

under white crosses and stars, to whom an accounting is sometimes necessary, and to whom, again and again, I feel honor-bound to report.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

The Senator from Kansas is recognized.

THE NEED FOR A CONSTITUTIONAL AMENDMENT TO PROTECT THE FLAG FROM PHYSICAL DESECRATION

Mr. DOLE. Mr. President, the score is now flag burners "two," the American people "zero."

Two weeks ago, the Federal district court in Seattle ruled that the so-called Flag Protection Act of 1989 did not work as advertised—that it failed to live up to its marquee billing—that it was unconstitutional. Earlier today, the Federal district court here in Washington followed suit, declaring that the flag statute completely flunks the constitutionality test.

During last year's debate, you didn't need to be a constitutional scholar to realize that the flag statute runs smack into the Texas versus Johnson decision. I said it. Senator GRASSLEY said it. Senator HATCH said it.

And you do not need to be a Supreme Court expert to realize that the flag statute's days are numbered—that its lifespan before the Supreme Court will be shorter than that of a fruitfly in a laboratory petri dish.

Mr. President, last year, I couldn't understand why Congress was so defensive about a constitutional amendment to protect Old Glory. I could not understand why Congress was so stubborn about conforming to a Supreme Court decision about which 97 Senators—97 Senators—expressed "profound disappointment." And I could not understand why Congress was so eager to pass a bill that is patently overboard and now—according to two district courts—most definitely unconstitutional.

But Congress insisted upon staging an elaborate magic show. It insisted upon waiving a magic wand over the flag desecration problem by crafting a statute that strived to be something called content-neutral—whatever that means.

I will make no bones about it: I do not want a content-neutral flag desecration statute. I want a statute that protects the cherished values that the flag symbolizes, not a statute that views the flag as if it were some life-

less rock. I want a statute that punishes people who "publicly cast contempt" upon the flag, not a statute that lumps the innocent with the likes of Gregory Johnson, and, most importantly, I want a flag desecration statute that works—one that is constitutional.

So, it will be no surprise when I say that the way to protect our flag is not with a hocus-pocus statute. The way to protect our flag is with an affirmative step—a constitutional amendment.

That is why I argued for a constitutional amendment last year. And that is why I stand ready to reintroduce the amendment once the Supreme Court finally passes judgment on the flag statute.

Mr. President, it is time that we stopped listening to the lawyers and the self-proclaimed constitutional law experts, and started listening to the American people.

Last year, the overwhelming majority of Americans urged Congress to pass the 27th amendment to the Constitution and Congress turned a deaf ear.

But the voice of the American people remains loud and clear today. And, I can assure you, that next time, this voice will be heard.

MORNING BUSINESS

Mr. BAUCUS. Mr. President, I ask unanimous consent that there now be a period for morning business, with Senators permitted to speak therein.

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

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 2:08 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House insists upon its amendments to the bill (S. 1098) to provide for the use and distribution of funds awarded the Seminole Indians in dockets 73, 151, and 73-A of the Indian Claims Commission, disagreed

to by the Senate; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. UDALL, Mr. MILLER of California, Mr. DARDEN, Mr. LEVINE of California, Mr. FALEOMAVAEGA, Mr. YOUNG of Alaska, Mr. LAGOMARSINO, and Mr. RHODES as managers of the conference on the part of the House.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2750. An act to provide for the designation of certain public lands as wilderness in the State of Arizona.

MEASURE REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2570. An act to provide for the designation of certain public lands as wilderness in the State of Arizona; to the Committee on Energy and Natural Resources.

MEASURE PLACED ON THE CALENDAR

The Committee on the Judiciary was discharged from the further consideration of the following bill, which was placed on the calendar:

S. 1757. A bill to amend title 28, United States Code, to provide special habeas corpus procedures in capital cases.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 5, 1990, he had presented to the President of the United States the following enrolled bill:

S. 1016. An act to change the name of "Marion Lake," located northwest of Marion, KS, to "Marion Reservoir."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-2454. A communication from the Deputy Assistant Secretary of the Air Force (Logistics), transmitting, pursuant to law, a report on a study with respect to converting the commissary resale warehouse function at Langley Air Force Base, Virginia, to performance by contract; to the Committee on Armed Services.

EC-2455. A communication from the Chairman of the Board of Directors of the Panama Canal Commission, transmitting a draft of proposed legislation to authorize expenditures for fiscal years 1991 and 1992, for the Panama Canal Commission to operate and maintain the Panama Canal, and for other purposes; to the Committee on Armed Services.

EC-2456. A communication from the Comptroller General of the United States,