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AMENDED IN ASSEMBLY JULY 16, 2015

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

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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 Congress of the United States to ban the sale or display of any Confederate flag, including the Confederate Battle Flag, on 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

1 slaves in the Lower South was 2,312,352, comprising 47 percent  
2 of the total population, and the total number of slaves in the Upper  
3 South was 1,208,758, comprising 29 percent of the total population;  
4 and

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

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

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

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

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

38 WHEREAS, After the battle, General Pierre Gustave Toutant  
39 Beauregard, a prominent general of the Confederate States Army  
40 during the Civil War, wrote that he was resolved then to have the

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

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

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

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

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

37 WHEREAS, According to the Southern Poverty Law Center,  
38 there are 788 “hate groups” in the United States. Of these, 57 are  
39 located in the State of California, which is the highest of any state.  
40 There are a total of 283 of these hate groups in the former

1 Confederate states. Nineteen of these hate groups reside in South  
2 Carolina. Of these 19 hate groups, 16 use the Confederate flag as  
3 one of their symbols. These hate groups include the Ku Klux Klan,  
4 Neo-Nazis, and Neo-Confederates; and

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

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

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

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

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

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

36 WHEREAS, In some American states the Confederate flag is  
37 given the same protection from burning and desecration as the  
38 United States flag. It is protected from being publicly mutilated,  
39 defiled, or otherwise cast in contempt by the laws of five states:  
40 Florida, Georgia, Louisiana, Mississippi, and South Carolina.

1 However, laws banning the desecration of any flag, even if  
2 technically remaining in effect, were ruled unconstitutional in 1989  
3 by the United States Supreme Court in *Texas v. Johnson* and are  
4 not enforceable; and

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

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

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

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

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

34 *Resolved by the Assembly and the Senate of the State of*  
35 *California, jointly*, That the Legislature of California encourages  
36 the United States Congress to identify the states that have a  
37 Confederate symbol embedded into their state's flag; and be it  
38 further

39 *Resolved*, That the Legislature memorializes the United States  
40 Congress to encourage states to ban the use of the former

1 Confederate States of America symbolism and seals from all state  
2 flags, seals, and symbols; and be it further

3 *Resolved*, That the Legislature memorializes the United States  
4 Congress to ban the sale and display of any Confederate flag,  
5 including the Confederate Battle Flag, on federally owned  
6 properties and buildings and to urge those states that sell or display  
7 the flag at their capitols to have the flag removed; and be it further

8 *Resolved*, That the Legislature encourages the United States  
9 Congress to encourage businesses to urge their states to take down  
10 any Confederate flag, including the Confederate Battle Flag, from  
11 their capitols; and be it further

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

15 *Resolved*, That the Chief Clerk of the Assembly transmit copies  
16 of this resolution to the President and Vice President of the United  
17 States, to the Speaker of the House of Representatives, to the  
18 Minority Leader of the House of Representatives, to the Majority  
19 Leader of the Senate, to the Minority Leader of the Senate, to each  
20 Senator and Representative from California, and to the governors  
21 of the southern states including Alabama, Arkansas, Florida,  
22 Georgia, Louisiana, Mississippi, North Carolina, ~~Texas, West~~  
23 ~~Virginia, Virginia, and South Carolina.~~ *South Carolina, Tennessee,*  
24 *Texas, and Virginia.*