA: Thank you, Assemblywoman.

Any other members of the Committee?

ASSEMBLYMAN COTTRELL: Mr. Chairman?

ASSEMBLYMAN ROMA: Assemblyman Cottrell?

ASSEMBLYMAN COTTRELL: I want to thank you, Assemblyman Roma and Assemblywoman Anderson, for posting this bill and sponsoring it. Let me tell you, when I was the Mayor of Jackson Township and a citizen, at my first memorial I criticized the Supreme Court severely. I told them it was a disgrace. I consider the American flag as a symbol of freedom and what Americans stand for, and to burn it or trample on it is a disgrace, as far as I am concerned. I am proud to say I will support this 100 percent. It is time that the Congress act to make this law (indiscernible) who burn our flag, which is respected, I would say, by the whole world.

ASSEMBLYMAN MORAN: Cottrell for Congress. (laughter)

ASSEMBLYMAN ROMA: Assemblyman Garcia?

ASSEMBLYMAN GARCIA: To me the American flag represents the ideals of liberty, freedom, and opportunity for which this country stands. It was these freedoms and liberties which drew our forefathers here, which drew so many immigrants to this country. I think it is appalling to think that some, under the guise of free speech, would take an opportunity to desecrate such a symbol. It is for this reason that I join with the sponsors and the members of this Committee in resounding support for this bill.

ASSEMBLYMAN ROMA: Thank you, Assemblyman.

Assemblyman Hudak?

ASSEMBLYMAN HUDAK: Mr. Roma, I don't want to be redundant in my remarks except to say that I certainly embrace all of the comments made by the Committee members this morning. I will be more than happy to second the motion on this particular bill.

ASSEMBLYMAN ROMA: Thank you.

We have two that have signed up in order to speak on this ACR.

Joseph M. Lynch, State Commander, American Legion.
Good morning.

J O S E P H M. L Y N C H: Good morning, everyone. My name is Joe Lynch, State Commander of the American Legion. We have 90,000 members in the State of New Jersey who belong to 384 posts.

I would like to first say amen to all the wonderful words that you folks said in support of this measure. I would like to also say that the American Legion would like to go on record supporting all the other resolutions that were presented here today.

ASSEMBLYMAN ROMA: Thank you, Commander.

MR. LYNCH: I appreciate the fact that the Assembly has seen fit to act on ACR-82 by conducting this public meeting today, and the opportunity it has afforded me to share our viewpoints on this matter with you. I certainly hope that ACR-82 and it's Senate companion, SCR-35, will enjoy swift legislative action.

As you know, in 1989 the Supreme Court ruled that the act of desecrating the United States flag is protected under the First Amendment of the Constitution. Subsequent attempts by the Congress to legislate protection have proven futile, and have emphasized the need to propose a constitutional amendment.

ACR-82 memorializes the Congress to propose a constitutional amendment which will protect our flag from the flagrant and disrespectful acts of these malcontents who have no regard for the ideals which the flag represents, nor for the sacrifices made by thousands of Americans to defend and protect these ideals.

Similar memorializing resolutions have been passed by 31 states, and have been passed in one chamber in another eight

states. They need a total of 39, so we are getting close.

The American Legion believes that the people should have the right to speak on this issue, and the passage of ACR-82 will bring us one step closer to achieving this goal.

The results set forth in the attached Gallop poll, which you have on the second page, reveal very clearly that the majority of Americans believe that the flag should be protected from desecration. It is our fervent hope that the New Jersey Legislature will simply let the people decide whether such protection should be afforded this most sacred symbol. I urge you and all of your colleagues to support ACR-82, and to work toward its adoption by both Chambers.

I wish to personally thank Assemblywoman Anderson and Assemblyman Roma for sponsoring ACR-82, and Assemblymen Gibson, LoBiondo, and Mikulak for signing on as cosponsors. I commend them all for their efforts they have put forth in this matter. I can assure you their efforts will not go unnoticed.

I thank you very much.

ASSEMBLYMAN ROMA: Thank you, Commander.

Ray Kalanaikas?

R A Y K A L A N A I K A S: This is probably the only opposition in this room to this particular piece of legislation or resolution.

The argument against ACR-82 can be summed up in one sentence: It is not the purpose of our government to dictate to us what we are to hold sacred. You're correct, Pat. You would have to change the Constitution to see that ACR-82 moves ahead. You would have to destroy the First Amendment with regard to religious freedom; you really would. You would have to eliminate it. If you eliminate it, then you could have this kind of action take place.

I was listening to various people speak with regard to this Committee, and I was taking note of the fact that you're all connecting a political symbol, the flag, with killing for

the political state. You don't call it that; you call it service to country -- the military, the willingness to kill on behalf of the political state.

The flag is supposed to represent religious freedom by virtue of the First Amendment. It's supposed to. If it does, then the flag represents those who are also opposed to killing for the political state, such as: the Quakers, the Amish, the Mennonites, and so on, myself included.

I hold to the religion of Christianity, and Christianity says you cannot destroy human life for the political state for any reason. You cannot destroy political-- You cannot destroy human life for the political state or even yourself. That's the ultimate mark of Christianity, the absolute law of love.

The people in this room do not adhere to that for the most part. The religion of Judaism says you can kill for the political state, you can kill for yourself, and so on, and so on. I reject that religious understanding. The religious understanding I hold to is an understanding of Christianity that says: The law of love says you cannot destroy human life for any reason whatsoever.

You're associating the flag with killing people, and therefore, you must hold it sacred; I do not hold that understanding sacred. You're associating the flag with that understanding, and therefore, the flag must be held sacred. What you hold sacred, as long as it belongs to you, is up to you.

If a flag belongs to the political state, I have no right to tamper with it because it's not mine. But if a flag is mine -- in my possession -- I can do what I want, and that's what religious freedom is all about. The State cannot dictate to me what I am to hold sacred or not sacred, as long as it's within my possession.

It is going to take courage for any individual here to oppose this resolution -- and I see courage rarely in the Legislature, very rarely -- because you're going to be going against popular conception, perception, and opinion to oppose this resolution. But you know, at the highest level of government, at the Federal level, there are people who would oppose this.

This is a violation of religious freedom. Supposably, the flag stands for religious freedom. The flag doesn't just represent the notion of killing people for the political state; it represents people such as the Amish, the Quakers, and the Mennonites. The political entity is a political entity representing good and bad.

As you recall, 2000 years ago when an individual referred to the carpenter and said, "Good master," He said, "Call no one good except God," and that applies to all political entities as well.

So don't create a golden calf for yourself. And that's what your doing with the flag, you're turning it into a golden calf. It's ridiculous; it's absurd; it's a political symbol representing good, representing bad. Don't use words like sacred. It's absurdity.

You're creating a state religion. It's wrong. All of the pompous statements concerning this resolution I regard as a violation of religious freedom, and really, a violation of the very principles that our government is predicated on.

Again, the statement: It is not the purpose of our government to dictate to us what we are to hold sacred. You can't do this; it's wrong, and if it passes, it shows your lack of understanding as to what government is all about in this country.

That's it.

ASSEMBLYMAN ROMA: Mr. Kalanaikas, a question, and I'm sure everyone will want to hear your response: The First

Amendment has been interpreted very broadly. As you're probably aware, it does not allow one to shout fire in a crowded theatre. There is the element of safety. And in all the cases where the American flag has been burned, it was done as part of a political demonstration, obviously in order to incite people to riot, and to cause that lack of safety. Do you see a distinction between the two examples?

MR. KALANAİKAS: Well, if you take the purpose of government-- The purpose of government is essentially to secure our rights, not to tell us how to live each day. By saying the purpose of government is to secure our rights-- In other words, government's responsibility is to prohibit one or more individuals from willfully depriving me or someone else of the right of life, liberty, and the pursuit of happiness. That is the only purpose of government. Government doesn't have the right to dictate to me what I am to hold sacred and not hold sacred.

Now, given a situation, supposably, where somebody yells fire in a crowded theatre, take each situation as it is. But I don't see the connection, quite frankly, to what I'm saying. I mean, it's like you're picking straws here trying to find something to justify what--

ASSEMBLYMAN ROMA: Are you talking in terms of the First Amendment freedom, and the First Amendment is--

MR. KALANAİKAS: I'm talking--

ASSEMBLYMAN ROMA: --to be interpreted as you're indicating? Then that would allow someone under the guise of the First Amendment to yell fire in a theatre.

MR. KALANAİKAS: Pat, what you're doing here is-- I'm talking religious freedom. This is what I'm talking about, primarily, religious freedom.

Do you recall, as you state within this ACR piece-- You're using the words sacred. You want people to hold sacred this piece of cloth. Whether I want to hold it sacred or not

is up to me and my own understanding of religion. Two thousand years ago a carpenter said, "Call no one good except God." In other words, hold nothing sacred except God.

So if you are a Christian, Pat, and I don't think you are-- I have been watching your resolution. You support killing on behalf of the political state, in the judicial system, in the military structure -- you're exceptionally punitive -- which is all opposed to Christianity. Your actions with regard to legislation are all opposed to Christianity, so I hope you don't call yourself a Christian. You're consistent with the religion of Judaism, but you're not consistent with the religion of Christianity.

ASSEMBLYMAN HUDAK: Mr. Chairman, who is he to dictate to you whether you are a Christian or not?

Who do you think you are? Are you putting yourself as if you died on the cross for us? Who are you supposed to be?

MR. KALANAİKAS: I'm not talking about your comment. I'm talking about--

ASSEMBLYMAN HUDAK: Do you know what? You got your soapbox. The Constitution guarantees you to say whatever you want to say, and I agree with that. You said what you wanted to say.

MR. KALANAİKAS: Right.

ASSEMBLYMAN HUDAK: I think it's time to cut him off, and let's go on with it.

ASSEMBLYMAN ROMA: Thank you, Assemblyman.

ASSEMBLYWOMAN ANDERSON: May I ask a question, please?

MR. KALANAİKAS: Let me answer the question.

ASSEMBLYMAN HUDAK: You answered it by your comments prior to this.

MR. KALANAİKAS: No, I'll answer your question, George.

ASSEMBLYMAN HUDAK: I don't have to listen to your answers, okay, because I know where you're coming from.

MR. KALANAİKAS: You're not a Christian either, George.

ASSEMBLYMAN ROMA: Mr. Kalanaikas, I will-- Please?

ASSEMBLYMAN HUDAK: Are you-- Are you a Christian?

ASSEMBLYMAN ROMA: Please, if I may?

ASSEMBLYMAN HUDAK: Who gives you the authority to--

ASSEMBLYMAN ROMA: If I may?

ASSEMBLYMAN HUDAK: So what? So what if I'm not a Christian? But I am a Christian. Who are you, telling me I'm not?

MR. KALANAİKAS: I'm talking about what you hold to, George.

ASSEMBLYMAN HUDAK: Who are you to hold me to anything?

MR. KALANAİKAS: You hold to the notion that it's correct to kill for various reasons.

ASSEMBLYMAN HUDAK: Listen, you got your chance to be on a soapbox. You made your comments, and I think that's enough.

ASSEMBLYMAN ROMA: Thank you, Assemblyman.

MR. KALANAİKAS: You've all been on a soapbox, every single one of you.

ASSEMBLYMAN ROMA: Assemblywoman Anderson?

ASSEMBLYWOMAN ANDERSON: I just wanted to ask you: Are you saying that it's your religion? And we respect what you say, that you have the right under the First Amendment to call that your religion, whatever it is. There are millions of people in this country who, in fact, believe in Christianity, but they also believe in what we are about here today, about this resolution. I've never known or been to a church that, you know, took the stand that you do, and I don't quite understand that.

MR. KALANAİKAS: I guess what I'm saying, Priscilla, is that the ultimate mark of Christianity is the absolute law of love. And everybody in this room is in violation of that by virtue of what they hold to in terms of their creed or their

tenets. What I'm listening to is a belief, a system of a way of life, that justifies the destruction of human life for the political state, and obviously, even in the judicial system. That's a violation of the absolute law of love which says you cannot destroy human life for any reason whatsoever.

So I'm not talking about conduct. I'm talking about what you hold Christianity to be. And if you hold Christianity to be the right to destroy human life, then you're not a Christian. That's a violation of Christianity. That's in direct opposition to it. What you're doing is pushing the destruction of human life on behalf of the political state, and you're using the flag to do it.

UNIDENTIFIED SPEAKER FROM AUDIENCE: That's your opinion.

ASSEMBLYMAN ROMA: Thank you, Mr. Kalanaikas. We have--

MR. KALANAIKAS: That's correct.

UNIDENTIFIED SPEAKER FROM AUDIENCE. So don't tell him what he is or isn't.

ASSEMBLYMAN HUDAK: Exactly, exactly.

ASSEMBLYMAN ROMA: We have two speakers who signed up. We had Mr. Lynch, the State Commander, and Mr. Kalanaikas. We have afforded you ample opportunity to air your views. We thank you for being here this morning. Is there anyone else who would like to speak?

V I N C E N T B R I N K E R H O F F: I signed up late, Sir. Maybe the gentleman didn't pick it up. It was on the table. I represent the Veterans of Foreign Wars.

ASSEMBLYMAN ROMA: Would you please come forward.

MR. BRINKERHOFF: We agree wholeheartedly with the remarks we heard here this morning. What we talked about, what the flag represents--

ASSEMBLYMAN HUDAK: Not of the previous speaker, you don't. I know you don't.

MR. BRINKERHOFF: You know better than that, don't you? Opposite sides of the city line and opposite sides of the political arena, but good friends.

The flag is a sort of right to our religious beliefs, to have this gentleman the right to stand here and sound off what he feels like. If it weren't for the boys who fought for that flag -- I mean, a lot of us weren't heroes; we heard a few guns fired in anger -- there wouldn't be the flag; there wouldn't be religious freedom. What you people are doing is a 100 percent right. Please go forward.

ASSEMBLYMAN ROMA: Thank you. (applause)

Yes?

F R A N K C O R T I E R: I won't even sit down; I won't be that long. A couple of comments: I'm Frank Cortier, State Legislative Chairman with the American Legion, and last year's State Commander.

I spoke to this Committee -- most of you have served on it -- when this was discussed before, and the year before that.

Just a couple of comments that I'd like to reinforce that I made before. It was said by one of the members of the Committee that when you take a piece of cloth and you make a flag out of it, it's no longer a piece of cloth; it's something that this country represents. That's what the American flag becomes.

And I also said before: If I don't like your car because it's purple, I have the right to disagree; that doesn't give me the right to pour paint on it. I don't like your house because it's yellow; that doesn't give me the right to pour blue paint on your house.

As far as the government dictating to us, one thing that seems to be forgotten, we are the government.

Thank you. (applause)

ASSEMBLYMAN MORAN: Mr. Chairman, do you need a motion to close the hearing?

ASSEMBLYMAN ROMA: Yes.

Is there anyone else who would like to speak?

A N N A M. H O F F M A N: Yes, I would like to speak for the women veterans. Looking from a woman's attitude or opinion, this flag is not just for the military; it is for all of us. I mean, we're all copying, saying military, military, but really that flag is a big symbol for the military, and since I was in the service I do respect that.

But let's go back when we first went to school, and the first thing we learned is how to salute that flag. That flag means everything to every American in the United States of America, and I'm certainly proud of it. We should keep it that way.

ASSEMBLYMAN ROMA: Thank you.

J O S E P H S T E R N: Pat?

ASSEMBLYMAN ROMA: Yes. Please identify yourself for the record.

MR. STERN: My name is Joe Stern, Cliffside Park, New Jersey. You know me. How do you do, Pat?

I've only got one thing to say. Most people in this country feel that the American flag is inviolable. What most people don't realize is: We don't own the flag. Even if you purchase it, you don't own it. That flag belongs to the people who have used it for a blanket, who have served the country. That flag is taken -- just before they are lowered into their grave -- taken and folded a certain way and given to the next of kin. Here is his or her flag. I'm only a guardian.

People like that should-- Well, they don't deserve to have that flag to represent them, but it does. Things that happen to that flag-- That flag should be handled with abject respect. That's the way I feel.

ASSEMBLYMAN ROMA: Thank you.

MR. STERN: Thank you.

ASSEMBLYMAN ROMA: Any further comments? Yes, Mr. Fuller?

D O N A L D F U L L E R: Don Fuller, American DAV, Department of New Jersey Legislative Chairman.

I would like to join in with the American Legion and the--

ASSEMBLYMAN ROMA: If you would please come forward, everything is being transcribed. (witness complies)

MR. FULLER: Okay, all right. I would like to join with the American Legion and VFW in supporting this 100 percent. It's ridiculous that we have to go through the other part, but we join both of them and really appreciate the Committee's efforts to pass this bill.

ASSEMBLYMAN ROMA: Any other comments? Yes, please come forward.

MR. LYNCH: As far as that sacred bit, that flag represents a lot of things. But one of the things that it represents is the memory of more than one million Americans who gave their lives so that people like him could come here and talk against it.

Thank you.

J A M E S D I R A I M O N B O: My name is James Diraimonbo from Roselle Park. I had a brother killed at Anzio. To hear a character like him-- He's making my brother's death for this country's flag go down in vain. I have no respect for a man like that. He had no respect for my brother dying so he can come up here and comment about the flag amendment. I have no use for anyone like that. It just makes me sick to my gut to hear it.

ASSEMBLYMAN HUDAK: Just don't let it bother you. They are very few and far between like that, all right? We all support you.

MR. DIRAIMONBO: I don't intend for that to bother me, but I can't stand--

ASSEMBLYMAN HUDAK: Don't, really. I understand, but don't let that bother you that much.

ASSEMBLYMAN ROMA: Before closing this public hearing, perhaps Assemblywoman Anderson, you would like to have some closing remarks?

ASSEMBLYWOMAN ANDERSON: I thank all of you who do support this. And the gentleman who has the right under the flag to oppose, I value his right. I think that he should value it, because it's people such as the gentleman's brother who gave his life, that he can be here to express an opposing opinion. Because he could be-- In so many countries in the world today, if you express your opinion in front of a legal legislative body such as we have today, you might be shot within the hour. So I think that at least you should appreciate that gentleman because of what we try to represent here; that you have the freedom to go home tonight and continue to go wherever you care to, and speak how you feel. That's what people gave their lives for, and many people also fought in many wars -- and are still doing that.

So I'm proud to be a sponsor of this legislation. And I would just say, in your words, God bless you.

ASSEMBLYMAN ROMA: Thank you.

Some time back when we had first introduced this resolution, these are the words that would be necessary in order to protect the American flag. As Assemblywoman Anderson has indicated, there have been two Supreme Court decisions already, and if we have a third law that will be struck down, because we've seen those five/four decisions. If we can agree in one area, Mr. Kalanaikas indicated that unless there is a constitutional amendment, we will have the additional desecration.

I would like to thank everyone who testified this morning, and especially the Committee members, because we fully understand what is necessary to join the other 34 states so that we can be in a position to put this before Congress.

Once and for all, there should be a message of unity throughout our country that this is not a flag to be desecrated. Just as we have monuments in our country; just as we have other types of symbols -- as I read from the words of Charles Evans Hughes: "The flag is all of those symbols and it represents the American people."

Thank you.

Mr. Chairman, I would like to thank you for the opportunity to be interim Chairman on this most important legislation. We have concluded the public hearing. There was a vote releasing this bill from this Committee. This is the public hearing, and I understand that the speaker will be placing this on the board list in the immediate future. At this time I will turn the meeting back over to you, Mr. Chairman.

ASSEMBLYMAN AZZOLINA: Thank you. Finish it up.

ASSEMBLYMAN ROMA: Thank you. That will close the public hearing on this important legislation. As indicated before, Chairman Azzolina has requested that this measure be posted as soon as possible, and it is my understanding that that will be done some time over the next few months.

Thank you, Mr. Chairman.

ASSEMBLYMAN AZZOLINA: Thank you for chairing the meeting for me. (applause)

(HEARING CONCLUDED)

APPENDIX

STATEMENT OF DEPARTMENT COMMANDER JOSEPH M. LYNCH
THE AMERICAN LEGION, DEPARTMENT OF NEW JERSEY
BEFORE THE
ASSEMBLY VETERANS AND MILITARY AFFAIRS COMMITTEE
MAY 6, 1993

GOOD MORNING LADIES AND GENTLEMEN. MY NAME IS JOSEPH M. LYNCH AND AS THE STATE COMMANDER OF THE AMERICAN LEGION I REPRESENT THE 90,000 MEMBERS OF THE 384 POSTS LOCATED IN NEW JERSEY.

I APPRECIATE THE FACT THAT THE ASSEMBLY HAS SEEN FIT TO ACT ON ACR-82 BY CONDUCTING THIS PUBLIC HEARING TODAY AND THE OPPORTUNITY IT HAS AFFORDED ME TO SHARE OUR VIEWPOINTS ON THIS MATTER WITH YOU. I CERTAINLY HOPE THAT ACR-82 AND IT'S SENATE COMPANION SCR-35 WILL ENJOY SWIFT LEGISLATIVE ACTION.

AS YOU WELL KNOW IN 1989 THE SUPREME COURT RULED THAT THE ACT OF DESECRATING THE UNITED STATES FLAG IS PROTECTED UNDER THE FIRST AMENDMENT OF THE CONSTITUTION. SUBSEQUENT ATTEMPTS BY THE CONGRESS TO LEGISLATE PROTECTION HAVE PROVEN FUTILE AND HAVE EMPHASIZED THE NEED TO PROPOSE A CONSTITUTIONAL AMENDMENT.

ACR-82 MEMORIALIZES THE CONGRESS TO PROPOSE A CONSTITUTIONAL AMENDMENT WHICH WILL PROTECT OUR FLAG FROM THE FLAGRANT AND DISRESPECTFUL ACTS OF THOSE MALCONTENTS WHO HAVE NO REGARD FOR THE IDEALS WHICH THAT FLAG REPRESENTS NOR FOR THE SACRIFICES MADE BY THOUSANDS OF AMERICANS TO DEFEND AND PROTECT THOSE IDEALS.

SIMILAR MEMORIALIZING RESOLUTIONS HAVE BEEN PASSED BY THIRTY-ONE STATES AND HAVE BEEN PASSED IN ONE CHAMBER IN ANOTHER EIGHT STATES.

THE AMERICAN LEGION BELIEVES THAT THE PEOPLE SHOULD HAVE THE RIGHT TO SPEAK ON THIS ISSUE AND PASSAGE OF ACR-82 WILL BRING US ONE STEP CLOSER TO ACHIEVING THIS GOAL.

THE RESULTS SET FORTH IN THE ATTACHED GALLUP POLL CONDUCTED ON JANUARY 3, 1992 REVEAL VERY CLEARLY THAT THE MAJORITY OF AMERICANS BELIEVE THAT THE FLAG SHOULD BE PROTECTED FROM DESECRATION AND IT IS OUR FERVENT HOPE THAT THE NEW JERSEY LEGISLATURE WILL SIMPLY LET "WE THE PEOPLE" DECIDE WHETHER SUCH PROTECTION SHOULD BE AFFORDED THIS MOST SACRED SYMBOL.

I URGE YOU AND ALL OF YOUR COLLEAGUES TO SUPPORT ACR-82 AND TO WORK TOWARD ITS ADOPTION BY BOTH CHAMBERS.

I WISH TO PERSONALLY THANK ASSEMBLYWOMAN ANDERSON AND ASSEMBLYMAN ROMA FOR SPONSORING ACR-82 AND ASSEMBLYMEN GIBSON, LO BIONDO AND MIKULAK FOR SIGNING ON AS CO-SPONSORS AND I COMMEND ALL OF THEM FOR THE EFFORTS THEY HAVE PUT FORTH ON THIS MATTER. I CAN ASSURE YOU THAT YOUR EFFORTS WILL NOT GO UN-NOTICED.

NATIONAL GALLUP POLL
OF AMERICANS' OPINIONS ON THE
FLAG BURNING ISSUE

- A recent poll conducted by The Gallup Organization reveals that Americans are still strongly behind The American Legion's efforts to protect the United States Flag from desecration. The poll, conducted January 3, 1992, indicated that 77 percent of Americans believe that the physical act of burning the flag is not an act guaranteed as freedom of speech in the First Amendment. That compares to 60 percent of Americans who responded to a Gallup Poll in August of 1989.

The most recent poll also indicates that 77 percent of Americans believe that a Constitutional amendment designed to protect the flag from desecration would not jeopardize their right to freedom of speech. The 1989 poll indicated that 70 percent held that view.

Eighty-two percent of Americans polled believe that the American people should have the right to determine by vote whether or not the U.S. Flag should be protected and, when asked if it were put to a vote today, 81 percent said they would vote for a Constitutional amendment.

The poll was not restricted to American Legion members but was a random sample of 1,001 individuals 18 and older living in the continental United States.

Following are questions included in the most recent Gallup Poll and their responses. Also included as 1B and 2B are questions and responses from the 1989 poll, which are provided for comparison purposes.

1. (1-92) The act of burning the U.S. Flag is currently protected by the First Amendment of the U.S. Constitution. Do you believe the physical act of burning the U.S. Flag is an appropriate expression of freedom of speech as guaranteed by the First Amendment?

Agree - 21% Disagree - 77% No Opinion - 2%

- 1A. (8-89) Do you agree that burning the American Flag is protected under the free speech guarantee of the First Amendment, or do you disagree that burning the flag is protected under the free speech guarantee of the First Amendment?

Agree - 36% Disagree - 60% No Opinion - 2%
Don't Know - 2%

2. (1-92) Do you believe that a Constitutional amendment designed to protect the U.S. Flag from desecration would jeopardize your right to freedom of speech, or not?

Yes - 21% No - 77% Don't Know - 2%

2A. (8-89) Do you believe that a Constitutional amendment outlawing flag burning would place your freedom of speech in jeopardy?

Yes - 27% No - 70% Don't Know - 3%

3. (1-92) Do you believe the American people should have the right to determine by vote whether or not the U.S. Flag should be protected from desecration?

Yes - 82% No - 16% Don't Know - 2%

4. (1-92) If put to a vote today, would you vote for or against a Constitutional amendment to protect the flag from the physical act of burning it?

Favor - 81% Oppose - 17% No Opinion - 2%

5. (1-92) The Supreme Court has ruled that neither states nor the federal government can legally enforce laws enacted to protect the flag from desecration. Do you favor or oppose the passage of a Constitutional amendment that would allow federal and state governments to enact laws to protect the U.S. Flag?

Favor - 77% Oppose - 20% Don't Know - 2%
Refused - 1%

