



July 11, 2012

The Honorable Mark Udall
Chairman
Subcommittee on National Parks
Committee on Energy & Natural Resources
304 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Rand Paul
Ranking Member
Subcommittee on National Parks
Committee on Energy & Natural Resources
304 Dirksen Senate Office Building
Washington, D.C. 20510

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RE: ACLU Concerns with S. 3078, World War II Memorial Prayer Act

Dear Chairman Udall and Ranking Member Paul:

On behalf of the American Civil Liberties Union (ACLU), a non-partisan organization with more than a half million members, countless additional activists and supporters, and 53 affiliates nationwide dedicated to the principles of individual liberty and justice embodied in the U.S. Constitution, we write to express concerns with S. 3078, which would require that an inscription of President Franklin D. Roosevelt's D-Day prayer be added to the WWII Memorial. This attempt to play politics with religion detracts from the stated purpose of the memorial—national unity.¹

Memorials are designed to bring our country together in a unified reflection of our past. S. 3078, however, endorses the false notion that all veterans are honored by a war memorial that includes a prayer given from a specific religious viewpoint. During this subcommittee's June 27 hearing on S. 3078, the bill's lead sponsor, Senator Rob Portman, stated that the inclusion of the prayer would reflect our country's "Judeo-Christian heritage and values."² But, our nation is, and always has been, extraordinarily religiously diverse; this is one of our nation's great strengths. Department of Defense reports show that nearly one-third of all current members of the U.S Armed Forces identify as non-Christian.³ Likewise, many of our veterans and citizens come from a variety of religious backgrounds, or have no religious belief. Instead of being something that unites us as we remember the sacrifice of those who served, the inclusion of a prayer on the memorial, which is described as reflective of specific religious beliefs is divisive: It "sends a strong message of . . .

¹ American Battle Monuments Commission (AMBC), National WWII Memorial, Facts, <http://www.wwiimemorial.com/default.asp?page=facts.asp&subpage=intro> ("Above all, the memorial stands as an important symbol of American national unity, a timeless reminder of the moral strength and awesome power that can flow when a free people are at once united and bonded together in a common and just cause.").

² *Misc. National Parks Bills Hearing Before the Subcomm. on National Parks of the S. Comm. Energy & Natural Resources*, 112th Cong. (2012) (Statement of Senator Rob Portman) available at <http://www.energy.senate.gov/public/index.cfm/hearings-and-business-meetings?ID=a64e4f88-18d3-4489-96a0-b1a89b2b51e6> (86:15).

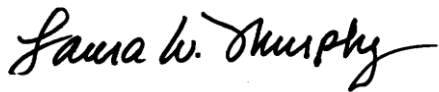
³ Religious Diversity in the U.S. Military, Military Leadership Diversity Comm'n, Issue Paper No. 22 (June 2010).

exclusion” to those who do not share the same religious beliefs.⁴ The First Amendment affords special protections to freedom of religion. Because of these protections, each of us is free to believe, or not believe, according to the dictates of our conscience. These beliefs are too precious to be used for political purposes, as this bill would do.

The memorial, as it currently stands, appropriately honors those who served and encompasses the entirety of the war. The World War II Memorial Commission and the American Battle Monuments Commission (ABMC) carefully chose the thirteen inscriptions already included on the memorial. The inscriptions contain quotes spanning from the beginning of U.S. involvement in the war following the attacks on Pearl Harbor to the war’s end, and already include a quote from D-Day and two quotes from President Roosevelt.⁵ These two commissions thoroughly deliberated which inscriptions to include, selecting quotations that honor those who served and commemorate the events of World War II.⁶ “The design we see today was painstakingly arrived upon after years of public deliberations and spirited public debate.”⁷ Not surprisingly, the ABMC and National Capital Memorial Advisory Commission, which was designated by Congress to consult on the design of the Memorial,⁸ have stated that “no additional elements should be inserted into this carefully designed Memorial.”⁹ Senator Portman’s assertion that the World War II Memorial needs to be improved to provide “historical context to [the] memorial” and add “another layer of commemoration”¹⁰ is simply not the case. This bill should be seen for what it is, playing politics with religion.

Please contact Legislative Counsel Dena Sher at (202) 715-0829 or dsher@dcacclu.org if you would like to discuss the ACLU’s concerns with S. 3078.

Sincerely,



Laura W. Murphy
Director, Washington Legislative Office



Dena S. Sher
Legislative Counsel

⁴ See *Trunk and Jewish War Veterans v. City of San Diego*, 629 F. 3d 1099, 1124–25 (9th Cir. 2011), *cert. denied*, 567 U. S. ___ (2012). Senator Joseph I. Lieberman, a co-sponsor of this bill, stated on the Senate floor that in offering this prayer, President Franklin D. Roosevelt was “bring[ing] faith and God in a very inclusive and nondiscriminatory way into our public life.” 158 Cong. Rec. S3748 (June 6, 2012) (floor statement of Sen. Lieberman). However, including this prayer in the World War II Memorial will exclude those veterans and other visitors who do not share those beliefs.

⁵ AMBC, National WWII Memorial Inscriptions, <http://wwiimemorial.com/archives/factsheets/inscriptions.htm>.

⁶ National Parks Service, World War II Memorial Inscription Controversy *available at* <http://www.nps.gov/wwii/photosmultimedia/upload/WWII%20Memorial%20Inscription%20Controversy%20web.pdf>. This is not the first time that religion has generated controversy regarding inscriptions on the WWII Memorial. After the World War II Memorial Commission and the ABMC selected quotations to inscribe in the memorial, there was a “maliciously generated and widely distributed notion” that the phrase “so help us God” was removed from the quote selected from President Roosevelt’s address before a joint session of Congress following the Pearl Harbor attacks. In fact that phrase was never part of the speech at all and was, therefore, not omitted from the quotation. *Id.*

⁷ *Legislative Hearing on H.R. 1980, H.R. 2070, H.R. 2621, and H.R. 3155 Before the Subcomm. on National Parks, Forest and Public Lands of the H. Comm. on Natural Resources*, 112th Cong. (2012) (Statement for the Record from National Park Service, U.S. Department of the Interior) *available at* http://www.doi.gov/ocl/2006/HR2070_110311.htm.

⁸ Commemorative Works Act, 40 U.S.C. §§ 8901–09. Although S. 3078 would apply the Commemorative Works Act, it is written to sidestep the Act’s provisions. It would either override the authority established under the Act to approve the WWII Memorial’s design by adding an additional element nearly a decade after the memorial was dedicated or, if the prayer inscription is to be considered a new memorial, it would circumvent the Act’s stipulation that new memorials not “interfere with, or encroach on, an existing commemorative work.” 40 USC §§ 8904–05; *see also House Hearing*, Statement for the Record from National Park Service. The House version of this bill (H.R. 2070) would exclude the prayer inscription from the Commemorative Works Act.

⁹ *House Hearing*, Statement for the Record from National Park Service.

¹⁰ *Senate Hearing*, Statement of Senator Rob Portman.