Concerning the foundations of Civil Liberties and the discussions found on Flag Burning, within the “Debating the Issues” section of Chapter 4, what are your ideas on this topic? Tell us your choice and why.

Few Americans believe that the burning of the American flag is an acceptable form of protest. Even fewer would choose to burn the flag as a symbol of their disagreement with U.S. policy. Yet, flag burning has been a leading political issue since the Supreme Court in 1989 held that burning the flag is a constitutionally protected form of expression. Since then, Congress has tried several times to initiate a constitutional amendment that would ban flag burning. If such an amendment were ratified, courts would be obliged to uphold it. In 2006, Congress came within one vote in the Senate of obtaining the two-thirds majority in each chamber that is necessary to send a flag-burning amendment to the states for ratification. The congressional debate was heated as proponents of reverence for the flag faced off against proponents of free expression. Below are the statements of two of the senators who took opposite sides on the issue. Where do you stand on the issue? Is flag burning so disrespectful of a revered national symbol that it should be made a federal crime? Or does the First Amendment’s guarantee of free expression take precedence?

**Yes**

I was preparing for this debate and thinking about the Lincoln Memorial. What if somebody today, yesterday, or some other time had taken spray paint and sprayed on the Lincoln Memorial: “We want freedom” or “Death to tyrants” or “Down with the flag”? Let’s say they wrote that in big spray paint on the Lincoln Memorial and defaced the memorial and then was caught and was brought to trial and claimed: Wait a minute, I have a first amendment right to say what I want to say, and I believe it is important that I say it anywhere, and I want to say it on the Lincoln Memorial. . . . We would all recognize that as being something wrong, violating the law, and something there should be a law against. We don’t have a problem with a person standing on the Lincoln Memorial and shouting at the top of his lungs for as long as he wants whatever he wants to say–if it is about the war in Iraq, if it is about the President, if it is about somebody in the Senate, if it is about myself, if it is about the Chair, if it is about anything he wants. We don’t have any problem with that. But if he defaces the memorial, we do. It is interesting, that was the dissent Justice Stevens used in the Texas v. Johnson case. He made that same point. We have no problem with a person speaking on the Lincoln Memorial. We have a problem with him defacing the Lincoln Memorial. We have no problem with people speaking against the flag. We have a problem with them defacing the flag. —Sam Brownback, U.S. senator (R-Kansas)

**No**

Let me make one thing clear at the outset. Not a single Senator who opposes the proposed constitutional amendment, as I do, supports burning or otherwise showing disrespect to the flag. Not a single one. None of us think it is “OK” to burn the flag. None of us view the flag as “just a piece of cloth.” On those rare occasions when some malcontent defiles or burns our flag, I join everyone in this Chamber in condemning that action. But we must also defend the right of all Americans to express their views about their Government, however hateful or spiteful or disrespectful those views may be, without fear of their Government putting them in jail for those views. America is not simply a Nation of symbols, it is a Nation of principles. And the most important principle of all, the principle that has made this country a beacon of hope and inspiration for oppressed peoples throughout the world, is the right of free expression. This amendment threatens that right, so I must oppose it. We have heard at various times over the years that this amendment has been debated that permitting protestors to burn the American flag sends the wrong message to our children about patriotism and respect for our country. I couldn’t disagree more with that argument. We can send no better, no stronger, no more meaningful message to our children about the principles and the values of this country than if we oppose efforts to undermine freedom of expression, even expression that is undeniably offensive. When we uphold First Amendment freedoms despite the efforts of misguided and despicable people who want to provoke our wrath, we explain what America is really about. Our country and our people are far too strong to be threatened by those who burn the flag. That is a lesson we should proudly teach our children.—Russell Feingold, U.S. senator (D-Wisc.)