

# Protecting the United States Constitution - 1989

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## Issue

Increased concern that the recent decisions rendered by the Supreme Court are interpretations that are restrictive of the freedoms and spirit of the Constitution and the Bill of Rights; a growing tendency to seek Constitutional amendments, rather than legislative process, to deal with issues, thus further eroding the integrity of the Constitution.

## Background

The powers of the Supreme Court are defined in Article III of the United States Constitution: to interpret and determine what is legal under the U.S. Constitution; to examine federal, state, congressional and even executive action in order to determine whether they conform to the Constitution, and to render definitive decision on cases of wide import brought before the Court.

Supreme Court judges are presidential appointments made with the advice and consent of the Senate. Thus the Court is influenced by the atmosphere of the appointing Administration and Senate although the Court functions with judicial impartiality, not subject to political influences, when it renders its decisions. Throughout the history of the Court it has been described as conservative, liberal, or moderate, reflecting the philosophic majority of the sitting judges.

Among recent decisions of the present Supreme Court some are viewed by many concerned citizens as so conservative as to be obstructionist, restrictive and repressive, seriously eroding constitutional guarantees. For example every limitation and regression in the area of civil rights, whether through the device of referring matters to the states or otherwise, must be studied and overcome when necessary through new legal efforts.

The tendency of the present court to allow states increasingly wide latitude in determining action for those within its borders, including issues of capital punishment, presents very serious concerns, including the danger of loss of a unified country and possible disruptive movement of people from one state to another in order to seek necessary relief.

Further, there is growing concern that proposed action to deal with contemporary social attitudes and behavior be taken through a constitutional convention to enact amendments, whereas legislative action would be the appropriate venue. A past example was the effort to enact a constitutional amendment to secure a balanced budget. A present example is desecration against the flag. The physical representations of flags are objects and not the values which the flag symbolizes for American democratic society.

## Resolution

The National Federation of Temple Sisterhoods, reflecting its long standing positions on issues:

- 1) Calls upon all citizens of the United States to be informed and aware of the grave implications of calling for and convening a constitutional convention and to use their citizenship power to oppose acts that move issues of legislative concern to actions affecting the Constitution.
- 2) Expresses objection to any Supreme Court decision which erodes the constitutional guarantees of civil rights for all, especially the weakening of affirmative action for disadvantaged groups, by making legal redress for the plaintiff exceedingly difficult to procure.

- 3) Reaffirms its stand against capital punishment, finding the [Supreme] Court reference to its legality contrary to our Judaic tradition. While still maintaining this stand, we nevertheless express our objection to the Court's referral to the states and juries the consideration of mental retardation and age of youth at the time of capital offense.
- 4) Commends the Court, for its affirmation of the separation of church and state by declaring unconstitutional the placement of a Christian symbol on a public property; deeply regrets that the Court using the Menorah as an example, has taken upon itself to determine what is or is not an appropriate religious symbol to the Jewish people; strongly advocates legislation at the municipal, state, and federal levels to prohibit any religious symbol from being displayed at any time, either together or individually, on public buildings, land, schools, or at public functions.
- 5) Urges its members to use their advocacy prerogatives to express to the Senate their objective concern as to the qualification of proposed Supreme Court appointees—to preserve an impartial and balanced court.