

Assembly Joint Resolution No. 26

RESOLUTION CHAPTER 196

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

[Filed with Secretary of State September 21, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AJR 26, 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.

WHEREAS, According to the 1860 United States Census, the United States population was 31,443,321. The total number of slaves in the Lower South was 2,312,352, comprising 47 percent of the total population, and the total number of slaves in the Upper South was 1,208,758, comprising 29 percent of the total population; and

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

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

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

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

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

WHEREAS, After the battle, General Pierre Gustave Toutant Beauregard, a prominent general of the Confederate States Army during the Civil War, wrote that he was resolved then to have the Confederate flag changed if possible, or to adopt for his command a “battle flag,” the Stars and Bars, that would be entirely different from any state or federal flag. His aide William Porcher Miles, the former chair of the Committee on the Flag and Seal, described his rejected national flag design to Beauregard. Miles also told the Committee on the Flag and Seal about the general’s complaints and request for the national flag to be changed. The committee rejected this idea by a four to one vote, after which Beauregard proposed the idea of having two flags. He described the idea in a letter to his commander General Joseph E. Johnston: “How would it do for us to address the War Dept. on the subject for a supply of Regimental or badge flags made of red with two blue bars crossing each other diagonally on which shall be introduced the stars. ... We would then on the field of battle know our friends from our enemies”; and

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

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

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

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

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

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

WHEREAS, African Americans make up 15.6 percent of the population of the United States, or 45 million people, but in 2013, they were victims of one-third of all hate crimes in the United States, which is the highest number of any group in America; and

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

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

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

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

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

WHEREAS, In some American states the Confederate flag is given the same protection from burning and desecration as the United States flag. It is protected from being publicly mutilated, defiled, or otherwise cast in contempt by the laws of five states: Florida, Georgia, Louisiana, Mississippi, and South Carolina. However, laws banning the desecration of any flag, even if technically remaining in effect, were ruled unconstitutional in 1989 by the United States Supreme Court in *Texas v. Johnson* and are not enforceable; and

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

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

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

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

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

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

Resolved, That the Legislature memorializes the United States Congress to encourage states to ban the use of the former Confederate States of America symbolism and seals from all state flags, seals, and symbols; and be it further

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

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

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

Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Minority Leader of the House of Representatives, to the Majority Leader of the Senate, to the Minority Leader of the Senate, to each Senator and Representative from California, and to the governors of the southern states including Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, and Virginia.