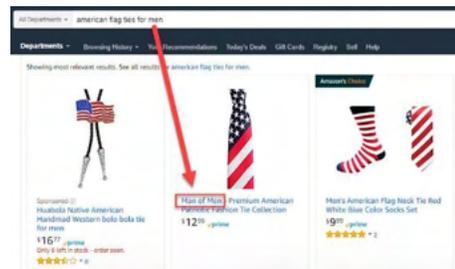


WHAT SO PROUDLY WE HAIL....



I am against burning or stepping on the American flag. The flag to me is symbolical of what my belief in what America is : “We the People of the United States, in Order to form a more perfect Union, establish Justice, ensure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.” “No American ever looks upon [the flag] without taking pride in the fact that he lives under this free Government.” *Halter v. Nebraska*, 205 U.S. 34, 41 (1907) (in a ruling that did not address free-speech rights but property rights only, law restricting flag on bottle of “Stars and Stripes” beer upheld)

It is curious to me that the same people who worry about burning or stepping on the flag endorse using the flag to sell guns or clothes. To me this type commercialization is stepping on the symbol of the people of the United States to make a buck. It is even more ironic when much of the clothing bears the tag, “Made in China.” Do the “Blessings of Liberty to ourselves and our Posterity” really amount to so little that we allow our national symbol to be used to sell socks and underwear?? Such commercialization does more to trivialize the sacred banner than any flag burning.



I would humbly suggest that there are far greater sins committed against our country than the burning of a flag. As President Lyndon Johnson said in his message that accompanied his request that Congress enact a voting rights bill, “In the world, America stands for-and works for-the right of all men to govern themselves through free, uninhibited elections. An ink bottle broken against an American Embassy, a fire set in an American library, an insult committed against the American flag, anywhere in the world, does far less injury to our country and our cause than the discriminatory denial of any American citizen at home to vote on the basis of race or color.” Philip A. Klinkner & Rogers M. Smith, *The Unsteady March: The Rise and Decline of Racial Equality in America* 277 (1999)

Repeated congressional attempts to ban flag desecration have been invalidated by the US supreme court because the symbolic act of burning the flag has been ruled a type of expression protected by the First Amendment. Indeed, some of the supreme court's most eloquent words in defense of free speech have been written in cases involving the flag: in *West Virginia State Board of Education v. Barnette*, 319 U.S. 624 (1943), while striking down a law requiring schoolchildren to salute the flag, the court ruled:

The case is made difficult not because the principles of its decision are obscure but because the flag involved is our own. Nevertheless, *we apply the limitations of the Constitution with no fear that freedom to be intellectually and spiritually diverse or even contrary will disintegrate the social organization. To believe that patriotism will not flourish if patriotic ceremonies are voluntary and spontaneous instead of a compulsory routine is to make an unflattering estimate of the appeal of our institutions to free minds.* We can have intellectual individualism and the rich cultural diversities that we owe to exceptional minds only at the price of occasional eccentricity and abnormal attitudes. When they are so harmless to others or to the State as those we deal with here, the price is not too great. But freedom to differ is not limited to things that do not matter much. That would be a mere shadow of freedom. The test of its substance is the right to differ as to things that touch the heart of the existing order. *If there is any fixed star in our constitutional constellation, it is that no official, high or petty, can prescribe what shall be orthodox in politics, nationalism, religion, or other matters of opinion or force citizens to confess by word or act their faith therein.* If there are any circumstances which permit an exception, they do not now occur to us. Emphasis added.

The interest a person has in protecting the "physical integrity" of a privately owned flag rests upon a perceived need to preserve the flag's status as a symbol of our Nation and certain national ideals. But the mere destruction or disfigurement of a particular physical manifestation of the *symbol*, without more, does not diminish or otherwise affect the *belief* we have in the symbol itself in any way. *United States v. Eichman*, 496 U.S. 310, 316 (1990)

Moreover, the First Amendment does not permit regulation of flag burning or destruction because of the message to be sent. *Boos v. Barry*, 485 U.S. 312, 320 (1988) In other words, the State cannot forbid flag burning wherever it is likely to endanger the flag's symbolic role, but allow it wherever burning a flag promotes that role. A content-based law or regulation discriminates against speech based on the substance of what it communicates and is therefore unconstitutional. *Texas v. Johnson*, 491 U.S. 397, 416-17 (1989).

Bottom line? Hold dear your belief in American ideals which should be firm enough to not worry about attacks on a symbol of that belief.