

AMENDED IN ASSEMBLY JULY 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

## Assembly Joint Resolution

No. 26

**Introduced by Assembly Member Weber**

(Principal coauthors: Senators Hall and Mitchell)

**(Coauthors: Assembly Members Alejo, Brown, Burke, Cooper, Eggman, Cristina Garcia, Gipson, Gonzalez, Holden, Jones-Sawyer, McCarty, Ridley-Thomas, and Thurmond)**

(Coauthor: Senator Glazer)

June 30, 2015

Assembly Joint Resolution No. 26—Relative to the Confederate flag and symbols.

### LEGISLATIVE COUNSEL'S DIGEST

AJR 26, as amended, Weber. Removal of the Confederate flag and symbols.

This measure would, among other things, memorialize the ~~President and Congress of the United States~~ to ban the sale or display of the Confederate flag on ~~public~~ *federal* property and *encourage states* to ban the use of Confederate States of America symbolism from state *flags, seals, and* symbols, and would encourage the donation of Confederate artifacts to museums.

Fiscal committee: no.

1 WHEREAS, According to the 1860 United States Census, the  
2 United States population was 31,443,321. The total number of  
3 slaves in the Lower South was ~~2,312,352~~ 2,312,352, comprising  
4 47 percent of ~~the total population~~ *population*, and the total number

1 of slaves in the Upper South was ~~1,208,758~~ 1,208,758, comprising  
2 29 percent of *the* total population; and

3 WHEREAS, South Carolina had a clear Black majority from  
4 about ~~1,708~~ 1708 through most of the 18th century. By 1720, there  
5 were approximately 18,000 people living in South Carolina and  
6 65 percent of those were African American slaves. South Carolina's  
7 slave population grew to match the success of its rice culture.  
8 Whereas in 1790, there were slightly more Whites than Blacks,  
9 with 140,178 White and 108,896 Black, living in South Carolina.  
10 By 1860 the ~~black~~ Black population had grown, with 291,300  
11 White and 412,320 Black, to more than double of the ~~white~~ White  
12 population; and

13 WHEREAS, The Southern United States, including the States  
14 of Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi,  
15 North Carolina, Texas, West Virginia, Virginia, and South Carolina  
16 seceded from the greater union in 1860 to join the Confederate  
17 States of America under President Jefferson Davis and General  
18 Robert E. Lee; and

19 WHEREAS, The symbolism of the Confederate flag when the  
20 states seceded in 1860 represented, in its personification, secession  
21 and treason; and

22 WHEREAS, The first official national flag of the Confederacy,  
23 often called the Stars and Bars, was flown from March 4, 1861,  
24 to May 1, 1863, inclusive. The Stars and Bars flag was adopted  
25 March 4, 1861, in the first temporary national capital of  
26 Montgomery, Alabama, and was raised over the dome of that first  
27 Confederate Capitol; and

28 WHEREAS, At the First Battle of Manassas, the first battle of  
29 the Civil War, the similarity between the Stars and Bars and the  
30 Stars and Stripes caused confusion and military problems.  
31 Regiments carried flags to help commanders observe and assess  
32 battles in the warfare of the era. At a distance, the two national  
33 flags were hard to tell apart. In addition, Confederate regiments  
34 carried many other flags, which added to the possibility of  
35 confusion; and

36 WHEREAS, After the battle, General Pierre Gustave Toutant  
37 Beauregard, a prominent general of the Confederate States Army  
38 during the ~~American~~ Civil War, wrote that he was resolved then  
39 to have the Confederate flag changed if possible, or to adopt for  
40 his command a "battle flag," the Stars and Bars, that would be

1 entirely different from any state or federal flag. His aide William  
2 Porcher Miles, the former chair of the Committee on the Flag and  
3 Seal, described his rejected national flag design to Beauregard.  
4 Miles also told the Committee on the Flag and Seal about the  
5 general's complaints and request for the national flag to be  
6 changed. The committee rejected this idea by a four to one vote,  
7 after which Beauregard proposed the idea of having two flags. He  
8 described the idea in a letter to his commander General Joseph E.  
9 Johnston: "How would it do *for* us to address the War-Department  
10 *Dept.* on the subject *for a supply* of Regimental or badge flags  
11 made of red with two blue bars crossing each other diagonally on  
12 which shall be introduced the ~~stars~~, ... *stars*. ... We would then on  
13 the field of battle know our friends from our enemies"; and

14 WHEREAS, Although the soldiers of the Confederacy were  
15 never tried by the United States government after the Civil War,  
16 Jefferson Davis and General Robert E. Lee were indicted and later  
17 acquitted of all charges by President Andrew Jackson as he left  
18 office in 1869; and

19 WHEREAS, After the Civil War ended, groups such as the Ku  
20 Klux Klan were formed to promote White supremacy and racial  
21 hatred. The Ku Klux Klan, perhaps the most infamous, was one  
22 of the first groups to continue using the Confederate flag after the  
23 war. The Ku Klux Klan rallied others still vexed after the war to  
24 instill fear and spout hate against freed African Americans; and

25 WHEREAS, The flag was later resurrected in the 1950s to rally  
26 resistance to the Civil Rights movement and support the South's  
27 desire to maintain segregation and further the policies of Jim Crow;  
28 and

29 WHEREAS, In South Carolina, the Confederate flag was moved  
30 to the top of their State Capitol building in 1962, after President  
31 John F. Kennedy called on the Congress of the United States to  
32 end poll taxes and literacy tests for voting, and the United States  
33 Supreme Court struck down segregation in public transportation;  
34 and

35 WHEREAS, According to the Southern Poverty Law Center,  
36 there are 788 "hate groups" in the United States. Of these, 57 are  
37 located in the State of California, which is the highest of any state.  
38 There are a total of 283 of these hate groups in the former  
39 Confederate states. Nineteen of these hate groups reside in South  
40 Carolina. Of these 19 hate groups, 16 use the Confederate flag as

1 one of their symbols. These hate groups include the Ku Klux Klan,  
2 Neo-Nazis, and Neo-Confederates; and

3 WHEREAS, Whereas, African Americans make up 15.6 percent  
4 of the population of the United States, or 45 million people,  
5 in 2013, they were victims of 32.7 percent, or 14,715,000, of all  
6 hate crimes in the United States, which is the highest number of  
7 any group in America; and

8 WHEREAS, On June 17, 2015, Dylann Roof went to Emanuel  
9 AME Church in Charleston, South Carolina, and opened fire during  
10 a Wednesday bible study, killing nine of the church's attendees;  
11 and

12 WHEREAS, Over the last five years, friends of Dylann Roof  
13 had seen him become increasingly aligned with White-Supremacist  
14 supremacist ideologies. They observed his behavior becoming  
15 more fanatical than that of the most notorious hate groups in his  
16 native South Carolina. Dylann Roof believed that it was up to him  
17 to do the work that other hate groups were failing to do. Dylann  
18 Roof believed that African Americans were "stupid and violent"  
19 people and viewed Hispanics and Latinos as the "enemy"; and

20 WHEREAS, Dylann Roof has been photographed on various  
21 occasions with the same Confederate flag that many of these hate  
22 groups proudly display; and

23 WHEREAS, Sixty-nine percent of those surveyed by Public  
24 Policy Polling believe that the shooting attack at Emanuel AME  
25 Church in Charleston, South Carolina, was a hate crime and 34  
26 percent surveyed believe it was a form of terrorism; and

27 WHEREAS, Since the end of the Civil War, private and official  
28 use of the Confederacy's flags, and of flags with derivative designs,  
29 has continued and generated philosophical, political, cultural, and  
30 racial controversy in the United States. These include flags  
31 displayed in states, cities, towns, counties, schools, colleges,  
32 universities, private organizations, associations, and by individuals;  
33 and

34 WHEREAS, In some American states the Confederate flag is  
35 given the same protection from burning and desecration as the  
36 United States flag. It is protected from being publicly mutilated,  
37 defiled, or otherwise cast in contempt by the laws of five states:  
38 Florida, Georgia, Louisiana, Mississippi, and South Carolina.  
39 However, laws banning the desecration of any flag, even if  
40 technically remaining in effect, were ruled unconstitutional in 1989

1 by the United States Supreme Court in Texas v. Johnson and are  
2 not enforceable; and

3 WHEREAS, In 2000, South Carolina passed a bill to remove  
4 the Confederate flag from the top of the state house dome. It had  
5 been placed there since the early 1960s by an all-White South  
6 Carolina Legislature to mark the 100th anniversary of the Civil  
7 War. The flag was moved to the north end of the state house as  
8 part of a compromise. However, to this day, there have been  
9 protests to have the flag removed from there as well; and

10 WHEREAS, To many groups, especially African Americans,  
11 the Confederate flag is a symbol of hate, racism, exclusion,  
12 oppression, and violence. Its symbolism and history is directly  
13 linked to the enslavement, torture, and murder of millions of  
14 African Americans; and

15 WHEREAS, Today, as in the past, public display of the  
16 Confederate flag is believed to instill fear,—~~intimidation~~  
17 *intimidation*, and a direct threat of violence towards others, though  
18 a minute number of groups disagree, claiming that the Confederate  
19 flag commemorates Southern heritage; and

20 WHEREAS, In 2014, the State of California, through the  
21 enactment of Assembly Bill 2444, became the first state to ban the  
22 state sale and display of the Confederate flag. The State of  
23 California may not sell or display the Battle Flag of the  
24 Confederacy, also referred to as the Stars and Bars, or any similar  
25 image, or tangible personal property inscribed with that image  
26 unless the image appears in a book, digital medium, or state  
27 museum that serves an educational or historical purpose; and

28 WHEREAS, On June 22~~nd~~, 22, 2015, Governor Nikki Haley  
29 of South Carolina called upon her state to remove the Confederate  
30 flag from the capitol grounds in the wake of the Emanuel AME  
31 Church shooting; now, therefore, be it

32 *Resolved by the Assembly and the Senate of the State of*  
33 *California, jointly*, That the Legislature of California encourages  
34 the United States Congress to ~~enact a ban on the sale and display~~  
35 ~~of the Confederate flag at all state capitols and federal, state, and~~  
36 ~~local government-owned property and buildings; identify the states~~  
37 ~~that have the Confederate symbol embedded into their state's flag;~~  
38 and be it further

39 ~~*Resolved, That the Legislature encourages the United States*~~  
40 ~~*Congress to identify the states and their state flags that have the*~~

1 Confederate symbol embedded into their state's flag and are using  
2 the flag. Moreover, the Legislature encourages Congress to prohibit  
3 these states from selling or displaying the Confederate flag at all  
4 state capitols and other federal, state, and local government owned  
5 properties and items, including drivers licenses, license plates, and  
6 public buildings; and be it further

7 *Resolved*, That the Legislature ~~encourages~~ memorializes the  
8 United States Congress to ~~enact a~~ encourage states to ban on the  
9 use of the former Confederate States of America symbolism and  
10 seals from all state flags, seals, and symbols; and be it further

11 RESOLVED, *That the Legislature memorializes the United*  
12 *States Congress to ban the sale and display of the Confederate*  
13 *flag on federally owned properties and buildings and to urge those*  
14 *states that sell or display the flag at their capitols to have the flag*  
15 *removed; and be it further*

16 *Resolved*, That the Legislature encourages the United States  
17 Congress to encourage businesses located in the states that have  
18 the Confederate symbols in their state flag to take them down; to  
19 urge their states to take down the Confederate flag from their  
20 capitols; and be it further

21 *Resolved*, That the Legislature encourages the donation of any  
22 effects representing the former Confederate States of America to  
23 local, state, and national museums; and be it further

24 *Resolved*, That the Chief Clerk of the Assembly transmit copies  
25 of this resolution to the President and Vice President of the United  
26 States, to the Speaker of the House of Representatives, to the  
27 Minority Leader of the House of Representatives, to the Majority  
28 Leader of the Senate, to the Minority Leader of the Senate, to each  
29 Senator and Representative from California, and to the governors  
30 of the southern states including Alabama, Arkansas, Florida,  
31 Georgia, Louisiana, Mississippi, North Carolina, Texas, West  
32 Virginia, Virginia, and South Carolina.