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**Civics 101**

**IRL2: The Flag and the Pledge**

**Nick Capodice:** [00:00:32] Aw it's that time again. Time for another Civics 101 I R L where we dive into the historic moments related to our regular episode topics. I'm Nick Capodice. And with me as always is Hannah McCarthy.

**Hannah McCarthy:** [00:00:48] Hey there folks.

**Nick Capodice:** [00:00:49] Virginia will be back for the next one. This is a supplement to our Episode 79 which is about the U.S. flag code. There was so much to talk about that we had to cut the flag in half.

**Hannah McCarthy:** [00:00:58] For my half. I'm and do history of the flag history of the Pledge of Allegiance.

**Nick Capodice:** [00:01:02] Yes. And I'm going to do Supreme Court cases that involve the flag and the pledge.

**Hannah McCarthy:** [00:01:06] Do you want to start with history?

**Nick Capodice:** [00:01:06] Yes please.

**Hannah McCarthy:** [00:01:20] So Nick do you know where the American flag comes from, who designed the American flag?

**Nick Capodice:** [00:01:27] I was always taught Betsy Ross sewed and designed the first American flag.

[00:01:33] That is the prevailing history. But as it turns out there is no written documentation that this is the case. The story actually comes from Betsy Ross's grandson. He goes to the Historical Society of Philadelphia and he says my grandmother designed the American flag what and all that he has is testimony from Ross family members. You know the thing is that Betsy Ross was a flag maker in Philadelphia through the late 1770s. So she was probably sewing American flags. But this idea that she came up with the design the 13 stars in a circle, there's no real evidence aside from the Rosses insisting that this was the case

**Nick Capodice:** [00:02:19] And they don't have that, they had no evidence to like back it up?

**Hannah McCarthy:** [00:02:22] No written documentation you know,.

**Nick Capodice:** [00:02:23] Is that true?

**Hannah McCarthy:** [00:02:24] That she didn't design the flag?

**Nick Capodice:** [00:02:26] Yeah.

**Hannah McCarthy:** [00:02:27] I am not going to say for sure because it's possible right? But all that you've got are affidavits from her family members. So if Betsy Ross didn't design the American flag

**Nick Capodice:** [00:02:38] Who did?

**Hannah McCarthy:** [00:02:39] That's a good question. Some historians not all believe that it was a man named Francis Hopkinson. And there's good reason to believe him but that idea that he designed the American flag is based entirely on the fact that he claimed to have designed the American flag. So once again you're running up against this. There's no written proof that this person designed it.

**Hannah McCarthy:** [00:02:59] The reason it's more likely to have been Francis Hopkinson is that he definitely helped to create the design of the seal for the University of Pennsylvania the seal of the state of New Jersey and the Great Seal of the United States

**Nick Capodice:** [00:03:14] So he's a seal man.

**Hannah McCarthy:** [00:03:15] He's a seal man

**Nick Capodice:** [00:03:16] Seal guy. He designed the U.S. SEAL and that's enough of kind of like will this guy's got some background in design and probably did this too.

**Hannah McCarthy:** [00:03:24] In patriotic design.

**Hannah McCarthy:** [00:03:25] He was a known patriot. So it seems a little more likely.

**Nick Capodice:** [00:03:29] And real quick you know when this was? Is this around like the...

**Hannah McCarthy:** [00:03:32] Oh yeah of course. This was in the late 1770ss so 1776 1777. We've got this flag that the Continental Congress is flying

**Archival audio:** [00:03:49] The alternate stripes indicated a dissention from the king's rule. But the Union Jack indicated a loyalty to the mother country.

**Hannah McCarthy:** [00:03:50] And now this flag very closely resembles our flag except for the fact that the canton which is that in inner upper left hand corner square

**Nick Capodice:** [00:04:00] That's called the Canton! The blue square.

**Hannah McCarthy:** [00:04:02] That's right.

**Nick Capodice:** [00:04:03] I learned something new today.

**Hannah McCarthy:** [00:04:04] We already had the 13 stripes and that was actually a very popular design that would be displayed on coats of arms across Europe so that there was precedent for that. The Canton that we had was actually just the British Union Jack. So we had that plus our 13 stripes representing our 13 colonies.

**Nick Capodice:** [00:04:24] So the many stripes was a trope

**Hannah McCarthy:** [00:04:27] Exactly.

**Nick Capodice:** [00:04:27] Yet the number 13 was because of our 13 colonies.

**Hannah McCarthy:** [00:04:30] It was because of our 13 colonies. We were not strictly flying that British flag we were flying or 13 British colonies flag and we were working toward independence from the British. Now although we cannot say definitively who designed our new flag that new flag on June 14th 1777 was the result of the Continental Congress passing an act that established this official flag of the new nation. So the phrasing of that resolution it is resolved that the flag of the United States be 13 stripes alternate red and white and the union be thirteen stars white in a blue field representing a new constellation. OK I like the constellation. Very nice. So initially we had this flag which had our 13 five pointed stars in a circle in the blue Canton

**Hannah McCarthy:** [00:05:21] Gotcha.

**Hannah McCarthy:** [00:05:22] And then as states joined the union we would add both stars and stripes.

**Nick Capodice:** [00:05:30] What?

**Hannah McCarthy:** [00:05:30] That's right.

**Archival audio:** [00:05:30] On January 13th 1794 Congress enacted the law. Giving with us the flag with 15 stars and 15 stripes.

**Nick Capodice:** [00:05:40] When did we stop?

**Hannah McCarthy:** [00:05:41] So we actually stopped just after Vermont and Kentucky were introduced we only got to 15 I think.

**Hannah McCarthy:** [00:05:46] And then they say they realized

**Hannah McCarthy:** [00:05:49] Thank god then they realized that it was going to be visual chaos on the American flag. If you know they knew that the nation was going to continue to grow they might not have known it was going to get to 50.

**Hannah McCarthy:** [00:05:58] But just imagine that 50 stars next to 50 tiny little stripes. So in 1818 in their great wisdom Congress passes a law stipulating that the original 13 stripes be restored and only new stars be added Of course

**Nick Capodice:** [00:06:14] So are there like a couple of 15 striped flags out there?

**Hannah McCarthy:** [00:06:17] There are. You can actually order one. They still make them. So somebody can say you know this is the flag that we had for this period of time in history.

**Nick Capodice:** [00:06:25] That's really cool.

**Hannah McCarthy:** [00:06:26] Yeah. So the flag we know today because the flag has changed so many times. It's actually the twenty seventh iteration of the U.S..

**Nick Capodice:** [00:06:34] OK so they didn't add a star every time we added a state they like a wait for a couple.

**Hannah McCarthy:** [00:06:38] Correct. OK. Because we were adding at such a rapid rate. So you have only these 27 different versions of the flag.

**Archival audio:** [00:06:45] Every star state every state star.

**Nick Capodice:** [00:06:49] Cool. That's the flag.

**Hannah McCarthy:** [00:06:50] That's the flag.

**Nick Capodice:** [00:06:51] Now the pledge is tied to the flag right.

**Hannah McCarthy:** [00:06:53] So the pledge is tied to the flag but it's also really closely tied to patriotism and the union. And I would say the Americanization of people in this country.

**Nick Capodice:** [00:07:07] Wow. Can I ask you did you say the pledge when you were in school.

**Hannah McCarthy:** [00:07:10] I said the pledge every single morning I believe through middle school

**Nick Capodice:** [00:07:16] Stopped for me in middle school too. I said it in elementary school. So what's up with the pledge.

**Hannah McCarthy:** [00:07:20] Yeah I'm actually going to start us before the Pledge of Allegiance because we had a flag salute before we ever had a pledge of allegiance. So the original flag salute is by Rear Admiral George Balch. He'd been at West Point he served in the civil war and then later on in his career he finds himself working for the New York City Board of Education and he starts noticing that there are suddenly a ton of immigrant children in classrooms across the city and they don't necessarily sound like native born Americans. They might not think like native born Americans. Because he's encountering these foreign born students, he wants to teach American principles and help them to develop this ritual that could foster an American identity. So what he does is he develops this pledge salute combo where children would salute the flag and speak the following. I give my heart and my hand to my country, one country one language, one flag.

**Nick Capodice:** [00:08:21] Wow, one language too?

**Hannah McCarthy:** [00:08:23] One language.

**Nick Capodice:** [00:08:23] So this was a straight up. This is a guy who wanted America to look and sound a certain way.

**Hannah McCarthy:** [00:08:30] Yes.

**Nick Capodice:** [00:08:30] What years are we talking about here.

**Hannah McCarthy:** [00:08:31] So this is in 1887.

**Nick Capodice:** [00:08:34] OK yes. So it actually is the height. This is like just near the height of both German and Russian Jewish immigration. The Italians are just starting to come in.

**Hannah McCarthy:** [00:08:45] Exactly.

**Nick Capodice:** [00:08:45] So this is when the face the sound of America is changing again in a big way

**Hannah McCarthy:** [00:08:49] In a big way.

**Nick Capodice:** [00:08:50] And he's like we've got to put a stop to that. We have to change that. It sounds like.

**Hannah McCarthy:** [00:08:54] I think there was perhaps a fear of the influence of immigrants if not the immigrants themselves; let them in but make sure they become us. I think it was kind of the idea. So not that long after this fact. We are going to come up on the pledge and this is in 1892 which I believe was the same year that Ellis Island was officially opened for business

**Nick Capodice:** [00:09:17] Certainly was.

**Hannah McCarthy:** [00:09:17] And you've got millions of people coming in through Ellis Island. It's a very visible immigration from elsewhere into the United States. Not only that but the country is only 30 years into post Civil War recovery. So this idea of national union is still kind of fragile because we almost broke up you know. So there are some who think that patriotism is kind of sinking in the country too many people who are foreign born are moving in are changing the ways that we think and we speak. And we also are totally certain that we can keep this country together if only because we came so close to losing it.

**Nick Capodice:** [00:09:58] Right.

**Hannah McCarthy:** [00:09:59] So there's this man named Daniel Sharp Ford he's the owner of a magazine called Youth's Companion and he was particularly concerned with what he saw as this you know sinking morale in this country the sinking patriotism and he wants to boost it. So one of his employees one of the people who writes for him is named Francis Bellamy. He's a minister and an author for Youth's Companion. And so he asks Bellamy to compose a pledge of allegiance to the flag in hopes that it's going to boost patriotism.

**Hannah McCarthy:** [00:10:34] And here's the original language of the pledge allegiance.

**Hannah McCarthy:** [00:10:38] I pledge allegiance to my flag and the republic for which it stands

**Archival audio:** [00:10:46] One nation, with liberty, and justice for all.

**Nick Capodice:** [00:10:48] Wow. There's a lot that's changed since then.

**Hannah McCarthy:** [00:10:50] There's quite a bit that's changed.

**Nick Capodice:** [00:10:52] I think my flag sounds a bit more inclusive. It's like sort of implying that all these new comers these new Americans you know who are coming here are part of us. That's my flag because I'm here

**Hannah McCarthy:** [00:11:04] Something that we probably take for granted is that there is an American flag an every classroom. A big part of the reason let's just say that they're in so many classrooms in the United States is that at the same time that Youth's Companion publishes this pledge of allegiance and these instructions for this pledge they start selling flags at cost to about 26000 schools across the country. So then the pledge became really popular and that salute became known as The Bellamy salute. I think they simplified it to just this arm straight outward. You know at a slight angle right level with the forehead which looks just like a Nazi salute. During World War II of course we are seeing photographs and film of Nazis with their arms straight out and we decide maybe this isn't what we should be doing. Hand on the .

**Nick Capodice:** [00:11:58] Hand of the heart.

**Hannah McCarthy:** [00:11:58] So that's when that transition happens then revisions start to happen to the pledge itself. So in 1923 my flag is changed to the flag of the United States. So that in 1954 we add the words under God.

**Nick Capodice:** [00:12:13] Fifty four?

**Hannah McCarthy:** [00:12:14] Nineteen fifty four. So I think a lot of people grow up thinking that this pledge is kind of as old as the country itself.

**Nick Capodice:** [00:12:20] I thought it had under God from the 1800's.

**Hannah McCarthy:** [00:12:23] It sounds like something that would have been concocted in the 1800s. You don't really think that in 1954 that they're going to add the words under God.

**Nick Capodice:** [00:12:33] Yeah. Like just before the 60s?

**Hannah McCarthy:** [00:12:36] Things were about to blow up in this country. The reason that happened was because we see communism as this huge threat to this country. Communists are considered godless. Eisenhower signs a congressional resolution to pass under God into the Pledge of Allegiance. But it wasn't just Eisenhower. It's also because of a three year campaign by the Knights of Columbus

**Nick Capodice:** [00:13:04] The Knights of Columbus.

**Hannah McCarthy:** [00:13:06] That is the initial history of the Pledge of Allegiance. That's how he got up to the language that we use today.

**Nick Capodice:** [00:13:12] OK. Wow. So Betsy Ross didn't make the flag

**Hannah McCarthy:** [00:13:15] we don't even really know who designed it, or rather we can't say for sure.

**Nick Capodice:** [00:13:22] You ready for this?

**Hannah McCarthy:** [00:13:23] I'm ready.

**Nick Capodice:** [00:13:24] Are you. Aren't you excited to hear about some court cases.

**Hannah McCarthy:** [00:13:26] I'm so excited.

**Nick Capodice:** [00:13:27] After all of this boring history...so here are two Supreme Court cases about saluting the flag and two about burning it. Number one Minersville v Gobitis, 1940.

**Nick Capodice:** [00:13:39] William and Lillian Gobitis, they're Jehovah's Witnesses. And this is really important for this story.

**Hannah McCarthy:** [00:13:44] OK

**Nick Capodice:** [00:13:45] So this is what I didn't know about the Jehovah's Witness faith. Jehovah's Witnesses view God's kingdom as a government.

**Hannah McCarthy:** [00:13:53] Oh

**Nick Capodice:** [00:13:54] Yes. And therefore they refrain from pledging allegiance to any other government.

**Hannah McCarthy:** [00:13:59] Oh!

**Nick Capodice:** [00:13:59] And like nationalist songs and dances and parties and anything that's like pro a country is anathema to them because in their faith the country of God is the only country to which they should swear allegiance.

**Hannah McCarthy:** [00:14:11] That's really interesting.

**Nick Capodice:** [00:14:13] Yeah. And we see Jehovah's Witnesses pop up again and again because of this

**Hannah McCarthy:** [00:14:17] Because they can't be patriotic.

**Nick Capodice:** [00:14:19] Right.

**Hannah McCarthy:** [00:14:20] It must make it hard to live anywhere.

**Nick Capodice:** [00:14:22] It's only fitting that these two kids the Gobitis family in Pennsylvania. They refused to say the Pledge of Allegiance and they were summarily expelled from school in 1940. Now it goes up to the U.S. Supreme Court. And it is an 8 to 1 vote for Minersville school district.

**Hannah McCarthy:** [00:14:38] OK

**Nick Capodice:** [00:14:39] So the kids were not in their constitutional rights to not say the pledge.

**Hannah McCarthy:** [00:14:44] On what grounds exactly?

**Nick Capodice:** [00:14:44] Well it was, it was almost unanimous.

**Hannah McCarthy:** [00:14:48] Yeah.

**Nick Capodice:** [00:14:49] The justice who wrote the opinion was named Justice Felix Frankfurter. He's a famed Justice who was on the bench a long time. He said that national unity is the basis of national security. So if we're going to succeed as a nation we have to say that some things are respected. And he went on to say that a pledge for the flag is secular it's not religious it's for your nation. So you shouldn't consider it like that you do of God. Harlan Stone said in his dissent of the case that quote "There are other ways to teach loyalty and patriotism which are the sources of national unity then by compelling the people to affirm that which he does not believe." So we have a Supreme Court who almost unanimously says, hey everybody should go and support the flag. .

**Hannah McCarthy:** [00:15:34] OK.

**Nick Capodice:** [00:15:35] Everybody should say the Pledge of Allegiance. What happens after me almost immediately after this decision comes out, a mob of 2500 people burned down the Jehovah's Witnesses Kingdom Hall in Kennebunkport Maine. All the Jehovah's Witnesses in an Illinois town are jailed to protect them from citizens who are rioting. Jehovah's Witnesses are lynched, publicly hanged. And one sheriff said quote They are traitors. The Supreme Court said so. Ain't you heard?

**Hannah McCarthy:** [00:16:07] Wow.

**Nick Capodice:** [00:16:07] Three Supreme Court Justices, Black Douglas and Murphy, they stated in another opinion that they'd made the wrong decision.

**Hannah McCarthy:** [00:16:17] Wow.

**Nick Capodice:** [00:16:17] So in the wake of Minersville v Gobitis, not only is there a huge surge against Jehovah's Witnesses in the U.S. but there is a surge of flag laws in the U.S. saying you have to say the pledge. West Virginia is one of them. They make it compulsory. They say that if you don't say the Pledge of Allegiance in the morning you are insubordinate. And that law is what brings us to our next case, West Virginia v. Barnett 1943. Maria and Gathie Barnett, Jehovah's witnesses refused to say the pledge, goes up to the Supreme Court but something is different. Something is different in the air of America this time. By 1943 Americans had seen a lot of footage and read a lot of stories of Jehovah's Witnesses being persecuted in Nazi Germany and sent to concentration camps for refusing to salute the Nazi flag. So that, the justices who said that they had made a mistake, all comes together to make a new decision which is a 6 to 3 decision to overrule Minersville v Gobitis. So West Virginia Barnett is a case that makes it within your constitutional rights to not say the Pledge of Allegiance.

**Nick Capodice:** [00:17:21] Justice Jackson wrote the decision and the famous quote from this one as he said "if there is any fixed star in our constitutional constellation it is that no official high or petty can prescribe what shall be orthodox in politics, nationalism religion, or other matters of opinion or force citizens to confess by word or act their faith therein.".

**Hannah McCarthy:** [00:17:42] I love that.

**Nick Capodice:** [00:17:44] And there's no big ones. For a while and then we go to New York City. In the 1960s.

**Archival audio:** [00:17:50] This is about the first case in the history of our country, where this statue was even used. When Patrolman Copeland made his arrest he did not know that he had made the first arrest in the history of the state of New York for the public burning of a flag.

**Nick Capodice:** [00:18:06] We're talking about street v. New York 1969.

**Hannah McCarthy:** [00:18:09] Street.

**Nick Capodice:** [00:18:10] Street is the guy's name. Do you know about this case.

**Hannah McCarthy:** [00:18:13] No.

**Nick Capodice:** [00:18:13] Oh it's such a cool case. Oh my God. I mean the coolest people get involved in Supreme court cases, the coolest stories. So cast your mind back to 1966. The case is 1969 but this happens in 1966.

**Hannah McCarthy:** [00:18:26] I happen to be rereading Just Kids so I'm there.

**Nick Capodice:** [00:18:29] Oh you're right there right there. So we're in the 60s and we're in our old friend the Warren Court from Tinker v Des Moines

**Hannah McCarthy:** [00:18:39] I remember Warren, oh year.

**Nick Capodice:** [00:18:39] So I wish I had a constitutional scholar to walk me through this and it's radio so we should have someone should say hey did somebody call my name, no but we don't have that but hey we do what we can.

**Nick Capodice:** [00:18:47] So in 1966 there a civil rights activist named James Meredith. James Meredith is part of a protest, he is walking from Memphis Tennessee to Jackson Mississippi and he's promoting voter registration after the, the Voting Rights Act of 1965. And he's talking about and he's exposing racism across the south and he's trying to encourage African-Americans to vote , you know? And he's shot.

**Hannah McCarthy:** [00:19:15] Is he killed?

**Nick Capodice:** [00:19:16] He is not killed. It's comes over the radio across the country, James Meredith has been shot by an unidentified sniper. That comes across the radio and a guy's apartment in Brooklyn. And there's a guy named Sidney street Sidney street is a decorated Bronze Star veteran. He himself is African-American.

**Archival audio:** [00:19:34] He went out on an American flag with got him to his apartment two way street corner. Put a piece of paper on the street holding the flag in one hand, folded put a match to it and set it on fire.

**Nick Capodice:** [00:19:50] Then it starts to burn so much he can't hold it in his hand he puts it on the piece of paper he never lets the flag touch the ground.

**Hannah McCarthy:** [00:19:57] That is.. Anyway go on. So interesting.

**Nick Capodice:** [00:20:01] and this is really important. A police officer later later testified that he heard Sidney Street say if they did that to Meredith we don't need an American flag. The reason this matters is that New York State had a law had a statute at the time that you couldn't desecrate the flag by words or deed. You couldn't say bad stuff about the flag and you couldn't desecrate it physically. Sidney street is charged with malicious mischief for unlawfully burning the American flag and for saying bad words about the American flag. So this is an absolute squeaker. So what's the decision. It's a 5 4 decision. It's kind of confusing to me.

**Hannah McCarthy:** [00:20:45] OK.

**Nick Capodice:** [00:20:45] It's called, it's reverse and remand. It's kind of like

**Hannah McCarthy:** [00:20:50] What does remand mean.

**Nick Capodice:** [00:20:51] Remand means you send it back to the lower case for a retrial. Like it's the state's business or it's your business that other courts business.

**Hannah McCarthy:** [00:21:00] Because it was a state's law.

**Nick Capodice:** [00:21:01] It was but it's kind of like you guys take care of this. So they the court decides by a 5 4 vote that the law about the words about speaking bad about the flag that is unconstitutional. But when it comes to burning the flag let's just we don't. They totally kick the can on this one. It's a famous can kicking. The court does not decide whether or not it was constitutional for him to burn the flag.

**Hannah McCarthy:** [00:21:29] Wow.

**Nick Capodice:** [00:21:29] Yeah. It's kicked down 1970s, kicked down in the 1980s, and then we get to 1984 the Republican National Convention in Dallas Texas.

**Archival audio:** [00:21:43] It is my great privilege. To proclaim the thirty third Republican National Convention in Session and call it to order.

**Archival audio:** [00:21:58] We represent people who are patriotic. Who believe in our American system and love our country.

**Nick Capodice:** [00:22:03] Number four. Texas v. Johnson. Reagan and George H.W. Bush have been nominated for the second term and everybody at the RNC is banging gavels and getting all excited outside this convention on the steps of City Hall.

**Nick Capodice:** [00:22:16] There's a guy named Gregory Lee Johnson who goes by the name Joey. Gregory Johnson. And he takes an American flag and he burns it.

**Hannah McCarthy:** [00:22:24] I've seen

**Nick Capodice:** [00:22:24] And he spits on it. Yeah. Texas has a law. Texas legislature may prohibit overt physical acts that it deems offensive slash harmful to society. Texas loses the case and it keeps getting,.and Texas keeps appealing it and it goes up to the top, so Texas's name being first they lost the previous case. What is most interesting to me about this case I kinda, I found like a personal hero when I was researching this case and it's the guy who's the advocate for Johnson the lawyer named William Kunstler

**Archival audio:** [00:22:57] By the way talking about flags in front of the Supreme Court when I came by today. The flags were up in the rain. And under 36 US Code the leading provision there is flags shall not be displayed in inclement weather.

**Archival audio:** [00:23:12] Are you gonna get back to.

**Archival audio:** [00:23:12] Section one applies to all weather flags.

**Archival audio:** [00:23:17] That's an all weather flag. That could be physical mistreatment under the Texas statute.

**Archival audio:** [00:23:22] Mister Kunstler. Are you going to get back to the case?

**Archival audio:** [00:23:24] I'm going back to the case, seems we had this three weeks ago.

**Nick Capodice:** [00:23:28] He is very funny. And as you hear when he's arguing the case everybody's laughing, Thurgood Marshall is like can we get back to the case. He defended the Chicago Seven. He defended the Black Panthers the Weather Underground.

**Archival audio:** [00:23:43] Real pariahs people that could be totally hated by most of the population of this country. Well what makes Kunstler pariah bound? Well I have found that it is the pariahs when the law changes

**Nick Capodice:** [00:23:56] And what bigger pariah than a flag burner? In his argument he cites Street. He cites Barnett and the court makes its decision and it's another 5 4 vote. Another squeaker and the court holds that Johnson's burning of the flag is protected speech under the First Amendment. Justice William Brennan, famed advocate of the First Amendment. He's the one who writes the decision and he has the sort of money quote which is. If there is a bedrock principle underlying the First Amendment it is that government may not prohibit the expression of an idea simply because society finds the idea itself offensive or disagreeable. And then Kunstler on the steps after the decision is read says this.

**Archival audio:** [00:24:41] And it tests the First Amendment whether you can see a thing like that which for war veterans who complain about, which touches a lot of people who do have certain reverence for the flag. To have that burned, desecrated in their eyes and yet protected by the First Amendment. I think it's a hard nut to swallow but it's a kind of nut that the founding fathers wanted us to swallow because they said that it's the hard words not the soft words that need protection.

**Nick Capodice:** [00:25:08] That decision invalidates laws in 48 states right off the bat.

**Hannah McCarthy:** [00:25:14] Wow.

**Nick Capodice:** [00:25:14] Suddenly overnight, whoosh.

**Hannah McCarthy:** [00:25:17] Yeah

**Nick Capodice:** [00:25:18] But there's one last one last bit to this.

**Hannah McCarthy:** [00:25:22] OK.

**Nick Capodice:** [00:25:23] Hannah which is Congress since Texas v. Johnson and starting in the mid 90s really 1990s has on many occasions tried to pass a new amendment to our Constitution. So we've talked before about how an amendment gets ratified into the Constitution and has to pass a two thirds majority in the house and in the Senate and then two thirds of the states have to agree as well. The actual amendment has been written. It's just waiting to be ratified. The amendment says the Congress shall have power to prohibit the physical desecration of the flag of the United States. That's it.

**Hannah McCarthy:** [00:25:58] Even though it is opposed to a Supreme Court decision

**Nick Capodice:** [00:26:02] Yeah, Because of its amendment would change that because it be in our constitution

**Hannah McCarthy:** [00:26:07] That's very interesting.

**Nick Capodice:** [00:26:08] So from the years 1995 to 2005 this amendment passed in the House six times. And each time it lost in the Senate by a handful or two of votes. In 2006 it got to the Senate and it lost by one vote. But even though it lost by just one vote Senate all 50 states have pledged that they are for this flag desecration amendment. So if it gets to the Senate it's pretty much a guarantee.

**Hannah McCarthy:** [00:26:40] Is it currently for..

**Nick Capodice:** [00:26:43] Yeah, so the amendment right now. It was proposed in June of 2017 and it's kicked to the Senate Judiciary Committee. So it's in committee as they say, it's in committee.

**Hannah McCarthy:** [00:26:54] All right.

**Nick Capodice:** [00:26:54] Who knows where it's going to go from there.

**Hannah McCarthy:** [00:26:56] Seems pretty likely to happen maybe next this year. Right?

**Nick Capodice:** [00:27:00] Who knows.

**Nick Capodice:** [00:27:02] One for the ages I guess.

**Nick Capodice:** [00:27:05] Thank you Hannah.

**Hannah McCarthy:** [00:27:08] Thank you Nick.