

House Committee on Rules  
June 10, 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

June 10, 1991Hearing Room B  
12:00 p.m. Tape 21  
Salem, Oregon

MEMBERS PRESENT:Sen. Frank Roberts, Chair  
Sen. Bill Bradbury, Vice-Chair  
Sen. John Brenneman  
Sen. Jane Cease  
Sen. Joyce Cohen (Arrived 12:30 p.m.)  
Sen. Joan Dukes  
Sen. Lenn Hannon

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

MEASURES

CONSIDERED:Executive Appointments:

Natural Heritage Advisory Council, Kathleen Tyau

HJM10 - Memorializes Congress to adopt constitutional amendment prohibiting physical desecration of the United States flag, WRK

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TAPE 21, SIDE A

005 CHAIR ROBERTS: Calls the meeting to order at 12:20 p.m..

Submits and summarizes the Executive Appointment of Kathleen Tyau to the Natural Heritage Advisory Council. (EXHIBIT A)

Asks Ms. Tyau why she is interested in serving on this Advisory Council.

019 KATHLEEN TYAU, NATURAL HERITAGE ADVISORY COUNCIL EXECUTIVE APPOINTEE:

Have volunteered and supported conservation and land use groups since the 1970s. Enjoys the outdoors and spends much time exploring Oregon. Then this opportunity came up, it seemed a wonderful way to extend this aspect further.

Has been researching an article about the appearance of the threatened and endangered peregrine falcon in downtown Portland. Pleased to report that a pair of falcons are still in downtown Portland; this is a significant discovery. It is the excitement and awe of viewing nature firsthand that she wants to share with other Oregonians. The Council plays a significant part, in that it seeks to preserve and promote this kind of experience by preserving our natural resources.

044 ROBERTS: What is peculiar about the falcon being in Portland?

045 TYAU: It is peculiar because they are birds of prey that are rare this side of the Rockies and the bird has appeared voluntarily.

Another reason why serving on the Council is important is the witnessing of changes that has occurred in my hometown of Waikiki, Hawaii. It used to be beautiful and natural, but is now a commercialized area. Things can get out of hand very quickly and that is what got me involved in Oregon conservation.

085 ROBERTS: What is your present employment?

086 TYAU: A freelance writer.

089 MOTION: SEN. ROBERTS asked if there was objection to sending the Executive Appointment of Kathleen Tyau to the Natural Heritage Advisory Council to the floor with a recommendation of confirmation.

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

093 ROBERTS: Opens work session on HJM10. Submits and summarizes HJM10-2 amendments and hand engrossed version of HJM10-2. (EXHIBITS B and C) HJM10-2 would substitute the original HJM10.

Submits letters of concern on HJM10. (EXHIBITS D, E and F)

102 REPRESENTATIVE MARKHAM, DISTRICT 46:

I am here to send a strong message to Congress that the time has arrived for a Constitutional amendment prohibiting the physical desecration of the United States flag.

Until 1989, flag burning was outlawed in 48 of the 50 states. The Supreme Court struck those

down on a narrow margin of a five to four vote. It is time to recapture our hijacked Constitution from the Supreme Court, who have distorted it for many years. We have let this country be driven to where the ten commandments cannot be placed in public schools or a manger be placed in a public park at Christmastime, but flag burning and pornography are court protected rights. Burning the flag is not an invitation to argue, but a challenge to fight.

The Constitution says in its preamble that "We the people in the United States do ordain this Constitution in order to form a more perfect union and insure domestic tranquility." How does burning the flag help create a more perfect union and insure domestic tranquility? I can't answer those questions, so it is time for Congress to address this miscarriage of justice by changing the First Amendment to prohibit the physical desecration of the flag.

HJM10 is all about this and I prefer the original version, which passed the House 36 - 23. Asks for support of the Committee.

131 ROBERTS: I do not condone any desecration of the United States flag. The issue is that the only time that the desecration of the flag would be considered a violation was when it was intended as a political gesture. In other situations it would not be banned; we provide for the disposal of the United States flag under certain conditions.

I'm hoping that the spirit of the concept is carried on by the revised memorial without it resorting to a Constitutional amendment.

159 MOTION: SEN. BRADBURY moved to adopt the dash two LC amendments dated 5/10/91 to HJM10 (Exhibit B).

163 DUKES: I supported HJM10, which is why my name is on the bill. Freedom of speech is very important in the United States of America; you don't have to travel very far outside this country in any direction to understand what freedom of speech means and how important it is to this country. But if you've travelled outside this country at all, you've also come back understanding what a lot of other freedoms mean too. And to me each country has something that embodies that country; physically that is what our flag does. Burning it or desecrating it in the name of freedom of speech is not something that I want to condone. However, as difficult as it is occasionally around here, we need to face up to reality; the reality is while there is a vote missing today, there are enough votes on the Committee when fully constituted to pass it out. This is a disclaimer prior to actually casting a vote that Senator Cohen would cast, were she able to be

here today.

189 HANNON: I oppose the motion to amend. I feel the original memorial is strong and it sends a message that while we may have disagreements on the sacredness of our Constitution, there are time when amendments need to be made to correct things that are wrong in society. This is one of those times when it needs to be clarified and clearly stated of the right of free speech versus the right of desecrating the memory and honor of those who have given for this country. Anything less than the original is watered down and shows that you don't mean something.

210 VOTE: In a roll call vote, the dash two amendments were adopted, with Senators Brenneman, Dukes, and Hannon voting NAY.

219 MOTION: SEN. BRADBURY moved HJM10, as amended, to the floor, thereby effectively moving it to the floor with a "do pass" recommendation.

VOTE: In a roll call vote, the motion carried, with Senators Brenneman and Hannon voting NAY.

229 BRENNEMAN: Serves notice of the possibility of a Minority Report.

233 ROBERTS: Adjourns the meeting at 12:35 p.m..

Submitted by:      Reviewed by:

Bernadette Williams      Jose Mata  
Assistant                      Administrator

EXHIBIT LOG:

A            -            Executive Appointment - Governor Roberts - 13 pages  
B            -            Amendments to HJM10 - Staff - 1 page  
C            -            HJM-2 Hand-Engrossed - Staff - 1 page  
D-Testimony on HJM10 - Richard E. Smith - 1 page  
E-Testimony on HJM10 - Staff - 2 pages  
F-Testimony on HJM10 - David J. Fidanque - 3 pages