Flag Burning Encyclopedia Article

Flag Burning

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Though the burning of the American flag does not occur very often, when it does it leads to strong emotions from both supporters and those who oppose the activity. The issue of flag burning reached the Supreme Court in 1989 in the *Texas v. Johnson* case. In this case, Texas resident Gregory Johnson was convicted of flag desecration. Justice William Brennan, writing for the Court, said "to say that the Government has an interest in encouraging proper treatment of the flag, however, is not to say that it may criminally punish a person for burning a flag as a means of political protest," allowing that a person has the right to burn the flag as political protest.

Many groups have led the charge to add a flag desecration amendment to the Constitution. The proposed amendment has passed the House of Representatives, but by the end of 1998, had not achieved the necessary 67 votes in the Senate before it could be sent to the states for ratification. Those who did not endorse the amendment believed that one should not limit the right to protest, protected under the First Amendment. As Robert Justin Goldstein noted in his 1996 book concerning the issue of burning the flag, "forbidding flag burning as a means of peaceful political protest will surely diminish the flag's symbolic activity to represent political freedom." The issue is sure to spark heated debate for some time to come.

Further Reading:

Goldstein, Robert Justin. *Burning the Flag: The Great 1989-90 American Flag Desecration Controversy.* Kent, Ohio, Kent State University Press, 1996.

Lockhart, William B., et al. *Constitutional Rights and Liberties: Cases, Comments, Questions.* St. Paul, West Publishing Company, 1991.