

House Committee on Rules
May 13, 1991 - Page

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

SENATE COMMITTEE ON
RULES

May 13, 1991Hearing Room B
12:00 p.m. Tape 16
Salem, Oregon

MEMBERS PRESENT:Sen. Frank Roberts, Chair
Sen. Bill Bradbury, Vice-Chair
Sen. John Brenneman
Sen. Jane Cease
Sen. Joyce Cohen
Sen. Joan Dukes
Sen. Lenn Hannon

STAFF PRESENT: Jose Mata, Committee Administrator
Bernadette Williams, Committee Assistant

MEASURES

CONSIDERED:HJM10 - Memorializes Congress to adopt constitutional amendment prohibiting physical desecration of the United States' flag, PAW

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TAPE 16, SIDE A

006 CHAIR ROBERTS: Calls the meeting to order at 12:30 p.m..

Submits and summarizes requests for approval of late drafting and introduction of late measures.
(EXHIBIT A and B)

011 MOTION: SEN. ROBERTS asked if there was objection to approval of late drafting and introduction of the measure (EXHIBIT A) relating to funding of the Army National Guard.

VOTE: There being no objection, the motion was unanimously approved.

012 MOTION: SEN. ROBERTS asked if there was objection to approval of late drafting and introduction of the measure (EXHIBIT B) relating to replacing all members of the Oregon Investment Council and the Oregon State Treasurer into the "revolving door clause" of ORS 244 .050.

VOTE: There being no objection, the motion was unanimously approved.

(Tape 16, Side A)

HJM10 - PUBLIC HEARING

Witnesses: Wesley C. Homes, American Legion, Capital Post 9
David Fidanque, American Civil Liberties Union of Oregon

016 ROBERTS: Opens public hearing on HJM10. Summarizes HJM10-2 amendments and HJM 10-2 hand engrossed measure prepared by staff for Senator Roberts. (EXHIBIT C and D)

041 WESLEY C. HOMES, AMERICAN LEGION, CAPITAL POST 9:
Submits and summarizes written testimony in favor of HJM10 (in original form). (EXHIBIT E)

140 BRENNEMAN: Have you seen the HJM10-2 amendments? Asks for an opinion of them.

142 HOMES: My opinion is that much of the strength of the original proposal is taken out. It also doesn't mention the prohibiting of the burning of the actual flag.

145 BRENNEMAN: You would prefer the memorial unamended?

146 HOMES: Yes, I would prefer it unamended.

157 DAVID FIDANQUE, AMERICAN CIVIL LIBERTIES UNION OF OREGON:
Emphasizes that this is not and should not be a partisan issue. There have been people from both parties on the national level who have spoken out in support of the Constitution relating to this issue.

This issue goes to the heart of the 1st amendment. The 1st amendment not only protects speech we agree with; political expression runs at the heart of our Constitutional form of government.

The flag is an important symbol of the freedom of this country and as a symbol it reminds us of our Constitutional form of government and our Bill of Rights. If the flag is allowed to become an object that is more venerated than those freedoms themselves, we will be less free. That is the bottom line.

The ACLU opposes HJM10 in the form which it passed the House. We have no objection to the dash 2 amendments.

202 BRENNEMAN: If someone, in the name of free speech, had a bowel movement on the steps of the capitol should we allow that?

204 FIDANQUE: The problem with the statutes that have tried to criminalize destruction of the flag is that they have been limited to the very circumstances where the content of the political views behind that act were what was being challenged. An example would be that the proper way to dispose of a flag that is old is to burn it. If this body or Congress were to pass a statute that prohibited anyone from burning a flag for whatever reason, that would be constitutional.

219 BRENNEMAN: You are not answering my question.

221 FIDANQUE: I assume it is against the law to defecate in public. The fact that someone's reasons for doing that may be political does not protect it from an otherwise valid statute. The problem with the flag statute is that they have been aimed at certain people who burn the flag for certain reasons; those reasons being to make a political statement. If it were going to be a prohibited act for anyone to burn a flag, that would probably be a Constitutional statute. That is not what the proponents of HJM10 are after. They want to be able to burn the flag when they think it is okay, but be able to put someone else in jail when they burn the flag for the wrong reasons; that is unconstitutional.

240 ROBERTS: Adjourns meeting at 12:45 p.m..

Submitted by: Reviewed by:

Bernadette Williams Jose Mata
Assistant Administrator

EXHIBIT LOG:

A - Late Measure Request - Sen. Frank Roberts - 4 pages
B - Late Measure Request - Sen. Grattan Kerans - 1 page
C - Amendments to HJM10 - Staff - 1 page
D-Hand Engrossed Amendments to HJM10 - Staff - 1 page
E-Testimony on HJM10 - Wesley C. Homes - 3 pages