

**STATEMENT OF
DONALD T. TETREault
NATIONAL EXECUTIVE COMMITTEEMAN
STATE OF VERMONT
THE AMERICAN LEGION
TO THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
ON SENATE JOINT RESOLUTION 4**

MARCH 10, 2004

Chairman Hatch and Members of this Committee, thank you for holding this hearing on S.J. Res. 4, a proposed constitutional amendment to protect the American flag from physical desecration. As the current National Executive Committeeman for The American Legion Department of Vermont and as an American, it is an honor to submit testimony.

I will never forget how I felt when I first heard about the flag desecration incident that occurred in Glover, Vermont. *The Times Argus* of Barre reported that vandals were responsible for turning the Westlook Cemetery into "a bathroom facility," using American flags there as "toilet paper" and dismantling or smashing 40 headstones. The fact that the physical desecration of Old Glory was constitutionally protected was a pretty hard pill to swallow. I took this incident very personally, because those flags came off the graves of fellow veterans, men and women who placed love of country above self. Those men and women once served this nation honorably and with dignity.

I understand that Congress cannot mandate honesty, loyalty, ethics, morality, or patriotism, but surely Congress can legislate against what is dishonest, disloyal, unethical, immoral, and unpatriotic. For many years, states and the Federal government had statutes that protected Old Glory from acts of physical desecration. Even First Amendment purists such as former Chief Justice Earl Warren, Justice Hugo Black, and Justice Abe Fortas opined that there was no conflict between free speech and the right of states and the Federal government to protect Old Glory from acts of physical desecration (**Street v. NY**, 1969). I would appreciate those Senators that have voted against this proposed constitutional amendment to explain or share their insight as to exactly what Justices Warren, Black, and Fortas didn't understand or misinterpreted.

This issue is highly sensitive to many, many Americans. That is why this issue continues to resurface each Congress. Those that understand the democratic process know that this is a government designed to serve the people, not dictate to the people. Should Congress, the White House, or the Supreme Court become the final authority on laws, this nation is in peril. I am deeply concerned with how many people are convinced that what they believe really doesn't matter to their elected officials. I attribute that sense of hopelessness as the prime reason behind voter apathy and low voter turnout. Congress, the White House, and the Supreme Court should be alarmed by the low voter participation. American can ill afford a disengaged citizenry.

Personally, I am very proud of those actively in pursuit of this proposed constitutional amendment. They represent the true believers that America is still a government of the people, by the people, and for the people. All 50 state legislatures have passed memorial resolutions dealing with this issue. I am proud to say Vermont was the 50th state to achieve this goal. I cannot recall any time in recent history that all 50 states agreed on an issue – protect the flag of the United States from acts of physical desecration. Isn't it a shame that, for over a decade, the House continues to hear the message loud and clear, but in the Senate, the message is muted?

Mr. Chairman and distinguished Members of the Committee, thank you for your service to America. Thank you for holding this hearing. Thank you for listening to both sides of the argument. Your job is now to decide the fate of this resolution. Kill it again or let it go to the states where my constituents can decide, just like they have asked.

Kill it and it will resurface on the campaign trail and again next Congress in a phoenix-like fashion. Pass it and all 50 states will determine the fate of Old Glory through the ratification process just like the Bill of Rights and the other adopted or rejected amendments.

Thank you for allowing my testimony to be submitted in the record of this hearing.