

comes to election monitoring. The world-renowned Carter Center has monitored more than 50 elections around the world, many under difficult and dangerous circumstances. When it comes to certifying that elections are free and fair, the Carter Center is the gold standard; people listen and take note.

They listen and take note, it appears, everywhere in the world but the United States.

President Carter is dead-on target in stating that "It is unconscionable to perpetuate fraudulent or biased electoral practices in any nation. It is especially objectionable among us Americans, who have prided ourselves on setting a global example for pure democracy."

That is why I recently introduced House Resolution 793—a sense of Congress resolution condemning all efforts to suppress and intimidate voters in the United States and reaffirming that the right to vote is a fundamental right of all eligible United States citizens.

The resolution also urges States to replace decade-old election machinery with less error-prone equipment before the November 2004 national elections; calls upon all States to institute a moratorium on the erection of roadblocks or identity checkpoints designed to racially profile voters on election day; and calls upon the Attorney General to vigorously monitor all credible allegations of voter intimidation and suppression and to expeditiously prosecute all offenders to the full extent of the law.

Mr. Speaker, House Resolution 793 is a simple resolution that reaffirms the most basic right of every American—the right to vote and have their vote counted. This is not a partisan issue. It is not a Democrat or Republican issue. I would note, however, that not one single member on the other side of the aisle has cosponsored the resolution.

Can anyone take comfort in conducting elections under flawed circumstances that depart from the principles of fair and equal treatment? Can anyone condone an election that perpetuates fraudulent or biased electoral practices? I certainly hope that our Nation's noble experiment in democracy has not.

Mr. Speaker, in closing, I want to briefly address another issue of voter inequity. This past weekend I held a voter awareness workshop in my congressional district for ex-offenders. In many States around the nation, ex-offenders' right to vote is either restricted or banned. This week the Sentencing Project released a study showing that African American men in Atlanta were 11 times more likely than non-African American to be disenfranchised. Nationwide, an estimated 5 million Americans are affected by felony voting restrictions. African-American males account for about 8 percent of the U.S. population and 40 percent of the prison population.

The high numbers of disenfranchised African American males casts a pall on voting. Why should any State have the authority to restrict the right of persons to vote who have paid their debt to society? This is fundamentally unfair and unjust.

Mr. Speaker, the credibility of our Nation is under attack from around the world. We cannot afford to witness another election debacle like the one we experienced in 2000. It is time for the American public and this body to sit up and take note of a potentially serious crisis facing the United States.

#### MARRIAGE PROTECTION

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speak-

er's announced policy of January 7, 2003, the gentleman from New Mexico (Mr. PEARCE) is recognized for 60 minutes as the designee of the majority leader.

Mr. PEARCE. Madam Speaker, I thank the body for allowing us to speak tonight on this extremely important issue.

The state of a society is an ongoing process. We tend to want to think that we can pass along our values and the rights and freedoms that we have in a current age to those in the next generation. For instance, I just think that I can pass along the right to my daughter, who can pass along to our grandson and granddaughter the rights to own a business or the rights to a public education, or maybe even the right to understand exactly what society is about, the good parts and the bad parts.

Well, the Nation is involved right now in a discussion about what is best for America when it comes to marriage. The Massachusetts Supreme Court made a decision a couple of months ago that began to cause us all to think about what is the right definition for marriage, how should we change it, why should we change it, or should we change it.

We have several Members here on the floor tonight to help present this discussion to this body, and I yield to the gentlewoman from Colorado (Mrs. MUSGRAVE) who is the sponsor to the amendment to the Constitution that would declare marriage as simply between a traditional man and woman.

Madam Speaker, I yield to the gentlewoman to explain her ideas.

Mrs. MUSGRAVE. Madam Speaker, the best gauge of whether the American people want the definition of marriage to be a union of a man and a woman is to look at elections in recent activities in the States on this subject.

Madam Speaker, voters in 7 States have gone to the ballot box to enact either a State Defense of Marriage Act, to pass State marriage amendments, or to permit the State legislature to define marriage, thus preventing a State court from doing so. Each time the initiative passed overwhelmingly.

The people of Hawaii voted with 69 percent approval to pass a State marriage amendment. The people of Alaska voted with a 68 percent approval to pass a State marriage amendment. The people of California voted with 61 percent approval to pass a State defense of marriage statute. The people of Nebraska voted with 70 percent approval to pass a State marriage amendment. The people of Nevada voted with a 70 percent approval to pass a State marriage amendment. The people of Missouri voted with 71 percent approval to pass a State marriage amendment. The people of Louisiana voted with a 78 percent approval to pass a State marriage amendment.

Madam Speaker, 44 States have recently enacted laws that provide that marriage shall consist only of a union of a man and a woman. These 44 States

constitute 88 percent of the States, well more than the three-fourths required to approve a constitutional amendment, and they include 86 percent of the United States population. The American people have spoken on this subject. It is time that Congress send to the States the marriage protection amendment so that States can decide for themselves whether to ratify the policy that marriage is the union of a man and a woman. Marriage is what really matters to the American people, to the American moms and dads, to the American children. It is just common sense.

Mr. PEARCE. Madam Speaker, I thank the gentlewoman from Colorado (Mrs. MUSGRAVE) for cosponsoring this amendments.

We hear a lot of discussion in this Nation about tolerance and about diversity and we should hear all sides of the discussion, but I will tell Members that the same people who shout loudest about tolerance and diversity have been the same people who have attacked the sponsor of this amendment to the Constitution. She has had threats made on her life. She has had slurs and insults thrown into her face, and she has tolerated abuse no one should have for simply speaking in America.

I worry in this same discussion about what the marriage is and what the family is and what it consists of, I worry that the opponents in this argument really do not want free speech, they do not want a public discussion. And that is what we are saying on this side of the aisle, that the discussion should be taken to the American people, that judges who are not elected should not make this decision; and that is exactly what is going to happen if we do not have the courage to make a stand and to identify what we think is the language which should amend the Constitution of the United States.

Madam Speaker, I thank the gentlewoman for having the courage to withstand the death threats from the people who disagree with her, and for standing tall and for defining the moment in American history that is before us right now.

Madam Speaker, I yield to the gentleman from Indiana (Mr. PENCE) to talk about this issue.

Mr. PENCE. Madam Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for leading this Special Order tonight. I thank him for his courageous leadership as a freshman.

Madam Speaker, I associate myself with the remarks about our previous speaker. While we address the Speaker, we are nonetheless cognizant at times many millions of Americans look into our deliberations on this floor, and I think it is altogether fitting to recognize that a freshman, the gentlewoman from Colorado (Mrs. MUSGRAVE), arrived in this institution and brought her support for traditional marriage to the floor of this Congress, and has turned her face like flint against the

wind and has brought us to this point where we are on the eve of an enormously important vote in the life of our Nation, and I commend the gentlewoman for her tenacity and courage. To a lesser extent, I commend the people from Colorado for sending leaders like the gentlewoman to this institution.

That said, we are here tonight for the purpose of gathering thoughtful colleagues like the gentleman from New Mexico (Mr. PEARCE) and those that will follow to consider out loud what will no doubt be lost in sound and fury on this floor tomorrow when the Marriage Protection Act, a constitutional amendment that defines marriage in the traditional terms as a union between a man and a woman, is brought to the floor of the House of Representatives.

There are those, and it is almost understandable in a season where a national election is just around the corner, there are those who will say this is politics. The more initiated among us would use phrases like "wedge issues" to explain the value of tomorrow's vote. But I must say and I believe I speak for the heart of this President whose moral courage has brought us to this vote today, of the leadership of this majority, of Republicans and even many Democrats who will tomorrow stand for this constitutional amendment when I say this is not about politics. This is, as the gentleman from New Mexico (Mr. PEARCE) said, this is about who we are as a people. This is about the foundations of our society. It is about what it is we will hand on to our children and grandchildren.

In my judgment it all comes down to the simple belief, that is millenia old, that marriage matters. In one debate after another with some constituents in Indiana and in some national broadcast forums, I have allowed people who disagree with me on the need for a constitutional amendment. I have said if you do not think marriage matters to children, to communities, and thereby to the life of the Nation and to the vitality of our civil society, then I can understand why you would not be prepared to go to the necessary means of a constitutional amendment to defend it and define it in traditional terms.

But if you believe, as I do, and as survey after survey shows us, that the overwhelming majority of the American people do, that marriage matters, that far beyond the conviction that I share and that millions of Americans share that it first matters because it was ordained by God, we see it even beyond those terms as an institution upon which our society was founded. Rightly understood, marriage and the family is the first and original unit of government. It is the glue of the American family and it is the safest harbor for raising children.

None other than a predecessor who represented northeastern Indiana on this floor from 1976 to 1980, Dan Quayle, made this point when he was Vice

President of the United States in 1992. Dan Quayle, against a withering assault, suggested in a national debate that the statistics proved that children who were raised, however imperfectly, in a two-parent home with a mother and father did significantly better in avoiding all types of social maladies than children, who for whatever reason, no fault of their own or their parents, found themselves in a different circumstance.

Dan Quayle's Murphy Brown speech became a national political joke, Madam Speaker, until after the election was over and the esteemed Atlantic Monthly Magazine pulled together a group of psychologists and sociologists and published in February 1993 that famous headline "Dan Quayle Was Right"; because what Vice President Quayle said is even more true today, that children that are raised in traditional two-parent homes find themselves, for whatever reason, but looking at the facts, find themselves able to avoid a host of social maladies that beset our children: teen pregnancy, sexually transmitted diseases, falling into gang violence or drugs, dropping out of school. Children raised in two-parent homes are significantly less likely to fall into those maladies.

That is not to say that single parents are less significant to our Nation. My wife was raised by a single mom, and we laid her to rest early this year, and I honor single moms maybe more than any other moms in our Nation because they bear such an extraordinary burden with such dignity and grace.

But in the development of social policy, you recognize good, better, and best, and the reality is the sociologists have spoken; the unflagging truth of western civilization and of modern American history is that marriage matters to kids and therefore is worth being preserved.

My second and only other point before I yield to my colleagues is much addressed to all of us who will consider this debate on this floor tomorrow. I am a conservative Republican Member of this Congress, and yet I have noted there are conservative colleagues of mine who are troubled that we are bringing an amendment to the Constitution every bit as much as there are liberal Democrat colleagues of mine.

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And so I wanted to take just a few more minutes to speak about why this Marriage Protection Act is necessary to amend the Constitution of the United States, because I truly believe that it is.

Let me say from my standpoint, the constitution of a nation rightly understood as the supreme law of the land of which it is a part is a document, yes; but as John Locke first described, it is part of a charter between the people. What I would offer today, the question is not whether our charter will be changed, or whether marriage will be

defined one way or another in our social contract. Rather, it is whether that definition will be brought by the people in an orderly amendment process to the Constitution or whether this issue in a constitutional perspective will be decided by unelected Federal judges. That is it.

The point that I will make here in the few remaining minutes that I will take I hope, Madam Speaker, will make this point. This issue is coming to the fore. It is coming to our Federal courts. As I will prove in a few moments, the United States Supreme Court, which I venerate and respect, has in recent decisions signaled a willingness to extend the right of privacy to certain types of behavior which could very well, according to legal leading scholars, have laid the foundation to recognize gay marriage by a narrow majority of the Supreme Court.

Here is the record. Activist lawyers and their allies in the legal academy over the last decade have devised a strategy to override the public opinion that I described earlier which is, by one reckoning or another, by referendum in Missouri recently, 71 percent of the public affirmed the traditional definition of marriage, survey after survey shows the overwhelming majority of the American people support it, but there has been an effort to use the courts much in the same vein as in *Roe v. Wade* in 1973 to redefine the laws of all 50 States through judicial fiat.

They achieved their first success in 1999 when they convinced the Vermont Supreme Court that they should order the State legislature to legalize same sex marriage or create same sex civil unions. The legislature chose the latter despite strong public opposition. The activists won their second victory when they convinced the Massachusetts Supreme Judicial Court to force that State to give full marriage licenses to same sex couples. Even though citizens of that State opposed same sex marriage and no law had ever been passed to authorize it, same sex marriage in Massachusetts became a reality on 17 May 2004.

The activists have, Madam Speaker, literally plotted a State-by-State strategy to increase the number of judicial decisions mandating same sex marriage. The goal is to force the same sex marriage issue on the Nation piecemeal and then to demand the United States Supreme Court order the hold-out States to accept and do the same. It is a fairly transparent and ingenious legal strategy. And the United States Supreme Court has provided potent ammunition for these activists when they decided the *Lawrence v. Texas* case of June 2003. In that case, dealing with same sex sodomy, the Supreme Court strongly signaled that a right to same sex marriage could be found in the number of the Bill of Rights, in the so-called right of privacy of the U.S. Constitution. This, Madam Speaker, is precisely the same right that the late Justice Blackmun derived the right for

an abortion in 1973 in the infamous *Roe v. Wade* case.

Again I say, this Supreme Court in *Lawrence v. Texas* in June of 2003 signaled that a right to same sex marriage could be found in the U.S. Constitution. In fact, experts as varied as Laurence Tribe of Harvard and Justice Antonin Scalia agree that the court's decision points to the end of traditional marriage laws. Let me say it again. This is something of a consensus opinion when Justice Scalia on the right and the famed author and professor Laurence Tribe of Harvard on the left agree that the *Texas* case lays the foundation for essentially the redefinition of traditional marriage.

Activists are attempting to build on their successes as we speak. In Vermont, Massachusetts, and in the Supreme Court in the *Lawrence* case, same sex couples are now challenging marriage laws in my State of Indiana, California, Florida, New Jersey, New Mexico, New York, Oregon, Washington, and West Virginia. In addition, lawsuits have been filed in Alaska and Montana to force those States to grant particular marital benefits to same sex couples. And while I support the Defense of Marriage Act strongly, according to many experts it provides a weak defense to these lawsuits. State and Federal courts are poised to strike down that law under the Constitution's equal protection and due process clauses and force recognition of same sex marriage.

The only way, therefore, Madam Speaker, to prevent this core societal decision which, as the gentleman from New Mexico said, is central to who we are as a people, it is central to that which we would bequeath to our children and grandchildren, the only way to prevent this core societal decision from being made by unelected judges is to allow the people to speak on this issue through the constitutionally mandated amendment process. This process which requires, and we will attempt to achieve it tomorrow, two-thirds of the Congress and three-fourths of the States by votes of their legislature is the most dramatic grassroots political mechanism available to let the people speak.

Let me close and yield back to my colleague with that point. We are in the people's House. Our founding documents speak of we, the people. Abraham Lincoln, standing on what would become the graveyard at Gettysburg, spoke of a Nation of the people, by the people and for the people. Yet there are those, and we will hear it on this floor tomorrow, I suspect, Madam Speaker, who will make the case that rogue, unelected judges know better than the people of the United States and that somehow what we are doing on this floor tomorrow in an amendment to protect marriage as it is traditionally defined is somehow contrary to our best traditions.

I would offer to you as I close, our best tradition is that we are a govern-

ment of the people, by the people and for the people. And when it comes to that institution which is marriage, which is so central to who we are, so necessary to the vitality of our society, we must hear from the people and that is what this majority will bring with our great leadership to the floor tomorrow for consideration.

I yield back my time with gratitude to the gentleman from New Mexico and my colleagues for being a part of this very important starting conversation about the Marriage Protection Act.

Mr. PEARCE. Madam Speaker, there are a lot of questions that I am given when I bring this subject up in the district that I represent and they are fair questions and they are good questions and I think that we have a responsibility to deal with some of those questions. Many people say, aren't you just infringing on the rights of the gays and lesbians? It does not appear that we are. What appears that we are trying to do is to say that gays and lesbians have the right to choose any life-style they want but what we are going to limit is their ability to redefine what marriage is.

Marriage is not defined by the Constitution. Marriage really is not even defined in law first. Marriage was defined in nature first. It is in nature that we find that men and women come together to have children and in the process of having the children, the sexual acts that caused the children create bonds that cause the couples to stay together. Those bonds create the family that sustain and nurture and raise and defend and protect our children. This argument is not about what is right for any class of people except children. When we move the children out of the central focus, we begin to stray away from the most vital, important part of this discussion because it is through the children that we have the next generation, the generation that will work and sustain us, the generation that will produce succeeding generations.

Those countries which have already admitted same sex marriages as a right and as a law, we find that in those societies that marriage is beginning to dissipate and disappear. Some would say, so what? So what is that the main structure, the main defense mechanism, the main way that children are born, raised and put onto the path in life that they should be put on is the family. So we cannot have a so-what attitude about it. We must understand that if we choose this, that it is going to radically affect our Nation and radically affect those things in society which keep our standards the way they are which make this Nation great.

If it is the decision of the majority of the American people to do that, it is one thing; but if it is the opinion of some activist judges who wish to redefine the American culture, then I think America is speaking out right now and we have an obligation to listen to what America is saying.

I would like to recognize another one of my colleagues, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) who is always involved in issues involving the family.

Mrs. JO ANN DAVIS of Virginia. Madam Speaker, I stand tonight in strong support of the Marriage Protection Amendment, and I consider this debate among the most important of my tenure in this House. I also want to make clear up front that this amendment is about reaffirming a national definition for one of our Nation's, and the world's, most important institutions, namely, marriage. This amendment does not, and I repeat, does not interfere with the right of State legislatures to change laws for their States, nor does it deny individuals the right to make sexual choices. The right to marriage will remain the same for everyone, that is, the right to marry another individual of the opposite sex.

I find it unfortunate that we must act today on something as seemingly clear as the definition of marriage, but activist judges have forced our hand in this important matter. You see, poll after poll and vote after vote at the State level have indicated that the American public overwhelmingly supports the definition of marriage as consisting of the union of one man and one woman. Indeed, 44 States have enacted laws affirming this very definition.

Moreover, in 1996, an institution no less than this very Congress and then President Clinton enacted the Defense of Marriage Act that defines marriage for Federal Government purposes as the union of one man and one woman. Contrary to what you may have heard elsewhere, the notion that marriage is the union of a man and a woman is not controversial. However, activists in the judiciary, as evidenced by the Massachusetts Supreme Judicial Court deciding that there is no rational reason for restricting the benefits of marriage to heterosexual couples, seem bent on redefining marriage for an entire Nation in direct opposition to the wishes of the vast majority of Americans and with a flagrant disregard for the millennia-old institution of marriage that has been responsible for the successful propagation of the human race.

Since ancient days in all corners of the globe, men and women have left their own families to join together and form new families for intimate companionship and, importantly, the rearing of children.

To those opponents of this amendment who contend that marriage in this country is broken already, citing statistics that half of marriages end in divorce, I must say that I agree with you. Admittedly, our debate today does not go to the heart of the problem, but rather addresses a symptom after years of degradation of the institution of marriage in America.

Certainly it is a great tragedy when men and women divorce and children are not raised by both a mother and a father. While there are millions of men

and women in this country who bravely and lovingly raise children by themselves, social science and our everyday experiences teach us that children raised without a mother and a father experience more poverty, more welfare dependence, more substance abuse, more physical illness, higher infant mortality, more homicide, more premature and promiscuous sexuality, more early unwed pregnancy, more juvenile delinquency, more educational failure, more conduct disorders and more adult criminality.

It is also true that the future of marriage as a strong institution of America goes far beyond whether or not the Constitution is amended to reaffirm the definition of marriage as the union of one man and one woman.

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That fact, however, does not mean that the Marriage Protection Amendment is unimportant. Rather, it is exceedingly important. For as a society, we will have no hope of strengthening the bonds of marriage without a unified national definition of marriage, a definition consistent with the understanding of marriage as a union of one man and one woman.

Mr. PEARCE. Madam Speaker, I thank the gentlewoman for her comments. They address the issue in a very sensitive and appropriate way.

We have many people who say to me also, What does it matter? Gays can love each other. Should they not be allowed to marry?

And it is a very compelling question, one that we should look at. I will tell the Members that emotions are not the basis for raising children. They are not the basis of relationships. If emotions are the basis of relationships, if love is the question, two brothers can love each other. Would we allow them to marry? But when we bring that argument up, our opponents say, no, no, we do not want to go there. But I am sorry, that is where we go if we begin to say that love, that emotions are the basis of relationships. If love is the basis, two men can love two women. Why not all four get married? One man can love five women.

If we are going to do that, if we are going to allow emotions to determine that love is fine for the same-sex marriage, what we do is we give away the legal standing for prohibiting those things which become more onerous: incestuous marriage; the polygamists; polymorphism; or, even worse, the child-adult relationships that we have been able to keep so far as a thing that should not be approved in society. But once we give in to the rationalization that the marriage relationship is only about love, not about nature, we give up all the legal arguments that would keep us from moving into each one of those successively. One might say that is ridiculous, that no one would do that. But I will tell the Members that there are websites currently suggesting each one of those forms of relation-

ships should be legalized, standardized and to be made public. So it is a very critical question here, what we are dealing with, and I think the Nation must be involved. We must not leave it to the decisions my friends say of the United States Supreme Court. My greater fear is that it is going to be one of the State Supreme Courts that makes the decision for the rest of the Nation, and I think that we see that potential time after time.

We are joined tonight by the gentleman from Texas (Mr. SMITH), chairman of the Committee on the Judiciary's Courts, the Internet, and Intellectual Property Subcommittee. I appreciate his willingness to talk about this issue and give his insights.

Madam Speaker, I yield to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Madam Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for yielding to me.

Madam Speaker, judicial activism in America has reached a crisis. Judges routinely overrule the will of the people, invent so-called rights and ignore traditional values. So far, judges have censored the Pledge of Allegiance in public schools, removed the Ten Commandments from public buildings and parks, banned the acknowledgment of God in public schools, imposed taxes, and now they have changed the definition of marriage.

Most Americans simply do not want judges to establish a new kind of marriage that is so different from the one that has served so many so well for so long. They want to protect marriage as we know it.

But what should citizens do and their elected representatives when a few judges impose their personal views on the American people? We have a choice. Either let judges decide or pass the Marriage Protection Amendment. Either we act in Congress or courts will continue to impose their definition of marriage on the country. Judges should interpret the Constitution, not promote a political agenda. The people and their representatives, not judges, should set social policy.

Madam Speaker, most Americans do not want to redefine marriage. Forty-four States already have enacted laws that provide that marriage shall consist only of the union of a man and a woman. The 44 States include 86 percent of the Nation's population.

We need to protect the right of the voters of these States to define marriage as they see it. This right is now threatened by activist judges who would overturn these States' policies. On behalf of the American people, we should vote for the Marriage Protection Amendment because it rightfully restrains judges who threaten our democracy.

We often hear opponents say that a constitutional amendment goes too far too fast. But amendment supporters were not the ones who, for example, ordered Massachusetts to legalize same-

sex marriage. It was a panel of activist judges by a four-to-three vote. It is time to return this debate on society's core institution to the democratic decision-making process. Let us take this decision away from the courts and give it back to the American people where it belongs.

The constitutional amendment process is an integral part of our democratic process, requiring approval from two-thirds of each House of Congress and three-quarters of the States by votes of their State legislatures. Passing a constitutional amendment will place this debate back where it belongs, with the American people.

If we pass the marriage amendment, we will retain our understanding of marriage as the union of a husband and wife, ratified by the States. If we do not act now, the courts will redefine marriage. But it is the American people and their representatives who should determine how marriage is defined.

Madam Speaker, that is why we should support the Marriage Protection Act, as I hope all my colleagues will do tomorrow.

Mr. PEARCE. Madam Speaker, reclaiming my time, I thank the gentleman from Texas for his comments and appreciate his principled stand on so many issues.

Madam Speaker, we have to admit that marriage is universal. People ask me when I make the comment that nature has defined what marriage is first, law simply tries to capture it in language: What does it matter that nature describes what marriage is? Basically, there is a design to all things. There is an order to the universe. Marriage is universal. What the left is trying to do is to upset that order and to take order completely away because there will be no order once there are not restrictions on exactly the definition of marriage.

But beyond that, we must understand that when nature designs, any time we break a design, things just do not function as well. For instance, a car, that has a design to run on gasoline with oil in the engine. If we reverse the process and put oil in the gas tank and gasoline in the oil containment part of the vehicle, the design is not well served, and the machine simply does not work.

It is very true in nature, too. Our bodies are designed with blood to run through our veins, the heart pumping blood. But if we take the blood out and replace it with water, we find that the design simply quits working.

And it is the contention of many social scientists that marriage is one of the natural designs that simply will quit working if the design is not understood and adhered to.

So it is very critical, as we look at these things, to understand that marriage is far more than just a current-day definition. It is something where men and women have come together throughout history in all nations. All nations of different government types, tyranny, freedom, they all have one

constant, that marriage is between a man and a woman and the family is better served, children are better served, when we have a clear definition of what marriage is. And children are the issue in this debate.

I have a gentleman here tonight from Iowa who is a good friend and whose views I often wait to hear.

Madam Speaker, I yield to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Speaker, I thank the gentleman from New Mexico for being willing to come to the floor so regularly and stand up for the values that are so dear to this country, and I thank him for the opportunity to speak on this issue of marriage tonight.

I would point out that, tomorrow, we will bring the Marriage Protection Amendment to this floor, and we will debate this issue, and it will be debated intensely on both sides. There will be Members on both sides, Democrats and Republicans, who will vote for and against this amendment tomorrow. Those who vote for it will tell us that they do not believe we need to go to this drastic step in order to preserve marriage. What they are really saying when their vote goes up is they do not believe the people should have the opportunity to voice their will, their votes, within their own States in the process that is set up through ratification of our Constitution that is for a constitutional amendment.

The gentleman from Texas pointed out that the courts have overruled the will of the people. And a question I often ask is, how did we get here? What brought us to this point? We, the people of the United States, those of us who see these three different branches of government, those of us who view that they should be balanced branches of government, that it is the job of the people to establish social policy and that it is our job to reflect that here in this Congress and to promote that across this country, it is not the job of unelected, lifetime-appointed judges to direct the society that we live in, and we get into great trouble when we allow that to happen.

We have allowed it to happen for a long time, Madam Speaker, and that long time goes back, by my measure, 42 years, to 1962 when a Supreme Court case, *Engel v. Vitale*, was brought before the courts. And that is the famous case, Madalyn Murray O'Hair's name comes to mind, where the Supreme Court pulled prayer out of the public schools. I believe they misread our Constitution. The Constitution does not provide that there cannot be prayer in the public schools. It simply provides there cannot be an established religion. And how we got to this point of this separation between church and State being imposed upon pulling prayer out of the public schools is a complicated and convoluted legal argument that cannot be sustained by a reading of the Constitution.

A point was made in the Committee on the Judiciary the last couple of

weeks, and I want to credit that to the gentleman from Indiana (Mr. HOSTETTLER), who said, when people on the other side are opposed to our amending the Constitution, saying leave it alone, do not amend it, leave it as it is, what they really mean is leave it alone and do not read it. When we read the Constitution, we have a whole different view of the document, that precious and sacred document, than we do when we read the news articles or listen to the arguments on the other side.

But in 1962, prayer was taken out of the public schools by the United States Supreme Court. Then 3 years later, 1965, came a case that we do not talk about very much. It is a case called *Griswold v. Connecticut*. And that was a case where the State legislature in Connecticut had passed laws that said that there would not be the selling of contraceptives in the drug stores in the streets of Connecticut. In that case, *Griswold* took it to the Supreme Court, and the Supreme Court found that there was a right to privacy. The first known sign of a discovered right to privacy supposedly in our Constitution, and that said that married people should have a right to go buy contraceptives and take them back to the privacy of their home and that the general assembly of Connecticut had no business sticking their nose into that privacy between two married people.

How in the world did we get from that right to privacy to where we are today? Incremental steps. The next incremental step was 1973, *Roe v. Wade*, where the Supreme Court found that this right to privacy was not just a right to go purchase contraceptives if they are married and bring them back to their home, but also a right to determine that that baby that was conceived would not be brought to term because the liberty of the pregnant female and the right to privacy superseded the right to life of that unborn child. An astonishing decision made by a Supreme Court to take that right to privacy and roll it into a right to abortion.

Now, I go to a couple of other cases. *Stone v. Graham*, 1980. 1962; 1965; 1973, *Roe v. Wade*; and let us leap to 1980, 7 years later, pulled the Ten Commandments out of our public schools. The gentleman from Texas (Mr. SMITH) spoke to that issue somewhat. Then, behind that came 1994, the case of *Madsen v. Women's Health Center, Incorporated*, and it removed the demonstration rights of people who were pro-life from demonstrating outside abortion clinics. Another right pulled away. It is okay to strike, and it is okay to demonstrate. It is just not okay to do it if it is not in a politically correct fashion, according to the courts.

Then there was a case in 1996, *Romer v. Evans*, where the Supreme Court overturned a constitutional amendment that was voted on with an overwhelming majority by the people of

Colorado that said they will not impose special rights for certain classes of people at any level of political subdivision, and the Supreme Court said that the people of the State of Colorado had no business imposing their will on the political subdivisions.

□ 2045

That had to do with special rights for sexual orientation and gender identity. It removed the right of the people of Colorado, suspended the tenth amendment, because they found another value there that I cannot quite discern. That is 1996.

2002, *Newdow v. U.S.*, that was the ninth circuit, the infamous ninth circuit, that pulled "under God" out of our Pledge of Allegiance. That case correctly did not make it to the Supreme Court. The Supreme Court ruled that the gentleman who brought the case, Mr. Newdow, did not have standing.

I think there had to be some relief there, because I have stood in the Supreme Court chambers and I think about what that would be like to reference "under God" in our Pledge or what it would be like for the Supreme Court to rule on a decision on whether there would be the Ten Commandments in school. I do not know how they do that.

I stand in the Supreme Court chambers and I look up and I see Moses on the wall with the tablets. Maybe it does not seem so imposing to the Supreme Court, because the Ten Commandments on the tablets are in Hebrew, but we know what they mean. That was 2002.

2003, *Lawrence v. Texas*, where the Supreme Court found there was a right to sodomy, a right to homosexual relations. As I read through that decision, and I read it through four times, five times, maybe six times, and my margin notes are in different colored ink and they get heavier and heavier each time I read through there, and I get more chilled by the breathtaking decision of *Lawrence v. Texas*, not just the simple description I have given; but in that decision it says that the people elected by the citizens of Texas to represent them in the Texas legislature have no business imposing their moral values on the people that elected them.

The *Lawrence* decision, a six to three decision written by one of the Justices, really said "do not impose your moral values in any case whatsoever." If the Supreme Court does not approve of the values you bring to the legislative process, they might just throw it out on that basis alone. Breathtaking. It is not a constitutionally founded decision; it is a will-of-the-courts decision; it is a legislative type decision. And in fact that was 2003.

But I recall sitting in also in 2003, the date was April 19, 2003, *Gratz v. Bollinger* and *Grutter v. Bollinger*, the affirmative action cases at the University of Michigan. I went in and sat in on those two cases. For 2 hours and 30

minutes, I went to sit in the place where I could hear the most profound constitutional arguments, the United States Supreme Court. As I listened to those arguments, I heard legislative arguments.

I know what a legislative argument is. I have sat in on them for 8 years in my public life. We weigh unintended consequences. We weigh the result of a policy. But the Court's job is to weigh the constitutionality and the letter of the law and the congressional intent, not the result.

So the only constitutional argument I heard that day was from Justice Scalia, who said, "If we rule against you and it results in one minority in your school, 100 percent minorities in your school or no minorities, what possible constitutional difference can that make?" Thank God there is at least one Justice that asks a constitutional question. We are here with a constitutional question before this Congress tomorrow.

But the real question brought before us is under *Goodridge v. Department of Public Health*, Massachusetts Supreme Court, a four-to-three decision that imposed same sex marriage on the State of Massachusetts.

Now, anybody that has read *Lawrence v. Texas* and read the dissenting opinion that said "if this says it does not have to do with same sex marriage, do not believe it," would be an exact quote from the dissenting opinion, I did not believe it before I got to that point in reading that particular case; and I do not believe today that *Lawrence v. Texas* does not address same sex marriage.

I believe it set the stage. I believe they knew it was setting the stage. I believe that *Goodrich v. Department of Public Health* in Massachusetts that imposed same sex marriage in that State was a logical follow of *Lawrence v. Texas*. And we have 10 or so States or more that are bringing these cases through the courts working their way to the Supreme Court, where I believe the Supreme Court is poised to find a constitutional right to same sex marriage.

If that happens, we cannot put the toothpaste back in the tube. The courts will have taken us from removing prayer from the public school in 1962, right to privacy in 1965, right to abortion in 1973, I will read the rest of these years quickly: 1962, 1965, 1973, 1980, 1994, 1996, 2002, 2003, 2003, 2003, 2003. Do you get the pattern? This is accelerating on us.

This demise of our civilization is going far faster than it did for Rome. It took 200 to 300 years for Rome. I do not think it can take two to three generations in this country.

It is time for us to pass a constitutional amendment and slow down this activism of the courts and then save marriage, the very cornerstone of civilization. And then we can get to work with the hard work of winning back our schools, our educational institu-

tions, and also our media in this country, so that we have good solid people grounded in solid constitutional values growing up in this country and taking over these roles that we are performing here tonight.

I thank the gentleman for yielding. I appreciate the opportunity to speak before this country.

Mr. PEARCE. Madam Speaker, reclaiming my time, I thank the gentleman for his comments.

Again, I would reiterate this question is about children. To those who would ask what about the gays and lesbians who are affected, no one would choose for them the lifestyle that they have chosen. But we do contend earnestly to defend the right of the people to continue to define marriage in the traditional sense as between a man and a woman.

There are those who would say, what gives you the right to limit the gays' and lesbians' freedoms? And the response is what gives us as a society the right to choose our desires over the needs of children? Because children are the question, and children are the objective of the marriages.

There are those who say that traditional marriage is plagued with divorce and should we not fix divorce if we are so concerned about the traditional marriage?

You would have to look at other arguments in the same vein. We all drive cars, and cars have crashes. Would crashes not argue against the use of cars? No, crashes simply tell us we should design better cars, we should drive more carefully, we should act with restraint, but they do not tell us we should not drive cars.

Neither does divorce, no matter how heinous it is, and it is a deep problem in our society, but it does not argue against the traditional marriage.

The people wonder who gets harmed if we make this change. If we redefine the marriage in society, who is harmed by that? I will tell you who gets harmed: the people of this Nation, who lose the right to define marriage as the union of a husband and wife get harmed, because even now in this country there are attempts to define and to codify and to put into law hate crimes legislation which would begin to chill the discussion about values that one family would like to pass on to their kids and to their grandkids.

If courts rule that same sex marriage is a civil right, then people like you and me who believe that children need moms and dads, we will be treated like bigots and racists. Religious groups like Catholic Charities or the Salvation Army may lose their tax exemption or be denied the use of parks and other public facilities unless they endorse gay marriage.

It gets to a point where in the classroom every description of families would have to include the whole universe of families, because we have already seen that happen. We have seen that the people on the liberal left

would redefine even the way that we talk to our children.

Public schools will teach young children that two men being intimate is just the same as a husband and wife being intimate. That is not something that many of us feel comfortable with, and that is not something that I think should be forced on us by an activist Supreme Court.

If that is to be the way we are to govern and that is to be the way we live, it is right and proper that we would take that discussion to the American people. That discussion should be on every street corner, not in the closed chambers of the supreme court of some State, any State, or even the Supreme Court of the United States.

The Supreme Court has made decisions before about values, and we have had to amend the Constitution to change that. The most notable example is when the Supreme Court said in the *Dred Scott* decision that the will of the majority cannot be used to tyrannize the minority. It is almost the same rationale that was used in *Lawrence v. Texas*.

The will of the majority cannot be used to tyrannize minority, the court said, and we fought a civil war over it, because the will of the majority said slaves should be free and the Supreme Court said the slaves will not be free.

Not to have learned their lesson after the Civil War was fought and after we amended the Constitution, the Supreme Court came back 100 years later in the *Plessy v. Ferguson* case and said that if we could not have our way and mandate slavery, we, the Supreme Court, will mandate separate but equal facilities. Again, it took our society a long time to overcome those Supreme Court decisions.

It would be much simpler and much easier if we would recognize right now that the American people should be the ones to determine this issue; and I, for one, am supporting the attempt of the gentlewoman from Colorado (Mrs. MUSGRAVE) to amend the Constitution of the United States to declare in the minds of people for once and for all that marriage is a union between a man and a woman.

I will stand and fight for any one person's right to choose their life style, but I will also oppose their attempt to redefine for all of America exactly what marriage is.

Madam Speaker, I recognize that my colleague, the gentleman from Iowa (Mr. KING), would like to address this issue again, and would yield to him.

Mr. KING of Iowa. Madam Speaker, I appreciate the opportunity to pick up on some of the things that I did not address in my earlier talk.

I think we need to go back and look a little bit at the argument that there is a civil right or a constitutional right. I believe the courts are poised to either declare full faith and credit from the Massachusetts marriage to all 50 States in the Union; and, if they do not rule on that, I think they have got also



a chance they could rule with the full faith and credit, but also the equal protection clause. Either one of those imposes same sex marriage on all the States, even though a vast majority of the States have passed marriage protection language, either in their constitutions or statutorily; and some of them have done both.

But a different way of thinking about this too is the argument is made that marriage is a civil right; therefore, you could not deny it to consenting adults.

I want to argue that marriage is not a civil right. It is not a civil right for a man and a woman, it is not a civil right for two consenting adults, and, in fact, it is not a right whatsoever. It is a privilege.

The reason I declare marriage to be a privilege is because we grant a marriage license. A license is something that gives you a permit. It is a permit to do that which is otherwise illegal.

So we grant a marriage license, or we grant a license to drive a car or to fish or hunt or whatever it might be, because we want to promote a certain kind of behavior and we want to regulate a certain kind of behavior. And certainly it is discriminatory in favor of those activities that we license.

So for the same reason, we grant a marriage license, a permit to do that which is otherwise illegal. It is not discriminatory, except that it is constructive because this cornerstone of civilization has been proven since the beginning of time to be the very element, that cornerstone of civilization through which we procreate, we pass along our religious values, our moral values, our work ethic, our very culture and civilization, all of the things that come through the marriage.

The children learn from a father and a mother. Say, for example, a little boy falls down and skins his knee, and he runs to his mom and she says, Come here, honey. I will kiss it and make it better. That is a mom's role in a case like that.

□ 2100

And the father says, oh, come on, son, you are going to have to be a man one day. You are going to have to tough this one out. That is the other message. They are not really conflicting messages; they are messages that need to come from the ideal circumstances between a man and a woman in holy matrimony.

Madam Speaker, so much of our history, so much of our culture, and so much of our civilization and our respect for our ancestors flows through marriage, and we know the things we learn there, because we revere our ancestors, we also want to be worthy of that respect from our descendants. Those values are taught through marriage, through the family, through the ideal way of raising children as a man and woman in the home, and that is the point I think is important to make, and I would be happy to conclude and yield back to the gentleman from New Mexico.

Mr. PEARCE. Madam Speaker, I thank the gentleman from Iowa. A couple more questions. People ask, is it fair? What about benefits? Are gay couples, if they cannot marry, denied benefits? If medical proxies are not working, let us fix that problem. If people need health care, let us fix that problem, but let us not mess with marriage.

Marriage is about children and it is about the best institution for raising children, and that is the issue. Kids are better off with a mother and father. The issue is not whether gays can be good parents or not; no one is talking about that. We are saying that children are generally better off with a loving mother and a loving father; and that is the role, that is the method, that is the paradigm that works best.

Madam Speaker, I would like to thank the people who have helped me present this case to this body.

#### IMPORTANT STRATEGIES FOR FIGHTING THE WAR ON TERROR

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. TURNER) is recognized for 60 minutes as the designee of the minority leader.

Mr. TURNER of Texas. Madam Speaker, I rise tonight to talk about what I believe to be the most difficult and the most important issue facing this Congress, a Congress that has the responsibility under the Constitution to provide for the common defense, and that problem is the threat of international terrorism.

It has been over 3 years now since the horrific attacks against our Nation occurred on September 11. Our world has changed in many respects since then. We know that we are engaged in a global war against terrorism. New security measures have been put in place at our ports, along our borders, and even along the roads leading to our Nation's capital. We know now that the circumstances in Arab and Muslim countries on the other side of the globe can affect the safety and security of all Americans right here at home.

With our national elections less than 5 weeks away, the American people are asking whether we are truly winning this war against our terrorist enemies. They want to know whether this government is taking the steps necessary to ensure that we are as safe as we need to be.

The members of the Select Committee on Homeland Security have been studying this issue closely for almost 2 years. We have visited our ports and our borders. We have heard testimony from hundreds of government officials and expert witnesses, and we have met with law enforcement and security professionals in our congressional districts. My colleagues and I are here tonight to say that, no, we are not as safe as we need to be. We say this reluctantly and regretfully, but it is our constitutional duty to be honest

with our constituents and to tell the Nation how it really is.

Despite the rhetoric that we hear so often from this administration, the truth is that our government has not taken the steps necessary to provide genuine security from the threat of terrorism, and whether or not we are winning the war on terror has yet to be determined.

Indeed, 2 months ago, the 9/11 Commission, a bipartisan group appointed by this Congress in very important legislation, they drew the same conclusion that we draw tonight. That bipartisan report identified severe defects in the administration's policies to counteract terrorism, many of which were well-known years ago, but have not been adequately addressed. Indeed, the bipartisan 9/11 Commission Report and its recommendations are an indictment of this administration's efforts over the past 3 years to secure the homeland and to defeat our terrorist enemies.

The 9/11 Commission concluded, as we did in our report called "Winning the War on Terror," that we must engage on three fronts simultaneously. First, we need a more aggressive strategy to attack the terrorists directly by using our military and our other national security agencies wisely and cutting off the terrorists' source of funds. Such an aggressive strategy should ensure that we strengthen our intelligence capabilities to penetrate terrorist organizations and ensure that we translate and analyze all of the intelligence information that we collect in real-time.

Yesterday, the New York Times revealed in an article that the Justice Department's own Inspector General has determined that nearly a quarter of all ongoing FBI counterterrorism and counterintelligence wiretaps are not being monitored and that nearly 120,000 hours of wiretap recordings from terrorist investigations since September 11 have not even been translated.

This is unacceptable. This is the same problem that we had before 9/11. It was one of the key reasons that 9/11 occurred. If we are serious in our efforts to attack the terrorists, we must take full advantage of the information that is collected by our intelligence agencies. And to learn that 3 years after 9/11, our government has yet to get itself in a position to be able to translate the intelligence that we are collecting, to be able to have the linguists available to make those translations occur rapidly is totally unacceptable.

Additionally, we need to increase our special forces in our military to more aggressively attack our terrorist enemies. We must create greater numbers of small and light forces that have proved so successful in hunting down terrorist cells, and we must dry up the sources of funds for the terrorists and for their organizations. We must lead an effort to establish international financial standards to halt money laundering and to help other countries