

# Editorial

## Remember the POW/MIA's

The official flag of the POW-MIA's was raised Monday at the State Capitol to mark the beginning of Prisoner of War/Missing in Action Recognition Week, July 15 to 20. The flags will fly all week over offices and homes.

A state-wide moment of silence will be observed at 11:59 a.m. Friday, July 19th, in honor of the Nebraska POW-MIA's who have not yet returned home.

The State of Nebraska has 401 men still listed as prisoner of war or missing in action from major conflicts the United States has been involved in, according to J. Gonzales, Jr., Director of the State Department of Veterans Affairs and acting coordinator for an ad hoc committee composed of several representatives from state and federal agencies and other interested groups.

Gonzales and his committee are asking the citizens of Nebraska to observe the moment of silence, 11:59 a.m. Friday, and to participate in POW-MIA Recognition Week activities across the state.

All Nebraskans are urged to participate in POW-MIA Recognition Week, even if only by considering what has gone before and to remember, with respect, the sacrifice the POW-MIA's made for their country.

This year marks the tenth anniversary of the end of our involvement in the Vietnam War. Gov. Kerrey said ten years is a long time, especially when we consider those Americans, 28 of them Nebraskans, who did not return at the end of our involvement.

Some groups in the state believe that some of these men may still be alive.

Steve Durbin, Executive Director of the Vietnam Veterans MIA Task Force in Grand Island said it is possible that individuals are still being held captive in Southeast Asia. Durbin said he believes the Vietnamese are still holding these men as pawns to be used in negotiations to receive more aid from the United States.

Terry Montgomery, coordinator for VFW Post #10617 said, "No matter how the memory of Vietnam may pain people, they must see that some of our servicemen are still in physical pain and being held captive by the Vietnamese."

The very least Nebraskans can do is to recognize that these men are still missing.

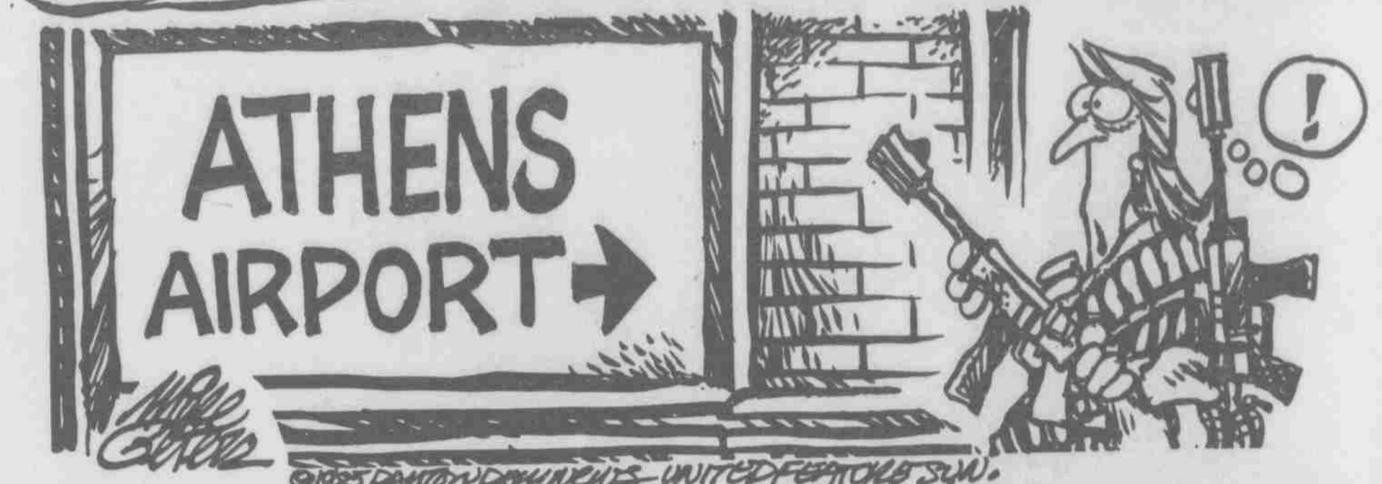
In an effort to raise public consciousness of the war and related issues, a portion of American History classes should be devoted to the study and understanding of the Vietnam experience.

This idea was recommended by the Nebraska State Legislature in Legislative Resolution 250, passed earlier this year. The resolution also calls for flying the official POW-MIA flag and for the Unicameral to consider a special commendation of Nebraska POW's in captivity for five years or longer, and of those Nebraskans who remain listed MIA.

Another thing that can be done to show America's respect for its military is to call for an accounting of those missing.

"This is an issue of importance to every American. If the American public does not stand up now and demand an accounting it will happen again," T.J. Jarecke, State Chairman for the Forget-Me-Not Association for POW-MIA's said.

Now is the chance for Americans to foster a deeper understanding and appreciation of the issues of war, even if the war is long over. Observing Friday's moment of silence and participating in POW-MIA Recognition Week is one way to show that those who are out of sight are not out of mind.



## First Amendment misused Meese says Bill of Rights doesn't apply to states

Last week in a speech to the American Bar Association Attorney General Edwin Meese struck a blow for a return to proper constitutional interpretation by arguing that the Supreme Court has consistently been mistaken over the past sixty years



in applying the U.S. Constitution's Bill of Rights to state governments. Said Meese, "the Bill of Rights, as debated, created and ratified, was designed to apply only to the national government."

Meese correctly pointed out that the notion that those rights are good as against states is only an "intellectually shaken foundation," and that nowhere else "has the principle of federalism been dealt so politically violent and constitutionally suspect a blow as by the theory" of the Bill of Rights application to the states.

Well, needless to say, liberal mudslingers were standing in lines to attack and distort

Meese's claims. In Nebraska we have our very own local purveyor of distorted alarm in the person of George Green, President of the Board of Directors of the (mistitled) Nebraska Civil Liberties Union. Ignoring any semblance of reasoned opinion, Green predictably

posited the charge in a NCLU "news" release that because Meese doesn't believe the Bill of Rights was incorporated by the Fourteenth Amendment that "apparently the administration wants to repeal" that provision. In reality, however, the charge is quite overblown, for such is hardly the logical consequent of Meese's claim.

A federal judge recently summarized Professor Fairman's conclusion as follows: "The historical record clearly establishes that when the Fourteenth Amendment was ratified in 1868 that its ratification did not incorporate the First Amendment against the states. The debates in Congress at the time the Fourteenth Amendment was being drafted, the re-election speeches of the various members of Congress shortly after the passage by Congress of the Fourteenth Amendment, the contemporaneous newspaper stories reporting the effect and substance of the Fourteenth Amendment, and the legislative debates in the various state legislatures when they considered ratification of the Fourteenth Amendment indicates that the amendment was not intended to apply the establishment clause (of the First Amendment) against the states because the Fourteenth Amendment was not intended to incorporate the federal Bill of Rights (the first eight amendments) against the states." Other scholarly analysis concur.

The tone and intention of Green's tirade is almost frightening from a jurisprudential perspective. He seems

unwilling (or unable) to provide historical refutation of Meese's claim, relying in the stead upon wild charges that the administration desires to repeal the entire Fourteenth Amendment rather than, more accurately, viewing Meese's claim as simply an attempt to return it to its proper province.

By implication of his argument, the NCLU's Green rejects the basis for reasonable policy-making and adjudicating. Constitutional interpretation ought not to be based upon some small, select group of individual's interpretation of how the times have changed since a provision's enactment — for that is ultimately a foot in the door for the potential tyrant or despot. But instead, constitutional interpretation should be based upon the common sense idea, as articulated by Meese, that "only the sense in which that Constitution was accepted and ratified by the nation and only the sense in which laws were drafted and passed provide a solid foundation for adjudication." The absurd vituperations of the NCLU indicate that, in this instance at least, the administration has the superior historical/interpretive support.

### SEZ WHO?

*Every war is a national misfortune.*

Helmuth Von Moltke

### The Nebraskan

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