

**NATIONAL EXECUTIVE COMMITTEE
OF
THE AMERICAN LEGION
INDIANAPOLIS, INDIANA
OCTOBER 8-9, 2003**

Resolution No. 5: Reserve World War I Veterans Memorial In Mojave Desert

Origin: 2003 NC Resolution No. 153 (CA)

Submitted by: Internal Affairs Commission

As Amended

WHEREAS, A memorial to veterans of World War I in the County of San Bernardino, State of California, 41st Congressional District, was established by a private citizen of the United States in 1934; and

WHEREAS, Said WWI Veterans Memorial has existed since that time in the Mojave Desert area in tribute to all those who served in the United States armed forces and sacrificed their lives in defense of American freedom; and

WHEREAS, A new generation of Americans risk their lives, limbs, and health in active military service to America in a war against terrorism, each of whom will one day be an American veteran entitled to respect and honor for their service and sacrifice, as are WWI veterans; and

WHEREAS, In this time of war the American Civil Liberties Union of Southern California, has chosen to file a federal lawsuit to remove said WWI Veterans Memorial on the basis that the Veterans Memorial is located on land which is now part of the federal Mojave Desert Preserve, and the ACLU is offended because said Veterans Memorial is in the form of a naked cross in the desert; and

WHEREAS, A U.S. District Court in Riverside County, California, bowing to the ACLU's demands, has ordered the WWI Veterans Memorial to be removed, and covered with a shroud until removed so that it may not be seen; and

WHEREAS, Congressional Representative Jerry Lewis, representing the 41st Congressional District, has devised a solution to the problem by arranging for an exchange of contiguous land between a private landowner and the federal government of the land on which the WWI Veterans Memorial is located, which exchange would eliminate any claim based upon the United State Constitution as said WWI Veterans Memorial would be upon private land, and which solution involves no cost to American taxpayers; and

WHEREAS, The ACLU has publicly opposed the solution of Rep. Jerry Lewis and stated it will appeal to California's two U.S. Senators to block said solution and allow the destruction of the WWI Veterans Memorial; now, therefore, be it

RESOLVED, By the National Executive Committee of The American Legion in regular meeting assembled in Indianapolis, Indiana, October 8-9, 2003, That it supports the efforts, without any financial obligation, to preserve the WWI Veterans Memorial located in San Bernadino County, California, and urges the United States Congress, to preserve and protect this WWI Veterans Memorial.

**EIGHTY-SIXTH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
NASHVILLE, TENNESSEE
August 31, September 1, 2, 2004**

Resolution No. 326: Preserve WWI Veterans Memorial In Mojave Desert

Origin: California

Submitted by: Convention Committee on Credentials and Other Internal Matters, Section II

WHEREAS, The motto of The American Legion has been “For God and Country” since its founding by veterans of World War I in 1919; and

WHEREAS, The American Legion Department of California, assembled in convention in Riverside County, California, in 2003, by vote of delegates did pass a resolution in support of legislation to officially designate as the Mojave Desert Veterans Memorial the site at which in 1934 a cross was erected in tribute to veterans; and

WHEREAS, The United States Congress passed legislation designating that site as an official veterans memorial and providing for its preservation by exchanging that one-acre site for a five acre site privately owned, thus placing the veterans memorial in private hands to be cared for by veterans organizations; and

WHEREAS, Notwithstanding that action by Congress, the United States Ninth Circuit Court of Appeals has recently ruled at the request of the American Civil Liberties Union (ACLU) that the cross at the Mojave Desert Veterans Memorial must be removed or destroyed; and

WHEREAS, The ACLU has sought and obtained hundreds of thousands of dollars in attorneys fees awarded by judges pursuant to the authority granted to the courts to award attorney fees in such cases pursuant to the Civil Rights Act, 42 United States Code, Section 1988; and

WHEREAS, The authority of judges to impose on taxpayers the burden of paying attorney fee awards to the ACLU for pursuing lawsuits to remove or destroy religious symbols derives exclusively from 42 U.S.C. Section 1988 established by Congress; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Nashville, Tennessee, August 31, September 1, 2, 2004, That Congress should amend 42 U.S.C. Section 1988, to expressly preclude the courts from awarding attorney fees under that statute, in lawsuits brought to remove or destroy religious symbols.

**EIGHTY-SEVENTH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
HONOLULU, HAWAII
August 23, 24, 25, 2005**

Resolution No. 139: Amend The Equal Access To Justice Act

Origin: California

Submitted by: Convention Committee on Credentials and Other Internal Matters, Section II

WHEREAS, The American Legion assembled in National Convention 2004 at Nashville, Tennessee, by vote of delegates did adopt Resolution 326, Preservation of Mojave Desert Veterans Memorial, sponsored by the Department of California, calling on Congress to amend the Civil Rights Act of 1976 (42 USC 1988) to expressly preclude the courts from awarding attorney fees under that statute in lawsuits brought to remove or destroy religious symbols, including at Veterans memorials; and,

WHEREAS, The American Legion disapproved and sought to end the use of the Civil Rights Act as to monetary awards of attorney fees awarded in lawsuits brought under the Establishment Clause of the First Amendment to the U.S. Constitution against the Boy Scouts of America, and cities, counties, states and other taxpayer supported government entities, including school boards, for sponsoring Boy Scout Troops or for publicly displaying symbols of America's religious history and heritage; and

WHEREAS under the Establish Clause, the American Civil Liberties Union sued agencies, elected and appointed officials and employees of the Federal government of the United States, including without limitation the Department of Defense in wartime, for sponsoring the Boy Scouts of America or events connected with the Boy Scouts of America, or for publicly displaying symbols of America's religious history and heritage, including at Veterans memorials; and

WHEREAS the ACLU sought and received taxpayer-paid attorney fees by claims under the Equal Access to Justice Act (EAJA), 28 United States Code Section 2412, in said Establishment Clause lawsuits against Federal government defendants in cases involving the Boy Scouts, and including attorney fees for obtaining court orders to destroy religious symbols at military Veterans' memorials; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Honolulu, Hawaii, August 23, 24, 25, 2005, That Congress should amend the Equal Access to Justice Act, 28 USC2412, or any other federal statute in lawsuits brought under the Establishment Clause and to limit remedies thereunder to declaratory and injunctive relief only.

**EIGHTY-EIGHTH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
SALT LAKE CITY, UTAH
August 29, 30, 31, 2006**

Resolution No. 326: Eliminate Damages And Attorney Fees In Establishment Clause Lawsuits
Origin: Convention Committee on Americanism
Submitted by: Convention Committee on Americanism
(Consolidated with Res. 222 (SD))

WHEREAS, The American Legion, whose motto is “For God and Country” and has been since its founding by veterans of World War I in 1919, is leading a nationwide effort to combat the secular cleansing of our American heritage through Establishment Clause lawsuits; and

WHEREAS, Many Americans mistakenly believe that the words “separation of church and state” are included in the Constitution of the United States and provide the legal basis for removal of symbols with a religious aspect or references to God in our National Motto or to our country’s founders’ reliance on God, from veterans memorials, and other public lands, areas, monuments, buildings, seals, or ceremonies; and

WHEREAS, The First Amendment to the Constitution nowhere in fact mentions “separation of church and state,” nor “separation of state from religion,” but states only:

“Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.”; and,

WHEREAS, Judges in increasing numbers have issued orders in Establishment Clause cases that ban the Boy Scouts, ban the Ten Commandments, ban religious symbols at veterans memorials, ban the Pledge of Allegiance, ban historical religious symbols in the official seals of counties, and ban cities and the Department of Defense from assisting the Boy Scouts, and judges in such cases have awarded millions of dollars to the American Civil Liberties Union (ACLU) and others in attorney fees to be paid by taxpayers as authorized by 42 U.S. Code Section 1988, the Equal Access to Justice Act, 28 U.S. Code Section 2412, and/or other federal statutes; and,

WHEREAS, The American Legion believes that all federal statutes of the United States should be amended to rescind and repeal the authority Congress gave the courts to impose damages or attorney fees in Establishment Clause cases, as the threat of judge-ordered damages or attorney fees is being used as a club to compel local elected bodies, villages, towns, cities, counties, school boards, and states, and federal agencies, to surrender to demands to remove or destroy symbols or expressions of a religious aspect from all areas of the public sphere for fear of imposition of damages or attorney fees to be paid by taxpayers, and is being used to chill private citizens from exercising the First Amendment right to seek redress by entering Establishment Clause lawsuits to defend symbols of and references to our American heritage, for fear that damages or attorney fees will be imposed upon them personally; and,

WHEREAS, The 86th National Convention of The American Legion, August 31–September 1, 2, 2004, passed Resolution 326, Preserve WWI Veterans Memorial in Mojave Desert, which called on Congress to amend the Civil Rights Attorney Fees Act of 1976, 42 U.S. Code Section 1988, to prohibit the courts from awarding attorney fees under that statute in lawsuits brought to remove or destroy religious symbols; and

WHEREAS, The 87th National Convention of The American Legion, August 23, 24, and 25, 2005, passed Resolution 139, Amend the Equal Access to Justice Act, which called on Congress to amend 28 U.S. Code Section 2412, or any other similar federal statute, to limit remedies to

declaratory and injunctive relief only and to eliminate court-ordered attorney fee awards in cases brought under the Establishment of Religion Clause of the U.S. Constitution; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Salt Lake City, Utah, August 29, 30, 31, 2006, That The American Legion urge the Congress of the United States to amend the Civil Rights Attorney Fees Act of 1976, 42 U.S. Code Section 1988, the Equal access to Justice Act, 28 U.S. Code 2412, and any and all other federal statutes, to limit remedies to injunctive relief and declaratory relief only, and to rescind the authority of the courts to award attorney fees to the prevailing party in lawsuits brought under the Establishment of Religion Clause in the U.S. Constitution.

**NATIONAL EXECUTIVE COMMITTEE
OF
THE AMERICAN LEGION
INDIANAPOLIS, INDIANA
October 18-19, 2006**

Resolution No. 11: Alliance Defense Fund/Liberty Legal Institute And The Defense Of Veterans' Monuments Project

Submitted by: Finance Commission

WHEREAS, The American Legion has since its founding in 1919 dedicated itself to the defense of veterans and American values pursuant to its founding creed of "For God and Country" and the precepts of the Preamble of its Constitution; and

WHEREAS, Grateful communities across America, and the United States government itself, have established veterans monuments to honor the service and sacrifice of veterans, and The American Legion has traditionally assisted in the establishment, maintenance, care, or defense of those veterans monuments; and

WHEREAS, Many of those veterans monuments include symbols of America's religious history and heritage, or expressions of religion, in tribute to veterans, including without limitation at America's National Cemeteries, and overseas at Normandy Beach and other cemeteries in theatres of war, and at such singular veterans monuments as the Mojave Desert WWI Veterans Memorial and the Tomb of the Unknown Soldier; and

WHEREAS, Certain special interest groups adhering to a secular humanist creed, including particularly the American Civil Liberties Union (ACLU), have engaged in litigation attacks under the Establishment of Religion Clause against the Boy Scouts of America, the public display of the Ten Commandments and other symbols of America's religious history and heritage, including to remove or destroy religious symbols or expressions at veterans monuments, including at the Mojave Desert WWI Veterans Memorial; and

WHEREAS, The American Legion, in defense of veterans memorials and in opposition to the secular cleansing litigation of the ACLU, and others, adopted by unanimous vote Resolution 326, Preserve Mojave Desert WWI Veterans Memorial; and

WHEREAS, The Alliance Defense Fund ("ADF") and Liberty Legal Institute ("LLI"), non-profit legal defense organizations whose mission is the defense of traditional American values, particularly religious freedom and expression, have offered and agreed to provide their legal services to The American Legion, on terms specified by The American Legion, and without cost to The American Legion, in a cooperative working relationship to establish and maintain a defense of veterans monuments project; now, therefore be it

RESOLVED, By The American Legion in National Executive Committee assembled in Indianapolis, Indiana, on October 18 and 19, 2006, That The American Legion, acting in a cooperative working relationship with the Alliance Defense Fund and Liberty Legal Institute, on terms specified by The American Legion, and without cost to The American Legion for legal services, establish and maintain a defense of veterans monuments project to include a data base of veterans memorials throughout the Nation; and, be it further

RESOLVED, That \$20,000 be approved for direct mailings to post, district and department leadership informing them of the legal service available at "no cost" to their communities as well as for maintenance of the veterans memorials database; and, be it finally

RESOLVED, That after review by the National Judge Advocate for legal sufficiency of said agreement between Alliance Defense Fund and Liberty Legal Institute and The American Legion, the National Commander be and is hereby authorized and directed to execute said agreement, and that the National Adjutant be and is hereby authorized and directed to attest same.

**NINETIETH NATIONAL CONVENTION
OF
THE AMERICAN LEGION
Phoenix, Arizona
August 26, 27, 28, 2008**

Resolution No. 310: Eliminate Damages and Attorney Fees in Establishment Clause Lawsuits
Origin: Convention Committee on Americanism
Submitted by: Convention Committee on Americanism

WHEREAS, The American Legion, whose motto is “For God and Country” and has been since its founding by veterans of World War I in 1919, is leading a nationwide effort to combat the secular cleansing of our American heritage through Establishment Clause lawsuits; and

WHEREAS, Many Americans mistakenly believe that the words “separation of church and state” are included in the Constitution of the United States and provide the legal basis for removal of symbols with a religious aspect or references to God in our National Motto or to our country’s founders’ reliance on God, from veterans memorials, and other public lands, areas, monuments, buildings, seals, or ceremonies; and

WHEREAS, The First Amendment to the Constitution nowhere in fact mentions “separation of church and state,” nor “separation of state from religion,” but states only: “*Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.*”; and

WHEREAS, Judges in increasing numbers have issued orders in Establishment Clause cases that ban the Boy Scouts, ban the Ten Commandments, ban religious symbols at veterans memorials, ban the Pledge of Allegiance, ban historical religious symbols in the official seals of counties, and ban cities and the Department of Defense from assisting the Boy Scouts, and judges in such cases have awarded millions of dollars to the American Civil Liberties Union (ACLU) and others in attorney fees to be paid by taxpayers as authorized by 42 U.S. Code Section 1988, the Equal Access to Justice Act, 28 U.S. Code Section 2412, and/or other federal statutes; and

WHEREAS, The American Legion believes that all federal statutes of the United States should be amended to rescind and repeal the authority Congress gave the courts to impose damages or attorney fees in Establishment Clause cases, as the threat of judge-ordered damages or attorney fees is being used as a club to compel local elected bodies, villages, towns, cities, counties, school boards, and state and federal agencies, to surrender to demands to remove or destroy symbols or expressions of a religious aspect from all areas of the public sphere for fear of imposition of damages or attorney fees to be paid by taxpayers, and is being used to chill private citizens from exercising the First Amendment right to seek redress by entering Establishment Clause lawsuits to defend symbols of and references to our American heritage, for fear that damages or attorney fees will be imposed upon them personally; and

WHEREAS, The 86th National Convention of The American Legion, August 31 – September 1, 2, 2004, passed Resolution 326, Preserve WWI Veterans Memorial in Mojave Desert, which called on Congress to amend the Civil Rights Attorney Fees Act of 1976, 42 U.S. Code Section 1988, to prohibit the courts from awarding attorney fees under that statute in lawsuits brought to remove or destroy religious symbols; and

WHEREAS, The 87th National Convention of The American Legion, August 23, 24, and 25, 2005, passed Resolution 139, Amend the Equal Access to Justice Act, which called on Congress to amend 28 U.S. Code Section 2412, or any other similar federal statute, to limit remedies to declaratory and injunctive relief only and to eliminate court-ordered attorney fee awards in cases brought under the Establishment of Religion Clause of the U.S. Constitution; now, therefore, be it

RESOLVED, By The American Legion in National Convention assembled in Phoenix, Arizona, August 26, 27, 28, 2008, That The American Legion urge the Congress of the United States to amend the Civil Rights Attorney Fees Act of 1976, 42 U.S. Code Section 1988, the Equal access to Justice Act,

28 U.S. Code 2412, and any and all other federal statutes, to limit remedies to injunctive relief and declaratory relief only, and to rescind the authority of the courts to award attorney fees to the prevailing party in lawsuits brought under the Establishment of Religion Clause in the U.S. Constitution.