Mr. CONYERS. Mr. Speaker, I have a number of serious reservations concerning H.R. 2428. Although I am supportive of the impetus behind the legislation—encouraging private entities to donate food to nonprofit organizations who distribute food to the needy—I question whether preempting traditional State law prerogatives in this area is desirable.

For more than 200 years tort law has been considered to be a State law prerogative. The States are in the best position to weigh competing considerations and adopt negligence laws which best protect their citizens from harm. The area of food donations is a good illustration of this dynamic. According to the Congressional Research Service's American Law Division, all 50 States have enacted special statutory rights concerning food donations. Not surprisingly, the States have crafted a variety of liability rules—ranging from those who subject all negligent parties to liability, to those who limit liability only to grossly negligent or intentional acts.

Unfortunately, with adoption of this bill, the House will be seeking to impose a one-size-fists-all legal standard for food donors based on the Model Good Samaritan Food Donation Act, 42 U.S.C. Secs. 12671–12673, despite the fact that since its enaction in 1990, only one State has adopted the Model Act's language. This is exactly the type of reckless federalism so many in Congress purport to oppose. Worse yet, in federalizing this standard, Congress will be selecting the most lenient possible standard of negligence. In particular, I would note that the term ''gross negligence'' is so narrowly defined that it may not include a failure to act which one should have known would be harmful. I believe a standard so loosely drawn constitutes an open invitation to harm to our poorest citizens.

I would also note that Congress is acting on this measure at a time when there has been no demonstrated legal problem. There is no outbreak in frivolous litigation. The proponents arguments for a uniform Federal standard are more based on anecdote than fact.

I am also concerned that to date the legislative process has completely bypassed the Judiciary Committee, which traditionally has had primary jurisdiction for any tort law matters. We should not be in such a rush to pass legislation that we fail to consider the opinions of those Members with relevant expertise.

It is because of concerns such as these that the conference committee on H.R. 2854, the Federal Agriculture Improvement and Reform Act of 1996, determined to reject adopting legislation similar to that before us today. The managers' statement to that legislation wrote:

[t]he Managers declined to adopt a provision that would convert the Model Good Samaritan Food Donation Act (Pub. L. 101–610) to federal law. . . . While the Managers commend the philanthropic intent of such legislation, the Managers understand possible implications of preempting state laws and acknowledge jurisdictional complications. See House Report 104–94 at 405.

It is my hope that as the process moves forward these and other problems can be addressed.

Mr. GOODLING. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TAYLOR of North Carolina). The question is on the motion offered by the gentleman from Pennsylvania [Mr. GOODLING] that the House suspend the rules and pass the bill, H.R. 2428, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLING. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2428, the Bill Emerson Good Samaritan Food Donation Act.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12 of rule I, the House stands in recess, subject to the call of the Chair.

Accordingly (at 9 o'clock and 25 minutes a.m.), the House stood in recess, subject to the call of the Chair.

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. TAYLOR of North Carolina) at 11 o'clock and 12 minutes p.m.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. LUNDREGAN, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 2337. An act to amend the Internal Revenue Code of 1986 to provide for increased taxpayer protections.

The message also announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3230. An act to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

The message also announced that the Senate insists upon its amendments to the bill (H.R. 3230) ''An Act to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes,'' requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. THURMOND, Mr. WARNER, Mr. COHEN, Mr. MCCAIN, Mr. COATS, Mr. SMITH, Mr. KEMPTHORNE, Mrs. HUTCHISON, Mr. INHOFE, Mr. SANTORUM, Mrs. FRAHM, Mr. NUNN, Mr. EXON, Mr. LEVIN, Mr. KENNEDY, Mr. BINGAMAN, Mr. GLENN, Mr. BYRD, Mr. ROBB, Mr. LIEBERMAN, and Mr. BRYAN, to be the conferees on the part of the Senate.

The message also announced that the Senate disagrees to the amendment of the House to the bill (S. 1004) ''An Act to authorize appropriations for the United States Coast Guard, and for other purposes,'' agrees to a conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints from the Committee on Commerce, Science, and Transportation: Mr. PRESSLER, Mr. STEVENS, Mr. GORTON, Mr. LOTT, Mrs. HUTCHISON, Ms. SNOWE, Mr. ASHCROFT, Mr. ABRAHAM, Mr. HOLLINGS, Mr. INOUYE, Mr. FORD, Mr. KERRY, Mr. BREAUX, Mr. DORGAN, and Mr. WYDEN; and from the Committee on Environment and Public Works for consideration of Oil Pollution Act issues: Mr. CHAFEE, Mr. WARNER, Mr. SMITH, Mr. FAIRCLOTH, Mr. INHOFE, Mr. BAUCUS, Mr. LAUTENBERG, Mr. LIEBERMAN, and Mrs. BOXER, to be the conferees on the part of the Senate.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 640. An act to provide for the conservation and development of water and related resources, to authorize the Secretary of the Army to construct various projects for improvements to rivers and harbors of the United States, and for other purposes;

S. 1745. An act to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, for military construction and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

S. 1762. An act to authorize appropriations for fiscal year 1997 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes;

S. 1763. An act to authorize appropriations for fiscal year 1997 for defense activities of the Department of Energy, and for other purposes; and

S. 1764. An act to authorize appropriations for fiscal year 1997 for military construction and for other purposes.

DEFENSE OF MARRIAGE ACT

The SPEAKER pro tempore. Pursuant to House Resolution 474 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3396.

☐ 1113

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3396) to define and protect the institution of marriage, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on the legislative

day of Thursday, July 11, 1996, all time for general debate had expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 3396 is as follows:

H.R. 3396

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Defense of Marriage Act''.

SEC. 2. POWERS RESERVED TO THE STATES.

(a) IN GENERAL.—Chapter 115 of title 28, United States Code, is amended by adding after section 1738B the following:

''§ 1738C. Certain acts, records, and proceedings and the effect thereof

''No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738B the following new item:

''1748C. Certain acts, records, and proceedings and the effect thereof.''.

SEC. 3. DEFINITION OF MARRIAGE.

(a) IN GENERAL.—Chapter 1 of title 1, United States Code, is amended by adding at the end the following:

''§ 7. Definition of 'marriage' and 'spouse'

''In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by inserting after the item relating to section 6 the following new item:

''7. Definition of 'marriage' and 'spouse'.''.

The CHAIRMAN. No amendments shall be in order except those specified in House Report 140–666, which shall be considered in the order specified, may be offered only by a Member designated in the report, shall be considered read, shall be debatable for the time specified, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 104–666.

□ 1115

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. FRANK of Massachusetts: Strike section 3 (page 3, line 9 and all that follows through the matter following line 24).

The CHAIRMAN. Pursuant to House Resolution 474, the gentleman from Massachusetts [Mr. FRANK] and the gentleman from Florida [Mr. CANADY] each shall control 37½ minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 3½ minutes to the gentlewoman from Hawaii [Mrs. MINK] because this amendment deals with the section of the bill which would have a particularly negative impact on the State of Hawaii.

Mrs. MINK of Hawaii. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise to state that I believe that the word marriage should be reserved to man and woman. But I rise to state my unequivocal opposition to H.R. 3396. It goes far beyond the defense of the institution of marriage. It attacks the U.S. Constitution by allowing States to ignore the ''full faith and credit'' clause. If same sex marriages are to be excluded from this protection it must be done by a constitutional amendment. It cannot be done by statute.

First, I would like to point out that marriage is not only a religious ceremony. A marriage is also a ceremony presided over by a judge or a justice of the peace. After the marriage ceremony in a church the minister has the married couple sign a marriage certificate in order to have it registered in the State Bureau of Registrations. A marriage therefor is a State recognized decree. A duly valid marriage in any State is a marriage that is duly recognized in every other State. And despite the minister's statement during the wedding that this union is ''until death do us part,'' marriages are broken by the court, not by a church ceremony. Marriage is an instrument of the State. It may be ordained by the church, but it is a decree of the State, and it is dissolved by the State.

If in Hawaii the Hawaii Supreme Court decrees that the State of Hawaii Constitution requires that gays and lesbians be allowed to have a marriage recorded as a State decree, because to do otherwise constitutes discrimination, then same sex marriage will be the law of the State of Hawaii.

Under the U.S. Constitution, laws of one State must be given ''full faith and credit'' by every other State. Congress should not be enacting any bill to declare otherwise. If a State decides not to honor the Hawaii Supreme Court decision it must justify its decision before a court of law. This congressional bill can not answer questions as to whether this refusal by one State violates the ''full faith and credit'' of the U.S. Constitution. Congress can not pass a generic law to declare that every State may chose to ignore a duly decreed State court ordered decision.

We all know that Congress cannot amend the U.S. Constitution. It is a sham to pass a bill that purports to amend the Constitution. When we took our oath of office here in the well of the House, we swore to defend the Constitution from all enemies.

The full faith and credit clause of the U.S. Constitution was written by the framers of the Constitution explicitly to prevent the 50 States from acting as ''independent sovereign States'' and instead require that they recognize each other's laws particularly as they set up contractual obligations and to act as a nation.

If the State of Hawaii Supreme Court decrees that same sex marriages must be registered in the State, then, notwithstanding my contrary view, I shall defend it as the law.

I would have preferred the enactment of a domestic partner law. It would have provided all the protections that gays and lesbians have been seeking over the years. Failure of the State to assure gays and lesbians all the protections under the law require that we pass a domestic partner law. Unfortunately the State of Hawaii Legislature chose not to pass a domestic partner law and in doing so left this matter for the courts to decide.

Under this bill, H.R. 3396, same sex marriages, if and when allowed in Hawaii, will be denied equal protection of the laws insofar as the Federal Government is concerned. Even though it is a valid marriage in Hawaii as decided by the Hawaii Supreme Court, these couples will not be allowed to be considered as ''spouses'' when deciding such things as Federal retirement benefits, health benefits under Federal programs, Federal housing benefits, burial rights, privilege against testifying against partner in Federal trials, visitation rights at hospitals by partners, rights to family and medical leave to care for a partner, and many more programs which allow special rights to spouses. This exclusion would be extremely destructive of the principle of States rights in determining status.

Mr. Chairman, it is my regret that this issue has had to be raised before this body. It seems to me quite apparent that our court system is going to yield a decision which will validate same-sex marriages. It may take several years. It may require several more legislative sessions in orders to define this issue. But the court, in its previous decisions, said to the Attorney General of my State unless there is a compelling State interest to rule otherwise, this is what they intended to do.

Now, this is not a debate about religion. It is a debate about a State process which has been in place in all of the 50 States, granting to the States the right to issue licenses. It is not a matter of invasion of the prerogatives of religion or the churches because long ago judges and justices of the peace were granted the power to also ordain a marriage.

What happens after the marriage ceremony is that all parties must sign a marriage certificate application which is then certified by the State. So it has become a matter which is implicitly and explicitly a matter of interpretation under our Constitution, and our Constitution accords the rights of civil rights to all parties. Under that interpretation, our State undoubtedly in several years will find itself having to issue a ruling which authenticates same-sex marriages.

What is an affront by this legislation is an effort to try to clarify and declare by edict what the other 49 States shall or shall not do under the full faith and credit clues. I believe that that is an invasion of the Constitution, if not an

outright effort to amend the constitutional guarantees of full faith and credit, which was an effort by our Founding Fathers to do away with this idea of 50 sovereign States and try to develop a concept of a Nation.

Mr. Chairman, what we are doing today is to nullify that full faith and credit clause to allow the State in its own deliberations how it is to deal with this issue once it is determined by my State.

But the further gravity of this situation is that this body, is being asked, beyond that, this body is being asked to take away rights that are accorded every other citizen by Federal law in determining retirement benefits, health benefits, the rights to burial in a Federal cemetery, the rights to privilege in a Federal trial which is accorded married couples not to have to provide testimony against each other. It is defining in a way contrary to the citizens of my State rights that will be accorded to every other citizen in this country. It is a deprivation of the concept of equal protection.

We hear constantly in this body the need for States to be left alone to determine the rights of their citizens and the programs that they are is to endure. Here we have legislation, before anything is done in my State, that will deliberately deny all of these rights that are characterized by Federal law by determining that what my courts have decided does not apply under Federal legislation, and that is an extreme travesty against the whole principle of equal protection.

Mr. CANADY of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, as Rome burned, Nero fiddled, and that is exactly what the gentlewoman and others on her side who spoke yesterday and last night would have us do. Mr. Chairman, we ain't going to be fooled.

The very foundations of our society are in danger of being burned. The flames of hedonism, the flames of narcissism, the flames of self-centered morality are licking at the very foundations of our society: the family unit.

The courts in Hawaii have rendered a decision loud and clear. They have told the lower court: You shall recognize same-sex marriages. What more does it take, America? What more does it take, my colleagues, to wake up and see that this is an issue being shouted at us by extremists intent, bent on forcing a tortured view of morality on the rest of the country?

Yet, I suppose only in the Congress would we have people take the well and say that a provision that guarantees by law that each State retains its right to decide this issue is taking something away from the States. I suppose only in the Congress would we have people take the well and say that a law that simply guarantees the status quo in terms of the definition of marriage for Federal purposes is taking something away from somebody.

Yet here we have it. The red herrings are flying. Yet we must be resolute. This is an issue of fundamental importance to this country, to our families, to our children, and I would strongly urge all of our colleagues to reject this killer amendment which guts a very important piece of legislation.

We all must stand up and say we support this. Enough is enough. We must maintain a moral foundation, an ethical foundation for our families and ultimately for the United States of America.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, first a word on this amendment. What this amendment aims at is the anti-States' rights portion of this bill. This bill has been grossly misadvertised in several ways. One, it says that it is a defense of marriage, and I will return to that. But it is a defense against a nonattack.

Nothing in what Hawaii is about to say, namely probably sometime late next year or early in 1998 allowing same-sex marriages, nothing in that by any rational explanation would impinge on marriages between men and women. Nothing whatsoever.

The factors that erode marriages, the factors that lead to divorce, the factors that lead to abandonment and spousal abuse, none of them have ever been attributed to, in any significant degree, same-sex marriage.

But there is another misadvertisement. Proponents of the bill say it is necessary to keep other States from having to do what Hawaii does. Now we should make clear that none of them think that is true. None of them believe that, absent this bill, any other State would be compelled to do what Hawaii does. I stress that again. Every single sponsor of this bill believes as I do that the States already have the right that this bill gives them.

Mr. Chairman, this is a bill which conveys on the press the right to write articles. This is a bill which conveys on individuals the right to go to synagogues on Saturday, church on Sunday, mosques on Friday. This is a bill to do what the people in charge of the bill think is already there. That is why we understand it to be purely political. That is why a Supreme Court decision in Hawaii from 1993 which will not be made final probably until 1998 comes up in 1996. It is a declaration that the States have the rights that they already have coming a few months before the Presidential election.

But there is another place of it. They say this is a States' rights bill and it is to prevent another State from having to do what Hawaii does. It has a second and only operative section, and that section says if Hawaii or any other State decides to allow same-sex marriage by whatever means, whether they do it by court decision or by popular referendum or whether they do it by legislation, the Federal Government will say to the State: Wrong, you cannot do that as far as we are concerned. We, the Federal Government, will disallow that. While you can make a decision for your State's processes to allow same-sex marriage, we, the Federal Government, will substantially overrule that because we will say that is not a marriage as far as Federal law is concerned.

As people understand, given today's rule, Federal law has a lot to do with their lives, so as far as Federal income tax is concerned and Social Security and pensions and other things, they will not be covered.

Now, let me talk a little bit personally. We have had some personal talks. I would feel uncomfortable if I thought I was up here advocating something that I thought would be directly benefitting me.

I should say that Herb Moses, the man I live with, already has my pension rights. He has exactly the same pension rights I have. Zero. I do not pay into the pension. I am not a member of the congressional pension system, so Herb already has those pension rights.

That is not what I am talking about. I am talking about people less well favored in society than I and other Members. I am talking about working people, people who are working together, pooling their incomes as many Americans do that today in difficult situations and economic circumstances, trying to get back, and feeling a strong emotional bond to each other, deciding they would like to pool their resources in a binding legal way. Hawaii says: We allow you to do that. This bill says: We overrule Hawaii. This bill says there will be no States' rights here.

Mr. Chairman, what the other side of the aisle believes on the whole is the right of the States to follow what they think is correct. There is nothing new about this. When it comes to tort reform, they will tell the States what to do. When it comes to a whole range of areas, they will tell the States what to do.

I do not think there is any principle I have ever seen more frequently enunciated and less frequently followed than States' rights from the Republicans. What they mean is that the States will do whatever they tell them to do.

Mr. Chairman, I do not claim to be a States' rights advocate. I think there are times, given a national economy, when a national uniform solution is the only sensible one, but this is not one of them. I want to be particularly clear now. People talk about their marriages being threatened. I find it implausible that two men deciding to commit themselves to each other threatens the marriage of people a couple of blocks away. I find it bizarre, even by the standards that my Republican colleagues are using for this political argument here, to tell me that

two women falling in love in Hawaii, as far away as you can get and still be within the United States, threatens the marriage of people in other States.

That is what this bill says: Do not worry, you people in Massachusetts and Nebraska and Wyoming and Texas and California. The Federal Government is running to the rescue. You say your marriage is in trouble? You say there are problems with divorce?

It would seem to be clear that divorce does more to dissolve marriages than gay marriages. It is extraordinary to have people talking about how marriage is in peril. When the gentlewoman from Colorado [Mrs. SCHROEDER] wanted to offer amendments dealing with divorce, she was ruled out of order.

The gentleman from Oklahoma said the Bible speaks ill of homosexuality, and it does. There are also strong passages in the Bible that say if couples get a divorce and remarry, they have violated the rules. There are religions that do not allow people who have been divorced to remarry. There are religions that make divorce very, very difficult: Roman Catholics, Orthodox Jews, and others.

I believe that those religions have every right to say if couples get divorced, if they take this oath and say it is a lifetime solemn oath and then they dissolve, for whatever reason, they find someone else more attractive, they get tired of each other, we will make it difficult for them to dissolve those bonds as we put them on and we will not allow them to remarry.

That is a right we should fight for every religion to have, but there are clearly Members in this Chamber, supporters of this bill, who do not think that biblical injunction should be civil law. There are people who believe that that biblical injunction that says if couples divorce, they shall not remarry, should be disregarded by those who wish to disregard it; that the religion should not have the right to enforce them, but individuals should have the right under civil law to make alternate choices. That is all we are talking about here.

People say, well, we do not want to have State sanctions. Let me talk about that. I am very puzzled by the antilimited Government notion that brings out.

□ 1130

I have not had people come to me and say, I am in love with another woman, I want to get married because I really want to have State sanction. I want to know that the gentleman from Florida, the gentleman from Georgia, that they really like me. No one has come forward and said, can you please arrange so that the Republican Party and the House of Representatives will express their approval of my lifestyle. That is not a request I have ever gotten nor expect to get.

What people have said is, can I regularize this relationship so we are legally responsible for each other. Can I get to the point where if one of us gets very ill we will be protected in our ability to undertake financial responsibilities? Can we buy property jointly? Can we do the other things that people do? Can we decide that one will work and one might be in child rearing, there are people who have children in these relationships. That is what they are asking for.

What kind of an almost totalitarian notion is it to say that whatever the Government permits, it sanctions and approves? That is what is clear. Yes, there is a role for morality in Government. Of course there is. The Government has an absolute overriding duty to enforce morality in interpersonal relations. We have a moral duty to protect innocent people from those who would impose on them. That is a very important moral duty.

But is it the Government's duty to say, divorce is wrong and there are strong biblical arguments that say if you are divorced, you should not remarry. And should the Government then put obstacles in the way? No. What we say in this society is, religion has its place. If you want a religious ceremony, if you want to be married as Roman Catholic, if you want to be married by orthodox Jewish rabbis, if you want to be married by other groups, you better abide by their rules. But if you as an individual say, I do not love that person anymore, I am walking out, I am tired, I want a new husband, I want a new wife and, therefore, I dissolve it, no fault divorce, leave me out, and I want to remarry, civil law allows you to do that.

Does civil law say that is a good thing? Does civil law, by allowing you to divorce and remarry, say, good, we approve of that, we sanction your walking out on that marriage and starting a new one? No, what civil law says is, in a free society that is a choice you can make. We will require, I hope, that you pay up any obligation you have to the children who were the product of the first marriage. We do not do that well enough.

But beyond that we leave that choice. And that is all we are talking about. No one is asking for sanctioning. In particular, what we are saying is, if the State of Hawaii and, by the way, if you were going to pick a State less likely to infect others, I am still trying to understand, I said, what is it about two men living together that threatens marriage? The people who denigrate marriage are the people who argue that marital bonds are so fragile between man and woman that knowing that two men can marry each other will somehow erode them. How could that be?

We heard one argument about it yesterday. He said, well, it might lead to polygamy. I am a student of legislative debate. Let me make one very clear point. When people get off the subject, allowing Hawaii to have gay marriages without penalizing them federally, and on to something wholly unrelated, polygamy, and attack the unrelated one, it is because they cannot think of any arguments to attack the first one.

Yes, it is true polygamy as an option for heterosexuals would weaken the current option of monogamous heterosexual marriage. That is why I do not know anyone who is advocating polygamy. Why are they then debating polygamy? Because they are cannot argue over here.

There is a story about a guy who is on his hands and knees under the streetlight, and he is walking around, looking around. Somebody stops to help him, says, what is the matter. He said, I lost my watch. He said, I will help you. After 5 minutes, he said, gee, I do not think your watch is here. He said, I know, I did not lose it over here.

He said, why are we looking here under the streetlight. He said, well, the light is better. They want to debate polygamy because the argument is better. But there are no arguments about same-sex marriage.

I have asked Member after Member who is an advocate of this bill, how does the fact that two men live together in a loving relationship and commit themselves in Hawaii threaten your marriage in Florida or Georgia or wherever? And the answer is always, well, it does not threaten my marriage, it threatens the institution of marriage. That, of course, baffles me some. Institutions do not marry. They may merge, but they do not marry. People marry, human beings. Men and women who love each other marry. And no one who understands human nature thinks that allowing two other people who love each other interferes.

Is there some emanation that is given off that ruins it for you? Gee, Hawaii is pretty far away. Will not the ocean stop it? Are those waves that undercut your marriages? People who are divorced, I had one of my colleagues say to me, I have been divorced a couple of times. I was feeling guilty about it, but now I know it was your fault, he told me. He said, the Republicans have explained it to me. That is why I have been married three times. You did it to me.

He said, the next time I have an argument with my wife, I am going to blame you. And I guess that is what we do because it has got to be some mysterious emanation. And apparently it is such a powerful emanation that it crosses oceans.

Hawaii, let me ask my friend, how many miles, 3,000? How many miles is Hawaii from here? It is 5,000 from here, 5,000 miles away. My friend, the gentleman from Hawaii, my friend, the gentlewoman from Hawaii, what power they have. They allow same sex marriage in Hawaii and 5,000 miles away, marital bonds will crumble. That seems pretty silly, but that is what the bill says.

All I am saying here is, and by the way, I agree each State ought to be able to decide for itself. That is not

what this amendment is about. I believe the States already have that right. I am not even touching in this amendment the part of the bill that does it.

This amendment says, if the State of Hawaii by any reason whatsoever decides to allow gay marriage, we, the Federal Government, will treat marriages that Hawaii validates the same as we treat others. The answer is, that will be sanctioning gay marriage, as if the Federal Government sanctions, what, many divorces and remarriages. We have no-fault divorces. People walk out for no good reason. That is an unfortunate trend. We ought to try and change it. But scapegoating gay men and lesbians for the failure of marriages in this society is very good politics but very terrible social analysis. That is what we are talking about.

I am simply saying here, I do not know of another State that is even close to Hawaii in doing this. Hawaii will probably do it in about a year. No other State is doing it. Are you that desperate for a political issue that you reach out this far? We have in the law something called long-arm statutes. This is a real long-arm statute. This reaches from the politics of Washington, DC, 5,000 miles out to Hawaii, and says, how dare you let two women express the love they feel for each other in a legally binding way because that is all we are talking about. We are talking about nothing that undercuts heterosexual marriage. We are talking about nothing that promotes divorce, nothing that would encourage spousal abuse, nothing that would encourage neglect of children. None of that.

We are talking about an entirely unrelated subject. The arguments are, therefore, so weak that, as I said, we get into polygamy and other unrelated issues.

If Members are really telling me they do not understand the difference between a polygamous heterosexual relationship and a monogamous homosexual relationship, then they are confessing a degree of confusion that I guess I would be embarrassed to confess.

All this amendment says is, and let us be clear on this amendment, no argument about protecting one State from another State is relevant. To the extent that this bill has any role in protecting one State from another State, this amendment leaves it detached.

What this says is simply, if Hawaii does it, we will recognize what Hawaii does. And we will not falsely claim that multiple divorces and remarriages, spousal abuse, child neglect, all of those problems, and economic stress and others things that cause stress in marriages, nobody will argue that letting two women love each other in Hawaii in any way, shape, or form threatens that. That is the vote I will be asking Members to take.

Mr. Chairman, I reserve the balance of my time.

Mr. CANADY of Florida. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Massachusetts, [Mr. FRANK]. This is not a States rights amendment. This amendment would allow the will of Congress to be usurped by three justices on a divided Hawaii Supreme Court.

In rebuttal to the argument made by the gentlewoman from Hawaii [Mrs. MINK], the Justice Department, headed by Janet Reno, not one of ours but one of yours, has twice said that the Defense of Marriage Act is constitutional. It is time for the Congress to define the full faith and credit clause, what the Constitution allows us to do, and that is what this bill proposes.

As was stated several times during the debate yesterday, this act is necessary because of a concerted effort on the part of homosexual activities to win the Hawaii case and then to impose the decision on every other State by a lawsuit invoking the full faith and credit clause. My colleagues do not have to take my word for it. I would like to reiterate the words from a memo written by the director of the Marriage Project of the Lambda Legal Defense and Education fund, a gay rights group. This memo is entitled, ''Winning and Keeping Equal Marriage Rights: What will Follow Victory in Baehr v. Levin,'' unquote. On page 2 of this memorandum it is written, ''Many same-sex couples in and out of Hawaii are likely to take advantage of what would be a landmark victory. The great majority of those who travel to Hawaii to marry will return to their homes in the rest of the country expecting full recognition of their unions.''

It is important to remember that this gay activist scheme may not only affect every other State but the Federal Government as well. The Federal Government currently extends benefits, rights, obligations and privileges on the basis of marital status. These include Social Security survivor and Medicare benefits, veterans' benefits, Federal health, life insurance and pension benefits and immigration privileges.

In fact, the word marriage appears more than 800 times in Federal statutes and regulations, and the word spouse appears over 3,100 times. However, these terms are never defined in the statutes and regulations. This bill proposes to do so.

Because this United States Code does not contain a definition of marriage, a State's definition of marriage is regularly utilized in the implementation of Federal laws and regulations. Such deference is possible now because of the differences, because the difference in State marriage laws, although numerous, are relatively minor. Every State concurs in the most basic marital qualification, that a valid marriage must be between one man and one woman. There never has been any reason to make this implicit understanding explicit until now. If Hawaii legalizes same-sex marriage, which the gentlewoman from Hawaii [Mrs. MINK], says is going to happen, then the basic qualification is altered.

Consequently, section 3 of the Defense of Marriage Act amends the United States Code to make it clear for purposes of Federal law marriage means what Congress intended it to mean, that is, a legal union between one man and one woman as husband and wife.

Congress certainly has the authority to define qualifications, conditions and obligations surrounding the application of Federal law and the disbursement of Federal benefits. Exercising such authority is not uncommon. When Congress voted on Federal laws that conferred benefits on married persons, I do not think that Congress ever contemplated their application to same-sex couples. I do not think the American people did either. Should we not let the American people and their elected Representatives, as opposed to a sharply divided Hawaii court, decide whether we should alter the fundamental definition of marriage recognized by civilizations for thousands of years and always presumed by the U.S. Congress?

Gay rights groups are scheming to manipulate the full faith and credit clause to achieve through the judicial system what they cannot obtain through the democratic process. I do not think that Congress should be forced by Hawaii's State court to recognize a marriage between two males or between two females. Congress did not pick that fight. The groups that filed suit in Hawaii did.

We are simply responding to an unprecedented overt effort to impose one State's marital rules on the rest of the Nation.

We have enough problems financing our Social Security trust funds. If the amendment of the gentleman from Massachusetts [Mr. FRANK] is adopted, there will be a huge expansion of the number of people eligible to receive Medicare survivor benefits. We should decide that by ourselves, not by Hawaii court.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 1 minute to address one point on what the gentleman from Wisconsin said. He made a point a couple of times to the effect that this is a Hawaii Supreme Court decision. He said it should be elected representatives.

The second version of this amendment says that we will recognize marriages so declared by States if they are done democratically by legislation or by referenda.

I would yield to the gentleman. Would that make any difference in his argument?

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. FRANK of Massachusetts. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, at least in terms of Federal benefits, to me, no.

Mr. FRANK of Massachusetts. Mr. Chairman, I thought so.

Mr. SENSENBRENNER. I think Congress should decide whether the domestic spouses of gays and lesbians should get Social Security survivor benefits.

Mr. FRANK of Massachusetts. Mr. Chairman, reclaiming my time, one point on legislative debate, when people use arguments they do not really mean, that is an indicator. The gentleman from Wisconsin made a big point of saying, we cannot do it if Hawaii does it by court, if they do not do it democratically.

☐ 1145

When I mentioned an amendment that would allow that, it is, oh, never mind. Do not use arguments you do not mean. Do not make up arguments. That does not help the debate.

Mr. SENSENBRENNER. Mr. Chairman, I demand the gentleman's words be taken down. He has impugned my motives.

The CHAIRMAN. The gentleman from Massachusetts will be seated.

☐ 1152

Mr. FRANK of Massachusetts. Mr. Chairman, I ask unanimous consent to proceed out of order for 1 minute.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK of Massachusetts. Mr. Chairman, in a spirit of conciliation, even though my plane is not until Sunday, but I know others have quicker ones, I would make it clear that my point was that I believe when Members are debating, they should be careful to use arguments which are genuinely central to their point. And I was admonishing people about what I think is the tendency to use arguments that are not central, and particularly, I think it is a mistake for people to use an argument and then, when that argument is met by a change in the legislation, disregard it. That is what I was intending to imply

I believe that the second amendment that I have offered meets part of the argument that was made, and I always find it frustrating when people make an argument and an amendment is then offered which meets that argument and that is disregarded.

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. SENSENBRENNER] seek recognition?

Mr. SENSENBRENNER. With that explanation, Mr. Chairman, I withdraw my demand that the gentleman's words be taken down.

The CHAIRMAN. The gentleman withdraws his demand.

The gentleman from Massachusetts may proceed in order.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California [Ms. HARMAN].

(Ms. HARMAN asked and was given permission to revise and extend her remarks.)

Ms. HARMAN. Mr. Chairman, I realize that my views are likely to be in the minority, as well as unpopular, but this is not the first time I have come to the well to stand up for what I believe in, and it will not be the last.

Mr. Chairman, our Nation faces many pressing and critical problems: The size of the Federal deficit and its effect on our international competitiveness; threats from rogue nations and terrorists armed with chemical, biological, and small nuclear weapons; a deteriorating public infrastructure; the decline in the quality of public education, to name just a few. Yet, this body is embarked today on an extended debate of a nonproblem, an issue which the States themselves are fully capable of handling without the interjection of the views of Congress.

In fact, this issue already has been carefully considered by the legislatures, the legislatures of 34 States. Today, we debate legislation of questionable constitutionality, legislation in which we ''authorize'' the States to ignore the dictates of the full faith and credit clause of the Constitution. Yet what is clear from the sparse history on the full faith and credit clause is that whatever powers the States have to have to reject the decision by another State are directly derived from the Constitution. Nothing Congress can do by statute either adds to or detracts from that power. Congress cannot grant a power to the States which, under the Constitution, the Congress itself does not have or control.

In addition, Mr. Chairman, today, we debate legislation designed to divide and ostracize individuals and to advance or protect interests which are hardly threatened. As some of my colleagues have already said, what is by far the weakest part of this bill is its title. But that is not accidental. This bill reflects a calculated political judgment that wedge issues can be used to paint individuals in our society, as well as Members of this Chamber. This bill's accelerated consideration in this House was, unfortunately, part of that political agenda. Whatever Hawaii finally decides will be years off, so what is the rush?

This is a sad day when partisan political considerations once again upstage careful deliberations designed to address the Nation's important challenges.

I urge my colleagues to stand up and reject this divisive, untimely, and possibly unconstitutional bill.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Mrs. SEASTRAND].

Mrs. SEASTRAND. Mr. Chairman, I rise in strong support of the Defense of Marriage Act. As a cosponsor of this bill, I believe it reinforces the traditional definition of marriage without subjecting same-sex couples to bias or harassment. It is our duty in this Congress to affirm what is good in our society. We need this so much. As special interest pressure increasingly demands a tolerant and fluid definition of marriage, we progressively attempt to redefine marriage to fit social trends.

Traditional marriage, however, is a house built on a rock. As shifting sands of public opinion and prevailing winds of compromise damage other institutions, marriage endures, and so must its historically legal definition. This bill will fortify marriage against the storm of revisionism, so I urge all of my colleagues to support this very good bill, the defense of marriage act.

Mr. FRANK of Massachusetts. Mr. Chairman, I urge Members to batten down, because I yield 4 minutes and 30 seconds to the gentleman from Hawaii [Mr. ABERCROMBIE], and we all know what power Hawaii has, so get ready.

(Mr. ABERCROMBIE asked and was given permission to revise and extend his remarks.)

Mr. ABERCROMBIE. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, as long as Hawaii has this incredible power to be able to mandate whatever it decides on the rest of the Nation, I wan thinking that perhaps we could mandate the Hawaii health care system for the other 49 States, so that we would not have to worry about national health care, and we would mandate the weather, if we could, but I think that is even beyond our powers.

There is a serious note to be engaged in here, because the amendment offered by the gentleman from Massachusetts [Mr. FRANK] has to do with the definition. If Members are in fact intending to define marriage nationally in the terms that have been related in the debate so far, they have indicated it is an institution in which we have a secular, sacred duty to maintain the union between a man and a woman.

If that is the case, and Members really intend to do this, and we are sincere about covering this as a national definition of marriage, then why do Members not have a national divorce clause in here as well, forbidding it? Where are the criminal penalties associated with adultery? I have heard a continuous drumbeat from some Members here about this union of a man and a woman. If that is the case, I presume, then, Members are going to forbid divorce and most certainly impose penalties with adultery. But I do not see it in here.

There appear to be circumstances in which this union of a man and woman can take place in the context of marriage again and again and again. I am not quite sure how the transition is made in Members' definitions, but that is what takes place, all of this within the context that this deficition has to be made in a national context, because of what may or may not happen in Hawaii.

But what is left out of this is that the Federal law over and over again, as stated as recently as 1992, and I am quoting the Supreme Court, ''Without exceptions, domestic relations have been a matter of State, not Federal, concern and control since the founding of the Republic.''

In this particular instance, it is the State constitution in Hawaii that is the grounds for the suit in Hawaii. The State constitution in Hawaii has particular references to the right of privacy and equal protection that are not found in other constitutions in other States. Therefore, it does not apply.

Members should vote for the amendment offered by the gentleman from Massachusetts [Mr. FRANK] because even if there is a ruling in Hawaii, it does not therefore follow that Pennsylvania or Florida or Illinois or any of the other States have to follow it at all, unless there are similar provisions, and there are judges that would make decisions based on similar interpretations of similar provisions in Members' own State constitutions.

The attorneys for the coules that came into court in Hawaii have stated again and again that it is the particular provisions of the Hawaii State Constitution that they are refering to, so it is disingenuous at best for those who want to maintain that this amendment is something that should be voted for to indicate that unless we have this bill today, and unless we defeat the amendment of the gentleman from Massachusetts [Mr. FRANK], Members are going to be forced to accept what was a result of a court decision in Hawaii, if it happens to go that way.

The State is disputing this at the present time, and may prevail. So unless someone who is in favor of the bill can tell me how the U.S. Constitution reflects the specific provisions in the Hawaii State Constitution, which extend beyond the Federal Constitution the right of privacy and the equal protection based on gender, unless they can explain that, I do not see how Members can deny the validity of the amendment offered by the gentleman from Massachusetts.

I would yield to anybody who can explain to me how the U.S. Constitution, which only deals by implication with the Hawaii State Constitution, will somebody please tell me how the U.S. Constitution and the Hawaii State Constitution are comparable in these two respects, which is the basis for the suit in Hawaii?

There are constitutional experts. Do not look puzzled. Members know perfectly well what I am talking about. There is a right to privacy in Hawaii, there is no discrimination based on gender in the Hawaii State Constitution, which does not appear in the U.S. Constitution except by implication, if Members make the argument. In other words, I get no response.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Indiana [Mr. BUYER].

Mr. BUYER. Mr. Chairman, permit me to be theological and philosophical, for a moment. I believe that as a people, as a people, as a God-fearing people, at times, that there are what are viewed, what I believe are called depraved judgments by people in our society. They come in all forms of sin. We learn that early on.

I believe that the first creature of God and the words of the first days was the light of sense. We refer to it as God-given common sense. The last, perhaps, was the light of reason. His Sabbath work ever since has been the illumination of his spirit, the Holy Spirit.

Above me it reads, ''In God we trust.'' It says, ''In God we trust.'' I believe that God breatheth light into the face of chaos and into the face of mankind to deliver his word to others who do not see the light of day, who do not follow the word of God.

Mr. Chairman, we are a nation of people, a society based upon very strong Biblical principles. To lead a Nation at moments of chaos through the storm, you rely on God-given principles for that. He shineth the light into our face.

We as legislators and leaders for the country are in the midst of a chaos, an attack upon God's principles. God laid down that one man and one woman is a legal union. That is marriage, known for thousands of years. That God-given principle is under attack. It is under attack. There are those in our society that try to shift us away from a society based on religious principles to humanistic principles; that the human being can do whatever they want, as long as it feels good and does not hurt others.

When one State wants to move towards the recognition of same-sex marriages, it is wrong. The full faith and credit of the Constitution would force States like Indiana to abide by it. We as a Federal Government have a responsibility to act, and we will act.

□ 1205

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts [Mr. MEEHAN].

The CHAIRMAN. I might advise the Members, the gentleman from Massachusetts [Mr. FRANK] has 11 minutes remaining and the gentleman from Florida [Mr. CANADY] has 27 minutes remaining.

Mr. MEEHAN. Mr. Chairman, today we are debating a bill that purports to defend marriage. I have been thinking a lot about this legislation this week because tomorrow, I am getting married. My finance and I are going to vow to spend the rest of our lives together—no matter what lies ahead. For that commitment, we will enjoy all the rights and privileges the Government bestows on married couples—from tax breaks to Social Security benefits.

I can't imagine that my fiance and I could make such a momentous decision to wed—and then have the Government step in and say no, you can't do that. I can't imagine that two people who simply want to exercise a basic human right to marry, a right our society encourages could be denied. I can't imagine that two people could make a commitment to spend the rest of their lives together—and never be allowed to have that commitment recognized under the law.

Because, you see, for many years, gay couples have made a commitment to spend their lives together. They have spent years building a life together, through good times and bad. Yet, if a gay man becomes gravely ill, his partner is not allowed to visit him in the hospital. A gay couple can share houses, cars, bank accounts, yet one partner cannot inherit a single thing if the other dies without a will. Furthermore, no matter how long they are together, a gay couple cannot share medical and pension benefits.

This bill denies a group of Americans a basic right because they lead a different lifestyle. We must be careful when we make legislative determinations on who is different. If gay people are considered ''different'' today, who is to say your lifestyle or my lifestyle will not be considered different tomorrow?

This bill also challenges one of the most basic tenets of the Constitution: the ''full faith and credit'' clause. This country is great because people take for granted that the laws of one State are honored by the other States—regardless of whether or not one State likes another State's laws. We have not been able to pick and choose for the past two centuries and now is not the time to start.

Our society encourages and values a commitment to long-term monogamous relationships—and we honor those commitments by creating the legal institution of marriage.

If we then deny the right of marriage to a segment of our population, we devalue their commitment without compelling reasons but simply because we don't like their choice of partners. We can't have it both ways.

Protecting everyone's right to make a legal commitment to another is a defense of marriage. This bill denies certain persons that right. It is an attack on gay men and women. Therefore, I urge my colleagues to vote against it.

Mr. CANADY of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I want to offer my congratulations to the gentleman from Massachusetts on his upcoming wedding tomorrow. I did not know he was getting married tomorrow. I think that is wonderful. I wish him all the best and a wonderful future.

Mr. Chairman, I think this piece of legislation is very timely and very important, and I commend the gentleman from Florida [Mr. CANADY] and the gentleman from Georgia [Mr. BARR] for bringing it to the floor.

Many people are questioning why we are bringing it to the floor today but,

Mr. Chairman, to me the answer is very clear. Polls in Hawaii and across this country show that the majority of the people of this country do not support legalizing same-sex marriage. However, despite the will of the legislature in Hawaii, three judges are about to rule otherwise. Now the Lambda Legal Defense Fund, an organization that is pushing very hard for the legalization of gay and lesbian marriage, is advertising their intent to use the Hawaiian Supreme Court ruling to force other States to recognize gay and lesbian marriages.

I would just like to read the quote, and this is from a publication of Lambda Legal Defense Fund:

> Many same-sex couples in and out of Hawaii are likely to take advantage of what would be a landmark victory. The great majority of those who travel to Hawaii to marry will return to their home in the rest of the country expecting full legal recognition of their union.

This is not a partisan issue, Mr. Chairman. The threat posed by the ruling in Hawaii is recognized by Members of both sides of the aisle.

The bill before us is very simple. First it honors the State's right to decide its own position on the legalization of same-sex marriage. Second, it says that for Federal purposes, marriage is the legal union between one man and one woman. The Frank amendment strikes that. This bill does not tell people what they can or cannot do in the privacy of their own homes. It simply says it is not right to ask the American people to condone it.

As a father and an observer of this culture, I look ahead to the future of my daughter and wonder what building a family will be like for her. We saw startling statistics in 1992 that told us that Dan Quayle was right. Children do best in a family with a mom and a dad. We need to protect our social and moral foundations.

We should not be forced to send a message to our children that undermines the definition of marriage as the union between one man and one woman. Such attacks on the institution of marriage will only take us further down the road of social deterioration. Vote ''no'' on the Frank amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 30 seconds. I do this with trepidation because I underestimated to some extent the sensitivity on the other side when I point this out, but the gentleman from Texas made a point of the fact that three judges did this in Hawaii, and not the legislature and not a referendum.

I have a subsequent amendment which would allow a State to get Federal recognition of marriages only when it is done by the legislature or by referendum or in other ways by the people, and it will probably make no difference. But I just want to say that that argument that this is only the judges in Hawaii does not appear to me to be one that the Members who make it attach a great deal of weight to because when I offer an amendment which obviates it, it would not make any difference.

Mr. Chairman, I yield 1 minute to the gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, there were times and there may still be times in this country today where there are States where you can get married if you are 14 or 15. In my State that is statutory rape. There were times in this country where in many States it took years to get a divorce, sometimes almost impossible. People could fly to I think Las Vegas and other places and get a divorce almost overnight. We did not rush to the floor to ban those actions, to make them not apply to the State where the individual is a resident.

What we face here is a challenge of the majority party, the Republicans, and the failure of their entire agenda, and they need a new scapegoat. To try to salvage their political tailspin, we are here on the floor today trying to pick on the powerless. The politics works very well. It is not popular out in the countryside. It is a difficult issue for most Americans to deal with.

But if we want to protect families, then we ought to give families health care. If we want to protect families, we need to protect their pensions. If we want to protect families, we ought not be raiding Medicare to give tax breaks to billionaires. If we want to protect families, we need to protect their pensions, not to come here today with a show-stopper that does very little to protect families and I doubt will get the political gain that many are seeking in this legislation.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. I thank the gentleman for yielding me this time.

Mr. Chairman, the overwhelming majority of my constituents favor the bill that we are presenting to the Congress today, and for concomitant reasons oppose the amendment offered by the gentleman from Massachusetts.

If I were not sure of a numerical count of my constituents to determine what I have just said, that the majority opposes the Frank amendment and supports the underlying bill, I would now have the action of the Pennsylvania House of Representatives to bolster that count on my part. Recently the Pennsylvania House, only about 2 weeks ago, supported a similar bill by a tune of 177–16. In it they endorsed and reendorsed, both in the speeches on the floor and the matters of record that were included finally in their legislative record, the notion that marriage has to be, for the sake of family values, marriage between members of the opposite sex.

So, with all of that, I am guided by the frank expression of the Pennsylvania legislature rather than the Frank amendment. I oppose the amendment and support the underlying bill.

Mr. CANADY of Florida. Mr. Chairman, I yield 2½ minutes to the gentleman from North Carolina [Mr. FUNDERBURK].

Mr. FUNDERBURK. Mr. Chairman, people in my district in North Carolina are outraged by the possibility that our State might be forced to recognize same sex marriages performed in other States. They are outraged that their tax money could be spent paying veteran's benefits or Social Security based on the recognition of same-sex marriages. Homosexuals have been saying they only want tolerance—now it is clear they have been less than honest. They already have tolerance but are aiming for government and corporate mandated acceptance. The Boy Scouts of America are under legal attack in the States which have special rights for sexual orientation. The Scouts, a private group, are being told to abandon their moral code of 80 years and to place young boys under homosexual men on camping trips—or face financial ruin. If homosexuals achieve the power to pretend that their unions are marriages, then people of conscience will be told to ignore their God-given beliefs and support what they regard as immoral and destructive.

As the Family Research Council points out: Homosexuality has been discouraged in all cultures because it is inherently wrong and harmful to individuals, families, and societies. The only reason it has been able to gain such prominence in America today is the near blackout on information about homosexual behavior itself. We are being treated to a steady drumbeat of propaganda echoing the stolen rhetoric of the black civil rights movement and misrepresenting science. Now activists are demanding that society elevate homosexuality to the moral level of marriage. If you are a devout Christian or Jew, or merely someone who believes homosexuality is immoral and harmful, and the law declares homosexuality a protected status, then your personal beliefs are now outside civil law. This has very serious implications, for if the law declares opposition to homosexuality as bigotry, then the entire power of the civil rights apparatus can be brought against you. Businessmen would have to subsidize homosexuality or face legal sanctions; schoolchildren will have to be taught that homosexuality is the equivalent of marital love; and religious people will be told their beliefs are no longer valid.

Mr. Chairman, let's do what is right and good for America today. Let's pass the Defense of Marriage Act and turn down both Frank amendments.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

I just want to read the portion of the bill that is being stricken by this amendment. It is called definition of ''marriage'' and ''spouse.''

''In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife.''

The proponents of the amendment before the House now want to strike that provision of the bill. They do not agree with that definition of marriage. That is what is at issue here. I think the Members need to focus on that. Is this House unwilling to take a stand in defining marriage in this way?

We are talking about for purposes of the Federal statute. We have a responsibility as the Congress to make a determination on this matter. We have a responsibility as the elected representatives of the various States to take a stand against what one State is attempting to do.

This bill does that, as has been discussed and debated at great length, and there is nothing offensive about this definition. It has been described in many ways, this bill has been described in many ways, I will talk about that somewhat later. But if the Members would focus on what is in this amendment, I think they will have to come to the conclusion that all we are doing in this amendment is reaffirming what everyone has always understood by marriage, what everyone has always understood by the term ''spouse,'' and we are simply resisting a change which is being advanced by a small minority in this country.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. GILCHREST].

Mr. GILCHREST. I thank the gentleman from Massachusetts for yielding me this time.

Mr. Chairman, I am not going to stand here and take up a minute to tell people on the floor how to vote. I think and I hope earnestly that this debate will result in a positive picture for the values of all Americans. But what I want to do is quote from two historical figures to show that none of us, none of us, have all the right answers to all the questions.

The first one is a figure that changed Catholicism and evolved it into the Protestant movement, Martin Luther, in which he said, ''We are all weak and ignorant creatures trying to probe and understand the incomprehensible majesty of the unfathomable light of the wonder of God.'' He was saying each of us do not have all the answers.

The second historical figure gave a sermon on the side of a mountain. He said, and I cannot repeat all of that sermon because there is not enough time, but I encourage people in the room and my colleagues to read the Sermon on the Mount and especially chapter 7 in Matthew which starts off, ''Judge not lest ye be judged.''

□ 1223

Mr. CANADY of Florida. Mr. Chairman, I yield 4 minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, I would like to address all of our colleagues here in the House, those listening as well as those that are on the floor, on both sides of the aisle, because this clearly is a nonpartisan matter. One merely has to look at the long list of cosponsors from both sides of the aisle. One has to look no further than the thousands of communications to Members of Congress on this legislation and recognize it is very much bipartisan.

The issue is clear and not even remotely complex. With this amendment, with the Frank amendment, if Members believe that one State can now define ''spouse'' or ''marriage'' for all Federal purposes, if you believe that it is fiscally responsible to throw open the doors of the U.S. Treasury, and if you believe that the will of the vast majority of the American citizens has no meaning, no importance whatsoever, then vote for the Frank amendment because it represents and does all three of those things.

But if Members believe that the views of a vast majority of American citizens are important, do have meaning and ought to be listened to, and if Members believe that the Congress of the United States of America and not an individual State has the authority and the sole jurisdiction and responsibility to decide the use of Federal taxpayer benefits, and if you do not believe it is fiscally responsible to throw open the doors of the U.S. Treasury to be raided by the homosexual movement, then the choice is very clear, oppose the Frank amendment.

It is a gutting amendment. It is a killing amendment. That is why this opponent of the bill is proposing it. It is not complex. It is crystal clear. This amendment must be defeated so that the underlying bill can go forward, as we believe it will, through both Houses of Congress and get to the President's desk so that he, as he has said, will sign this important piece of legislation. Let us give him that opportunity and not deny him that opportunity by supporting the Frank amendment. I urge my colleagues to vote ''no'' on the Frank amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, how much time do we have remaining?

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] has 6 minutes remaining, and the gentleman from Florida [Mr. CANADY] has 15½ minutes remaining.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute and 30 seconds to the gentleman from Florida [Mr. STEARNS].

(Mr. STEARNS asked and was given permission to revise and extend his remarks.)

Mr. STEARNS. Mr. Chairman, I would like to say to my colleagues in the House, this is a defining issue. I believe it even goes further than what we have talked about. It is defining in terms of Republicans and Democrats. On this side of the aisle so many people have lined up to speak, so many people feel so passionately about this, we do not even have enough time.

But you know, one thing I would like to talk about just to be clear and not emotional about this, the gentleman from Massachusetts [Mr. FRANK] mentions the fact that, he mentions that the Defense of Marriage Act preempts States' rights. This is wrong. This is not correct. This legislation provides that no State shall be required to give effect to a same-sex marriage license if issued by another State, nor does it prevent other States from choosing to give effect to same-sex marriage licenses from other States.

This legislation merely provides that States who do not sanction this distortion of marriage do not have to recognize it. Sixty-seven percent of the people in America agree with this legislation.

I would like to respond to what I think are Mr. FRANK'S main arguments against the Defense of Marriage Act.

Mr. FRANK says by abandoning the true definition of marriage, traditional marriages are not threatened. You are right Mr. FRANK you are not threatening my marriage. You do not threaten my marriage but you do threaten the moral fiber that keeps this Nation together. You threaten the future of families which have traditional marriage at their very heart. If traditional marriage is thrown by the wayside, brought down by your manipulation of the definition that has been accepted since the beginning of civilized society, children will suffer because family will lose its very essence. Instead of trying to ruin families we should be preserving them for future generations.

You say if we pass the Defense of Marriage Act we are preempting States rights. You are wrong Mr. FRANK. This legislation provides that no State shall be required to give effect to a same-sex marriage license if issued by another State; nor does it prevent other States from choosing to give effect to same-sex marriage licenses from other States. This legislation merely provides States who do not sanction this distortion of marriage do not have to recognize it. With at least 67 percent of people polled opposing the legalization of same-sex marriages, we are doing the right thing.

Mr. FRANK may not agree with this also but he is here today pushing a definition of marriage which the majority of Americans don't agree with. He may use debaters' techniques to divert our attention on this matter, but the facts remain.

Mr. DORNAN. Mr. Chairman, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from California.

Mr. DORNAN. Mr. Chairman, I wanted to point out to the Members that

the reason I have not asked for time during this debate is that I will be doing an hour this afternoon following an hour by Mr. FRANK, be plenty of time for me to discuss that midafternoon, morning in Hawaii.

This is a defining issue. I did not believe when I came here 20 years ago we would ever be discussing homosexuals have the same rights as the sacrament of holy matrimony, and I predict, that within 3 or 4 years we are going to be discussing pedophilia only for males and that will be the subject of my discussion this afternoon.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself 45 seconds to say first, if people on the other side are content to have the last comment stand as representative of their viewpoint, so am I. I would say to the gentleman from Florida, he totally misstated this amendment. We are on an amendment that appears to have escaped him. He said I said it preempts States' rights and then talked about the section of the bill not relevant to the amendment. He just got it totally wrong. Yes, there is a section that purports to give the States rights that I believe the States already have. But there is another section which is what this amendment was about, and this second section says that if a State does allow such a marriage, the Federal Government would recognize it.

So he was talking about the first section, not about the second section. The second section is the subject of the amendment, and I did want to point out that he was, therefore, totally inaccurate in his representation of what I had said.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Kentucky [Mr. LEWIS].

Mr. LEWIS of Kentucky. Mr. Chairman, I thank the gentleman for yielding me the time.

Mr. Chairman, 220 years of history in this Nation where we have not had to define what marriage is. It has been pretty common knowledge and it has been understood by most people. But now we have reached a period in our history when we are going to have to define what marriage actually is. We have to allow the States to define and Hawaii is going to be making that decision and I think in order to allow the other States to have that opportunity, then we must proceed with this Defense of Marriage Act to make sure that they are not bound by the full faith and credit clause to accept something that would not be acceptable to the majority of the people in those particular States, or in this Nation for that matter. But again, I think it is a sad day that we have to stand here in the Capitol of the United States and define what marriage actually is.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. MORAN].

I was looking for that long list of Republicans, which has apparently dwindled, that the gentleman was talking about.

Mr. CANADY of Florida. Mr. Chairman, I yield 1 minute to the gentleman from Virginia [Mr. MORAN].

The CHAIRMAN. The gentleman from Virginia [Mr. MORAN] is recognized for 3 minutes.

Mr. MORAN. Mr. Chairman, I rise in support of this amendment because I support the U.S. Constitution and particularly the 10th amendment to the Constitution.

As you know, the 10th amendment was designed to prevent us from preempting States' right. Yet for this purpose, we are willing to federalize the one area of law that has been under State control for the last 200 years. What is worse is that it is the Subcommittee on the Constitution of our full Committee on the Judiciary that is willing to limit for the first time in history the full faith and credit clause of the Constitution. The term that the Subcommittee on the Constitution uses is that it wants ''to free the States from a constitutional compulsion.''

If we want ''to free the States from a constitutional compulsion,'' we ought to do it with a constitutional amendment, not through this kind of a statute.

This bill in fact is both unnecessary and premature. The Hawaii appeals court is not expected to reach a final decision until 1997. There is no reason to act before that. But by rushing to judgment, Congress is preventing the States from free and open deliberation and failing to allow them to come to their own determinations.

States already have the power to refuse to honor same-sex marriages conducted in other States under the public policy exemption to the full faith and credit clause. This is the law right now. So why are we debating an unnecessary bill? I am afraid that the real answer is that it is political exploitation of prejudicial attitudes.

Mr. HYDE. Mr. Chairman, will the gentleman yield?

Mr. MORAN. I yield to the gentleman from Illinois.

Mr. HYDE. The Chairman, I would just like to ask the gentleman from Virginia [Mr. MORAN], what effect on your last statement that the States have the power to do this, what effect does the Romer versus Evans case, decided May 20 of this year, have on that power of the States, or are you aware of that case?

Mr. MORAN. Mr. Chairman, reclaiming my time, I would submit to the gentleman from Illinois [Mr. HYDE] that any State can pass a law now under the public policy exemption that makes it clear that whatever Hawaii's decision might be, they do not have to recognize it. They have that right.

Mr. HYDE. Mr. Chairman, if the gentleman will continue to yield, does the gentleman know the Romer case? Because the Romer case directly vitiates what the gentleman just said.

Mr. MORAN. The gentleman and I have a difference of opinion.

Mr. HYDE. Mr. Chairman, is the gentleman familiar with the case?

Mr. MORAN. Mr. Chairman, I do not perceive it in the same way the gentleman does. If the gentleman would like to explain why it does, then I would be happy to yield the time that I have. I do not interpret it as accomplishing what the gentleman said.

Mr. HYDE. Mr. Chairman, I will send the gentleman a copy of the opinion and dissent by Justice Scalia.

Mr. CANADY of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have heard quite a bit about the full faith and credit Clause, I think it might be helpful to read it. It is contained in article IV, section 1 of the Constitution, and I will read it in its entirety.

> Full faith and credit shall be given in each State to the public Acts, Records and judicial Proceedings of every other State, and the Congress may by general laws prescribe the manner in which such Act, Records and Proceedings shall be approved and the effect thereof.

The full faith and credit clause, which I have just read, recognizes a role for the Congress to play in circumstances just such as those that are now before us arising from the situation in Hawaii.

Now, that is one element of this bill. On the other hand, there is an element in this bill which deals with Federal law, Federal benefits, and the interpretation of the Federal statutes and regulations that use the terms ''marriage'' and ''spouse.''

We have a responsibility as the Congress to determine how Federal funds will be spent, and I believe that it is certainly within our prerogative to determine that those funds will not be used to support an institution which is rejected by the vast majority of the American people. We, as their representatives, can take that position. That is not in derogation of States' rights. That is simply in fulfillment of our responsibilities, and that is what we are doing through this bill.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, I simply want to point out with respect to the constant allusions to other States being forced to do what may be decided in Hawaii that the case in Hawaii is based on the Hawaii State Constitution, which has an expansive provision for the right of privacy and a provision against sex discrimination, which by definition of the attorneys in the case is stated as only being implied at best in the Constitution of the United States. Therefore, they are not making any such claim.

Mr. CANADY of Florida. Mr. Chairman, reclaiming my time, the gentleman has made his point. With all due respect to the gentleman from Hawaii, the gentleman has not gotten the point here.

I would point out to the gentleman that there is available for him and all

the other Members a memorandum prepared by the Lambda Legal Defense Fund which indicates the clear strategy that is being pursued here. The idea of the gay rights legal advocacy community is that they will have same-sex marriages recognized in the State of Hawaii, and then folks will go there from around the country, be married under the laws of the State of Hawaii, and then go back to where they came from and attempt to use the full faith and credit clause to force those States to which they have returned to recognize the legality of that same-sex union contracted in the State of Hawaii.

That is what is at stake in that part of the bill. That is very clear. That is why we are here. How Hawaii happens to get to the point of deciding that is a subsidiary issue.

Now, do I think the courts around the country should be required to recognize those same-sex marriages that may be contracted in Hawaii? No, I do not think they should be required to. But I do believe that there is substantial doubt about that question, and I am concerned that there is uncertainty, and this bill is motivated by that uncertainty. We are trying to do what we can to put that uncertainty to rest, to bring more certainty to the issue. That is the motivation here. That is not hard to discern.

Mr. Chairman, I understand and I respect those people who say, ''We think same-sex marriage is a good thing and we think that they should be able to go there and then have it recognized elsewhere.'' That is a principle position. I disagree with the principle. I vehemently disagree with it. We have heard that expressed. But you know, it is clear what is going on here. There is a real issue that we are trying to deal with.

Mr. ABERCROMBIE. Mr. Chairman, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Hawaii.

Mr. ABERCROMBIE. Mr. Chairman, that is not the position of the State of Hawaii, that this is a good thing. What is trying to be determined now is what is imperative based on the Hawaii State Constitution. As for the recitation about the Lambda Defense Fund, the Lambda Defense Fund turned down the people in Hawaii. They did not want to participate in this.

Mr. CANADY of Florida. Mr. Chairman, reclaiming my time, the gentleman will have to continue that on his own time. I would suggest to the gentleman that the documents provided by the Lambda Legal Defense Fund are very clear, and I do not think there is much mistaking what the objective is behind this whole effort.

It may not turn out that way, even in the absence of this bill, but there is a risk that it would and we are trying to address that risk. That is very clear. There is no reason to be confused about it. We are trying to deal with that uncertainty.

Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. WAXMAN].

(Mr. WAXMAN asked and was given permission to revise and extend his remarks.)

Mr. WAXMAN. Mr. Chairman, I rise in support of the Frank amendment and in opposition to this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from Michigan [Mr. CONYERS].

(Mr. CONYERS asked and was given permission to revise and extend his remarks.)

Mr. CONYERS. Mr. Chairman, I rise in support of the Frank amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. BECERRA].

(Mr. BECERRA asked and was given permission to revise and extend his remarks.)

Mr. BECERRA. Mr. Chairman, I rise in opposition to the bill and in support of this particular amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Texas [Ms. JACKSON-LEE].

(Ms. JACKSON-LEE of Texas asked and was given permission to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise to support the Frank amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield such time as she may consume to the gentlewoman from Georgia [Ms. MCKINNEY].

(Ms. MCKINNEY asked and was given permission to revise and extend her remarks.)

Ms. MCKINNEY. Mr. Chairman, I rise in support of the Frank amendment and oppose this bill.

Mr. Chairman, once again, the Republican leadership is seeking to divide the American people by appealing to our emotions and fears.

Rather than working to protect middle-class families in this changing economy, the GOP prefers to divert everyone's attention from Republican efforts to cripple Medicare and cut taxes for the rich.

Why, Mr. Chairman, are we targeting gays and lesbians, blacks, and immigrants this year, now, today? The answer, pure and simple, is politics—election year politics. The Republicans will stop at nothing to win the White House and the Congress. They will fan the flames of intolerance and bigotry right up to November. And if the result is an election won—at the expense of national unity—their attitude is, so be it.

By the time my Republican colleagues are done, this country will be a boiling cauldron. This bill doesn't prevent a single divorce, a single case of spousal abuse, or protect the institution of marriage.

Mr. Chairman, America was settled by people fleeing the intolerance and bigotry prevalent in Europe. Our Nation has always been a haven for those seeking peace, tolerance, and justice.

The real issues are extremist Republican values versus American values. Health care for the elderly and needy versus tax breaks for the wealthy. Money for children and education versus money for corporate welfare. More police on the streets versus assault weapons in the hands of dope dealers.

In short, the real issue is the kind of America we want—one of hope and fairness, or one of division and hate.

□ 1241

Mr. CANADY of Florida. Mr. Chairman, may I inquire of the Chair concerning the amount of time remaining on each side?

The CHAIRMAN. The gentleman from Massachusetts [Mr. FRANK] has 3¼ minutes remaining and the gentleman from Florida [Mr. CANADY] has 6 minutes remaining.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. BRYANT].

Mr. BRYANT of Tennessee. Mr. Chairman, I thank the gentleman for yielding me this time and I rise in support of this bill.

Obviously, as one of the original cosponsors of this bill, I feel like it is a bill that we ought to pass and I would oppose, as such, any amendment to it.

I think it is very important that we remember much of our history lessons, that I am sure have already been discussed here before. Without our action, this would be the first time that any religious or civil marriage ceremony recognized this type of marriage. It would be against the traditional marriage of husband and wife. At some point I think this bill recognizes, the underlying bill recognizes the need to make this distinction, to draw this line, to clarify it, for it, unfortunately at this time, appears to be necessary in this country.

It is important we accomplish the two things that are contained in this bill. First of all, again for the purposes of Federal law, Social Security, tax and so forth, it clarifies what the definition of a marriage is. A marriage is between one man and one woman. Not more, not less, not anything else out there, but, clearly, for the first time, it defines for the purposes of Federal law only.

Certainly we should not allow one State, whether it be Hawaii or any other State, to, in effect, establish what the Federal law will be in regards to what a marriage is.

Second, as we discussed already today, it gives the States the right to recognize or not to recognize these types of marriages. it does not prohibit marriages of same sex but it gives the States those rights to do it. And once again it would not be appropriate and it would not be fair and it would not be right to those other States out there to have their laws controlled in this type of very nontraditional sense by one small State, whichever it might be.

Again I urge my colleagues to vote against this and support the underlying bill.

Mr. CANADY of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield the balance of my time to my colleague, the gentleman from Massachusetts [Mr. STUDDS].

The CHAIRMAN. The gentleman from Massachusetts [Mr. STUDDS] is recognized for 3¼ minutes.

(Mr. STUDDS asked and was given permission to revise and extend his remarks.)

Mr. STUDDS. Mr. Chairman, earlier this morning, I think somewhere around a quarter of two, I observed with some sadness that there was an imbalance between the two aisles in this debate.

Words have been thrown around. Although they have not been taken down or requested to be taken down, today I wrote down so far promiscuity, perversion, hedonism, narcissism, well, that may be in this House, depravity and sin. All, I regret to say, from the same side of the aisle.

I also thought for a moment I was in some kind of a revival meeting and was about to be preached at from Leviticus. The particular chapter which was implicitly cited from Leviticus is not very popular in my district because the next verse forbids the eating of shellfish, and I would caution people in citing that.

Let me also just ask my Republican colleagues. One of them even boasted a moment ago and asked people to notice the partisan divisions here. If ever there was a nonpartisan issue here, this is it. Sexual orientation is the same in Republican families as in Democratic families, in Republican Members as in Democratic Members, as in the general population. It is a sad and tragic political mistake, never mind a moral mistake, for a party to do this. I think that lesson should have been learned 4 years ago.

I observed last night, Mr. Chairman, that it is a mistake sometimes to say this is the way things have always been and, therefore, that is good and they should always be that way. When this country was founded our revered Constitution was written in part by men who owned slaves. Women themselves were, in most of these States of ours, were virtually chattel. They did not have the right to own property. People of color were property for many years after this country was founded. And even thereafter, for many years, the different races were not allowed to marry.

I wish Members were here last night to hear our distinguished colleague from Georgia, Mr. LEWIS, because through him came the words and the spirit of a very great American, Dr. King. And this is, whether Members like to hear it or not, the last unfinished chapter of civil rights in this country.

Although I have no doubt, I do not think anybody in this room has any doubt, about the outcome of the vote today, I have equally no doubt about the final resolution of this chapter. We are going to prevail, Mr. Chairman. And we are going to prevail just as every other component of the civil rights movement in this country has prevailed. In the words of the great Dr. King, as echoed so eloquently last night by the distinguished gentleman from Georgia, this country is going to rise up and live out the true meaning of its creed.

There is nothing any of us can do today to stop that. We can embrace it warmly, as some of us do; we can resist it bitterly, as some of us do; but there is no power on earth that can stop it.

Mr. CANADY of Florida. Mr. Chairman, I yield myself the balance of my time.

In the course of the debate last evening and today we have heard many things from the opponents of the Defense of Marriage Act. They have said much about those who support this bill and those who oppose same-sex marriage. They have described opposition to same-sex marriage and support for this bill as laughable, prejudiced, mean spirited, cruel, bigoted, despicable, hateful, disgusting, and ignorant.

One of the leading opponents of the bill has described opposition to same-sex marriage as being based on the morality of the club. In the course of this debate those making these assertions have congratulated themselves on the quality of the debate they have engaged in.

In my view, all of this is an insult to the American people, 70 percent of whom oppose same-sex marriages. Seventy percent of the American people are not bigots, 70 percent of the American people are not prejudiced, 70 percent of the American people are not mean spirited, cruel, and hateful. It is a slander against the American people themselves to assert that opposition to same-sex marriage is immoral.

All of this rhetoric is simply designed to divert attention from what is really at stake here. It is designed to obscure the fundamental question that is raised by this bill. It is calculated as a distraction. It is an attempt to evade the basic question of whether the law of this country should treat homosexual relationships as morally equivalent to heterosexual relationships. That is what is at stake here.

Should the law express its neutrality between homosexual and heterosexual relationships? Should the law elevate homosexual unions to the same status as the heterosexual relationships on which the traditional family is based, a status which has been reserved from time immemorial for the union between a man and a woman?

Should this Congress tell the children of America that it is a matter of indifference whether they establish families with a partner of the opposite sex or cohabit with someone of the same sex? Should this Congress tell the children of America that we as a society believe there is no moral difference between homosexual relationships and heterosexual relationships? Should this Congress tell the children of America that in the eyes of the law the parties to a homosexual union are entitled to all the rights and privileges that have always been reserved for a man and woman united in marriage?

To all these questions the opponents of this bill say yes. They say a resounding yes. They support homosexual marriage. They believe that it is a good thing. They believe that opposition to same-sex marriage is immoral. They want to tell the children of America that it makes no difference whether they choose a partner of the opposite sex or a partner of the same sex; that the law of this land is indifferent to such matters.

Those of us who support this bill reject the view that such choices are a matter of indifference. We reject the view that the law should be indifferent on such matters, and in doing so I think it is unquestionable that we have the overwhelming support of the American people.

I would urge my colleagues to listen to the American people, defeat this amendment and pass this bill.

Mr. SKAGGS. Mr. Chairman, first, let me say that this has been one of the toughest votes I've had to cast in Congress. I fully embrace the idea that marriage is an institution that historically, culturally, and morally is set aside to recognize and respect the union of a man and a woman. If this bill were a resolution affirming that proposition, I'd gladly have voted for it.

Unfortunately, this bill went far beyond that simple affirmation, entering uncharted and very troubling constitutional territory, as well as being motivated on the part of some of its advocates by a gratuitous hostility toward gays and lesbians. At best, it is unnecessary—for reasons I'll explain; at worst, it is dangerous—for reasons I'll explain.

Much has been made of the argument that Hawaii is about to legalize same-sex marriage. The truth is, nobody knows what decision the courts in Hawaii may make or when they will make it. The Hawaii Supreme Court has remanded to a trial court, for a trial on the merits, a case brought asserting the claim that the Hawaii State Constitution requires recognition of same-sex marriage because that Constitution prohibits gender discrimination. That trial is scheduled for later this year; with inevitable appeals, no final, appellate decision is likely before late 1997 or early 1998. In other words, there's no crisis; no imminent threat of same-sex couples from Hawaii presenting themselves as married in other States. And so, there's nothing that demands precipitous action by Congress on this question.

In addition to borrowing trouble in assuming the Hawaii case may turn out adversely with respect to the traditional view of marriage—a view I share—this legislation is most likely completely unnecessary insofar as it purports to grant States powers the States already possess to reject recognition of same-sex marriages. This point involves an examination of an obscure provision of the U.S. Constitution, article IV, section 1, known as the full faith and credit clause. That provision reads as follows:

Full Faith and Credit shall be given in each State to the public Acts, Records, and

judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effects thereof.

The Framers included this clause, borrowed from the Articles of Confederation and then expanded significantly, to make sure these States were truly united, and not a mere legal patchwork. The gist of the clause is that each State must honor the official acts and judicial proceedings of the others.

However, there soon grew up, in judicial interpretation of this clause, what's known as the public policy exception. Related primarily to the very question of the circumstances under which one State must recognize a marriage performed in another State, the courts have held that a State can assert its own overriding public policy in refusing to recognize an out-of-State marriage that runs counter to its public policy. The cases here have dealt with such factors as under-age marriages, incestuous marriages, and polygamous marriages. But the principle is well established and can certainly be extended by any State to the matter of same-sex marriages. In fact, some 14 States have already acted to assert such a public-policy position, in anticipation of the possibility that they'll face the question.

There is broad consensus among constitutional scholars that the full faith and credit clause already permits such State initiative in behalf of protecting the supremacy of one State's public policy as against another's attempt to legalize same-sex marriage. Therefore, no need exists for Congress to enact a law granting States the power or discretion they already enjoy under the public-policy exception to the full faith and credit clause. Or, put differently, this legislation is unnecessary. Certainly, we've got enough legitimate work to do around here without passing laws telling the States they have powers that they are already known to have.

But wait a minute. Perhaps, the States don't have quite all the powers this bill would give them, because it also apparently would grant States the power to ignore certain final judicial proceedings concluded in another State. The public-policy exception has not previously been construed to go that far.

What does that really mean? Where does it come from? I believe that dimension of this legislation can only be rationalized constitutionally as falling under the scope of the last three words of the full faith and credit clause, which provide that ''Congress may by general Laws prescribe * * * *the Effect thereof.*'' (Emphasis added.)

We have no explicit Supreme Court interpretation of these words to rely on. One possibility is a fairly limited meaning, consistent with the notion that Congress can figure out how best to implement and give effect to the interstate rights and responsibilities already prescribed by the earlier words in the clause. If this is correct, ''the effect thereof'' can't be the basis for expanding the public-policy exception beyond the bounds that already exist. And, if that's the case, then again, this legislation is merely redundant and unnecessary.

The other possible reading of these words, and the one evidently asserted by the proponents of this legislation, is that they provide back-door authority for Congress by law to greatly expand the now very-limited public-policy exception to full faith and credit. But think about that.

If you can believe it, we have here an allegedly State's-rights-minded Congress offering up new constitutional theory to justify a whole new basis on which to nationalize and centralize vast areas of law heretofore left to the States. If this rational is sound in this instance as to same-sex marriages—and I don't believe it is—then what are the bounds of this new Congressional power to preempt State law under the guise of ''by general Laws prescrib[ing] * * * the Effect thereof''? I this legislation permits State A to ignore the final judgment of the courts of State B as to any claim derived from a same-sex marriage, then there is no constitutional bar to our passing a law authorizing State A to ignore State B's no-fault divorce decrees, or anything else.

It should be self-evident that this is an extraordinarily dangerous constitutional precedent. It takes the objective of the full faith and credit clause in unifying the States and assuring interstate comity, and turns it on its head. The potential for mischief and invidious intrusion of the Federal Government into State affairs boggles the mind.

I wish to preserve the institution of marriage for the honorable and traditional relationship between a man and women. But reserving that word for that institution means just that.

I also recognize that gay and lesbian couples seek legal recognition and permanence for their relationships and the rights and responsibilities that flow from those relationships. I hope this society, and its political and legal institutions, can move to accommodate the legitimate needs of gay and lesbian citizens in this respect. No one, I believe, would want, for example, to deny a claim of inheritance, or of participation in terminal health care decisions, for the life-long partner of a gay man or lesbian woman. Yet, by refusing as part of this legislation even to permit a formal study of disparate treatment of domestic partnerships in these areas, the proponents of this legislation may reveal their real motivation.

Because there is no imminent problem of same-sex marriage-being legalized, because, even if there were, the full faith and credit clause's public-policy exception already gives States the power not to recognize such a marriage, because this legislation is therefore unnecessary, because in its insinuation of new and constitutionally suspect congressional power under ''the Effects thereof'' phrase this legislation is unwise, and because so many advocates of the legislation, by their approach, seem primarily moved to demonstrate a gratuitous disrespect for some citizens based on their sexual orientation, I cannot support it and will vote against it.

My faith in the fair-mindedness of the American people is unshakable. This legislation is not true to that wonderful American virtue.

Mr. GUNDERSON. Mr. Chairman, I am a traditionalist. My entire life's environment and upbringing have created within me a respect for traditional values. Theology interprets marriage as a union between one man and one woman. Random House Dictionary defines marriage as a union between man and woman.

Accordingly, tho I am a gay man in a 13-year relationship, I was fully prepared to reach out to my colleagues in reaffirming the institution of marriage as we know and understand it. Throughout these discussions, I have suggested to my gay and lesbian friends that we should not resort to some semantic debate about the word ''marriage.''

As this issue evolved, I went to Chairman HYDE and to Speaker GINGRICH. I said to them, ''I am willing to join with you in reaffirming the definition of marriage, tho I am a gay man. All I ask in return is that you remove the 'meanness, prejudice, and hatred' surrounding this issue.''

I went further.

The debate fails to recognize the painful reality thrown on many innocent people who happen to be in long-term relationships outside of marriage. For example, if I should get sick, should not my partner have automatic visitation rights? Should he not have automatic consultation rights with the attending physician? I think most would say ''yes.'' But I have letters from many people in my office indicating that from cancer to AIDS, they have been denied this basic right.

Second, a close friend of ours recently lost his partner of 16 years to AIDS. While the hospital in Washington respected the relationship and gave him visitation—something worse happened after his partner's death. The funeral home would not allow him to sign any of the documents or arrangement forms.

Third, I have a 13-year relationship with my partner. Yet, while some of my congressional colleagues are in their second or third marriage—their spouse receives the benefits of their health insurance, and automatically receives their survivor benefits should that occur. Why should they be given these benefits, when my partner—in a relationship much longer than theirs—is denied the same?

Many corporations would like to extend such benefits to the domestic partners of their employees. The problem is that there is no agreement on a civil process to recognize legitimate long-term relationships from those who would simple seek to fraud the system.

These are just some of the basic questions that our society must and should ask. If we seek civility, mutual respect, and the promotion of long-term relationships—in marriage or otherwise—then we have no choice. Accordingly, I asked my leadership to accept an amendment I or others would offer creating a commission to look at such questions.

Chairman HYDE responded that while he could not support a commission, he would support a GAO study of such questions. Based upon this act of goodwill, I developed an amendment to accomplish this goal. We created an amendment which would call upon GAO to look at the question of the differences in benefits, rights, and privileges available to persons in marriage versus those in a domestic partnership. The study would look at State laws on these questions, Federal differences in benefits, and even how other nations responded to such relationships. The study would be complete by October 1997. It would not change any policy. Rather, it would simply provide the basis of information necessary for rational discussions in the future.

To their credit, both Mr. HYDE and Speaker GINGRICH told me personally they believed there was merit in my proposal. However, when this amendment was offered to the Rules Committee for consideration—it was denied recognition before the full House.

Unfortunately, this action exposes those who advance this legislation for their real goals. There is no sincere attempt to simply reaffirm marriage. There is certainly no attempt to respond to legitimate and real issues facing many Americans in 1996. There is, unfortunately, every attempt to pursue a mean, political-wedge issue at the expense of the gay and lesbian community in this country. And it hurts me deeply to say that about my own party.

This legislation will do nothing to defend marriage. May I suggest that no gay man is after your wives, and no lesbian is after your husbands. If marriage is at risk in this country, and it may be—there are other more real factors at the heart of this problem. May I suggest that alcohol abuse, spousal abuse, and even Sunday football are far more likely to destroy marriage. Perhaps if people really meant it when they said their marital vows, marriage would be more stable. Perhaps if people were more willing to pursue marriage counseling, when necessary, the institution of marriage would be better off. There may be a problem, but we ought to go after the legitimate cause of that problem, not some scapegoat for political gain.

Is this legislation necessary? No. There is not a single State in the Union today where gay and lesbian marriages are legal. There exists only one State in the Nation that even is debating such an issue in the courts—and that State's court will not decide the issue for at least 2 years.

Is this legislation constitutional? I am not a lawyer, but the constitutional scholars I have spoken with and whose opinions I have read say that, ultimately, it will be declared unconstitutional. Simply stated, the second sentence of the full faith and credit clause of the Constitution permits Congress only to specify the conditions under which one State must recognize the public acts and records of another State. Congress is not given the authority to override the mandate of the first sentence which requires one State to give full faith and credit to the laws of another State. Similarly, to the extent that the legislation creates a status-based classification of persons for its own sake, it violates the recently articulated principle in the landmark case of Romer versus Evans which was decided on May 20 of this year.

Is this legislation morally principled? Perhaps, more than anything else, my colleagues advancing this legislation believe they are advancing the basic Judeo-Christian ethics of our Nation. I would encourage them to pursue a closer analysis of the Bible. No where in the Bible does Jesus condemn homosexuality. There are many places where Jesus condemns divorce. How can people, who have been divorced, suggest that they can defend marriage by condemning hoe involved in single-sex relationships?

Mr. Chairman, this legislation before us it not a priority in the eyes of the American people. We are not responding to some public demand or crisis. Rather, this legislation was designed, pure and simple, to drive some political wedge for political gain. The first hope, was that the President would veto this legislation—and it would be used against him. When the President announced that he would sign the bill, the focus then was directed on finding some Democrat in a marginal district that would vote against the bill on principle, only to then lose the political debate back home.

If there was a legitimate desire to reaffirm marriage in a civil, respectful, and realistic way that recognized the reality of long-term relationships in America today. I reached out to my leadership to find a common middle ground—achieving their goals, without the hatred, prejudice, meanness, and insensitivity directed to those who happen to be gay or lesbian. That good faith effort was intentionally rejected.

I am willing to reach out, listen to, and work with all elements of society to find common ground upon which we as a diverse nation might go forward. I am not willing, however, to participate in a blatant attempt to score political points at the expense of those in our society who might be gay or lesbian. Therefore, I must oppose this bill.

Mr. WELDON of Florida. Mr. Chairman, as a cosponsor of H.R. 3396, the Defense of Marriage Act, I rise in strong support of the bill. We must work to strengthen the American family, which is the bedrock of our society. And, marriage of a man and woman is the foundation of the family. The marriage relationship provides children with the best environment in which to grow and learn. We need to work to restore marriage, and it is vital that we protect marriage against attempts to redefine it in a way that causes the family to lose its special meaning. In the 1885 case of Murphy v. Ramsey, the U.S. Supreme Court defined marriage as the ''union for life of one man and one woman in the holy estate of matrimony.''

Unfortunately, the courts of Hawaii are in the process of deciding if the State is going to sanction marriages between people of the same sex despite the Hawaiian people's clear rejection of such a policy change. The repercussions could be felt by the Federal Government and the other 49 States almost immediately. The full faith and credit provisions of the Constitution, article IV, require recognition of the ''public Acts, Records, and judicial Proceedings'' of each State. However, Congress has the authority to prescribe the manner in which such acts, records, and proceedings shall be proved, and the effect thereof.

Federal policies could be dramatically affected by the Hawaii decision since the Federal Government generally recognizes State documents in granting benefits and privileges to married individuals. Veterans' benefits, labor policies, Federal health and pension benefits, and Social Security benefits are just a few of the areas that would be subjected to substantive revision if Congress does not act soon. I think it would be wrong to take money out of the pockets of working families across America and use those tax dollars to give Federal acceptance and financial support to same sex-marriages. Without the passage of the Defense of Marriage Act, this would be the case.

The American people clearly recognize the importance of protecting the sanctity of marriage. We should not be forced to give public sanction to relationships that clearly fall outside the scope of our Nation's traditional understanding of marriage as the legal union between one man and one woman as husband and wife. This act will protect the institution of marriage which has been and will remain the foundation of Western civilization.

Mr. COYNE. Mr. Chairman, H.R. 3396, the Defense of Marriage Act, presently before the House is unnecessary, untimely, purports to solve a problem that does not exist, professes to defend an institution—marriage—that is not under attack in the manner suggested by the legislation, and violates the full faith and credit clause of the Constitution. This legislation is before us as part of a political agenda and for no other reason. It is a proposed solution looking for a problem.

This legislation is simply yet another attempt by the Republican majority to shift the Nation's attention away from their extreme agenda that hurts children, the elderly, and the poor. Under current law, States will continue to be free to decline to recognize same-sex marriages if they choose. To date, nearly 80 percent of the States—37—have already addressed the issue of same-sex marriages in their legislatures. Eighteen States thus far have had legislation banning same-sex marriages either fail or die in the legislative process and 13 States have passed legislation that would deny recognition to same-sex marriages. In fact, the House of Representatives in my State of Pennsylvania voted on June 28th of this year to prohibit same-sex marriages. These statistics hardly present a compelling mandate for the Federal Government to step in and rescue the States.

Unlike the future solvency of the Medicare Program or the problems associated with ensuring that all Americans have the opportunity to earn a living wage and enjoy a decent retirement, establishing a Federal definition of marriage, when every State has already addressed this issue, is not the most pressing item of business before Congress. There is no clear and compelling reason to address this issue at this time.

I oppose this legislation because I believe that States should continue to have the freedom to define their own policies toward marriage as they have had for the past 220 years.

Mr. ENSIGN. Mr. Chairman, I rise in support of H.R. 3396, the Defense of Marriage Act.

The need to enact legislation to preserve the fundamental definition of matrimony as a union between one man and one woman is pressing and necessary. This legislation is not about mean-spirited antics or election year politics. A pending ruling by a Hawaii court could legalize same-sex marriages in that State. According to the full faith and credit clause of the Constitution, unless Congress says otherwise, the other 49 States in the Union would be required to abide by the Hawaii decision. Requiring the entire Nation to discard the will of the clear majority of Americans undermines our democracy and would deny other States the opportunity to enforce laws banning the recognition of same-sex marriages.

The time-honored and unique institution of marriage between one man and one woman is a fundamental pillar of our society and its values. The Defense of Marriage Act does not deny citizens the opportunity—either through their elected representatives or ballot referendum—to enact legislation recognizing same-sex marriages or domestic partnerships within their own borders. The Defense of Marriage Act says that States should determine their

own policy and that the Federal Government has a right to define who is entitled to benefits as a spouse. This legislation is consistent with the need to return power and decisionmaking to the States where it rightfully belongs.

Mr. Chairman, I think it is important to carefully examine the issue of same-sex marriages and separate two fundamental issues. The first issue involves the question of whether individuals have a right to privacy and the choice to live as they see fit. I think most Americans, myself included, would agree that everyone should have the right to privacy. The second issue involves the question of whether all States must follow Hawaii's example, and has greater societal and constitutional implications than the issue of privacy. The Defense of Marriage Act addresses the second issue and does nothing to deny an individual his or her right to privacy.

During a time when the traditional two-parent family is becoming the exception, I believe it is important to reaffirm our commitment to ensuring that moms and dads are encouraged and strengthened in the task of raising their children.

I urge my colleagues to support this legislation.

Mr. SMITH of Texas. Mr. Chairman, I rise in strong support of H.R. 3396, the ''Defense of Marriage Act.''

Many of my colleagues today will give eloquent legal arguments in favor of this legislation. Rather than focus on the legal need for this legislation, I would like to discuss some of the reasons why I feel it is morally necessary.

Same-sex ''marriages'' demean the fundamental institution of marriage. They legitimize unnatural and immoral behavior. And they trivialize marriage as a mere ''lifestyle choice.''

The institution of marriage sets a necessary and high standard. Anything that lowers this standard, as same-sex ''marriages'' do, inevitably belittles marriage.

Traditional marriage has served across the majority of cultures as a foundation for a stable society. Undermining traditional marriage by forcing States to legalize same-sex ''marriages'' will have far-reaching social consequences. The attempt to legitimize same-sex ''marriages'' threatens our cultural values that have proved their worth down the centuries.

Those who seek to overturn our system of values are attempting to achieve not just toleration of their behavior, but full social acceptance as well. We should not undermine the standards that elevate civilization.

We must act now to preserve traditional marriage as the foundation of American society. I urge my colleagues to defend the institution of marriage by voting ''yes'' on H.R. 3396.

[From the National Review, June 3, 1996]

THE MISANTHROPE'S CORNER

(By Florence King)

Gay marriage is a consummation devoutly to be missed, but it's a dead cert. If you doubt it, try to remember the last time America turned down a vocal minority. In the Sixties we were the Girl Who Can't Say No, but she was a font of virtue compared to what we are now. Overcome by miasmic gases of diversity and inclusion wafting from the Nineties swamp, we have turned into the Punchdrunk Kid, a twitching lummox with cauliflower ears who mumbles ''Sure, Jake, sure'' to everybody.

The preliminary stage of brainwashing is already underway. ''Husband'' and ''wife'' are yielding to ''spouse,'' a vague usage that benefits no one but gays. Gov. Roy Romer recently vetoed Colorado's proposed anti-gay marriage law, calling it ''mean-spirited,'' a word that functions in America like the bell in Pavlov's laboratory. And now Bill Clinton has announced, through his gay-liaison office, that he is ''personally opposed'' to homosexual marriage. This phraseology, a staple of the abortion debate, is a reminder not to let our premises stand in the way of our conclusions.

The major brainwashing, soon to begin, will proceed as follows.

Magazines will run cover stories that thinking Americans—all 17 of us—recognize as that brand of persuasion called ''nibbled to death by a duck.'' Time does ''Debating Same-Sex Marriage'' and Newsweek does ''Rethinking Gay Marriage.'' Lofty opinion journals weight in with ''A Symposium on,'' ''In Defense of,'' and ''Voices from,'' while Parade does ''If They Say I do' . . . Will We Say 'You Can't'?'' Cover art consists of a pair of wedding rings sporting identical biological signs: two arrow-shooting circles for men, two mirror-handle circles for women. We will start seeing these logos in our sleep.

Next, the pundits. Molly Ivins writes ''Bubba, Hold Yore Peace.'' Ellen Goodman waxes earnest about tradition *versus* change in ''Something Old, Something New,'' Ruth Shalit writes something borrowed, and Richard Cohen, Victim America's identifier-in-chief, does a column called ''We're All Single.''

Arianna Huffington will figure out a compassionate way to be against gay marriage, but most conservatives stand to fare badly in this debate. Will Durant wrote, ''When religion submits to reason it begins to die.'' In a media-saturated society teeming with talk-show producers casting dragnets over think tanks, proponents of gay marriage, win merely by being scheduled. By contrast, the conservative instinctively recoils from analyzing eternal verities. He may know the words to legal arguments such as ''the need to show a compelling state interest, etc,'' but he doesn't know the tune. In the final analysis he believes in the sanctity of marriage ''just because.''

To liberals, the just-because mindset betokens racism. Therefore, anyone who opposes gay marriage must hate blacks. Anti-gay marriage laws will be equated with the old anti-miscegenation laws, producing tortured sophistry about ''the difference between race and sex.'' The liberal will claim that all differences are the same, forcing the conservative to claim that some differences are more different than others. Caught in an Orwellian trap, terrified of being called a racist, he will seek safety in a soundbite of chortling folksiness.

''When a baby is born, people don't say 'it's white' or 'it's black,' they say 'it's boy' or 'it's girl.'''

Because this makes no sense, it becomes instantly popular. Repeated incessantly on talk shows, it starts running through our heads like the beat-beat-beat of the tomtoms in ''Begin the Beguine,'' intensifying when Bob Dole soundbites it into a back-to-basics vision of blood and sex and whatever in a prime-time press conference.

Then Jesse Jackson and the feminists change the word order, ostentatiously placing ''black'' before ''white'' and ''girl'' before ''boy''. Remembering to say it the PC way becomes such an overriding obsession that we forget what it has to do with gay marriage, especially after Clarence Page points out that in slave days the color of a baby was indeed the first thing people noticed.

Soon, Republicans panicked by mounting accusations of racism suggest that gay couples be allowed to register their unions and establish common-law marriages based on seven years of cohabitation. But gays reject these half measures, comparing them to the irregular marriages of slavery, when couples ''jumped over the broom.''

All attempts at compromise elicit cries of ''Second-class marriage!'' and lead to lawsuits under the Americans with Disabilities Act. Calling themselves ''connubially challenged,'' gays will sue the Christian Coalition for forcing them to lead immoral lives. Arguing that marriage will keep them from promiscuity, which will keep them from getting AIDS, they will equate prohibition of same-sex marriage with capital punishment. A Clinton judicial appointee will find the ''right'' to gay marriage lurking under a constitutional penumbra, and CNN will give a 900 number so viewers can vote yes to prove they aren't racists.

I find it ironic that gays are now singing the praises of wedded bliss in terms that were the bane of my existence forty years ago, when ''settling down'' proved you were ''mature and responsible.'' If they keep it up, they will corroborate the English prostitute who plied her trade in the States and wound up in a book about American sexual attitudes. A great many of her clients, she said, showed her photos of their wives and children. Clearly bemused, her sign almost audible on the page, she added: ''Yanks are born married.''

My personal opinion of marriage reflects my status as a pariah in the Fifties snuggery of joined-at-the-hip Togetherness. ''Rather a beggar woman and single be, than Queen and married,'' said Elizabeth I, and so say I. My objective opinion, however, conforms with Timothy Dwight: ''It is incomparably better that individuals should suffer than that an institution, which is the basis of all human good, should be shaken or endangered.

[From the Washington Post, May 21, 1996]

NOT A VERY GOOD IDEA

(By William J. Bennett)

We are engaged in a debate which, in a less confused time, would be considered pointless and even oxymoronic: the question of same-sex marriage.

But we are where we are. The Hawaii Supreme Court has discovered a new state constitutional ''right''—the legal union of same-sex couples. Unless a ''compelling state interest'' can be shown against them, Hawaii will become the first state to sanction such unions. And if Hawaii legalizes same-sex marriages, other states might well have to recognize them because of the Constitution's Full Faith and Credit Clause. Some in Congress recently introduced legislation to prevent this from happening.

Now, anyone who has known someone who has struggled with his homosexuality can appreciate the poignancy, human pain and sense of exclusion that are often involved. One can therefore understand the effort to achieve for homosexual unions both legal recognition and social acceptance. Advocates of homosexual marriages even make what appears to be a sound conservative argument: Allow marriage in order to promote faithfulness and monogamy. This is an intelligent and politically shrewd argument. One can even concede that it might benefit some people. But I believe that overall, allowing same-sex marriages would do significant, long-term social damage.

Recognizing the legal union of gay and lesbian couples would represent a profound change in the meaning and definition of marriage. Indeed, it would be the most radical step ever taken in the deconstruction of society's most important institution. It is not a step we ought to take.

The function of marriage is not elastic; the institution is already fragile enough. Broadening its definition to include same-sex marriages would stretch it almost beyond recognition—and new attempts to broaden the definition still further would surely follow. On what principled grounds could the advocates of same-sex marriage oppose the marriage of two consenting brothers? How could they explain why we ought to deny a marriage license to a bisexual who wants to marry two people? After all, doing so would be a denial of that person's sexuality. In our time, there are more (not fewer) reasons than ever to preserve the essence of marriage.

Marriage is not an arbitrary constrict; it is an ''honorable estate'' based on the different, complementary nature of men and women—and how they refine, support, encourage and complete one another. To insist that we maintain this traditional understanding of marriage is not an attempt to put others down. It is simply an acknowledgment and celebration of our most precious and important social act.

Nor is this view arbitrary or idiosyncratic. It mirrors the accumulated wisdom of millennia and the teaching of every major religion. Among worldwide cultures, where there are so few common threads, it is not a coincidence that marriage is almost universally recognized as an act meant to unite a man and a woman.

To say that same-sex unions are not comparable to heterosexual marriages is not an argument for intolerance, bigotry or lack of compassion (although I am fully aware that it will be considered so by some). But it is an argument for making distinctions in law about relationships that are themselves distinct. Even Andrew Sullivan, among the most intelligent advocates of same-sex marriage, has admitted that a homosexual marriage contract will entail a greater understanding of the need for ''extramarital outlets.'' He argues that gay male relationships are served by the ''openness of the contract,'' and he has written that homosexuals should resist allowing their ''varied and complicated lives'' to be flattened into a ''single, moralistic model.''

But this ''single, moralistic model'' is precisely the point. The marriage commitment between a man and a woman does not—it cannot—countenance extramarital outlets. By definition it is not an open contract; its essential idea is fidelity. Obviously that is not always honored in practice. But it is normative, the ideal to which we aspire precisely because we believe some things are right (faithfulness in marriage) and others are wrong (adultery). In insisting that marriage accommodate the less restrained sexual practices of homosexuals, Sullivan and his allies destroy the very thing that supposedly has drawn them to marriage in the first place.

There are other arguments to consider against same-sex marriage—for example, the signals it would send, and the impact of such signals on the shaping of human sexuality, particularly among the young. Former Harvard professor E.L. Pattullo has written that ''a very substantial number of people are born with the potential to live either straight or gay lives.'' Societal indifference about heterosexuality and homosexuality would cause a lot of confusion. A remarkable 1993 article in The Post supports this point. Fifty teenagers and dozens of school counselors and parents from the local area were interviewed. According to the article, teenagers said it has become ''cool'' for students to proclaim they are gay or bisexual—even for some who are not. Not surprisingly, the caseload of teenagers in ''sexual identity crisis'' doubled in one year. ''Everything is front page, gay and homosexual,'' according to one psychologist who works with the schools. ''Kids are jumping on it . . . [counselors] are saying, 'What are we going to do with all these kids proclaiming they are bisexual or homosexual when we know they are not?' ''

If the law recognizes homosexual marriages as the legal equivalent of heterosexual marriages, it will have enormous repercussions in many areas. Consider just two: sex education in the school and adoption. The sex education curriculum of public schools would have to teach that heterosexual and homosexual marriage are equivalent. ''Heather Has Two Mommies'' would no longer be regarded as an anomaly; it would more likely become a staple of sex education curriculum. Parents who want their children to be taught (for both moral and utilitarian reasons) the privileged status of heterosexual marriage will be portrayed as intolerant bigots; they will necessarily be at odds with the new law of matrimony and its derivative curriculum.

Homosexual couples will also have equal claim with heterosexual couples in adopting children, forcing us (in law at least) to deny what we know to be true: that it is far better for a child to be raised by a mother and a father than by, say, two male homosexuals.

The institution of marriage is already reeling because of the effects of the sexual revolution, no-fault divorce and out-of-wedlock births. We have reaped the consequences of its devaluation. It is exceedingly imprudent to conduct a radical, untested and inherently flawed social experiment on an institution that is the keystone in the arch of civilization. That we have to debate this issue at all tells us that the arch has slipped. Getting it firmly back in place is, as the lawyers say, a ''compelling state interest.''

Mr. LIPINSKI. Mr. Chairman, I rise today to express my full support of the Defense of Marriage Act. The issue of homosexual marriage is a major concern to many Americans, and I feel that the time has come for Congress to take a stand. What we say today and how we vote on this bill have both legal and moral ramifications for years to come. We cannot sit by and do nothing.

Legally, the Defense of Marriage Act is what its title states. It will define the act of marriage for Federal purposes and preserve its sanctity. Currently, Federal law has no definition of the words ''marriage'' or ''spouse,'' even though the Federal Government uses those terms frequently. Traditionally, it has relied upon the relevant State's law when applying those terms. However, today we are at a crossroads with this practice, and it is time to make a choice. Right now a lawsuit in Hawaii may lead to the legalization of homosexual marriages in that State. The repercussions of such a decision would legally affect us all. The full faith and credit clause of the Constitution requires that every State honor the ''Public Acts, Records and Judicial Proceedings of [every other] State unless specified by Congress.'' By this clause, all 49 other States would then be required by law to recognize a marriage between members of the same sex as legal for all State purposes. Further, because we currently have no definition of marriage on the rule books, the Federal Government would be forced to recognize such homosexual marriages for Federal benefit purposes.

The Defense of Marriage Act would safeguard the rest of the country from the decision made by one State. The American people might be surprised to learn that this bill would not outlaw homosexual marriages; although I believe it should—it would simply exempt a State from legally recognizing a marriage that did not fit it's own definition of marriage. States would still be free to recognize gay marriages if they so choose. However, and most importantly, this act would define ''marriage'' as ''only a legal union between one man and one woman as husband and wife'' at the Federal level. This Federal definition would ensure that a State could not define a ''marriage'' that the Federal Government would have to recognize. If the Federal Government does not act now, and Hawaii legalizes homosexual marriage, the Federal Government would then be obliged to provide the same benefits that heterosexual marriages currently receive. Unless this bill is passed establishing a Federal definition of marriage, all Americans will then be paying for benefits for homosexual marriages.

Yes, we must put our foot down. Unless we pass the Defense of Marriage Act, we will putting our stamp of approval on gay marriages, forcing the rest of the Nation to follow the whim of one State. This bill simply preserves the sanctity of the act of marriage between a man and a woman. It is a bill which will ensure that each State will not have to follow the lead of another on this issue. This bill will give each State the leverage it deserves to decide for itself whether or not to legalize gay marriages.

However, as we all know, this is more than just a legal discussion. We are here because the issue of gay marriages is a moral one. Marriage, no matter what your religious belief, is a sacred act. It is the joining of a man and a woman in a unity that is officially recognized by the State. Marriage is the foundation of our society; families are built on it and values are passed on through it. In our current age, where the sanctity of marriage is constantly being compromised, I feel that we must seize this rare opportunity to strengthen it. Homosexual marriages are not necessary; gays can legally achieve the same legal ends as marriage through draft wills, medical powers of attorney, and contractual agreements in the event that the relationship should end. Therefore, asking the rest of the country to recognize such marriages does nothing that the law cannot currently do, it is simply asking for special privileges.

I feel that marriage is not an area where the law should bend. Our Nation's moral fabric is based on this sacred institution. Homosexual marriages would destroy thousands of years of tradition which has upheld our society. Marriage has already been undermined by no-fault divorce, pregnancies out of wedlock, and sexual promiscuity. Allowing for gay marriages would be the final straw, it would devalue the love between a man and a woman and weaken us as a Nation. I have received numerous letters and calls from constituents asking me to vote for this legislation. Literally thousands of churches across the country have asked us for our support. The American people have spoken, and now we have the responsibility to answer them. My fellow Congressmen and Congresswomen, I hope that you have the moral strength to vote with me for this bill so that it may be passed. Our country's moral future depends on it.

Mr. JACKSON of Illinois. Thank you, Mr. Chairman, for the opportunity to address what I fear to be the serious constitutional implications implicit in H.R. 3396, ''Defense of Marriage Act.'' Specifically, I am concerned that

this bill poses serious constitutional questions on two grounds: First, the full faith and credit clause of the U.S. Constitution, and second, the equal protection clause of the U.S. Constitution.

Upon hearing proponents of this bill argue that this bill does not violate the full faith and credit clause of the U.S. Constitution, and after studying the analysis of constitutional experts, and in particular, Prof. Chai Feldblum of the Georgetown University Law Center, I feel compelled to express my serious concerns on this point.

IMPLICATIONS FOR THE FULL FAITH AND CREDIT CLAUSE

While the Supreme Court has not specifically applied the full faith and credit clause to the status of marriage, we do know that there is absolutely no legal precedent for Congress to invite some States to ignore the official acts of others. Mr. Chairman, section 2 of this bill adds a section to the Federal full faith and credit statute, which is no doubt an unconstitutional attempt to do just this.

The full faith and credit clause of the U.S. Constitution, article IV, clause 1, provides, and I quote:

Sentence One:

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.

Sentence Two:

And the Congress may by general Laws prescribe the manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

In other words, each State must give ''full faith and credit'' to other State laws, and must fully recognize the acts and proceedings of other States. For example, in the case of *Williams* v. *North Carolina,* 317 U.S. 287, 295 (1942), the Supreme Court interpreted the clause as serving the purpose of ''alter[ing] the status of the several states as independent foreign sovereignties, each free to ignore the obligations created under the laws or by the judicial proceedings of the others, and to make them integral parts of a single nation.''

Never once has Congress implemented laws allowing States not to recognize certain ''Acts, Records, and judicial Proceedings'' of another State. In fact, Congress has heightened each State's recognition responsibilities under the clause by enacting the following pieces of legislation:

First, the Parental Kidnapping Prevention Act of 1990 requires States to enforce, not ignore, other States' child custody determinations;

Second, the Full Faith and Credit for Child Support Orders of 1994 requires that other States enforce, not ignore, child support determinations of other States; and

Third, the Safe Homes of Women Act of 1994 requires that States recognize, not ignore, the protective orders of other States to protect victims of domestic violence.

Thus, Congress has only passed legislation strengthening, not weakening, requirements on States to recognize the ''Acts, Records and judicial Proceedings'' of another. Therefore, it is undoubtedly clear why many constitutional scholars have concluded that Congress would go beyond the scope of its legislative powers under the Constitution in passing H.R. 3396.

It is noteworthy that during the subcommittee consideration of this bill, Representative SENSENBRENNER stated that Utah's admission to the Union was delayed for several years because of ''the fear of the Congress over a hundred years ago was that polygamous marriages that were polemized in Utah would have to be recognized in the other States.'' This statement suggests that Congress contemplated over one hundred years ago that the drafters of the Constitution intended that all States, not only those which choose to, must give ''full faith and credit'' to the ''Acts, Records and judicial Proceedings'' of all other States, including the recognition of out-of-State marriage, and interpreted that requirement to its most literal meaning.

Proponents of this bill argue that allowing States to not recognize the public acts of another is a constitutional exercise of Congress' power under sentence two of the clause. Mr. Chairman, How can this be if this bill directly contravenes sentence one's mandate that every State is required to recognize the official public acts and judicial proceedings of other States?

If we are to follow the flawed logic of this argument, it would follow that sentence two of the clause must be read to say that States must recognize the official acts of other States except when Congress passes a law that says they don't have to. Mr. Chairman, this not only flies in the face of every States rights argument I have heard from the majority since I began serving in this body, but it also has the unconstitutional effect of amending the full faith and credit clause of the Constitution without actually going through the very cumbersome and challenging process of amending the Constitution through a two-thirds majority vote in both houses of Congress and ratification by the States.

IMPLICATIONS FOR THE EQUAL PROTECTION CLAUSE

Additionally, H.R. 3396 could engender equal protection challenges because the law may not survive the rational basis test adopted by the Supreme Court with respect to legislation establishing certain types of classifications. H.R. 3396 would allow a State not to recognize same-sex marriages legalized in other States if it so chooses. Therefore, it is necessary to determine whether there is rational connection between this law and the intended governmental purpose it seeks to further.

In the case of *Baehr* v. *Lewin,* 852 P. 2d 44 (Haw. 1993) the Hawaii State Supreme Court rejected the arguments made to deny the right of two individuals of the same sex to marry on the basis that Hawaii's State Constitution considers classifications on the basis of sex to be suspect in nature and subject to strict scrutiny analysis. However, for purposes of Federal constitutional challenge, legal experts have come to the conclusion that the rational basis test would probably be used to consider the constitutionality of the H.R. 3396.

The authors content that H.R. 3396 is necessary for the preservation of the institution of marriage, hence the title of the bill. However, would H.R. 3396 in fact allow the United States to further its interest in the preservation of the institution of marriage? Or put differently, I have not yet heard of any empirical data which may even mildly suggest the rational and logical connection between H.R. 3396 and its intended governmental purpose.

Considering that one in two marriages result in divorce in the U.S., and that many children of heterosexual marriages are suffering from family-unit-debacle, it is safe to conclude that H.R. 3396 is by far not the most appropriate form of legislation with respect to achieving the perceived governmental purpose of ''protect[ing] the institution of marriage'' by defining a marriage only as ''a legal union between one man and one woman as husband and wife.'' It thus follows that there does not seem to be a rational basis between H.R. 3396 and the intended governmental purpose.

Moreover, the Supreme Court this term in the case of *Romer* v. *Evans* 64 U.S.L.W. 4353 (1996) rejected amendment No. 2 of the Colorado State Constitution on the grounds that there was no rational basis between amendment No. 2's repudiation of special protection for homosexuals and the State's articulated governmental purpose.

Approximately 17 areas of federally enacted legislation and programs would be affected if this bill were to become law, specifically banking; bankruptcy; civil service; consumer credit; copyright; education' Federal lands and resources; housing; immigration; judiciary; labor; military; social security; taxation; veterans; the Soldiers' and Civil Relief Act; and, welfare.

In effect, this bill would deny gay men and women hospital visitation rights, health coverage, and other forms of insurance, inheritance and taxation rights, government benefits for spouses, immigration rights for spouses, and other rights. Just as the States should not interfere in any way with religious ceremonies, religious groups may not govern who receives a civil marriage license. This would in fact pose serious problems for the fundamental principle of the separation of church and state implicitly established in the first amendment of the U.S. Constitution.

Mr. Chairman, when I came to Congress, I placed my hand on the Bible and swore to uphold the Constitution; now, I am being asked to place my hand on the Constitution and uphold the Bible, the Koran, the Torah, and other religious doctrine. The U.S. Constitution must remain the supreme law of the land. This document protects the rights of all to believe and worship as they choose.

I swore to uphold the Constitution against enemies foreign and domestic, to protect minorities and minority viewpoints from the tyranny of the majority, to protect African-Americans from racism, Jews from anti-Semitism, Arabs from anti-Arabism, women from sexism, and gays and lesbians from homophobia and discrimination.

With this vote, I am sending a message to all coalitions that those who have sworn to protect the Constitution will do just that. We will protect their rights.

If defense of marriage meant a job in every household and adequate education for all children; if defense of marriage meant a single-family home for all Americans; if defense of marriage meant universal health care for all Americans, then we would be truly addressing the moral crisis confronting the institution of marriage.

We know, however, that the Defense of Marriage Act compels this Congress to exceed the boundaries of its constitutional authority. This bill offends the Constitution, by violating both the full faith and credit and equal protection clauses of this sacred document.

Whether churches choose to perform ceremonies is within the domain of the churches to decide. Under the Constitution, our national government must uphold the wall between church and state. We know that we cannot dictate the churches' activities.

It is also clear that the church cannot instruct the government to restrict the rights of the church, their followers, or their faith; nor can the church call upon Congress to contravene or undermine the Constitution.

Both the Bible and the Constitution have a role, but they are different roles. The Bible did not free African-Americans, it saved African-Americans and it saved me. The Emancipation Proclamation and the 13th amendment did not save me, but it did outlaw slavery. I am saved today because of the Bible, but I am in Congress today because of the 14th amendment and the Constitution as amended.

Mr. Chairman, in light of the foregoing, I caution my colleagues to look closely at these issues before supporting this bill.

Ms. ESHOO. Mr. Chairman, I rise today in opposition to what I view as an unfair, unnecessary and unconstitutional bill. This measure will federally codify discrimination against a group of Americans striking a blow to justice and equal treatment for all people.

Mr. Chairman, less than 30 years ago many in this Nation believed that allowing interracial couples to marry would seriously denigrate American society, and many State laws reflected that. The U.S. Supreme Court invalidated these laws, recognizing the freedom to marry as ''one of the vital personal rights essential to the orderly pursuit of happiness by free men.'' Should the Federal Government step in and dictate to States, it would be an abrogation of States' rights.

Currently, no State permits same-sex marriages. Hawaii is debating the issue, but the final decision is not expected for another 2 years. Furthermore, States already have the capacity to determine whether they will recognize marriages performed in other States. Most importantly, in the entire history of this Nation—for over 200 years—never has the Federal Government intervened in the State regulation of marriage. Never. The 10th amendment to our Constitution—which we are sworn to uphold—states that powers not enumerated to the Federal Government are reserved to the States. So, I ask my colleagues, why are we getting involved?

This brings me to my final point. This measure is unconstitutional. Article four, section one of the U.S. Constitution states that the ''Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State.'' We cannot alter the U.S. Constitution with a simple act of Congress. In addition, the 14th amendment provides for ''equal protection of the laws'' for all citizens. Clearly the rights of gay and lesbian citizens would be abridged by this bill. Just as the Supreme Court found in 1967 that racial distinctions between citizens are ''odious to a free people whose institutions are founded upon the doctrine of equality,'' the Court would again, I believe, invalidate this bill. The Court most recently ruled that targeting a segment of society with animus must be unconstitutional.

Lastly, there is clearly a political agenda driving this legislation. Barely 30 legislative days remain before the election and we have yet to complete our constitutionally mandated responsibility of funding the government. Yet we are debating this election-year ploy by a party attempting to divide the Nation. We are not debating the granting of a sacrament of marriage: Congress can't do that. We are debating States' rights and the rights of privacy. I recognize the general, pervasive discrimination gay men and lesbians face in society and in this House. I also recognize that many will disagree with me, but by advocating discrimination, we're breaking down the bonds which hold this Nation together when we should be strengthening them. I urge all my colleagues to oppose this unfair, unnecessary and unconstitutional legislation.

Mrs. COLLINS of Illinois. Mr. Chairman, I rise in support of the gentleman from Massachusetts' amendment that suspends the definition of marriage for any State that adopts a different definition through its normal democratic process.

Mr. Chairman, the so-called Defense of Marriage Act should really be called the Republican Offense on People Who are Different Act because it is nothing more than blatant homophobic gay-bashing.

The conservative elements of our American society have often discriminated against and tried to prevent whatever they didn't like or didn't understand. It hasn't been so long ago that blacks and whites weren't allowed to marry in any State. So, devoted couples pledged their commitment to caring for each other in private ceremonies, their children were considered illegitimate, and the spouses were not legally entitled to inherit from their partners, nor share in any public benefits.

And, not so long ago, 50 States and the District of Columbia had very different laws about who could marry, the age the partners had to be, the length of the waiting period between applying for a marriage license and the ceremony—and they still do. Even now there are different laws about divorce, about residency requirements to obtain a divorce, about the kind of alimony or support one spouse has to pay to another, and many other differences. The Federal Government sorts out who is eligible to benefit from public support from these spouses and former spouses, even as people move from one State to another; and the Federal Government can and will continue to sort these issues out as they become timely, which this Offense on Marriage Act is not.

The issue of who should marry within a State are the proper jurisdiction of the individual States. My grandmother probably couldn't envision a time when interracial marriages would be legal in America, but today they are. One kind of discrimination is just as onerous as another, and neither should be tolerated. For the Republican majority of this Congress to be taking up this bill, which attempts to usurp States' rights, makes a farce of their frequent rallying cry to limit Federal intrusion into the personal lives of America's citizens. However, when it concerns a woman's right to choose, or in this case the rights of adults to choose their life partners, the Republicans abandon their mantra of preserving States rights.

This bill should be defeated and I urge my colleagues to use their common sense and leave this issue up to the States. It is homophobic and discriminatory, and it attempts to address a situation that should be left up to the States. It is not the proper jurisdiction of the Congress or the Constitution.

As I walk past the Republican side of the aisle, I expect to hear something similar to an old joke from the civil rights era: ''Some of my good friends are gay, I just wouldn't want my son or daughter to marry one.''

My response is that: that's their own personal, private business.

Mrs. MALONEY. Mr. Chairman, I rise in strong support of the Frank amendments to H.R. 3396, the Defense of Marriage Act.

This has been a Congress that has repeatedly talked about sending power back to the States.

But now, all of a sudden, the Federal Government must step in on the issue of marriage, an issue which has always been decided by the States.

Hawaii is now examining this issue, but the court case is not expected to be settled for about 2 more years.

From a legal perspective, because same-sex marriage is not legal, this bill is not necessary except as a direct attack on gays and lesbians.

Constitutionally, this bill is also not necessary. According to the ''full faith and credit'' provision of the Constitution, States already have the power not to recognize same-sex marriages.

There is no clear, compelling reason for the Federal Government to step in now—except a purely political one.

But this issue is more than a legal one—it is about civil rights, it is about fairness, and it is about equal rights for all citizens.

Despite the rhetoric of the religious right, one can honor the relationship between a man and a woman without attacking lesbian and gay people or their relationships.

This issue is important to me because it is important to my constituents.

Over 1,000 of my constituents have contacted me to express their opposition to this blatant form of discrimination.

I agree with one writer who said—this legislation is ''nothing more than an attempt to divide the country by beating up on gay men and lesbians.''

Another constituent added, ''Congress should be attending to the business of the country, not attacking American citizens.''

I couldn't have said it better.

This bill is about discrimination, pure and simple.

I urge my colleagues to support the Frank amendments.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The amendment was rejected.

PREFERENTIAL MOTION

Mr. GUNDERSON. Mr. Chairman, I offer a preferential motion.

The CHAIRMAN. The Clerk will report the motion.

The Clerk read as follows:

Mr. GUNDERSON moves that the committee do now rise and report the bill back to the House with the recommendation that the enacting clause be stricken out.

The CHAIRMAN. The gentleman from Wisconsin [Mr. GUNDERSON] is recognized for 5 minutes in support of his motion.

(Mr. GUNDERSON asked and was given permission to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Chairman, I offer this motion today so that I might ask a question.

Why are we so mean? Why are we so motivated by prejudice, intolerance

and, unfortunately in some cases, bigotry? Why must we attack one element of our society for some cheap political gain? Why must we pursue the politics of division, of fear, and of hate?

Yes, marriage is under attack in our society today, but may I suggest to my colleagues it is not because of same-sex relationships. In all due respect, lesbians have no interest in making anyone their husband and gay men have no interest in pursuing anyone's wife. Rather, marriage might be under attack because of alcohol abuse, because of spousal abuse and, might I suggest, even Sunday afternoon football.

Like most of my colleagues, I too grew up with basical traditional values. My religion and my heritage also define marriage as a union between one man and one woman. So I went to my party's leadership and I went to the distinguished gentleman from Illinois, Chairman HYDE, and I went to Speaker GINGRICH, and I said I am willing, as a gay man, to support your efforts to reaffirm that the word marriage represents a union between a man and a woman. All I ask in return is that we take the meanness out of this legislative initiative.

I ask my leadership to recognize that those of us who happen to be in long-term loving relationships also might be considered or at least studied for the potential of legitimate benefits and privileges. For example, if I were to get sick, why should my partner not have automatic visitation rights and automatic consultation with the doctor?

I have letters in my office of people from cancer to AIDS who have been denied that basic privilege. When a friend of mine died last year of AIDS, his partner of 16 years could not sign the documents at the funeral home. Must we impose such indignities upon people even upon the death of their very best friend in life?

And frankly, I want to ask my colleagues, why should my partner of 13 years not be entitled to the same health insurance and survivor benefits that individuals around here, my colleagues with second and third wives, are able to give to them?

So I asked my leadership, can we at least put together a commission to compare the privileges, rights and benefits given to those in marriage but denied to those in long-term relationships? We will not change any policy, we will not change anything in the bill, rather we would seek simply to look at Federal, State and international law so that we might have a body of accurate information upon which to deliberate in the future.

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In so doing, we would not only reaffirm the traditional definition of marriage, but we would also send the signal of our sensitivity and respect to those who happen to be gay or lesbian.

The gentleman from Illinois [Mr. HYDE] and I want to thank him for his decency and sensitivity in discussing this with me, suggested that while he could not support a commission he could support a GAO study. So I drafted an amendment which calls for such a GAO study to be a part of this bill, and I shared it with the gentleman from Illinois and Chairman GINGRICH. Unfortunately, others in my party insisted that this small step of basic decency and respect not be included in this bill.

Unfortunately such action, I think, exposes this legislative initiative for the mean political game it is. And I am truly sorry about that.

I stand here today with respect and with love for each of you as fellow Members of the human race. All I ask in return is that you do not intentionally make me any less worthy than you.

Mr. Chairman, I ask unanimous consent that the motion be withdrawn.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsion [Mr. GUNDERSON]?

There was no objection.

AMENDMENT OFFERED BY MR. FRANK OF MASSACHUSETTS

Mr. FRANK of Massachusetts. Mr. Chairman, I offer an amendment made in order by the rule.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. FRANK of Massachusetts: Page 3, after line 20, insert:

(b) APPLICATION.—

(1) Subsection (a) shall not apply if the State in which the persons affected by such application of subsection (a) has determined that the definition of ''marriage'' or ''spouse'', or both, shall be different than that in subsection (a), provided such State determination is in the form of—

(A) legislation; or

(B) citizen initiative or referendum.

(2) In the case where such a determination is made by judicial decision interpreting a State constitution, subsection (a) shall cease to apply if the minimum time necessary in that State for an amendment to the State constitution elapses and the State's determination remains in effect.

(3) In the case where such a determination is made by judicial decision interpreting a State statute, subsection (a) shall cease to apply with the adjournment of the next session of the State legislature.

Page 3, line 21, strike ''(b)'' and insert ''(c)''.

The CHAIRMAN. Pursuant to House Resolution 474, the gentleman from Massachusetts [Mr. FRANK] and a Member opposed each will control 7½ minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK of Massachusetts. Mr. Chairman, let me reassure those Members with ''rollcall envy'' that they can have one on this one.

Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. DEFAZIO].

(Mr. DEFAZIO asked and was given permission to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Chairman, I rise in support of the amendment and in opposition to the bill.

Mr. Chairman, I rise in opposition to H.R. 3396, the Defense of Marriage Act. This bill is unnecessary, discriminatory and possibly unconstitutional. There is no question that we have real problems with family disintegration in this country, but this legislation is not intended to defend or improve the success of marriage, rather it is intended to further divide the country over the issue of gay rights.

I'm saddened that, at a time when so many important issues face this country we are taking up valuable time discussing a bill that truly is a solution in search of a problem.

Same sex marriage is not currently legal anywhere in the United States. And in over 200 years, the Federal Government has never attempted to develop a Federal definition of marriage. That right and responsibility has been left to the States.

The Federal Government recognizes any State sanctioned marriage. However, States do not have to give full faith and credit to marriages sanctioned in other States. For instance, my home State of Oregon does not recognize marriages of 12-year-olds, but the State of Massachusetts allows 12-year-old females to marry, and the State of Alabama allows 14-year-olds to marry. In fact, several States even allow first cousins to marry.

So if States can already refuse to recognize certain kinds of marriages performed in other States, what is the point of this legislation?

If, as the proponents of this legislation claim, States do not have the authority to claim exemption from the full faith and credit clause, then a simple statue is not adequate to circumvent the Constitution's full faith and credit clause—we would need to pass a constitutional amendment.

So, again, what is the point of this legislation?

And where would this type of legislation lead us? We risk setting a dangerous precedent by crossing the threshold of preempting States by establishing a Federal definition of marriage. Once we cross that threshold, what is to prevent the Federal Government from setting a national age of majority for marriage and preempting all States as in China where the legal marriage age has been set as high as 28 years old, and changes almost annually. Furthermore, what is to prevent the Federal Government from setting new and rigorous standards for divorces preempting all State laws?

I have long supported the ability of long-term committed domestic partners to receive some sort of legal recognition. There are a host of areas where family members need legal standing—hospital visitations when someone is critically ill or injured, to be at a loved one's side when they die, decisions about medical care and guardianship for someone who is ill or incapacitated, and the authority to carry out someone's last wishes, to name a few.

A number of local jurisdictions around the country have extended legal rights to domestic partners. That is exactly where these types of decisions should be made—by local communities and States, not by the Federal Government dictating and mandating these issues for them.

This is not serious legislation to address a real need in this country. It is a cynical political gesture, which has more to do with Presidential election year politics than addressing the needs of the American people.

I urge my colleagues to oppose this legislation.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS], the ranking Democrat on the Committee on the Judiciary.

Mr. CONYERS. Mr. Chairman, I rise in support of this slimmed-down revision of section 3 to allow the States, which enact their own same-sex marriage laws, to have those marriages respected by the Federal Government. Surely, Members on the other side of the aisle can support this amendment. I hope they can.

Mr. Chairman, I hope that the excellent job of whipping up the populace into a frenzy will subside somewhat and we can consider what we are dealing with.

For my good friend, the gentleman from Florida [Mr. CANADY], the subcommittee chairman who keeps laying this 70-percent population figure on us, may I remind the gentleman that 70 percent of the population was against ending segregation when the civil rights laws passed in the United States of America in the sixties. The gentleman shakes his head negatively, but he is incorrect.

Now, I wish my good friend from Wisconsin who made his very impassioned remarks would have included in the reasons for marriage being in trouble in America, if it is, that it is because of joblessness. I do not know what is going on between all the spouses, but joblessness is a huge driving force.

And finally, for ex-Senator Bob Dole, who I give advice on occasion, why is he so angry that President Clinton agrees with him on this issue? What is the beef, Bob? I mean, after all, you forced him to do this.

Mr. Chairman, we are going to stick with the gentleman from Georgia [Mr. LEWIS]. Eventually we will all come around and realize where this is going. I thank the Members for their kind attention.

I rise in strong support of the gentleman's amendment revising section 3 of the bill to allow States, which enact their own same sex marriage laws, to have those marriages respected by the Federal Government.

Around this body we hear a lot of talk about States rights. Well this amendment gives all of the Members a chance to back up their rhetoric. For more than 200 years Congress has allowed determinations of marriage status to be a purely State matter. Yet, unless this amendment is adopted, we in the Congress will be telling the States how to run their business. We will be saying a marriage that they have blessed is not good enough for Federal recognition.

This amendment serves to illustrate the blatant hypocrisy which characterizes the entire legislation. The entire matter has very little to do with the Federal Government. It is black-letter law that the States are free to reject marriages approved by other States which violate public policy. It is pursuant to this authority that States have invalidated marriages consummated in other States which are incestuous, polygamous, based on common law, and involve under-age minors. Ironically, by enacting this law, Congress will, by implication, be limiting the States authority to reject other types of marriage which may be contrary to public policy.

It seems clear to me that the only reason we are here even debating this issue is that Republicans are intent on creating a political issue completely out of thin air so they can demonize gay and lesbian individuals and further divide the American people. The Contract With America has been a flop, the Repubican Party is behind in the polls, and their leadership is desperately trying to manufacture widge political issues. If there were any other reason, they would slow this bill down, wait for the courts and the State of Hawaii to act, and seriously analyze the legal implications of what they are doing.

Fortunatley, I don't think the American people will be fooled by this legislative red herring. They want real solutions that improve their every day lives, not legislative placebos. We can begin doing so by voting for this amendment and returning power back to the States.

ANNOUNCEMENT BY THE CHAIRMAN

The CHAIRMAN. The Chair would note that remarks in debate should be addressed to the chair.

Mr. CANADY of Florida. Mr. Chairman, I rise to claim the time in opposition to the Frank amendment.

The CHAIRMAN. The gentleman from Florida [Mr. CANADY] is recognized for 7½ minutes.

Mr. CANADY of Florida. Mr. Chairman, I yield 1½ minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, I deeply regret that my colleague from Wisconsin, Mr. GUNDERSON, left before we could respond to his remarks. And I regret that he was not here when I made my remarks on why this legislation is in front of us.

Mr. Chairman, this legislation is not mean-spirited. It is not divisive. It is not cynical. It is a legitimate response to a well-publicized legal move to try to expand a decision in Hawaii to the rest of the country and to Federal law.

Now, the question is not whether or not we are compassionate. I think we all are compassionate because uncompassionate people do not get elected to Congress. But the question is how these issues should be debated and how the decision should be made.

I believe in the power of the people and the power of the Congress to make the right decisions and to do the right thing. And we ought to have an open debate on the issue of whether Federal benefits should be expanded to couples who get involved in gay marriages. The place for that debate, I would submit, is in the forum of public opinion, and the greatest deliberative legislative body in the world, the Congress of the United States, rather than having judges that are not elected and judges that are not responsible to the people bootstrap a decision in one State to national policy.

Mr. Chairman, I am sorry the gentleman from Wisconsin does not understand that. I think the rest of the House does.

Mr. CANADY of Florida. Mr. Chairman, I yield 2 minutes to the gentleman from Georgia [Mr. BARR].

Mr. BARR of Georgia. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, the consummate cleverness of the amendment's proponent is obvious once again. His first amendment was a killer amendment, pure and simple. It trained its cross hairs on the heart of the bill and made no bones about it. This one is a little bit different. It trains its cross hairs on the heart of the bill, but it kills it with a silencer. Yet the result would be the same.

The fact of the matter is, Mr. Chairman, it is the prerogative, the authority, the responsibility, and the sole jurisdictional power of the Congress of the United States to determine the reach of Federal laws, Federal benefits, Federal regulations.

I matters not whether that power is attempted to be usurped by a State court, a State legislature, or the citizens of a State by referendum. The fact of the matter is they cannot do so. They should not be allowed to do so. And for any Member of this body to stand up and say on behalf of my 20 constituents, I am going to abrogate that responsibility to the citizens of a State, is an absolute outrage and an irresponsibility. It is a derogation of their duty as a representative of the people to protect the integrity of Federal powers, Federal jurisdiction, Federal laws, benefits and responsibilities.

This amendment is a killer amendment. It may be sugar coated, it may have a silencer on it, but the effect is just as deadly. This amendment deserves to be defeated because if it is not, the underlying bill will not be enacted into law, and I urge my colleagues to defeat this second Frank amendment.

Mr. FRANK of Massachusetts. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, so much for block grants. We heard the gentleman from Georgia. How dare we think that those State-elected officials ought to decide how to spend Federal money. Do not let them usurp and preempt. I could not have heard a better denunciation of block grants from the staunchest federalizing liberal around, because that is what is at issue.

Mr. Chairman, I do appreciate the reference of the gentleman from Georgia [Mr. BARR] to my consummate cleverness. There are circles in which I will have to explain away having received that compliment from him, but I am willing to take on that burden.

Mr. Chairman, the point is that the gentleman is upset because the amendment is not stupid. And I apologize. There is nothing in the rules that says our amendments have to be stupid. I anticipated some of their arguments.

They have been arguing, and let us be clear what this amendment says. This

amendment leaves alone that part of the bill that purports to protect other States from having to do what Hawaii does. I do not think they have to anyway, but this double protects them. That is not an issue.

This amendment says, and it says it clearly. Indeed, let me say immodestly, citing as authority the gentleman from Georgia, it says it ''consummately cleverly'' or ''cleverly consummately,'' that if a State by democratic procedures, by involvement of its electorate, either directly in a referendum or through its legislature or by decision to allow a court decision to stand after the time has gone by, if a State makes a democratic decision that says if two men in this State are in love or two women in this State are in love and they are prepared to undertake the obligations of marriage, they are prepared to live together and commit to each other, they are prepared to make legal, binding representations to each other, the Federal Government will treat them in that State as it treats anybody else. The Federal Government will treat them as the beneficiaries of that democratic decision.

Mr. Chairman, what the bill says is if there is a referendum in a State, if there is a unanimous vote in the legislature to allow two people to love each other, we the Federal Government will say no. Why? We heard the gentleman from Georgia. Because we, the Federal Government, will decide.

Again, let us not have any of this block grant nonsense. Let us not talk about State autonomy. We will sit here in Washington and tell Hawaii who can love each other and who cannot. Of course, they can make a law in Hawaii, but it will not be a real marriage. It will not have Federal tax benefits; it will not have pension benefits; it will not have testimonial privilege.

Let us be very clear, Mr. Chairman. I appreciate the candor of the gentleman. Let us not have any of this nonsense about State autonomy. That is what this amendment says. It says if the Hawaii Supreme Court does it, it still would not take effect. But if the Hawaii Supreme Court makes a decision and enough time goes by under the Hawaii constitution, the legislature let it stand, there was a referendum in favor of it, we will then allow it.

So here is what we are being told. Do not let the democratic processes of a single State allow same-sex marriage in that State to be a federally valid marriage, even though it means it will have no effect on any other State. We are not attacking that point.

If my amendment passes, the bill will say what one State does has no effect on any other State. Another State does not have to have it. If a State makes a democratic decision to let two women love each other in a loving relationship, that cannot be because it will dissolve marriage, and we get back to that.

There are people in this society, heterosexuals who are married, who have been accused of spousal abuse; who have been accused of and have acknowledged not supporting their children; who have had multiple divorces and remarriages. Those are serious problems. We need to help people with that.

But implicitly to blame those on the fact that two men love each other is extraordinarily unfair and that is why we heard the eloquent, passionate statement of the gentleman from Wisconsin who proceeded me. He and I and others are willing to take on the burden of working out the difficulties of two human beings becoming mutually committed.

Mr. Chairman, we are talking about two human beings. And for those who pretend not to know the difference between a monogamous relationship between two human beings and polygamy, I must say that I think they debase and debate when they use that kind of analogy. Everyone knows the real difference.

We are talking about mutuality; about two people loving each other and committing to each other. Do Members know what they are saying if they vote down this amendment? ''No, you cannot do that. How dare you have a democratic vote in a State to allow two people to show love and commitment and affection. We cannot allow that, because it threatens our marriages.''

Mr. Chairman, I do not believe anyone really thinks it threatens their marriages. I do not understand what motivates them. In one case someone said: Do not allow them the sacrament of matrimony. We have no power to give anyone any sacraments. We are not in the business of dispensing sacraments, and I hope we never get there.

Mr. Chairman, we are creating an institution called civil marriage. People in this Chamber have taken full advantage of their right legally to divorce. People have had several divorces. That is not a sacrament. We did not create the sacrament of ''holy divorce.'' We allow this, in society, in a sensible society with personal freedom, individuals to make choices in a civil society. Those who find that religiously offensive are free to do nothing about it. They are free not to participate in it.

We are talking here about creating an institution of civil society. In fact we are not talking about creating it. We are saying if the Federal Government sees a State by democratic means in this amendment create an institution of civil society that allows two people to love each other, the Federal Government will do what it can to stop it. Why? My colleagues heard the gentleman from Georgia. Because how dare they preempt and usurp the State.

Who is preempting and usurping? The legislature. How dare the legislature of Hawaii preempt our imperial right to decide who is married and who is not married. How dare the people of Hawaii presume to think that they can define love in an effective way.

Mr. Chairman, I hope the amendment is adopted.

Mr. CANADY of Florida. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. HYDE], chairman of the Committee on the Judiciary.

(Mr. HYDE asked and was given permission to revise and extend his remarks.)

Mr. HYDE. Mr. Chairman, I thank the gentleman from Florida [Mr. CANADY] and my colleagues.

Mr. Chairman, I can tell you this is one of the most uncomfortable issues I can think of to debate. It is something I really shrink from because there is no gentle easy way, if we are to be honest and candid, to discuss the objections to same-sex marriage, the disapprobation of homosexual conduct, without offending and affronting an ever-widening group of people who have come to accept homosexual conduct.

But, Mr. Chairman, we are driven to this debate. We are driven to this debate by the courts. The Romer versus Evans case which was decided May 20 of this year is a fascinating case, and it provides really a preferred status for homosexual people, and may very well invalidate a State's heretofore unquestioned power to reject the conduct in another State on public policy grounds.

If a marriage was incestuous and it was celebrated in one State, another State did not have to accept that on public policy grounds. Now, there is a real question because of Romer versus Evans, a Supreme Court case.

The fascinating thing is that the Bowers versus Hardwick case was not even discussed in Romer versus Evans. Bowers versus Hardwick is a 1986 case which said a State may criminalize the act of sodomy. Twenty-five States have laws criminalizing homosexual conduct. The defining act of homosexuality is a crime in 25 States. It used to be in all the States, but many of the States have reversed their laws because they cannot enforce them. There is no way to enforce them.

Mr. FRANK of Massachusetts. Mr. Chairman, will the gentleman yield?

Mr. HYDE. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. If the gentleman's interpretation, I mean this seriously, if the gentleman's interpretation of Romer versus Evans is correct, and we do not know whether it is or not, would that not also apply then to the section here? In other words, if the court were to hold under Romer versus Evans——

Mr. HYDE. Yes, it could.

Mr. FRANK of Massachusetts. So that this could also apply to this section equally.

Mr. HYDE. It could. But that is why we need this statute in my judgment, to give a little more leverage to the States.

Mr. FRANK of Massachusetts. If the gentleman would continue to yield for 10 seconds, if in fact it is unconstitutional because of an interpretation of

parts of the Constitution, no statute would hold against that.

□ 1315

Mr. HYDE. Well, maybe, maybe not. Maybe, maybe not is all. You cannot speculate about the court.

The gentleman from Massachusetts [Mr. STUDDS] said that the unfinished business of the civil rights movement is homosexual acceptability. There is no power on Earth to stop it. Maybe and maybe not. He has something, when I look around and see the entertainment stars in our country are Michael Johnson and Madonna, he could be right. The homosexual movement has been very successful in intimidating the psychiatric profession. Now people who object to sodomy, to two men penetrating each other are homophobic. They have the phobia, not the people doing this act. That is a magnificent accomplishment for public relations.

Let us talk about this bill. This is the most delicate and limited measure that Congress could possibly produce on this subject. First of all, as to defining marriage in the Federal code, who else should define it except this Congress, the Federal legislature. Not the courts, the courts are usurping legislative functions. It is appropriate that Congress define marriage. You may not like the definition the majority of us want, but most people do not approve of homosexual conduct. They do not approve of incest. They do not approve of polygamy, and they express their disapprobation through the law. It is that simple. It is not mean spirited. It is not bigoted. It is the way it is, the only way possible to express this disapprobation.

Now, two men loving each other does not hurt anybody else's marriage, but it demeans, it lowers the concept of marriage by making it something that it should not be and is not, celebrating conduct that is not approved by the majority of the people.

Defeat the amendment. Vote for the bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. FRANK].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRANK of Massachusetts. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 103, noes 311, not voting 19, as follows:

[Roll No. 314]

AYES—103

Abercrombie
Ackerman
Barrett (WI)
Becerra
Beilenson
Berman
Blumenauer
Bonior
Brown (CA)
Brown (FL)
Brown (OH)
Campbell
Clay
Clayton
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
DeFazio
Dellums
Dingell
Dixon
Engel
Eshoo
Farr
Fattah
Fazio
Filner
Frank (MA)
Furse
Gejdenson
Gephardt
Gonzalez
Gunderson
Gutierrez
Harman
Hastings (FL)
Hilliard
Hinchey
Horn
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kennedy (MA)
Kennedy (RI)
Kennelly
Lantos
Lewis (GA)
Lofgren
Lowey
Maloney
Markey
Martinez
Matsui
McCarthy
McDermott
McKinney
Meehan
Meek
Millender-McDonald
Miller (CA)
Mink
Moakley
Moran
Nadler
Neal
Olver
Owens
Pallone
Payne (NJ)
Pelosi
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Skaggs
Slaughter
Stark
Stokes
Studds
Torres
Torricelli
Towns
Velazquez
Vento
Ward
Waters
Waxman
Woolsey
Yates

NOES—311

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blute
Boehlert
Boehner
Bonilla
Bono
Borski
Boucher
Brewster
Browder
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Clinger
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dickey
Dicks
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Durbin
Edwards
Ehlers
Ehrlich
English
Evans
Everett
Ewing
Fawell
Fields (TX)
Flake
Foglietta
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Gallegly
Ganske
Gekas
Geren
Gilchrest
Gillmor
Gilman
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Greenwood
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hobson
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Johnson (CT)
Johnson (SD)
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kildee
Kim
King
Kingston
Kleczka
Klink
Klug
Knollenberg
Kolbe
LaHood
Largent
Latham
LaTourette
Laughlin
Lazio
Leach
Levin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Luther
Manton
Manzullo
Martini
Mascara
McCollum
McCrery
McHale
McHugh
McInnis
McIntosh
McKeon
McNulty
Menendez
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Mollohan
Montgomery
Moorhead
Murtha
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Oberstar
Obey
Ortiz
Orton
Oxley
Packard
Parker
Pastor
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Pryce
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shays
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Stupak
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thomas
Thornberry
Thurman
Tiahrt
Torkildsen
Traficant
Upton
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Williams
Wise
Wolf
Wynn
Young (AK)
Zeliff
Zimmer

NOT VOTING—19

Dunn
Ensign
Fields (LA)
Flanagan
Ford
Gibbons
Hall (OH)
Johnston
LaFalce
Lincoln
Longley
McDade
Morella
Roberts
Thompson
Thornton
Watt (NC)
Wilson
Young (FL)

□ 1335

The Clerk announced the following pair:

On this vote:

Mr. Johnston of Florida for, with Mr. Longley against.

Messrs. ALLARD, SMITH of New Jersey, and GENE GREEN of Texas changed their vote from ''aye'' to ''no.''

Mrs. KENNELLY and Mr. RUSH changed their vote from ''no'' to ''aye.''

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore (Ms. GREENE of Utah) having assumed the chair, Mr. GILLMOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3396) to define and protect the institution of marriage, pursuant to House Resolution 474, he reported the bill back to the House.

The SPEAKER pro tempore (Ms. GREENE of Utah). Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentlewoman opposed to the bill?

Ms. JACKSON-LEE of Texas. Yes, I am, Madam Speaker, in its present form.

Mr. CANADY of Florida. Madam Speaker, I reserve a point of order against the motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida [Mr. CANADY] reserves a point of order.

The Clerk will report the motion to recommit.

The Clerk read as follows:

Ms. JACKSON-LEE of Texas moves to recommit the bill, H.R. 3396, back to the Committee on the Judiciary with instructions to report the bill back forthwith with the following amendment:

Page 3, line 24, at the end of the bill, add the following new sections to the legislation:

SEC. 4. SHORT TITLE.

This Act may be cited as the ''Employment Non-Discrimination Act of 1996''.

SEC. 5. DISCRIMINATION PROHIBITED.

A covered entity, in connection with employment or employment opportunities, shall not—

(1) subject an individual to different standards or treatment on the basis of sexual orientation,

(2) discriminate against an individual based on the sexual orientation of persons with whom such individual is believed to associate or to have associated, or

(3) otherwise discriminate against an individual on the basis of sexual orientation.

SEC. 6. BENEFITS.

This Act does not apply to the provision of employee benefits to an individual for the benefit of his or her partner.

SEC. 7. NO DISPARATE IMPACT.

The fact that an employment practice has a disparate impact, as the term ''disparate impact'' is used in section 703(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2(k)), on the basis of sexual orientation does not establish a prima facie violation of this Act.

SEC. 8. QUOTAS AND PREFERENTIAL TREATMENT PROHIBITED.

(A) QUOTAS.—A covered entity shall not adopt or implement a quota on the basis of sexual orientation.

(b) PREFERENTIAL TREATMENT.—A covered entity shall not give preferential treatment to an individual on the basis of sexual orientation.

SEC. 9. RELIGIOUS EXEMPTION.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall not apply to religious organizations.

(b) FOR-PROFIT ACTIVITIES.—This Act shall apply with respect to employment and employment opportunities that relate to any employment position that pertains solely to a religious organization's for-profit activities subject to taxation under section 511(a) of the Internal Revenue Code of 1986.

SEC. 10. NONAPPLICATION TO MEMBERS OF THE ARMED FORCES; VETERANS' PREFERENCES.

(a) ARMED FORCES.—(1) For purposes of this Act, the term ''employment or employment opportunities'' does not apply to the relationship between the United States and members of the Armed Forces.

(2) As used in paragraph (1), the term ''Armed Forces'' means the Army, Navy, Air Force, Marine Corps, and Coast Guard.

(b) VETERANS' PREFERENCES.—This Act does not repeal or modify any Federal, State, territorial, or local law creating special rights or preferences for veterans.

SEC. 11. ENFORCEMENT.

(a) ENFORCEMENT POWERS.—With respect to the administration and enforcement of this Act in the case of a claim alleged by an individual for a violation of this Act—

(1) the Commission shall have the same powers as the Commission has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), or

(B) sections 302, 303, and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202, 1203, 1204), in the case of a claim alleged by such individual for a violation of such title or of section 302(a)(1) of such Act, respectively,

(2) the Librarian of Congress shall have the same powers as the Librarian of Congress has to administer and enforce title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title,

(3) the Board (as defined in section 101 of the Congressional Accountability Act of 1995 (Public Law 104–1; 109 Stat. 3) shall have the same powers as the Board has to administer and enforce the Congressional Accountability Act of 1995 in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act,

(4) the Attorney General of the United States shall have the same powers as the Attorney General has to administer and enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.), or

(B) sections 302, 303, and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202, 1203, 1204),

in the case of a claim alleged by such individual for a violation of such title or of section 302(a)(1) of such Act, respectively, and

(5) the courts of the United States shall have the same jurisdiction and powers as such courts have to enforce—

(A) title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title,

(B) sections 302, 303, and 304 of the Government Employee Rights Act of 1991 (2 U.S.C. 1202, 1203, 1204) in the case of a claim alleged by such individual for a violation of section 302(a)(1) of such Act, and

(C) the Congressional Accountability Act of 1995 (Public Law 104–1; 109 Stat. 3) in the case of a claim alleged by such individual for a violation of section 201(a)(1) of such Act.

(b) PROCEDURES AND REMEDIES.—The procedures and remedies applicable to a claim alleged by an individual for a violation of this Act are—

(1) the procedures and remedies applicable for a violation of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) in the case of a claim alleged by such individual for a violation of such title,

(2) the procedures and remedies applicable for a violation of section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) in the case of a claim alleged by such individual for a violation of such section, and

(3) the procedures and remedies applicable for a violation of section 201(a)(1) of Congressional Accountability Act of 1995 (Public Law 104–1; 109 Stat. 3) in the case of a claim alleged by such individual for a violation of such section.

(c) OTHER APPLICABLE PROVISIONS.—With respect to claims alleged by covered employees (as defined in section 101 of the Congressional Accountability Act of 1995 (Public Law 104–1; 109 Stat. 3)) for violations of this Act, title III of the Congressional Accountability Act of 1995 shall apply in the same manner as such title applies with respect to a claims alleged by such covered employees for violations of section 201(a)(1) of such Act.

SEC. 12. STATE AND FEDERAL IMMUNITY.

(a) STATE IMMUNITY.—A State shall not be immune under the eleventh article of amendment to the Constitution of the United States from an action in a Federal court of competent jurisdiction for a violation of this Act. In an action against a State for a violation of this Act, remedies (including remedies at law and in equity) are available for the violation to the same extent as such remedies are available in an action against any public or private entity other than a State.

(b) LIABILITY OF THE UNITED STATES.—The United States shall be liable for all remedies (excluding punitive damages) under this Act to the same extent as a private person and shall be liable to the same extent as a nonpublic party for interest to compensate for delay in payment.

SEC. 13. ATTORNEYS' FEES.

In any action or administrative proceeding commenced pursuant to this Act, the court or the Commission, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee, including expert fees and other litigation expenses, and costs. The United States shall be liable for the foregoing the same as a private person.

SEC. 14. RETALIATION AND COERCION PROHIBITED.

(a) RETALIATION.—A covered entity shall not discriminate against an individual because such individual opposed any act or practice prohibited by this Act or because such individual made a charge, assisted, testified, or participated in any manner in an investigation, proceeding, or hearing under this act.

(b) COERCION.—A person shall not coerce, intimidate, threaten, or interfere with any individual in the exercise or enjoyment of, or on account of his or her having exercised, enjoyed, assisted, or encouraged the exercise or enjoyment of, any right granted or protected by this Act.

SEC. 15. POSTING NOTICES.

A covered entity shall post notices for employees, applicants for employment, and members describing the applicable provisions of this Act in the manner prescribed by, and subject to the penalty provided under, section 711 of the Civil Rights Act of 1964 (42 U.S.C. 2000e—10).

SEC. 16. REGULATIONS.

The Commission shall have authority to issue regulations to carry out this Act.

SEC. 17. RELATIONSHIP TO OTHER LAWS.

This Act shall not invalidate or limit the rights, remedies, or procedures available to an individual claiming discrimination prohibited under any other Federal law or any law of a State or political subdivision of a State.

SEC. 18. SEVERABILITY.

If any provision of this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act and the application of such provision to other persons or circumstances shall not be affected thereby.

SEC. 19. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of the enactment of this Act and shall not apply to conduct occurring before such effective date.

SEC. 20. DEFINITIONS.

As used in this Act:

(1) The term ''Commission'' means the Equal Employment Opportunity Commission.

(2) The term ''covered entity'' means an employer, employment agency, labor organization, joint labor management committee, an entity to which section 717(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)) applies, an employing authority to which section 302(a)(1) of the Government Employee Rights Act of 1991 (2 U.S.C. 1202(a)(1)) applies, or an employing authority to which section 201(a) of the Congressional Accountability Act of 1995 (Public Law 104–1; 109 Stat.3) applies.

(3) The term ''employer'' has the meaning given such term in section 701(b) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(b)).

(4) The term ''employment agency'' has the meaning given such term in section 701(c) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(c)).

(5) The term ''employment or employment opportunities'' includes job application procedures, hiring, advancement, discharge, compensation, job training, or any other term, condition, or privilege of employment.

(6) The term ''labor organization'' has the meaning given such term in section 701(d) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(d)).

(7) The term ''person'' has the meaning given such term in section 701(a) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(a)).

(8) The term ''religious organization'' means—

(A) a religious corporation, association, or society, or

(B) a college, school, university, or other educational institution, not otherwise a religious organization, if—

(i) it is in whole or substantial part controlled, managed, owned, or supported by a religious corporation, association, or society, or

(ii) its curriculum is directed toward the propagation of a particular religion.

(9) The term ''sexual orientation'' means homosexuality, bisexuality, or heterosexuality, whether such orientation is real or perceived.

(10) The term ''State'' has the meaning given such term in section 701(i) of the Civil Rights Act of 1964 (42 U.S.C. 2000e(ii)).

Ms. JACKSON-LEE of Texas (during the reading). Madam Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Texas?

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Texas [Ms. JACKSON-LEE] is recognized for 5 minutes in support of her motion to recommit.

Ms. JACKSON-LEE of Texas. Madam Speaker, I ask for the attention of the House because, as many of us have entered houses of worship, this debate has been wrapped more in whether one's belief in the Scriptures and Bible will carry the day.

Let me say, Madam Speaker, that I am a Bible believer and a Bible reader, but all of God's children have rights. I believe that we have over these last 24 hours lifted up and increased discrimination as opposed to decreasing discrimination. The Employment Nondiscrimination Act is biblical in nature as well, for it gives human dignity to all of God's children.

I will speak to the issue of germaneness, and I appreciate the gentleman from Florida, but in fact this amendment and motion to recommit is germane. It increases the opportunity for all citizens to be treated equally. It takes away the sting of denying people their rights. This subject matter is, in fact, appropriate, for it seems that the legislation that is now on the floor deals with gays and lesbians and separates them out from the Constitution of the United States. This Employment Nondiscrimination Act says that we will not be a gestapo, that we will respect and we will lift up the rights of all citizens.

□ 1345

Yes, the Committee on the Judiciary, from which this bill has come out, also has jurisdiction over the Employment Nondiscrimination Act of 1996. Therefore, Madam Speaker, I am not running away from germaneness, but I do understand that we have been discussing over these last 2 days legislation that is to respond and control perversion that characterizes many individuals.

I would simply say that this is the appropriate way for a nation like ours to go, one that embodies in this House the word ''union,'' stick together; the word ''justice,'' justice for all; the word ''tolerance,'' to tolerate those citizens who have given their lives for this flag and this country; and yes, the word ''liberty,'' liberty for all; and yes, the word ''peace.'' We should go in peace and harmony.

So I believe that the subject matter that deals with gay and lesbian rights in the workplace is more than appropriate for a motion to recommit, for this body to stand equal with America in responding to the good aspects, to the goodness of what this country stands for; for the reason we have lost men and women overseas, for liberty and equality for all. How can we not today stand with America and the flag and acknowledge the human dignity of all of god's children? How can we not?

So I ask my colleagues if they would accept this motion to recommit so we do not leave this place this day; so we, like Esther, will acknowledge that if I perish, I perish, for I must stand for what is right.

It is important that we allow this legislation, the Employment Nondiscrimination Act of 1996, to give human dignity to all of our citizens. It is important, it is germane. It provides the criteria of germaneness, for it deals, as I said, with increasing the opportunities and decreasing discrimination.

Likewise, it deals with gays and lesbians, and yes, the subject matter is relevant. I would hope the subject matter of equality and the dignity of all and the respect for the words of this Chamber of justice and tolerance and peace and liberty is the way that we should go.

Madam Speaker, I would ask my colleagues, can we not, can we not, can we not acknowledge freedom in America goes to all of our citizens, all of our citizens?

POINT OF ORDER

The SPEAKER pro tempore. (Ms. GREENE of Utah). Does the gentleman from Florida [Mr. CANADY] insist on his point of order?

Mr. CANADY of Florida. Madam Speaker, I insist on my point of order.

The SPEAKER pro tempore. The gentleman will state his point of order.

Mr. CANADY of Florida. the motion to recommit is not germane to the bill. The bill relates solely to the subject of marriage. The motion to recommit seeks to add language which relates to employment discrimination to a bill dealing with marriage. Clearly, this is a proposition on a subject different from that under consideration, in violation of clause 7 of rule XVI, and I ask the chair to rule the motion to recommit out of order.

Ms. JACKSON-LEE of Texas. Madam Speaker, with great pain in my heart, I would maintain that we are germane, and it is with deepest regrets and great pain that I hear that human dignity is not germane. But at this point, Madam Speaker, with this pain and this disappointment, I will not contest the point of order.

The CHAIRMAN. The point of order is conceded and sustained.

The motion to recommit is not in order.

MOTION TO RECOMMIT OFFERED BY MR. BERMAN

Mr. BERMAN. Madam Speaker, I offer a motion to recommit with instructions.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BERMAN. I am in its present form, Madam Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BERMAN of California moves to recommit the bill, H.R. 3396, back to the Committee on the Judiciary with instructions to report the bill back forthwith with the following amendment:

Page 3, line 24, at the end of the bill, add the following new section to the legislation:

''SEC. 4. STUDY OF THE DIFFERENCES IN BENEFITS, RIGHTS AND PRIVILEGES AVAILABLE TO PERSONS IN A MARRIAGE AND TO PERSONS IN A DOMESTIC PARTNERSHIP.

''(a) GENERAL ACCOUNTING OFFICE STUDY.—The General Accounting Office shall undertake a study of the differences in the benefits, rights and privileges available to persons in a marriage and the benefits, rights and privileges available to persons in a domestic partnership resulting from the nonrecognition of domestic partnerships as legal unions by State and Federal laws.

''(b) REQUIREMENTS OF STUDY.—The General Accounting Office shall—

''(1) conduct a comprehensive review of Federal statutes and administrative regulations, rulings, and determinations to compile an inventory of Federal benefits, rights and privileges available to persons in a marriage and to determine whether such Federal benefits, rights, and privileges are also available to persons in a domestic partnership;

''(2) analyze the impact of Federal statutes and administrative regulations, rulings, and determinations on the private sector to determine whether those statutes, rules, regulations, and determinations influence the private sector to make benefits, rights, and privileges available to persons in a marriage which are not available to persons in a domestic partnership;

''(3) survey State property, testamentary, probate, insurance, credit, and contract laws to determine whether a difference exists in their usefulness to address the legal needs of persons in a marriage and their usefulness to address the legal needs of persons in a domestic partnership;

''(4) survey the laws of other major industrialized countries to determine whether

there is a difference in those countries between the government benefits, rights and privileges available to persons in a marriage and the governmental benefits, rights and privileges available to persons in a domestic partnership; and

''(5) conduct such further investigation and analysis as it deems necessary to study the differences in the benefits, rights and privileges available to persons in a marriage and the benefits, rights and privileges available to persons in domestic partnerships resulting from the non-recognition of domestic partnerships as legal unions by State and Federal laws.

''(c) REPORT.—Not later than October 1, 1997, the General Accounting Office shall submit to the President and to the Congress a report of its findings pursuant to the study conducted under this section.

''(d) ASSISTANCE IN COMPLETING THE STUDY AND REPORT.—

''(1) ASSISTANCE FROM OTHER AGENCIES.—The General Accounting Office may secure directly from any Federal department or agency such information as may be necessary to complete the study and report required by this section.

''(2) DETAILED PERSONNEL.—On the request of the Comptroller General, the head of any Federal department or agency is authorized to detail, without reimbursement, any personnel of that department or agency to the General Accounting Office to assist it in carrying out its duties under this section. The detail of any individual may not result in the interruption or loss of civil services status or other privilege of the individual.

''(3) ASSISTANCE FROM ATTORNEY GENERAL.—The Attorney General of the United States shall provide the General Accounting Office with such administrative and support services as the Comptroller General may request to complete the study and report required by this section.

''(e) DEFINITION.—For the purposes of this section, the term 'domestic partnership' means two persons committed to an interpersonal relationship with each other, other than marriage, which has been acknowledged through a publicly established governmental procedure, through a privately enforceable written agreement, or through other documents executed by those persons which evidence their intention to commit to an interpersonal relationship with each other.''.

Mr. BERMAN (during the reading). Madam Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The SPEAKER pro tempore. The gentleman from California is recognized for 5 minutes in support of his motion to recommit.

Mr. BERMAN. Madam Speaker, this is a motion to recommit with instructions. This motion to recommit is simply adding an amendment to the bill and asking that the bill be reported back forthwith. If this motion to recommit passes, the body will still be voting on the bill immediately after the vote on the motion to recommit.

The motion to recommit is very simple: It simply asks for a GAO study to look at the differences in benefits, rights, and privileges available to persons in a marriage and to persons in a domestic partnership resulting from the non-recognition of domestic partnerships as legal unions by State and Federal laws.

Once again, the passage of this motion to recommit will not send the bill to a committee, it will not bury this bill. The bill will come back immediately for a vote on final passage.

Mrs. JOHNSON of Connecticut. Madam Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentlewoman from Connecticut.

Mrs. JOHNSON of Connecticut. Madam Speaker, I rise in support of this motion to recommit. Clearly there is a need to understand how we enable people who are committed to one another to have appropriate legal rights and responsibilities with regard to each other. All this study does is to ask the GAO to look at the rights and responsibilities one has under a marriage contract and the rights and responsibilities that domestic partners have under current State and Federal law. We simply need to know this information.

Without question, marriage has been the pillar of social organization over time in every society, because marriage helps to sustain the development of love, loyalty, commitment, and responsibility. Domestic partner relationships are not marriage, and that is what this bill says. But domestic partner relationships do encourage commitment, responsibility, love, and loyalty, and I think it is important that our society rise to the challenge of finding what legal entitles we need to develop to allow people who want to take responsibility for one another, who want to, over time, legally share responsibilities for health care, share responsibilities for planning funerals and so on and so forth, how we help them do that. This is just a study to get the information. We are proposing it in a legal form because we want to acknowledge that this information is important to us as a society; that all relationships of commitment are important to a stable society. And in the passage of this bill, which I intend to support, we do not intend to denigrate other relationships of integrity.

Mr. UPTON. Madam Speaker, will the gentleman yield?

Mr. BERMAN. I yield to the gentleman from Michigan.

Mr. UPTON. Madam Speaker, I support the base bill, and I would say that I also support this motion to recommit, which does not delete, eliminate, or change anything in the present bill, as we will vote on final passage on this measure whether or not this motion to recommit passes or fails.

If Members are like me, a very happily married man with two wonderful kids, this issue does not come up a lot in my household. But what this motion to recommit does is it simply adds a section calling upon the GAO to conduct a study determining the benefits, rights, and privileges given to those in marriage but not those in long-term domestic partnerships. As part of the study it will also look at how other countries have legally dealt with the long-term relationships outside of marriage.

It changes no law. It only asks the GAO to give us the information requested by October 1, 1997. Then we are free to use such information to decide what if any policy changes we want to make. Let us affirm our commitment to traditional marriage, but let us do so in a way that respects and is sensitive to those in long-term domestic partnerships.

For example, if our colleague, the gentleman from Wisconsin, STEVE GUNDERSON, were sick or injured, why should his partner not have automatic visitation privileges or automatic doctoral consultations, which many today have been denied?

Madam Speaker, when the former committee staff director, Matt Fletcher, of the gentleman from Pennsylvania, BILL CLINGER, lost his partner of 16 years to AIDS, Matt could not sign the documents at the funeral home. All this motion to recommit does is ask for a study, ask for a study, so when the study is completed in 1½ years from now or so, we can have better information with which to deal with this issue.

I ask Members to vote to recommit the bill, and I also ask that Members vote for final passage, whether or not the motion to recommit passes.

Mr. CANADY of Florida. Madam Speaker, I rise in opposition to the motion to recommit with instructions.

Madam Speaker, the purpose of the instruction is to require by statute that which the chairman of the Committee on the Judiciary has the authority to do by letter. The chairman of the committee, the gentleman from Illinois [Mr. HYDE], during the Committee on Rules meeting when this issue came up offered to write to the GAO for the study requested by the proposed instruction.

This motion represents a transparent attempt to give some statutory recognition to domestic partnerships. I do not think this is necessary to encumber the statute with language which is superfluous outside. Therefore, I oppose the motion to recommit with instructions.

Mr. HYDE. Madam Speaker, will the gentleman yield?

Mr. CANADY of Florida. I yield to the gentleman from Illinois.

Mr. HYDE. Madam Speaker, really, this request for a GAO study does not belong in the statute. I agreed a long time ago to request it as chairman of the Committee on the Judiciary. We should go forward with that. I pledge to do so. I have assured the gentleman that I will ask for a study of the instances in which the inability of domestic partners to form a legal union causes a disparity of entitlement to Federal benefits, rights, or privileges. So to amend this bill is not necessary.

The study mandated by the Gunderson amendment is overly broad. It includes all State laws, it includes other

majority industrialized countries, in addition to the Federal law. We think our interest should be limited to the benefits conferred under Federal law, and it should be tailored to that interest.

There are other objections to it, but suffice it to say putting it in the statute gives it an equivalence to the marriage institution that we do not think is appropriate now. I will write the letter, I will do it Monday, I will request the study, and that should suffice. I would ask that this motion to recommit be defeated.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Chair announced that the noes appeared to have it.

Mr. BERMAN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. The Chair will reduce to a minimum of 5 minutes the period of time during which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—yeas 164, nays 249, not voting 20, as follows:

[Roll No. 315]

YEAS—164

Abercrombie
Ackerman
Andrews
Baldacci
Barrett (WI)
Becerra
Beilenson
Bentsen
Berman
Bilbray
Blumenauer
Blute
Bonior
Borski
Brown (CA)
Brown (FL)
Brown (OH)
Bryant (TX)
Campbell
Cardin
Castle
Clay
Clayton
Clinger
Clyburn
Coleman
Collins (IL)
Collins (MI)
Conyers
Coyne
Cummings
Davis
DeFazio
DeLauro
Dellums
Deutsch
Dicks
Dixon
Doggett
Dooley
Durbin
Ehlers
Engel
Eshoo
Farr
Fattah
Fazio
Filner
Foglietta
Foley
Forbes
Fox
Frank (MA)
Frelinghuysen
Frost
Furse
Gejdenson
Gephardt
Gilchrest
Gilman
Gonzalez
Green (TX)
Greenwood
Gunderson
Gutierrez
Harman
Hastings (FL)
Hefner
Hilliard
Hinchey
Hobson
Horn
Hoyer
Jackson (IL)
Jackson-Lee (TX)
Jacobs
Jefferson
Johnson (CT)
Johnson, E. B.
Kanjorski
Kennedy (MA)
Kennedy (RI)
Kennelly
Kildee
Kleczka
Klug
Kolbe
Lantos
Lazio
Leach
Levin
Lewis (GA)
Lofgren
Lowey
Luther
Maloney
Markey
Martinez
Martini
Matsui
McCarthy
McDermott
McHale
McKinney
Meek
Menendez
Millender-McDonald
Miller (CA)
Mink
Moakley
Mollohan
Moran
Morella
Murtha
Nadler
Neal
Oberstar
Obey
Olver
Owens
Pallone
Pastor
Payne (NJ)
Pelosi
Pryce
Rangel
Reed
Richardson
Rivers
Rose
Roybal-Allard
Rush
Sabo
Sanders
Sawyer
Schroeder
Schumer
Scott
Serrano
Shays
Skaggs
Slaughter
Stark
Stokes
Studds
Stupak
Thomas
Thurman
Torkildsen
Torres
Torricelli
Towns
Upton
Velazquez
Vento
Ward
Waters
Waxman
Williams
Wilson
Woolsey
Wynn
Yates
Zimmer

NAYS—249

Allard
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Ballenger
Barcia
Barr
Barrett (NE)
Bartlett
Barton
Bass
Bateman
Bereuter
Bevill
Bilirakis
Bishop
Bliley
Boehlert
Boehner
Bonilla
Bono
Boucher
Browder
Brownback
Bryant (TN)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Canady
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clement
Coble
Coburn
Collins (GA)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cunningham
Danner
de la Garza
Deal
DeLay
Diaz-Balart
Dickey
Dingell
Doolittle
Dornan
Doyle
Dreier
Duncan
Edwards
Ehrlich
English
Evans
Everett
Ewing
Fawell
Fields (TX)
Flake
Fowler
Franks (CT)
Franks (NJ)
Frisa
Funderburk
Gallegly
Ganske
Gekas
Geren
Gillmor
Goodlatte
Goodling
Gordon
Goss
Graham
Greene (UT)
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Heineman
Herger
Hilleary
Hoekstra
Hoke
Holden
Hostettler
Houghton
Hunter
Hutchinson
Hyde
Inglis
Istook
Johnson (SD)
Johnson, Sam
Jones
Kaptur
Kasich
Kelly
Kim
King
Kingston
Klink
Knollenberg
LaHood
Largent
Latham
LaTourette
Laughlin
Lewis (CA)
Lewis (KY)
Lightfoot
Linder
Lipinski
Livingston
LoBiondo
Lucas
Manton
Manzullo
Mascara
McCollum
McCrery
McHugh
McInnis
McIntosh
McKeon
McNulty
Metcalf
Meyers
Mica
Miller (FL)
Minge
Molinari
Montgomery
Moorhead
Myers
Myrick
Nethercutt
Neumann
Ney
Norwood
Nussle
Ortiz
Orton
Oxley
Packard
Parker
Paxon
Payne (VA)
Peterson (FL)
Peterson (MN)
Petri
Pickett
Pombo
Pomeroy
Porter
Portman
Poshard
Quillen
Quinn
Radanovich
Rahall
Ramstad
Regula
Riggs
Roemer
Rogers
Rohrabacher
Ros-Lehtinen
Roth
Roukema
Royce
Salmon
Sanford
Saxton
Scarborough
Schaefer
Schiff
Seastrand
Sensenbrenner
Shadegg
Shaw
Shuster
Sisisky
Skeen
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Solomon
Souder
Spence
Spratt
Stearns
Stenholm
Stockman
Stump
Talent
Tanner
Tate
Tauzin
Taylor (MS)
Taylor (NC)
Tejeda
Thornberry
Tiahrt
Traficant
Visclosky
Volkmer
Vucanovich
Walker
Walsh
Wamp
Watts (OK)
Weldon (FL)
Weldon (PA)
Weller
White
Whitfield
Wicker
Wise
Wolf
Young (AK)
Zeliff

NOT VOTING—20

Archer
Brewster
Dunn
Ensign
Fields (LA)
Flanagan
Ford
Gibbons
Hall (OH)
Johnston
LaFalce
Lincoln
Longley
McDade
Meehan
Roberts
Thompson
Thornton
Watt (NC)
Young (FL)

☐ 1414

The Clerk announced the following pair:

On this vote:

Mr. Johnston of Florida for, with Mr. Longley against.

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Ms. GREENE of Utah). The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CANADY of Florida. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 342, nays 67, answered ''present'' 2, not voting 22, as follows:

[Roll No. 316]

YEAS—342

Allard
Andrews
Archer
Armey
Bachus
Baesler
Baker (CA)
Baker (LA)
Baldacci
Ballenger
Barcia
Barr
Barrett (NE)
Barrett (WI)
Bartlett
Barton
Bass
Bateman
Bentsen
Bereuter
Bevill
Bilbray
Bilirakis
Bishop
Bliley
Blumenauer
Blute
Boehlert
Boehner
Bonilla
Bonior
Bono
Borski
Boucher
Browder
Brown (FL)
Brownback
Bryant (TN)
Bryant (TX)
Bunn
Bunning
Burr
Burton
Buyer
Callahan
Calvert
Camp
Campbell
Canady
Cardin
Castle
Chabot
Chambliss
Chapman
Chenoweth
Christensen
Chrysler
Clayton
Clement
Clinger
Clyburn
Coble
Coburn
Coleman
Collins (GA)
Collins (IL)
Combest
Condit
Cooley
Costello
Cox
Cramer
Crane
Crapo
Cremeans
Cubin
Cummings
Cunningham
Danner
Davis
de la Garza
Deal
DeLauro
DeLay
Deutsch
Diaz-Balart
Dicks
Dingell
Doggett
Dooley
Doolittle
Dornan
Doyle
Dreier
Duncan
Durbin
Edwards
Ehlers
Ehrlich
English
Evans
Everett
Ewing
Fawell
Fazio
Fields (TX)
Filner
Flake
Foley
Forbes
Fowler
Fox
Franks (CT)
Franks (NJ)
Frelinghuysen
Frisa
Frost
Funderburk
Furse
Gallegly
Ganske
Gekas
Gephardt
Geren
Gilchrest
Gillmor
Gilman
Gonzalez
Goodlatte
Goodling
Gordon
Goss
Graham
Green (TX)
Greene (UT)
Gutknecht
Hall (TX)
Hamilton
Hancock
Hansen
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hefner
Heineman
Herger
Hilleary
Hilliard
Hobson
Hoekstra
Hoke
Holden
Horn
Hostettler
Houghton
Hoyer
Hunter
Hutchinson
Hyde
Inglis
Istook
Jacobs
Jefferson
Johnson (CT)
Johnson (SD)
Johnson, E. B.
Johnson, Sam
Jones
Kanjorski
Kaptur
Kasich
Kelly
Kennelly
Kildee
Kim

King	Neumann	Shuster
Kingston	Ney	Sisisky
Kleczka	Norwood	Skeen
Klink	Nussle	Skelton
Klug	Oberstar	Smith (MI)
Knollenberg	Obey	Smith (NJ)
Kolbe	Ortiz	Smith (TX)
LaHood	Orton	Smith (WA)
Largent	Oxley	Solomon
Latham	Packard	Souder
LaTourette	Parker	Spence
Laughlin	Pastor	Spratt
Lazio	Paxon	Stearns
Leach	Payne (VA)	Stenholm
Levin	Peterson (FL)	Stockman
Lewis (CA)	Peterson (MN)	Stump
Lewis (KY)	Petri	Stupak
Lightfoot	Pickett	Talent
Linder	Pombo	Tanner
Lipinski	Pomeroy	Tate
Livingston	Porter	Tauzin
LoBiondo	Portman	Taylor (MS)
Lowey	Poshard	Taylor (NC)
Lucas	Pryce	Tejeda
Luther	Quillen	Thomas
Manton	Quinn	Thornberry
Manzullo	Radanovich	Thurman
Martini	Rahall	Tiahrt
Mascara	Ramstad	Torkildsen
McCarthy	Reed	Torricelli
McCollum	Regula	Traficant
McCrery	Richardson	Upton
McHale	Riggs	Vento
McHugh	Roemer	Visclosky
McInnis	Rogers	Volkmer
McIntosh	Rohrabacher	Vucanovich
McKeon	Ros-Lehtinen	Walker
McNulty	Rose	Walsh
Menendez	Roth	Wamp
Metcalf	Roukema	Ward
Meyers	Royce	Watts (OK)
Mica	Rush	Weldon (FL)
Miller (FL)	Salmon	Weldon (PA)
Minge	Sanford	Weller
Moakley	Sawyer	White
Molinari	Saxton	Whitfield
Mollohan	Scarborough	Wicker
Montgomery	Schaefer	Wilson
Moorhead	Schiff	Wise
Morella	Schumer	Wolf
Murtha	Seastrand	Wynn
Myers	Sensenbrenner	Yates
Myrick	Shadegg	Young (AK)
Neal	Shaw	Zeliff
Nethercutt	Shays	Zimmer

NAYS—67

Abercrombie	Hastings (FL)	Payne (NJ)
Ackerman	Hinchey	Pelosi
Becerra	Jackson (IL)	Rangel
Beilenson	Kennedy (MA)	Rivers
Berman	Kennedy (RI)	Roybal-Allard
Brown (CA)	Lantos	Sabo
Brown (OH)	Lewis (GA)	Sanders
Collins (MI)	Lofgren	Schroeder
Conyers	Maloney	Scott
Coyne	Markey	Serrano
DeFazio	Martinez	Skaggs
Dellums	Matsui	Slaughter
Dixon	McDermott	Stark
Engel	McKinney	Stokes
Eshoo	Meek	Studds
Farr	Millender-McDonald	Torres
Fattah	Miller (CA)	Towns
Foglietta	Mink	Velazquez
Frank (MA)	Moran	Waters
Gejdenson	Nadler	Waxman
Gunderson	Olver	Williams
Gutierrez	Pallone	Woolsey
Harman		

ANSWERED ''PRESENT''—2

Jackson-Lee (TX)	Owens

NOT VOTING—22

Brewster	Gibbons	Meehan
Clay	Greenwood	Roberts
Dickey	Hall (OH)	Thompson
Dunn	Johnston	Thornton
Ensign	LaFalce	Watt (NC)
Fields (LA)	Lincoln	Young (FL)
Flanagan	Longley	
Ford	McDade	

□ 1421

The Clerk announced the following pairs:

On this vote:

Mr. Flanagan for, with Mr. Clay against.

Mr. Longley for, with Mr. Johnston of Florida against.

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid upon the table.

PERSONAL EXPLANATION

Mr. CLAY. Madam Speaker, I missed the last rollcall vote, rollcall 316, because I was trapped in the elevator. Had I been here I would have voted ''no.''

LEGISLATIVE PROGRAM

(Mr. BONIOR asked and was given permission to address the House for 1 minute.)

Mr. BONIOR. Madam Speaker, I ask for this time for the purpose of asking the distinguished majority whip the schedule for the remainder of the week and next week.

Madam Speaker, I yield to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Madam Speaker, I thank the distinguished minority whip for yielding.

Madam Speaker, I am pleased to announce that the House has concluded its legislative business for the week. We will next meet on Tuesday, July 16, at 10:30 a.m. for morning hour and 12 noon for legislative business. Members should note that the House will postpone recorded votes until 5 p.m. in accordance with an agreement with the minority to voice vote the rule on Treasury, Postal appropriations bill.

On Tuesday, Madam Speaker, the House will consider the following seven bills under suspension of the rules: H.R. 3166, The Government Accountability Act of 1996; H.R. 3458, the Veterans' Compensation Cost-of-Living Adjustment Act of 1996; H.R. 3643, Extending Benefits to Veterans Exposed to Agent Orange; H.R. 3673, The Veterans' Compensation and Readjustment Benefits Amendments of 1996; H.R. 3674, The Veterans' Education and Compensation Benefits Amendments of 1996; H.R. 361, The Omnibus Export Administration Act of 1995; and H.R. 3161, Extending Most-Favored-Nation Status to Romania.

After suspensions, we will take up under an open rule H.R. 3756, the Treasury, Postal Service and General Government appropriations bill.

On Wednesday, July 17, the House will turn to the Commerce, Justice, State and Judiciary appropriations bill, also subject to a rule.

On Thursday, July 18, we will consider H.R. 3760, Campaign Finance Reform and H.R. 3734, the Balanced Budget Reconciliation Act. Both bills, of course, will be subject to rules.

Members should note that next week will be a very busy week. We have a lot of important business to cover and it will probably be necessary to work very late on Tuesday and Wednesday evenings. However, we will finish legislative business by 6 p.m. on Thursday, July 18.

Mr. BONIOR. Madam Speaker, I thank my colleague for his information, and I would ask my friend a couple of questions here. Will the welfare reform proposal be considered separately from Medicaid or will they be considered together as my colleague previously had planned?

Mr. DELAY. Madam Speaker, will the gentleman yield?

Mr. BONIOR. I yield to the gentleman from Texas.

Mr. DELAY. We anticipate bringing welfare reform to the floor as a free-standing bill separate from Medicaid.

Mr. BONIOR. Reclaiming my time, I thank the gentleman for that answer.

The second question I have is on the rule and on debate time. Can my colleague or the gentleman from New York [Mr. SOLOMON], if he is here, give us any indication on how long we will have for debate in this particular rule or any information about the rule itself?

Mr. DELAY. If the gentleman will continue to yield, the Committee on Rules has not met yet on the welfare reform bill. We certainly want to work with the minority to make sure ample amount of debate time on this very important piece of legislation will be held, plus the fact that we want to make sure that every opportunity for the minority to have a substitute will be available to the minority.

Mr. BONIOR. Well, I thank my colleague for that assurance, because as we know, there are Members, most of the Members on our side, in fact, all the Members on our side have been deeply interested in the principle of getting people off welfare and into work. We are very much interested in assurance from my colleague, which I would believe we have just received, that we will have the opportunity to present a Democratic alternative to this body when the bill comes to the floor.

Mr. DELAY. If the gentleman would yield, I appreciate it, and I concur with the distinguished whip. I do point out that under the budget resolution, though, any substitute that would be allowed on the floor must conform to the budget resolution and therefore have to conform to the savings outlined in the budget resolution in the underlying bill.

Mr. BONIOR. I would ask my colleague from Texas about the reform week that was announced earlier in the summer by the majority. Several press reports have outlined six or seven reform bills which would be considered, and I am wondering what happened to that list of reforms. Are we going to have just the campaign finance reform bill next week? Is the majority going to have some additional suspension bills that were not listed in those that he read to us just a few minutes ago?