

that?

SENATOR CONWAY: No. My intent is, as I think you have aptly pointed to when we first started, was that it can be included.

SENATOR LANDIS: Fair enough. Thank you. Madam President, members of the Legislature, there is a rule of construction of statutes that says in the event, out of all the range of possibilities that there are in life, you take one out and authorize it in statute, acknowledge it in statute, indicate that this gives special authority and in this case authority is given to fly this kind of flag, it must have been the intention of the Legislature to deny all the rest of the authority. It's a clear case of statutory construction and I'll be happy in the event you'd like to, to... I can probably come up with a case or two, although if you study the law, you'll find that this is a common rule of statutory construction. If we say you shall do X and we take it out of discretion, but pass a law to that effect, a court is commonly, when given the task of interpreting it, reaches the conclusion that by taking one example out it must have been the intention to deny all other examples, and that the only way to jump into the game then is to get specific authority. But Senator Conway's language in this case, which he intends to offer to permit reluctant, reticent, milquetoast administrators from flying this flag, can quite possibly have the effect which he eschews as his purpose and that is to stop them from flying any other flag because any other flag will not have statutory authority and the POW flag will have statutory authority. It should not be our business to go beyond, I think, the reflections of general sentiment. The flag of the United States, the flag of this state which are our general statements of sacrifice, of commitment, of patriotism or whatever, to choose particular flags to require being flown and in this case you really do that because it says, if anybody requests it then you shall fly the flag, and that will just mean that we really are saying that it has to be flown. I suggest that we be silent on the issue. If we are silent on the issue, those administrators who wish to will do so. All it takes is a little gumption. It doesn't take any law for an administrator to go out there and fly a flag if they want to if their school board authorizes it or whatever. But by putting it into statute, (1) you authorize it and (2) you deny it to other kinds of opportunities as well and that is not even the introducer's intent, but is the statutory construction when you do this kind of thing. Better to simply be silent. To have the statutes