Never before in our history have we done this. In fact our former colleague, Bob Barr, who authored DOMA, said it is unnecessary and a dangerous precedent. I hope the House will reject it.

TAX CUTS

(Mr. OWENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. OWENS. Mr. Speaker, Democrats like tax cuts, too, but the Democratic Party's tax policies are targeted to do the most good for the majority of Americans. Working families will be the beneficiaries of the Democratic tax policy.

Republicans want tax cuts which give more to the have-mores. Tax cuts for the rich are luxury toys, but tax cuts for working families are absolute necessities.

Working families need more child care tax credits. Working families need tuition tax credits to help their children attend college and rise up the economic ladder.

Let the corporations pay more taxes if we need revenue for the war in Iraq or any other activity. Change the Federal rules for the way we charge for our assets, grazing land, mining rights or the sale and lease of the spectrum above us, which is owned by the American people.

Democrats want tax cuts, but we want tax cuts for working families.

COURT-STRIPPING LEGISLATION

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, today, the House will attempt to do something it has never done before, strip our courts of hearing cases on the Defense of Marriage Act.

Eight years ago, I opposed DOMA because I felt it was a blatant act of discrimination against gays and lesbians. To this day, I believe Republicans forced the issue in 1996 because it was a Presidential year and they wanted to divide the country in a desperate search for votes.

It is 8 years later, and Republicans are at it again. Last week, they were embarrassed in the other body when they could not even muster a majority on a constitutional amendment banning gay marriage. Since that did not work, why not strip the courts of authority to hear cases regarding DOMA?

The court-stripping bill would, for the first time in our Nation's history, take from a group of Americans the right to appeal to our courts. It is also extremely dangerous in that it would lead to the possibility of Congress stripping other issues from judicial review in the future.

It is bad policy; but in an election year, Republicans simply do not care.

PROVIDING FOR CONSIDERATION OF H.R. 3313, MARRIAGE PROTECTION ACT OF 2004

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 734 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 734

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the bill (H.R. 3313) to amend title 28, United States Code, to limit Federal court jurisdiction over questions under the Defense of Marriage Act. The bill shall be considered as read for amendment. The amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, and on any further amendment thereto to final passage without intervening motion except: (1) 90 minutes of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. TERRY). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

On Wednesday, the Committee on Rules did meet and grant a closed rule for H.R. 3313, the Marriage Protection Act of 2004. The rule provides 90 minutes of debate, equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

□ 1030

This bill seeks to utilize the constitutional authority of Congress to limit the jurisdiction of the Federal judiciary to hear cases which may arise as a result of the 1996 Defense of Marriage Act, otherwise known as DOMA. The bill reserves that authority to the States. The bill provides that no Federal court will have the jurisdiction to hear a case arising under DOMA's full faith and credit provision.

This provision in DOMA codified that no State would be required to give full faith and credit to a marriage license issued by another State if that relationship is between two people of the same sex. Long-standing Supreme Court precedent recognizes the power of Congress to limit the jurisdiction of courts that it creates.

In essence, the bill says no Federal court will have the opportunity to strike down DOMA's full faith and credit provision. The result of such a decision by the Federal courts would in effect invalidate the numerous Defense of Marriage Acts which have passed in at least 38 States. This would mean that the citizens of States such as Michigan, California, Virginia, Texas, and Florida, who have their own statutes to define marriage as between one man and one woman, would have to recognize the marriage licenses issued to same sex couples by other States that allow that practice.

I believe the people of these States as well as the people of my home State of North Carolina should be able to defend and preserve the institution of marriage and that we today should support their efforts. This is the way it has been throughout civilization. It is our job to prevent unelected lifetime appointed Federal judges from striking down DOMA's protection for the States. To that end, I urge my colleagues to support the rule and the underlying bill.

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

Mr. MCGOVERN. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I thank the gentlewoman for yielding me the customary 30 minutes, and I rise in strong opposition to this rule and to the underlying bill. The Marriage Protection Act of 2004 is quite simply a mean-spirited, discriminatory and misguided distraction. It does not belong on the floor of the House of Representatives, not when there are so many important issues facing Congress and the American people.

Nearly 900 American soldiers have now been killed in Iraq, but the House is not talking about that today. Today the bipartisan 9/11 Commission issues its report on what happened and how to prevent it from happening again, but we are not talking about that on the House floor today.

This Republican leadership has failed to pass a budget, but we are not talking about that. Today we learn that, according to the GAO, the Pentagon has spent most of the $65 billion that Congress approved for fighting the wars in Iraq and Afghanistan and is trying to find $12.3 billion more from within the Department of Defense to make it through the end of the fiscal year. We should be talking about that.

We still do not have a transportation bill. The minimum wage has not been increased in years. Millions of Americans are unemployed and without health insurance. Homeland security needs are going unmet, but we are not talking about any of that in the House of Representatives today.

According to the New York Times, conservative activist and Republican adviser Paul Weyrich's solution to the bad news coming out of Iraq was to ''change the subject'' to gay marriage. I quote, ''Ninety-nine percent of the President's base will unite behind him if he pushed the amendment,'' Mr. Weyrich said. ''It will cause Mr. KERRY no end of problems.'' As for gay Republicans whose votes Mr. Bush might lose, Mr. Weyrich wrote, ''Good riddance.''

So instead of addressing the real concerns facing American families, the leadership of this House has decided to throw their political base some red meat because we all know exactly what is going on here.

Mr. Speaker, we can at least be honest about it. Last week the Republican leadership got beat badly in the other body. Not only did they not pass the Federal Marriage Amendment, Senate Republicans could not even agree among themselves what to vote on. So the Republican leadership, including the White House, decided they needed a win on something that beats up on gay people and they needed to do it fast, so here we are. They could not amend the Constitution last week so they are trying to desecrate and circumvent the Constitution this week.

The intent of this bill is quite clear, to close the door to the Federal courthouse for an entire group of American citizens simply because of their sexual orientation. It is enough to take my breath away. One of the most fundamental, sacred principles of our system is that every single American should have access to equal justice under the law, not some Americans, not most Americans, not just straight Americans, but all Americans. But not any more. Not under this bill.

Under this bill for the first time in our long history, a person can be denied access to the Federal courts when that person claims that a Federal statute violates the Constitution.

Further, this bill takes 200 years of jurisprudence based on the separation of powers and throws it in the trash.

Why? Because of the latest craze in Republican fund-raising appeals, the dreaded ''activist judges.'' To all of those listening to the debate today, I would encourage you to count how many times the phrase ''activist judges'' is thrown around. Make sure you have your calculator.

The problem is that the Republican leadership only goes after the so-called activist judges they disagree with. They had no problem in activist judges in Bush v. Gore. And make no mistake about it, if this bill passes its proponents will be back for more. Every time there is a court decision they do not like, they will attempt to prohibit the courts from exercising their constitutional oversight. Other issues will be on the table, civil rights and civil liberties, voting rights, choice, environmental protection, worker protections, all will be at risk if a political majority in Congress disagrees with a Federal court decision. This bill would set a dangerous, dangerous precedent.

Finally, we hear a lot of rhetoric today from supporters of this bill protesting that they are not anti-gay, just pro-marriage. Well, the supporters of this bill have even named it the Marriage Protection Act. Mr. Speaker, I thank the other side, but my marriage does not need protection, and certainly not from the Republican leadership of this House.

This bill seeks to solve a problem that does not exist. There is no urgency, no credible court case challenging DOMA.

So let us work on the issues that matter most to our constituents. Let us tackle health care and education and homeland security and jobs, let us not change the subject for political reasons, let us not desecrate the Constitution.

Mr. Speaker, I urge my colleagues to do the right thing. Cast your vote with an eye toward being on the right side of history. Look further than tomorrow's headlines, think about more than 30 minutes from now, think about 30 years from now. Remember that Members of Congress opposed the 1964 Civil Rights Act and the Voting Rights Act. Remember that Members of Congress denounced a decision in Brown v. Board of Education in part because of activist judges. History has not been kind to them.

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

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

I would like to clarify the actual wording of what this bill does. It does not favor or disfavor any particular result or any group of people. It is motivated by a desire to preserve for the States the authority to decide whether the shield Congress enacted to protect them from having to accept same sex marriage licenses issued out of State will hold. There is no ill will here toward anyone. It does not dictate the results, either. It only places final authority over whether the States must accept same sex marriage licenses granted in other States in the hands of the States themselves.

This bill should be supported, I believe, by any Member who supports the proposition that lifetime appointed Federal judges must not be allowed to rewrite marriage policies for the States.

Mr. Speaker, I yield 4 minutes to the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Speaker, I thank the gentlewoman for yielding me this time and bringing this rule to the floor. She is one of the great leaders in this Congress.

Mr. Speaker, I rise in support of this rule and the underlying bill that was originally authored by the gentleman from Indiana (Mr. HOSTETTLER).

For 7½ years before I came to Congress I served as a circuit court judge in Tennessee. For many years, I have heard Federal judges complain about the Congress expanding Federal jurisdiction too much, so they are greatly overworked. This is a very reasonable, minimal limitation of their jurisdiction and I am sure that even if this legislation passes, the Federal judges will still claim that they are very much overworked.

On July 12, 1996, the House passed and on September 10, 1996, the Senate passed the Defense of Marriage Act. That act said 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 wife. I repeat that. That legislation said the word ''marriage'' means only a legal union between one man and one woman.

That legislation further said no State shall be required to give effect to any public act, record or judicial proceeding of any other State respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, Territory and so forth.

That legislation, Mr. Speaker, passed by the overwhelming margin of 342 to 67 in this House, and by the even more overwhelming margin of 85 to 14 in the Senate. That is 85 Senators voted for that legislation. Further, it went to the President, President Clinton at that time, and he signed that legislation into law.

This legislation, authored by the gentleman from Indiana (Mr. HOSTETTLER), is a reasonable expansion of that legislation limiting the jurisdiction because it is true that many, many people in this country have been upset that unelected judges have assumed so much super-legislative power in this country in recent years. The overwhelming majority of the American people do believe that the only true marriage is that between one adult man and one adult woman. There are other limitations on marriage such as prohibitions against marriages by family members or bigamist marriages, and I think the overwhelming majority of the American people feel that our society, our families, and especially our children would be better off if we defined marriage, the only true marriage, legal marriage, as that of being between one man and one woman.

Mr. Speaker, I know that many outstanding people come from broken homes, but I also know that the greatest advantage that we can give to any child is a loving mother and father. That is so important to the future of this country. That is a greater advantage than unbelievable amounts of money.

Senator Daniel Patrick Moynihan, a man who was one of the most respected Members of the Senate, a Senator from the other party, said several years ago that we have been, unfortunately, defining deviancy down, accepting as a part of life what we once found repugnant. We should stand behind traditional marriage. We should stand behind this legislation and support it as strongly as we possibly can.

Mr. MCGOVERN. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a strong defender of the United States Constitution.

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

Ms. JACKSON-LEE of Texas. Mr. Speaker, I would not be standing here

today had it not been for the courts of America, and particularly our Federal jurisdiction. I would not have the opportunity to speak in this august body, to have achieved an education that some might call equal in an unequal system if we did not have Brown v. Topeka Board of Education that broke the chains of segregation on America. I would argue that was a high moment in America's history. We do not have the time in the moments I have to speak to chronicle that history of the courts providing opportunities for the minority.

Today I want to explain to America that this is not a constitutional amendment that will address the question of their fears and apprehensions about loving individuals being together. This is a poor fix and this is a collapse of government as we know it.

Mr. Speaker, might I say that this is an undermining and barring of Americans from the courthouse door. I give Members an example. Just suppose that farming policies of the State of Texas, my Texas, had been ill-conceived and some poor farmer that Willie Nelson sings for every year went to the Federal courthouse in Texas and asked that those policies be declared unconstitutional or illegal. This amendment sets the precedent for slamming the courthouse door to that farmer.

□ 1045

Or maybe someone in Ohio, a consumer who wants to challenge the ill-conceived consumer laws that causes thousands of injuries to our children on the playgrounds of America, and that poor person goes to the Federal courthouse and wants to go to the Supreme Court, that door is slammed in their face.

I asked the Committee on Rules in their wisdom to send this out with an unfavorable response. Unfortunately, they did not. So today we debate an ill-conceived precedent that will deny the citizens of America judicial review, due process, and equal protection under the law.

I close by simply saying, we see in the Washington Post today that the Pentagon needs billions of more dollars this year in Iraq and Afghanistan. Today we do not debate that. We have the 9/11 report, and today we do not have a Homeland Security authorization markup.

I ask my Republican friends, and I ask them with sincerity, why can we not do the people's business and do it in the right way?

Mr. Speaker, I close by saying I was and still stand as a minority in America. I cannot stand for having minority rights denied by this amendment being passed today. I ask for a ''no'' vote.

Mr. Speaker, I rise in opposition to H. Res. 374, the rule issued for the base bill, H.R. 3313, the Marriage Protection Act (MPA). The very fact that the bill itself has been brought to the floor of the Committee of the Whole is obnoxious and indicative of a diminished respect for the Constitution—with which many of us on this side of the aisle would rather not be associated.

In addition to the contravention of and the disregard for the public policy that has been established by statutory law, caselaw decided in the highest court in the Nation, and most importantly the intent of the Framers of our Constitution, the base bill, as my colleagues from Florida so eloquently stated in the Rules Committee hearing yesterday, ''attempts to legislate morality'' for an entire nation.

In debating this very important issue, I would ask that my colleagues put aside their personal biases and fears and examine this bill for what it is—a threat to the framework of our democracy that is facially unconstitutional. As legislators, we all take an oath to uphold the integrity of the Constitution and to protect the citizens of America from overbroad and invidious acts of the legislative and executive branches.

H.R. 3313 is inconsistent with the Equal Protection clauses of the Constitution and its Bill of Rights. It singles out one group of people—lesbian and gay Americans—for different and inferior treatment. This unequal treatment of one group is the very essence of classifications that run afoul of the principle of Equal Protection.

The bill is with the separation of powers. The principle of judicial review, part of the bedrock of our political system since Marbury v. Madison, protects citizens from overreaching by the legislative and executive branches. Our system of government relies on its ''checks and balances'' and an independent judiciary to ensure that all legislation complies with the Constitution. We in Congress lack the power to exempt legislative branch actions from judicial review and we should not attempt to reverse this process now.

The proposed Marriage Protection Amendment is inconsistent with Due Process. Removing access to Federal courts on a question of Federal law, such as the constitutionality of MPA, could deprive an individual challenging such a law of due process, which is guaranteed by the Fifth Amendment's Due Process Clause.

The proposed Marriage Protection Act is a major departure from our constitutional and legal tradition. Despite many efforts over recent decades to adopt restrictions on Federal courts in controversial areas (such as abortion rights and school prayer), no bill instituting a broad ban on a subject matter class or cases has passed, much less one that disadvantages only a discrete group of people.

In Congress, our views differ on many things, but we can unite in the fact that we believe in the constitution and we are here to serve the public. This bill will do neither, it goes against our founding document and it only alienates a group of people and denies them basic rights.

I would ask that my colleagues defeat this bill and protect our fundamental rights.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time at this point.

Mr. MCGOVERN. Mr. Speaker, I yield 2½ minutes to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, as a nonlawyer and observing that there are many young people in the gallery today, this is actually an instructive debate that we are having for the second time in 2 weeks. Last week, with the sponsorship of Republicans and Democrats alike, we paid tribute to John Marshall.

John Marshall was perhaps the most important jurist in the history of the United States, because despite what many people think, in the Constitution of the United States nowhere does it say who will settle disputes between the legislature, the executive, and the courts. What if each of the three branches come to a different conclusion?

Well, John Marshall, in 1803, 201 years ago, said the courts are going to decide. The courts are going to be the final arbiter of what is constitutional and what is not.

For 200 years, that has served as the way that we have operated, virtually unquestioned. It was even unquestioned in the year 2000 when, in the Constitution of the United States, it clearly says that Congress has the right to choose electors, and the Supreme Court took that upon itself. We Democrats, although we were very concerned about it, jurists, scholars of jurisprudence said it was a terrible decision, but no one says it should not be the courts to make that decision.

I would say to the gentlewoman or anyone who supports this bill, if not the courts then who? Who is going to make the decision about the constitutionality of this law?

We are left with essentially three choices. One, we can say the State courts will make that final determination. But what if we have two State courts that are in conflict? Who is going to resolve that dispute?

Two, we can say that it will be the legislature that will always decide these things, and we have 50 different legislative interpretations, or the legislature will change every 2 years, changing interpretation of the law.

And the third choice is just anyone can choose whatever interpretation that they like.

Before we choose anything but the courts, before we support this, let us remember something here. The courts are where the minority goes to have their views heard. That one person who is standing outside a movie theater; the courts are where that one person goes who wants to protect his right to bear arms against a legislature that is overzealous, where the one person goes who has burnt a flag and wants to go to find out if what he has done is constitutional.

There are dozens and dozens of places in society where the majority rules. The court is the only place we go to protect our constitutional rights.

So to the sponsors of the bill, to the sponsors of the rule, I ask them, if not John Marshall's way, if not judicial review, if not the Supreme Court of the United States of America, then who will it be who will decide what is constitutional and what is not?

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume for just a clarification.

Marbury v. Madison is entirely consistent with H.R. 3313. It established the principle of judicial review and stands for the proposition that the Supreme Court has the final say on the issues it decides, provided either the issues it decides are within its original jurisdiction or Congress by statute has granted the Supreme Court the authority to hear the issue. It is that simple. If a case does not fall within the jurisdiction of the Federal courts because Congress has not granted the required jurisdiction, Federal courts simply cannot hear the case.

The author of Marbury v. Madison was Chief Justice John Marshall, as was stated, and Chief Justice Marshall himself, after he decided that case, dismissed cases when the Federal courts had not been granted jurisdiction by Congress to hear them under the Judiciary Act of 1789.

Mr. Speaker, I yield 4½ minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise to support this rule, because this debate must be removed from the courts who are filled with unelected, lifetime judges, and the debate should be moved from those courts back into the court of the people, back into the courthouse square instead of in the courthouse.

Mr. Speaker, Congress has the constitutional right to be involved in this process, and I can tell that the debate has already covered that, so I am going to limit my comments. But the Constitution declares that Congress will be involved in making these sorts of decisions in determining what the Federal courts will and will not hear. It was, in fact, that judicial review process that Judge Marshall made in Marbury v. Madison that began the process of judicial review that is not even called for in the Constitution, and judicial review which has extended the power of the courts beyond, beyond, and beyond where the original Framers of the Constitution intended for the courts to have power and, in doing so, have eroded the power of the legislative branch.

Mr. Speaker, we have encountered in our history a very clear, similar case, exactly paralleling what we are doing today. We had a time in our history when there were definitions that the courts began to give, such as the definition of slavery.

It was the Supreme Court that decided in the Dred Scott decision that the issue of slavery involved the will of the minority and said that the will of the minority could not be subjected to the will of the majority. Of course, the courts at that time did a small sleight of hand because the minority that they were talking about was really the minority slave holders, the owners of slaves, and they overlooked the rights of the minority of the slaves themselves. We fought a Civil War over the Supreme Court's definitions at that point.

Instead of really understanding that the will of the people had spoken and the ensuing constitutional amendments, the courts later, in the Plessy v. Ferguson case, established the Separate but Equal Doctrine that again was offensive to the multitudes of people in this country.

Right now we have a Supreme Court that is willing to declare its will on the people no matter what the people say, and I think that the rule is extremely important here, because it begins to take that right back from the Supreme Court and put the discussion in this body who represents and can be elected and unelected by the people. The Supreme Court cannot be unelected, ever, and it is a very critical element of this argument.

But to those people who say this is an emotional issue, they are exactly correct. Our office spent over 20 hours discussing the issue, and we have people inside our office who were on both sides of the issue. But at the end of the day, nature has described what a marriage is. Law only fundamentally defines what nature has already defined: that a man and a woman come together, they create life, and it is the only life-creating institution and the only life-creating relationship in the world, and then the bonding process of that keeps them together in order to nurture and to grow the children and the offspring.

Mr. Speaker, that is the relationship that people are asking about, and it is a good question. Should gays be allowed to marry? Well, yes, they can, and they should be allowed to marry. But marriage, by definition of nature, is between a man and a woman, and if they are going to marry, they have to marry a man or a woman. The discussion is absolutely centered around this question, and it is not a matter of right and it is not a matter of discrimination.

But what the other side of the aisle wants to do is to redefine marriage for all people. It is the redefinition that is wrong, because there is no civil rights abridgement here. Many black leaders are speaking in favor of this. This is the will of the people saying we must have a discussion among the people as to what is marriage and how it is defined.

For these reasons, I support the rule, Mr. Speaker.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. INSLEE).

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

Mr. INSLEE. Mr. Speaker, I thought I heard everything here, but citing the Dred Scott decision in support of this amendment is like citing the Ku Klux Klan in support of civil rights legislation. This amendment is a Soviet style attack on American freedom, and the reason requires a little look at history.

The former Soviet Union had a Constitution, like we do. The former Soviet Union had a Bill of Rights, like we do; very similar to our Bill of Rights. But the former Soviet Union had another little trick. Their little trick was that the executive and legislative branches prohibited the judicial system of the former Soviet Union from enforcing their Bill of Rights, and what did they get? Tyranny.

The instructive lesson of the Soviet Union is that we should not go down the path of getting rid of, yes, frustrating, nonunderstandable courts that sometimes do not agree with Congress. But I guess the authors of this amendment feel that they are smarter than Thomas Jefferson and smarter than any court that ever lived.

This is not the only right that is going to be on the chopping block. Once we do away with the independence of the American judicial system, which has never been done in American history, ever; this Chamber has never, ever cut the knees out of the American Bill of Rights in American history, and this is not like the first time we have a controversial issue that may end up in the courts. Civil rights was controversial. Gun rights are controversial. It may be controversial if this Congress passes a gun rights bill like the Brady Bill and then it goes to the U.S. judicial system to see if it is constitutional, that is controversial. But where will this stop?

I may ask the drafters, why did you stop here? Why, if you believe the PATRIOT Act is constitutional, why do you not just do away with the Supreme Court and not let them review that as well?

This is a first step to tyranny. It ought to be rejected.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume.

I would like to read a couple of quotes from Thomas Jefferson that he made, of course, a long time ago. He lamented that ''the germ of dissolution of our Federal Government is in the Constitution of the federal judiciary; . . . working like gravity by night and by day, gaining a little today and a little tomorrow, and advancing its noiseless step like a thief over the field of jurisdiction, until all shall be usurped. . . .''

In Jefferson's view, leaving the protection of individual rights to fellow judges employed for life was a very serious error. Responding to the argument that Federal judges are the final interpreters of the Constitution, Jefferson wrote, ''You seem . . . to consider the [federal] judges as the ultimate arbiters of all constitutional questions, a very dangerous doctrine indeed and one which would place us under the despotism of an oligarchy. Our judges are as honest as other men and not more so.''

□ 1100

They have with others the same passions for party, for power, and the privileges of their core. Their power is the more dangerous, as they are in office for life and not responsible as the

other functionaries are to the elective control.

The Constitution has elected no such single tribunal, knowing that to whatever hands confided with the corruptions of time and party, its members would become despots.

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

Mr. MCGOVERN. Mr. Speaker, I yield 30 seconds to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, I continue to hear concerns about an overreaching judiciary, and I asked a simple question. I will gladly yield to an answer. If not the judiciary interpreting the laws of Congress, then who does?

Mr. Speaker, does the gentlewoman have a response?

Mrs. MYRICK. Mr. Speaker, will the gentleman yield?

Mr. WEINER. I yield to the gentlewoman from North Carolina.

Mrs. MYRICK. Well, in this particular case, it is the State courts, the right to be left to the State courts.

Mr. WEINER. Certainly. Well, in that case, who is to interpret conflicts between the two State courts or 50 State courts?

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I think it is important that we do listen carefully to this debate. Why are we here today if it is not just a sad grab for votes after the embarrassing meltdown in the Senate last week dealing with the constitutional amendment that would have banned same-sex marriage?

Listen to the rationale. The overworked judiciary? That certainly has not stopped our Republican colleagues from trying to shift the burden when it fits their ideology. They want the States to have the final authority only in this area, not for consumer protections or environmental policy.

The Republican leadership do not like unelected lifetime judges making these difficult decisions.

Well, frankly, looking at their efforts to pack the Federal judiciary with unqualified right-wing ideologues, I can understand why they are a little nervous about it; but, that is our system. Now they are afraid of their own conservative-leaning Supreme Court. This is so unnecessary, that the author of DOMA, our former colleague Bob Barr, has issued an edict. This is not needed; and Mr. Barr points out, to his credit, that this is a terrible precedent.

Ten years from now the American public, especially our young people, are going to wonder why we tied ourselves in knots politically trying to discriminate against citizens based on their sexual orientation; but if we pass this dangerous legislation today, while the controversy surrounding rights for gay and lesbian citizens will be gone, this dangerous, tragic, ill-conceived precedent will linger and will be dusted off every time people want to extend their political influence at the expense of issues that may be controversial but demand attention from our Federal courts.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, again, I thank the gentlewoman for yielding me this time and support the rule.

The comments about conservative-leaning courts just fly in the face of actual fact. This court in Lawrence v. Texas was not exactly right-leaning, and that is a fairly recent decision. In fact, the case of the Congress over being willing to declare what the courts can and cannot look at is a very recent occurrence, as our friends on the other side of the aisle seem to have forgotten that Mr. DASCHLE himself wrote into the legislation that the court cannot even oversee the removal of shrubbery and scrub brush from the national forest in South Dakota.

And certainly if the Supreme Court and the courts can be held back from considering anything in the management of those forests, it might just reach the threshold that the American people should have the right to say that the Federal courts would not be the last point of reference there.

I would go back again to my friend's comment that quoting the Dred Scott decision is like quoting from the Ku Klux Klan civil rights manual. I think that the mixing of conversations there was certainly not based on fact. The Dred Scott decision was a decision by not a Republican court to establish slavery as the legitimate form of activity in this country. The Dred Scott decision was the one that authorized and made slavery legal, and it was against the will of the people that that was done. And it is similar to the case now where the courts would operate against the will of the people.

Mr. MCGOVERN. Mr. Speaker, after the gentleman's comments, in his concern for activist Federal judges, I just want to state for the record that seven of the Supreme Court justices right now have been appointed by Republican Presidents, and pretty conservative Republican Presidents at that.

I yield 30 seconds to the gentleman from New York (Mr. WEINER).

Mr. WEINER. Mr. Speaker, this Member of the other body was in violation of the rules referenced on the floor. Let me just clarify the record there. It is perfectly legal to write into a piece of legislation that one goes to a certain place for a point of review but not another place. Nowhere in the Daschle legislation did it say one has no right to the courts or no right to the Supreme Court of the land. That is simply misstating the facts.

Mr. MCGOVERN. Mr. Speaker, I yield 2½ minutes to the distinguished gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Mr. Speaker, I thank the gentleman for yielding me this time.

I think it is important to understand the essence of this bill, because it is truly very simple. What it does is it says that the Defense of Marriage Act that was passed by this body in 1996, obviously it is a Federal statute, cannot be reviewed by the Federal courts. That is what it says, and it includes even the United States Supreme Court.

So for the first time in our constitutional history since the decision in Marbury v. Madison, this body would strip from the United States Supreme Court its essential function in our democracy, which is the review, particularly of Federal statutes, for the determination as to its constitutionality. That is what this debate is about today. It is not about the defense of marriage. We did that in 1996; and by the way, if you took a look at the recent data in terms of divorce, it has not been very effective, I would suggest; but as the gentleman from Oregon indicated, the author of the Defense of Marriage Act, former Representative Robert Barr, urges a ''no'' vote on this particular bill because of what it does. It establishes a dangerous precedent. It is clearly unconstitutional.

Let me conclude with this statement. This bill does not defend marriage. What it does do, however, it diminishes our democracy; and we ought not to be about that as an institution. We should encourage our democracy and our values.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, I rise in strong support of the rule considering H.R. 3313, the Marriage Protection Act of 2004. This is a critical piece of legislation that will prevent unelected, lifetime appointed Federal judges from arbitrarily determining the definition of marriage for the American people.

In 1996, Congress passed the Defense of Marriage Act by an overwhelming bipartisan margin. Defense of marriage firmly states that no State shall be required to accept the same-sex marriage licenses granted by other States. To this day, 38 States have passed similar defense of marriage laws, demonstrating the overwhelming consensus for the protection of the institution of marriage.

The role of Congress has always been clear on the limitation of jurisdiction of the lower Federal courts. The Marriage Protection Act is an exercise of Congress's authority and is an appropriate remedy to address the abuses of Federal judges on this issue. States with defense of marriage statutes or constitutional amendments on same-sex marriage should not be forced to accept same-sex marriages from other States.

Today the Federal courts are being used by activist judges to redefine marriage for the American people, completely apart from public debate upon those that the American people have elected to represent them.

More than 200 years of American law and thousands of years of human experience should not be arbitrarily changed by a handful of unelected judges. The issue of marriage is too important to be decided by judicial fiat. The American people must have a voice on this important issue.

Mr. Speaker, I urge passage of H.R. 3313.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I rise in strong opposition to this rule and the underlying bill; and if enacted, this would establish a tremendously dangerous precedent by denying the Federal judiciary the ability to review actions of the legislative and executive branches. It would eliminate the checks and balances that the Founding Fathers of our Nation so wisely established in our Constitution. Such a reckless move would cause lasting and permanent damage to our democracy.

Since John Marshall, the Constitution has had superiority over the legislature. The Constitution gave us the right to speech and privacy, and even if we vote for 435 to 0, certain rights are protected in our Constitution. But if this bill were to become law, it would deny jurisdiction to the Supreme Court and all Federal courts over any cases related to the Defense of Marriage Act.

This bill goes beyond merely preventing same-sex couples from seeking legal redress in our courts. It would deny judicial review to an entire class of citizens because of passing partisan passions, and it is willing to trample on our Constitution in order to do so. No issue is worth paying such a price. This is a low moment in the history of this House. I urge a ''no'' vote on the rule and the underlying bill. The Republican leadership is trying to use a wedge issue to appeal to right-wing constituencies in a highly charged election year, and they are willing to trample on our Constitution. No issue is ever worth such a price. I urge a ''no'' vote.

Mrs. MYRICK. Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. LOFGREN).

Ms. LOFGREN. Mr. Speaker, we here in America are fortunate indeed for our history and our law. We have a written Constitution that protects our liberties, and we have a system of checks and balances that makes sure that we do not fall prey to totalitarianism. 201 years ago, a case was decided, Marbury v. Madison, and in that famous case, Justice Marshall pointed out that we were at a cusp. Either the Constitution is a superior, paramount law, unchangeable by ordinary means, he said, or it is on a level with ordinary legislative acts and like other acts is alterable when the legislature shall please to alter it.

He said then, and for the last 200 years we have agreed, that it is indefatigably the province and the duty of the judicial department to say what the law is. Make no mistake about it, this proposal, whatever you think about gay marriage, whatever you think about DOMA, this proposal today is a radical one. It proposes to change the system of government that we have enjoyed here in America for over 200 years, a system of checks and balances, where the Constitution is the paramount authority, and the executive and the legislative branches must live within the Constitution.

This road leads to totalitarianism; and so whatever you think on the hot issue, the political issue of gay marriage, I urge you to reject this first step down the road to a system of government that is markedly different from what Americans have enjoyed for the last 200 years.

□ 1115

I have never seen a debate of this sort in the Committee on the Judiciary, and again today on the floor, such a serious misunderstanding of the system of government that we have here today. Do not let it happen here.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I thank the gentlewoman for yielding me time.

I rise to support the rule and the underlying bill. We have got several comments from our friends on the other side of the aisle that definitely demand a closer look. First, the statement that this side of the aisle is bringing this highly charged issue up right now as an electionary issue. I am sorry, but it was not this side of the body that began to cause people to go down in acts of defiance of the law, began to get licenses and get marriages approved that were currently against the law. It was not this side of the aisle that brought those up. We are simply responding that now that the issue has come up, we need to deal with it.

Also, there was a comment that we are diminishing democracy, and absolutely the opposite thing is occurring. We are empowering the democracy and we are empowering the people. But the other side is working under the very knowledge and the very truth that if they can find one court and four judges they can create law in this country. That is not empowering democracy. This bill and this rule empower democracy.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts (Mr. MARKEY).

Mr. MARKEY. Mr. Speaker, oil prices at $40 a barrel, nearly 1,000 young American men and women dead in Iraq, 6,000 wounded.

What are we debating here on the floor of Congress? We are taking up a bill to strip the Federal courts of the power to hear cases challenging the constitutionality of the Defense of Marriage Act. Apparently, the Republican Congress is so concerned that a gay or lesbian couple might someday have their marriage in one State recognized in another that they are prepared to take the extreme measure of preventing judges from interpreting the law.

While every other American will continue to enjoy the checks and balances that come from three branches of government, the Republicans have decided that if you are gay you should be able to get along with just two branches of government. Why are they doing this?

Conservative activist Paul Weyrich shed some light on the current thinking in Republican circles which explains why this bill is really on the floor today. Here is what Mr. Weyrich had to say: ''The President has bet the farm on Iraq. Right or wrong, he has done it. Even if you disagree with the decision, you have to admire the President for putting it on the line and staying the course despite overwhelmingly bad news for months now.

''Therefore, Iraq will be an unavoidable topic of discussion in this campaign. The problem is that events in Iraq are out of the control of the President.''

Mr. Weyrich writes, ''There is only one alternative to this situation: Change the subject.'' He dismisses the option of taking up oil prices or the economy. Apparently, even he does not think those are winners for the President.

''No,'' he concludes, ''what I have in mind to change the subject is a winner for the President. The Federal Marriage Amendment.'' The gay marriage issue, he gleefully advises, ''will cause Senator KERRY no end of problems.''

So that is what it is really all about. Republican leaders in Washington are running scared. They look at the polls on Iraq, on the economy, on jobs and they fear that the voters are going do rise up in November, and as a result they bring an unconstitutional act out on the floor that will strip gays and lesbians of their rights to be able to go to the Federal courts.

Vote ''no'' on this bill. It is a disgrace against the United States Constitution.

Mrs. MYRICK. Mr. Speaker, I yield 7½ minutes to the gentleman from Indiana (Mr. HOSTETTLER), the sponsor of this bill.

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

Mr. HOSTETTLER. Mr. Speaker, I rise in strong support of the rule and, obviously, in strong support of the underlying legislation.

I would like to bring us back to a discussion of the actual legislation that is being considered and a discussion initially of the constitutionality of that legislation.

We have heard lots of folks that have suggested that this legislation is in fact unconstitutional, and I think at the outset we need to remember the wisdom of a law school professor that testified before the United States Subcommittee on Courts, the Internet, and

Intellectual Property of the Committee of the Judiciary in 1997, that reminded us as Members of Congress and the country that when it comes to the teaching of constitutional law in our law schools, which we will hear a few of those folks who graduated from those law schools today on this very issue, the thing that you need to understand about constitutional law is it has virtually nothing to do with the Constitution.

And with that in mind, we will talk today about the constitutional law and what is ''constitutional or unconstitutional'' and then we will be talking about the Constitution.

I will be erring on the side of the actual Constitution and try to inform my colleagues of what the Constitution actually says with regards to, for example, separation of powers.

The notion of separation of powers is this: That the legislature has its powers limited and enumerated in the Constitution; the Article II branch, the executive has their powers, his powers in this particular case, limited and enumerated in the Constitution; and in Article III you have the very limited and enumerated powers of the judiciary in Article III, a much smaller article in text than Article II and Article I; and so you have that separation of powers.

It is interesting to note that in Article III, for example, it talks a lot about the powers vested in the Congress. Well, we will talk about that in just a moment but let us look at Article IV, Section 1 that talks about the power of Congress with regards to the Defense of Marriage Act that was passed in 1996.

This bill, the Marriage Protection Act, seeks to remove from the Federal courts jurisdiction concerning the Defense of Marriage Act. Now, why would we take that step? One reason is because we can and another reason is because we should. I will tell you why we can in a moment, and part of that is the fact that this power granted to Congress that is not granted to the judiciary, that is not granted to the executive, is so explicitly expounded in the Constitution in Article IV, Section 1.

It says, ''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 effect thereof.''

So in Article IV, Section 1 we see a power of the Congress. We do not see anything about the Supreme Court. We do not see anything about the President. That is power explicit and exclusive to Congress. And so in employment of that power, we passed the Defense of Marriage Act that said no State would have to give full faith and credit to a marriage license issued by another State if that marriage license was issued to a same sex couple.

We exercised the explicit and exclusive authority of Congress to, by general laws, prescribe the manner in which the effects of a marriage license and, for example, the State of Massachusetts, was to be felt in the State of, for example, Indiana, my home State. So we have that power.

Once again, nothing here says the courts, nothing here says the executive branch, and then when we move to the idea of can Congress take from the courts certain jurisdictions we have to ask ourselves, well, how does the Constitution grant the authority to create the courts? Well, we turn to Article I, Section 8 and it says, ''The Congress shall have power to constitute tribunals inferior to the Supreme Court,'' and those are today known as the district courts and appeals courts. We have the power to constitute them, to make them up.

Then it goes on to say in Article I, Section 8 that the Congress shall have power to make all laws which shall be necessary and proper for caring into execution the foregoing powers, such as constituting the inferior tribunals, and all other powers vested by this Constitution in the government of the United States or in any department or officer thereof.''

So we can create the Federal courts, we can by definition abolish the Federal courts. We do not seek to do that today, but we seek to make a law that will carry into execution that power of creating the courts, and that is to limit the jurisdiction.

We then turn to Article III, Section 1, and we hear once again in Article III, which is generally referred to as the judicial branch creation, and what does it say in Article III? It says, ''The judicial power of the United States shall be vested in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish.'' Then it goes on to talk about the Supreme Court and the judicial capacity and jurisdiction of the court system.

It says in Article III, Section 2, ''In all cases affecting ambassadors, other public ministers and councils, the Supreme Court shall have original jurisdiction. In all the other cases before mentioned,'' and that is previous in Article III, Section 2, all those other cases, ''the Supreme Court shall have appellate jurisdiction, both as to law and fact, with such exceptions and under such regulations as the Congress shall make.''

So the United States Constitution is very clear. Congress has the authority to create the inferior Federal courts. Congress has the authority to make exceptions and regulations with regard to all of the appellate cases that come before the Supreme Court. Anyone that actually reads the Constitution and has a basic understanding of grammar and the English language in general can find that in fact the Constitution grants Congress the authority.

Now, the question is, so we can do this, the question remaining before us is this: Should Congress do this? That question was answered on Tuesday.

On Tuesday of this week a couple from Massachusetts, a lesbian couple who had been married in Massachusetts, removed themselves to the State of Florida and they entered into the Federal courts a complaint that Florida would not recognize their same sex marriage license conferred upon them.

This battle has been engaged. In fact, the attorney for the lesbian couple that wishes to demand an overturn of the Defense of Marriage Act said this, ''With the filing of this historic lawsuit today in the Federal court, Florida has become a battleground.''

Well, we want to snuff that battleground out today in Congress by claiming that the people of Florida should be able to determine the marriage laws of the people of Florida and not the State of Massachusetts.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I know what it means to be excluded from your own Constitution, and after the experience of African Americans in this country and a Civil War, I never thought I would see a civil war in law where we would try to exclude any other group of Americans from the Constitution of the United States, and that is exactly what we are trying to do here today. We are trying to change the constitutional system that the framers put in place over one constitutional issue.

Now, every time there is an issue like this which raises the hackles of the country, people rush forward to try to do exactly this, to strip the courts. They did it during the era of desegregation. They have done it with school prayer. The fact is that the issue has been settled for 200 years in Marbury v. Madison, and the issue is quite simply this: That the Supreme Court is the final arbiter of constitutional matters.

Now, if that were not the case, if that is wrong, then the framers were wrong, because the framers were still sitting, some of them in the court itself, some of them in the Congress when Marbury was passed, and under accepted principles of constitutional interpretation somebody could have come to the floor and said the court has got it wrong and we are going to assert ourselves. Instead they accepted Marbury v. Madison and we must accept it.

The Supreme Court has constitutional standing in our system, and the words are ''The judicial power of the United States shall be vested in one Supreme Court.'' Otherwise, we would have chaos in our system without any separations of powers. Congress would never have to account for unconstitutional laws. All it would have to do is to put court-stripping language in every bill and we would be a Constitution unto ourselves because there would be no review of our unconstitutional laws.

□ 1130

That is unconstitutional. I think it is certainly un-American.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I thank my friend, the gentlewoman from North Carolina (Mrs. MYRICK), for yielding me the time, and I rise in strong support of this rule.

It pains me today to think that we are even at this place in our Nation's history when we have to debate the importance of maintaining the bedrock of our country, the American family.

As a fairly new grandfather myself, I have watched my children as new parents, and I am reminded that their children are each blessed to have a mother and father. They are uniquely suited, male and female, to invest in their lives.

The legislation and the rule before us is not about discrimination or civil rights as some might claim. This is about the bedrock of our society, our community and our future. This is a big deal.

Mr. Speaker, we need to rise in strong support across the board, both sides of the aisle, in bipartisan fashion. We support the American family.

Mr. MCGOVERN. Mr. Speaker, can I inquire of the time on both sides.

The SPEAKER pro tempore (Mr. TERRY). The gentleman from Massachusetts (Mr. MCGOVERN) has 4 minutes remaining. The gentlewoman from North Carolina (Mrs. MYRICK) has 1 minute remaining.

Mr. MCGOVERN. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, this is not just about gays and lesbians. I have been here 24 years. We never do anything only once. When you have developed a particular procedure to use in defense of your views, that gets used again and again. Today, I was going to say you set a precedent if you pass this bill, but you do not set a precedent. You go back in history to the Articles of Confederation.

Passage of this bill will mean that the United States Constitution, in this particular area, will have different meanings in different States because States will then be the ultimate decider of the Constitution, and anyone who thinks that if we do it in this case that is the only time we will ever do it does not follow things closely.

I am the ranking member on the minority side in the Committee on Financial Services. There is not an area in our jurisdiction with respect to the business community of America where the financial community does not come to us and say we need one uniform law.

Do you not understand, Mr. Speaker, that if you set this precedent, it will apply in other areas? Indeed, it will become boilerplate. If you are passing legislation dealing with the second amendment and gun rights; and environmental land takings under the fifth amendment; the commerce clause, financial regulation, it will be a matter of course to add this language that says, and by the way, we believe so strongly in what we have done, it will be none of the business of the courts.

There will be different views in different States. Forget the Uniform Commercial Code. We will have the ''multiple commercial code,'' the multiple choice commercial code. We will have the ''Multiple Choice Constitution.''

I guess I am regretful, maybe I can apologize, that the sight of two lesbians falling in love and wanting to formalize that has so traumatized the majority that they are prepared to make the biggest hole in the United States Constitution that we have seen since we became one Nation. You are saying there will be no more uniformity in the Constitution, and you say it is only here.

By the way, I know a few scholars who think you will lose on full faith and credit. You make a terrible mistake to set a precedent that will be followed time and again. It will become truth that you really care about an issue that you say that the United States Constitution will no longer be a uniform document, but will be subject to dozens of separate State interpretations.

Mrs. MYRICK. Mr. Speaker, I yield 30 seconds to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, wrapping up my comments for this part of the debate, I again rise to support the rule and the underlying bill.

This bill does not favor or disfavor any particular result or any group of people. It is motivated by the desire to preserve for the States the authority to decide whether the shield Congress enacted to protect them from having to accept same-sex marriage licenses out of State will hold.

This bill does not eliminate any group from the Constitution, but instead, recognizes the 10th amendment of the Constitution which declares that all rights are reserved for the States except those which are specifically given to the Federal Government.

I would comment that the observations of the last gentleman are completely contrary to the 10th amendment of the Constitution.

Mr. MCGOVERN. Mr. Speaker, can I inquire of the gentlewoman how many more speakers she has on her side.

Mrs. MYRICK. I have no more speakers.

Mr. MCGOVERN. Mr. Speaker, I yield myself the remaining time.

Mr. Speaker, let me reiterate what this bill is all about. It is a mean-spirited, unconstitutional, dangerous distraction. No matter what Members may think about gay marriage, the issue here today is whether or not we will take away people's fundamental constitutional rights.

Gay men and women pay taxes, serve in the United States Congress and in legislatures across the country, serve in our military, raise families that participate in the political process. The idea that they should be treated as second-class citizens and stripped of their constitutional rights is not only wrong, it is appalling.

Now, I am from Massachusetts and my colleagues will hear supporters of this bill talking today about the alleged catastrophe that has occurred in my State in the last few months; but you know what, Mr. Speaker, the world did not come to an end in Massachusetts when the State Supreme Court made its ruling. People got up and went to work and took their kids to school and paid their bills and lived their lives. The world kept spinning on its axis.

In the end, I think that is what is driving the supporters of this bill crazy. The outrage, the mass hysteria, the political momentum they expected from this issue just have not materialized. The American people are a lot smarter and a lot more tolerant and a lot more reasonable than the Republican leadership gives them credit for, which is why, Mr. Speaker, even if this bill passes today, I still have hope.

Mr. Speaker, every Member of this House took an oath that they would uphold and defend the Constitution of the United States. I hope we will do that today. I urge all my colleagues to vote ''no'' on this bill.

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

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

PROVIDING FOR CONSIDERATION OF H.R. 4842, UNITED STATES-MOROCCO FREE TRADE AGREEMENT IMPLEMENTATION ACT

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 738 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 738

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 4842) to implement the United States-Morocco Free Trade Agreement. The bill shall be considered as read for amendment. The bill shall be debatable for two hours equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. Pursuant to section 151(f)(2) of the Trade Act of 1974, the previous question shall be considered as ordered on the bill to final passage without intervening motion.

SEC. 2. During consideration of H.R. 4842 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.