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STATEMENT OF SENATOR BOB DOLE OLD GLORY DESERVES CONSTITUTIONAL PROTECTION

NEXT MONDAY, THE SUPREME COURT WILL HEAR ORAL ARGUMENT IN UNITED STATES VERSUS EICHMAN AND UNITED STATES VERSUS HAGGERTY -- THE NOW-INFAMOUS FLAG-BURNING CASES THAT HAVE PLACED THE SO-CALLED FLAG PROTECTION ACT OF 1989 IN A CLOUD OF LEGAL DOUBT.

EXPEDITED REVIEW HAS WORKED

NEEDLESS TO SAY, THE FLAG PROTECTION ACT HASN'T WORKED AS ADVERTISED. IT'S BEEN STRUCK DOWN BY THE COURTS FROM WASHINGTON STATE TO WASHINGTON, D.C. IT'S ULTIMATE CONSTITUTIONAL FATE NOW HANGS PRECARIOUSLY BEFORE THE NINE JUSTICES OF THE SUPREME COURT.

AND DESPITE ITS GREAT-SOUNDING NAME, THE FLAG PROTECTION ACT HASN'T PROTECTED A SINGLE FLAG -- NOT ONE. TO ITS CREDIT, THE FLAG STATUTE'S EXPEDITED REVIEW PROVISION HAS INDEED WORKED, AND IT HAS WORKED WELL. WITH ORAL ARGUMENT ON MONDAY, CHANCES ARE THAT THE SUPREME COURT WILL ISSUE A FORMAL, WRITTEN OPINION SOMETIME IN LATE JUNE OR EARLY JULY.

AS FAR AS THIS SENATOR IS CONCERNED, THAT'S FAIR, AND THAT'S WHAT CONGRESS MEANT BY EXPEDITED REVIEW.

SO I COMMEND THE DISTINGUISHED CHAIRMAN OF THE JUDICIARY COMMITTEE, SENATOR BIDEN, FOR ENSURING THAT THE EXPEDITED REVIEW PROVISION WAS WRITTEN INTO THE FINAL VERSION OF THE STATUTE. AND I COMMEND THE HOUSE OF REPRESENTATIVES FOR DIRECTING ITS LEGAL COUNSEL TO WITHDRAW A BRIEF THAT -- UNBELIEVABLY -- ASKED THE SUPREME COURT TO DELAY ITS CONSIDERATION OF THE STATUTE UNTIL OCTOBER OR NOVEMBER.

I HOPE I AM WRONG

OBVIOUSLY, I HAVE SOME PRETTY STRONG VIEWS ON THIS SUBJECT. I'VE PREDICTED THAT THE SUPREME COURT WILL AFFIRM THE LOWER COURT OPINIONS AND THAT THE FLAG PROTECTION ACT WILL ONCE AGAIN FLAP HELPLESSLY IN THE LEGAL WIND.

BELIEVE ME, I HOPE THAT THESE VIEWS ARE MISTAKEN. I HOPE THAT THE FLAG PROTECTION ACT IS INDEED UPHELD BY THE SUPREME COURT. AND I HOPE THAT OLD GLORY -- FINALLY -- GETS THE LEGAL PROTECTION TO WHICH IT IS ENTITLED.

I'VE CERTAINLY BEEN WRONG BEFORE, AND MY COLLEAGUES -- ON BOTH SIDES OF THE AISLE -- OFTEN REMIND ME OF THAT FACT.

STAND READY WITH A CONSTITUTIONAL AMENDMENT

BUT ONCE THE SUPREME COURT ACTS -- AND IF THE FLAG PROTECTION ACT IS INDEED DECLARED UNCONSTITUTIONAL -- I STAND READY TO RE-VISIT THE ISSUE OF A CONSTITUTIONAL AMENDMENT.

MANY OF MY COLLEAGUES SAID THAT THEY VOTED AGAINST AN AMENDMENT SIMPLY TO GIVE THE STATUTORY APPROACH A CHANCE.

BUT ONCE THE SUPREME COURT ISSUES ITS OPINION, THIS EXCUSE WILL NO LONGER BE AVAILABLE. THE FLAG STATUTE WILL HAVE HAD ITS CHANCE. IT WILL HAVE HAD ITS DAY IN COURT. AND IT WILL BE TIME TO GIVE THE CONSTITUTIONAL AMENDMENT THE CHANCE THAT IT DESERVES.

CONCLUSION

SO I HOPE THAT THE DISTINGUISHED MAJORITY LEADER WILL ALLOW THE SENATE TO CONSIDER A CONSTITUTIONAL AMENDMENT SHORTLY AFTER ANY SUPREME COURT DECISION STRIKING DOWN THE FLAG STATUTE.

WE'VE ALL SEEN THE AMENDMENT. WE'VE ALL READ THE AMENDMENT. WE'VE HAD EXTENSIVE HEARINGS ON THE AMENDMENT. AND WE'VE DEBATED THE AMENDMENT ON THE FLOOR.

SO THERE WILL BE NO SUPRISSES.

AND IT SHOULD BE NO SURPRISE THAT THE OVERWHELMINGLY MAJORITY OF THE AMERICAN PEOPLE STILL WANT A CONSTITUTIONAL AMENDMENT, AND THEY WANT OLD GLORY TO RECEIVE THE CONSTITUTIONAL PROTECTION THAT IT VERY MUCH DESERVES.