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September 17, 2014

Commissioners Mike Opat, Jeff Johnson, Randy Johnson, Jan Callison, Peter McLaughlin

Re UN Flag Issue

Today is Constitution Day. Sunday, September 21, 2014, is United Nations International Day of Peace. I wrote about the Day of Peace at my blog on Sep 4, including an 81 minute film about its history. Check it out.

The opinion of your legal counsel, received September 11, 2014, and copied to all of you, is very interesting and informative. The basic takeaways for me are 1) that there is no record from before March 27, 2012, other than the Minutes, accessible to an ordinary citizen like myself; 2) I finally know the specific provision of Law alleged to be violated. pp 26-27

Of course, I do have some very sparse information received since March 27, 2012.

Mar 27, 2012 Minutes, **"solely the flags of the United States, Minnesota and Hennepin County in compliance with the U.S. Flag Code"**, passed unanimously. p 11

Mar 28, 2013 letter from Mike Opat to myself, responding to my letter of Dec. 29, 2012: **"discerned that our previous arrangement was slightly out of compliance with the U.S. Flag Code"**. p 7

Apr 8, 2013, e-mail from Mike Opat to myself: **"after some inquiries...in line with our place in the pecking order of governments"... "flag poles...are the property of Hennepin County...."** "Pecking order"? That was a most interesting phrase. Who's in this order? p 8

I was, and still am, led to wonder, who it is that owns Hennepin County? As to the Flag Code, there was never any legal violation. And I will continue to pursue my main question: what chain of communication led to the motion in the first place. The initiator(s) could very well have been one or more of you County Commissioners.

My questions continue. Save the above, not a single one of you has ever responded.

I believe that this conversation is, purely and simply, about an anti-United Nations action based on a premise that was false from the very beginning.

The Code amendment cited by your counsel was amended by addition in the first half of 1953 (see enclosure, which is part of a 40 page file I have on this amendment alone.) This was 61 years ago. Not a word has changed. The amendment seems to focus on anti-United Nations. (The UN is not even a nation.) I was 13 in 1953, old enough to catch the tenor of the times.... I remember HUAC and Sen Joseph McCarthy et al. pp 28-30

Fifteen years later, May 1, 1968, the UN Flag was properly raised by a completely bipartisan and large group of Hennepin County citizens and prominent leaders after long "discernment". (I

wasn't there, but I know one who was heavily involved, and was part of the downtown business community.) Money was raised to purchase the pole, which was properly placed in proper relation (subordinate) to the U.S. flag on the south side of City Hall. This was before the construction of Hennepin Government Center. Long ago, I sent Commissioners detailed information about this.

Specifically to the Code, the UN flag at Hennepin Plaza was never, to my knowledge, "equal to, above, or in a position of superior prominence or honor to, or in place of, the flag of the United States." p 28

You might go down to the entry of the U.S. Bank Plaza across the street from your office, and check the array of flags there. There are six flags, all of equal height (it appears). Four appear to be corporate flags. It appears (from one perspective) that the U.S. flag is superior, but by no means obvious - the poles are in a triangle. As you also must know, the Flag Code is no more than advisory at this point in history. In 1989, the U.S. Supreme Court ruled that even burning of the U.S. flag was simply a matter of freedom of speech, and there are no penalties whatsoever for supposed violations of the Code.

The motion five of you (along with two others) passed March 27, 2012, alleged a violation of the Code. There was no such violation. I believe you know that. pp 11-12

You can reverse your previous decision as easily as you made it in the first place, but that will take courage on your part.

I'll be watching.

I still want answers to my previous questions from each one of you.

Sincerely,



c: Comm Linda Higgins, Marion Greene
County Attorney Freeman, Atty General Lori Swanson

PS: This matter does raise a question, which I now ask, which certainly must be a matter of public record: when the United Nations flag came down around March 27, 2012, what was done with it? Where is it today? If it still exists in some storage place somewhere, I'd like to see it, and perhaps even purchase it. I'd like a specific answer to these questions.

PS 2: As I've noted before, before this instant issue, I didn't pay much attention to flag matters and such. Now I do.

In late August, at the State Fair, I happened across the beginning of the daily parade, led by people carrying several American flags. I doffed my hat as I always do. I was the only one to do so. Recently I was at the Gopher game at UofM, and they unfurled the gigantic flag. Everybody doffed their hat, because the announcer asked them to.

Late in August I was in a parade with a lady I had never met. We chatted. She said she was almost obsessed with flag etiquette (we were both carrying U.S. flags). Common sense should accompany policy. Somebody deceived you, and you're protecting him or her. So be it. Next month you'll hear from me again.



OFFICE OF THE HENNEPIN COUNTY ATTORNEY

MICHAEL O. FREEMAN COUNTY ATTORNEY

September 9, 2014

Dick Bernard
6905 Romeo Road
Woodbury, MN 55125-2421

Mr. Bernard:

I write in response to your recent letters to the Hennepin County Board regarding documents and data related to the County's decision on March 27, 2012 to fly only the flags of the United States, State of Minnesota, and Hennepin County at the Hennepin County Government Center. I am counsel to the County Board and this letter responds to each of the questions you have raised. p. 1

1. You have sought documentation related to the March 27, 2012 board action.

You have previously been provided the resolution and you can find a video of the meeting on the Hennepin County website. These are the only public documents responsive to your data requests.

2. You asked what was "wrong" with flying the flag of the United Nations?

As you know, Hennepin County has three flagpoles on the North Plaza. These flagpoles are of the same height and are approximately 20 feet from one another. Federal law states that a flag of the United Nations should not be flown in a position that is equal to, above or in a position of superior prominence to, the flag of the United States. See 4 U.S.C § 7(c) ("No person shall display the flag of the United Nations or any other national or international flag equal, above, or in a position of superior prominence or honor to, or in place of, the flag of the United States at any place within the United States or any Territory or possession thereof.") Because all three flagpoles are of the same height, it was determined that the United Nations flag should not be flown.

3. You seek the identity of who raised the issue of the propriety of flying the United Nations flag with the County.

This is private constituent information. See 13.601, subd. 2 ("Correspondence between individuals and elected officials is private data on individuals . . .")

4. You asked when the public hearings were held regarding this action.

There were no public hearings related to this County Board decision regarding what flags to fly at the Hennepin County Government Center.

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5. You asked which flag replaced the United Nations flag.

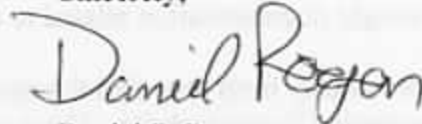
Prior to March 27, 2012, Hennepin County flew the flag of the United States, State of Minnesota, and United Nations. After March 27, 2012, Hennepin County has flown the flags of the United States, State of Minnesota and Hennepin County.

6. You asked for the Commissioners' reasons for voting to no longer fly the United Nations flag.

Each commissioner made his or her own decision based on the information provided at the meeting.

I believe this responds to all of your questions.

Sincerely,



Daniel P. Rogan
Civil Division Manager
(612) 348-5529

cc: Hennepin County Board of Commissioners

PROHIBITING DISPLAY OF OTHER FLAGS EQUAL, ABOVE,
OR IN PLACE OF THE FLAG OF THE UNITED STATES,
AND FOR OTHER PURPOSES

MAY 12, 1953.—Ordered to be printed

Mr. LANGER, from the Committee on the Judiciary, submitted the
following

REPORT

[To accompany S. 694]

The Committee on the Judiciary, to which was referred the bill (S. 694) to prohibit the display of flags of international organizations or other nations in equal or superior prominence or honor to the flag of the United States except under specified circumstances, and for other purposes, having considered the same, reports favorably thereon, with amendments, and recommends that the bill, as amended, do pass.

AMENDMENTS

1. On page 1, line 9, following the words "United States", insert a period.
2. On page 2, line 9, strike the word "of", and insert in lieu thereof the word "or".

PURPOSE

The purpose of the bill, as amended, is to make it an offense against the United States to display the flag of the United Nations or any other national or international flag equal to, above, or in a position of superior prominence or honor to, or in place of, the flag of the United States at any place within the United States or any Territory or possession thereof, but not to interfere with the continuance of the practice heretofore followed of displaying the flag of the United Nations in a position of superior prominence or honor, and other national flags in positions of equal prominence or honor, with that of the flag of the United States at the headquarters of the United Nations

or at any place at which any official meeting or proceeding of the United Nations is in progress.

STATEMENT

An identical bill, S. 2039, was reported favorably by the committee and passed the Senate in the 82d Congress.

From the earliest periods in the history of the human race, banners, standards, and ensigns have been adopted as symbols of the power and history of the peoples who bore them. It is not then remarkable that the American people, acting through the legislative branch of the Government, early in their history, prescribed a flag as a symbol of the existence and sovereignty of the Nation. It would have been even extraordinary if the Government had started this Nation upon its marvelous career without giving it a flag to be recognized as the emblem of the American Republic. For that flag every true American has not simply an appreciation but a deep affection. No American, nor any foreign-born person who enjoys the privileges of American citizenship, should ever look upon it without taking pride in the fact that he lives under this free Government. Hence, it has often occurred that insults to a flag have been the cause of war; and indignities cast upon it, in the presence of those who revere it, have often been resented and sometimes punished on the spot. It may be said, then, that the very heart of an individual American is no greater than the United States flag for many hearts have been sacrificed in order to preserve the freedom which that flag represents.

It would appear, therefore, that Federal laws would or should have been enacted long since making it an offense against the United States for anyone to show disrespect, or to fail to show proper respect, toward the United States flag anywhere within the jurisdiction of this Government, but that has not been done. It now has become a sad necessity to take positive action to protect and uphold the dignity and honor of our flag.

It is the opinion of many that there are some so-called internationalists in this country who are overzealous in their efforts to completely subordinate the sovereignty of our Nation to an organization composed of many nations, some of which are notoriously subservient to another nation. Every individual American owes, and most, at one time or another, have sworn, allegiance to the United States flag. It can safely be said that not one of those individuals intended to owe, or swear allegiance to any other flag or group of flags. Anyone, especially one endowed with certain authority conferred upon him by the people of this Nation, who attempts to transfer, by proxy, the allegiance of those individuals, has betrayed his public trust and is no longer worthy of the confidence that should go with an official position in our Government.

Each of our 48 States, Alaska, Hawaii, and Puerto Rico have enacted varying laws prohibiting the misuse or desecration of the State or Territory and United States flag. However, no State has enacted any law approaching the results intended by this proposed legislation, nor has the Congress. But, no one should hasten to criticize the States for their inaction in this regard—the loyalty and devotion of their citizens has probably maintained such action unwarranted in the past. When, by its legislation, the State encourages

a feeling of patriotism toward the Nation, it necessarily encourages a like feeling toward the State. One who loves the Union will love the State in which he resides, and love of both the Nation and the State will diminish in proportion as respect for the flag is weakened.

To every true American the United States flag is the symbol of the Nation's power, the emblem of freedom in its truest, best sense. It is not extravagant to say that to all lovers of the country it signifies government resting on the consent of the governed; liberty regulated by law; the protection of the weak against the strong; security against the exercise of arbitrary power; and absolute safety for free institutions against foreign aggression.

The committee is supported beyond question in its opinion that the Congress has power under the Constitution to act in this regard.

In view of the nationwide expressions of great interest based upon pure patriotism, and the sincere feelings of this committee in that same regard, with respect to passage of this bill, the committee recommends favorable consideration.

