As a result, once again I urge my colleagues to reject cloture. I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 429, S. 2061, a bill to improve women's access to health care services and provides improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services:

Bill Frist, Judd Gregg, Kay Bailey Hutchison, Lisa Murkowski, Susan Collins, Elizabeth Dole, Michael B. Enzi, James M. Inhofe, John Ensign, Craig Thomas, John Cornyn, Pat Roberts, Sam Brownback, Orrin G. Hatch, Charles Grassley, Mitch McConnell, Jon Kyl.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 2061, a bill to improve women's access to health care services and provides improved medical care by reducing the excessive burden the liability system places on the delivery of obstetrical and gynecological services shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Utah (Mr. BENNETT) is necessarily absent.

Mr. REID. I announce that the Senator from California (Mrs. BOXER), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from South Dakota (Mr. JOHNSON), the Senator from Massachusetts (Mr. KERRY), and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from South Dakota (Mr. JOHNSON) and the Senator from Massachusetts (Mr. KERRY) would each vote ''nay''.

The yeas and nays resulted—yeas 48, nays 45, as follows:

[Rollcall Vote No. 15 Leg.]

YEAS—48

Alexander	DeWine	McCain
Allard	Dole	McConnell
Allen	Domenici	Murkowski
Bond	Ensign	Nickles
Brownback	Enzi	Roberts
Bunning	Fitzgerald	Santorum
Burns	Frist	Sessions
Byrd	Grassley	Smith
Campbell	Gregg	Snowe
Chafee	Hagel	Specter
Chambliss	Hatch	Stevens
Cochran	Hutchison	Sununu
Coleman	Inhofe	Talent
Collins	Kyl	Thomas
Cornyn	Lott	Voinovich
Craig	Lugar	Warner

NAYS—45

Akaka	Durbin	Lieberman
Baucus	Feingold	Lincoln
Bayh	Feinstein	Mikulski
Biden	Graham (FL)	Murray
Bingaman	Graham (SC)	Nelson (FL)
Breaux	Harkin	Nelson (NE)
Cantwell	Hollings	Pryor
Carper	Inouye	Reed
Clinton	Jeffords	Reid
Conrad	Kennedy	Rockefeller
Crapo	Kohl	Sarbanes
Daschle	Landrieu	Schumer
Dayton	Lautenberg	Shelby
Dodd	Leahy	Stabenow
Dorgan	Levin	Wyden

NOT VOTING—7

Bennett	Edwards	Miller
Boxer	Johnson	
Corzine	Kerry	

The PRESIDING OFFICER (Mr. ALEXANDER). On this vote, the yeas are 48, the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

MORNING BUSINESS

Mr. FRIST. Mr. President, I now withdraw my motion and ask that there now be a period for morning business with Senators permitted to speak therein for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas is recognized.

TRADITIONAL MARRIAGE

Mr. CORNYN. Mr. President, in 1996, the Congress voted overwhelmingly to pass the Defense of Marriage Act. This is a bipartisan bill, where Members of both parties in both Houses voted overwhelmingly to define marriage as an institution in traditional terms, between a man and a woman. This, as you may recall, was in part a response at the time to the Vermont decision implementing civil unions. This body, just like approximately 38 States, has now passed defense of marriage acts defining marriage in traditional terms.

Last September, the Senate Judiciary Committee's subcommittee on the Constitution held a hearing at which we elicited testimony on this issue: Is the Defense of Marriage Act in jeopardy?

The reason we had that hearing is because the U.S. Supreme Court, last year, made some pretty significant decisions, one of which was Lawrence v. Texas, which, if the rationale was going to be followed through, would seem to place the Defense of Marriage Act in jeopardy, saying that that somehow violated the Constitution, thus opening the way to marriage between same-sex couples.

At the time we had people, as you might imagine, as in every hearing, some of whom said, oh, no, the Defense of Marriage Act will stand as long as it is the will of Congress and the will of the American people. Others said more presciently, as it turns out, that if there are judges who want to use the decision of the U.S. Supreme Court in Lawrence v. Texas, and to extend that, indeed, yes, the Defense of Marriage Act could be in jeopardy—indeed, the very definition of marriage between a man and a woman that is part of the Federal law and, as I said, I believe some 38 States.

Well, of course, the day that many thought would come only remotely in the future came much more quickly, when the Massachusetts Supreme Court decided that, indeed, traditional marriage violated the Massachusetts Constitution. Now, some might say, well, since it was a matter of State constitution law, it is limited only to the State of Massachusetts. But a closer reading of that decision reveals that one of the bases upon which the Massachusetts Supreme Court decided that traditional marriage violated the Massachusetts Constitution was a U.S. Supreme Court decision in Lawrence v. Texas, interpreting the U.S. Constitution.

So as it turns out, there is a much closer relationship between the State court constitutional decision and a decision under the Federal Constitution.

Well, once the Massachusetts Supreme Court did, indeed, hold that marriage was no longer limited to men and women in Massachusetts, some said this was just a State matter and there was no reason for the Federal Government to get involved, and there was no reason for other States to be concerned. Yet over the last week or so, we have seen that individuals have moved—I saw one report in the Washington Post of people leaving Maryland and going to San Francisco and getting married—in defiance of State law, I might add—where the city of San Francisco, the mayor, and others, would issue marriage licenses, and then people would return to places such as Maryland. Or people would show up in San Francisco and, because of an act of civil disobedience by the mayor and municipal officials there, seek to get married, even though California law is consistent with Federal law and the law of other States defining marriage in traditional terms.

Indeed, we see in New Mexico and in Chicago, where the mayor said if same-sex couples sought to get married, he saw no reason not to issue them marriage licenses. Indeed, in Nebraska, a lawsuit in Federal Court is being defended by the attorney general of Nebraska under the Federal Constitution seeking to define marriage in not untraditional terms, to allow it not to be limited to just traditional marriage.

So this is not an issue that has been raised by Members of Congress initially. This is a matter that has been injected into the public arena by activist judges who have decided to radically redefine the institution of marriage in Massachusetts but the reverberations of which have resounded all across this Nation.

It is in that light I believe we in this body have a responsibility to ask what

are the implications of the Massachusetts decision in this brush fire across the country where local officials and others are in acts of civil disobedience defying State law to issue marriage licenses and what are the ramifications of the Massachusetts decision in terms of the continued viability of the Defense of Marriage Act at the Federal level.

Next Wednesday morning, March 3, under the auspices of the Senate Judiciary Committee, Chairman HATCH has graciously agreed to allow the holding of a subcommittee hearing of the Constitution Subcommittee, which I chair, to have witnesses talk about what the implications are in terms of national policy, in terms of the institution of marriage, which I believe is important. Indeed, if Congress is to be believed, on a bipartisan, overwhelming basis Congress has said it is important and, indeed, that bill itself was signed by President Clinton.

We cannot simply stand idly by, in my opinion, and let activist judges radically redefine the institution of marriage when it stands in stark relief and defiance of the will of the American people and certainly of the decision this body has made in terms of passing the Defense of Marriage Act. So we are going to have a hearing next Wednesday on that issue.

I suspect others will come to the same conclusion I have, and that is the Constitution of the United States will be amended eventually; that this decision in Massachusetts will spread to Federal courts where others will cite this Massachusetts decision as precedent for an interpretation of the Federal Constitution that will strike down the definition of traditional marriage.

I think that is important for a couple of reasons. I know there are people who are reluctant to even talk about this issue because they don't want to be painted or cast as intolerant or haters or bashers or any other term one might think of. Indeed, I think it is important to point out you can believe in the essential dignity and worth of every human being and still believe the institution of marriage is important to our civilization, to families, to providing the most stable means of establishing family life, but also to the benefit of children.

The best interest of children requires us to do everything we can to encourage stable family life and, indeed, in the course of history, not just in this Nation's history, but throughout human history, I believe it is irrefutable that traditional marriage between a man and a woman is the firmest and most stable basis to establish family life. Indeed, that is the relationship, that is the basic social unit under which children thrive and are at reduced risk.

When I was attorney general of Texas for 4 years, I had the responsibility to collect child support for some 1.2 million children. These were children who were from single-parent families. They were either born without their parents ever marrying or their parents married and then divorced and they, of course, were in the custody of one parent and the other parent would typically be ordered to pay child support. I became very much convinced, not just because of the social science, but because of what I saw as a person responsible for collecting that child support for these 1.2 million children, that children are at less risk when they have two loving parents who care about them and support them emotionally and financially; that certainly traditional families are the optimal situation in terms of children doing well and becoming productive citizens.

At that time, of course, it had nothing to do with this new and revolutionary constitutional theory that has been thrust upon us by the Massachusetts Supreme Court that seems to be picking up around the country which I think we need to address, but really we need to, as a nation, reaffirm our commitment to doing what is in the best interest of our children.

Indeed, it is irrefutable that intact families, traditional families—mom and dad providing role models for children they can then use when they grow up to then become not only productive citizens but moms and dads themselves and raise their own children—is something the Federal Government ought to be encouraging. We shouldn't be agnostic about something that is so fundamentally important to the well-being of this country and to our future. We should not stand idly by and see the constitution of one State then spread to another State and, indeed, then to the courts where the Federal Constitution is called into question that would radically redefine this basic social institution.

While I know there are those who are hesitant to talk about this issue because, as I say, no one wants to be cast as intolerant of other relationships—indeed, I think you can say and recognize there are people in loving relationships outside of marriage. But when they want to say marriage is what we redefine it to be, and there is no difference between a man and a woman and a same-sex marriage, I think, first of all, that tends to trivialize what we all have come to recognize as an institution that is a basic social good in this country. But it also is game playing.

There are others who say we want to have all the legal benefits of marriage, but maybe we won't call it marriage, which to me is game playing.

I am a little skeptical of that, especially when, as a lawyer, I know if two people of the same sex want to make contractual or other arrangements between themselves so one can inherit from the other, so one can act on the other's behalf by use of a power of attorney, either to make medical decisions, if one is disabled, or financial decisions if the circumstances arise, there is virtually an unlimited opportunity for same-sex partners to order their relationship from a legal standpoint in a way that satisfies virtually all the reasons I have heard articulated for same-sex marriage.

It is important we have a hearing. It is important for this body to defend, if necessary, its prerogative under the Defense of Marriage Act to do what we believe and I believe the overwhelming number of American people believe is in the best interest of families and children and not leave this to activist judges who consider themselves to be superlegislators, who consider their prerogative to take a social or political or some other agenda and essentially dictate that to the American people from the bench.

We know Federal judges and many State judges serve for a lifetime. There is no way for the American people, short of impeachment, to remove a Federal judge or a judge who is appointed for a lifetime who acts in such a radical fashion, so inconsistent with our norms and traditions, with our traditional understanding of the separation of powers, And yet in a way that would so radically transform this fundamental social unit that is so important to who we are as people and as families, and one that is the best and most optimal arrangement found yet in the history of mankind to have and raise children so that they will be productive citizens.

I have come to the same reluctant position as I know the President announced he has today and believe that indeed the Constitution will be amended. The question is whether we the people are going to amend it by using article V of the Constitution, which creates an admittedly difficult process but one which is important to make sure that it is not done flippantly, too fast or without adequate deliberation. It is time to consider whether we ought to invoke that provision the Framers provided in article V of the Constitution to say: Not so fast, judge. We the people ultimately have the power within our hands to decide how this institution will be defined and we think there is a positive social good to define marriage in traditional terms.

So I believe it is important, as the President has concluded in his announcement today, that we consider a constitutional amendment.

There are some who say our Constitution is a sacred document. Indeed, I think our Constitution is very important and even an inspired document, but I disagree with those who say the Constitution is sacrosanct to the extent that they say the Constitution should never be amended. Indeed, if the Founding Fathers believed the Constitution should never be amended because it was a sacred document, then they would not have provided a means within that document itself for deliberation, hearings, decisions, and ultimately a vote of this body and of the other body by two-thirds and then three-quarters of the States voting for

ratification, which is the process by which that Constitution can be amended.

In my lifetime, I never imagined I would be standing on the Senate floor having to say I believe in the traditional institution of marriage between a man and a woman. I just thought, of all the other issues we would be debating in this body, whether they are matters of war and peace, job creation, access to health care, education, all of the important issues that affect the people in this country, the last issue I ever thought we would have to address would be a redefinition of marriage, but I submit that is where we are.

Reluctantly, as many of us come to this discussion—and I think if one looks at the polls we have all followed in the news media in the last few weeks since this issue has been splashed across our TV screens, our newspapers, the Internet, and elsewhere, one sees that the American people are getting the sense that something has gone terribly wrong, that somehow their values and their traditions are being disrespected in a way that needs correction.

As more and more people find out about the way this came about, through a sort of—well, I would call it judicial lawlessness; in other words, judges who are not interpreting the law but who are taking it upon themselves to redefine what the Constitution means and indeed redefine this basic social unit in our civilization, I think they are going to be pretty upset and they are going to expect us to take up a discussion of this constitutional amendment in a reasonable, deliberate, civil sort of fashion.

I hope we can rise to that challenge. Indeed, if one looks at the vote in the Defense of Marriage Act, one sees there is an overwhelming bipartisan group in this body and in the other body who believe that the institution of marriage is a positive social good and worthy of preservation. I hope we will not be afraid to talk about it in a frank and open way, to listen to the concerns of those who maybe are not yet convinced, to take those into account and then, as a Senate, we can discharge our responsibility under article V of the Constitution to begin the process of allowing the American people to vote on the definition of marriage.

We know who is voting now and it is a handful of judges and municipal officials who are encouraging civil disobedience. They are issuing marriage licenses in violation of State law, for example, in California and elsewhere. Ultimately, if we are going to preserve something that I think is infinitely worthy of preservation—and that is government of the people, by the people and for the people—this is something we are going to have to do. This is a responsibility we are going to have to accept and we are going to have to risk the possibility that some may mischaracterize what we are trying to do as being disrespectful of other people. That is not what this is about.

I would condemn rhetoric or language which would appear to be disrespectful of other people, but that does not mean at the same time that I do not believe the institution of marriage is worthy of protection.

I look forward to the hearing we are going to have in the Constitution Subcommittee on March 3, I believe at 10 in the morning. I anticipate that perhaps later in the month, maybe the week after we come back from the March recess, we will have another hearing. Senator HATCH, the chairman of the Judiciary Committee, of course, reserves the right to make that final decision. At that time, we will begin to take up language, which we might then consider first in committee but then on this floor, that would preserve the definition of marriage for the American people and not allow ourselves to be dictated to by judges who are pursuing some other agenda, one that the overwhelming number of American people disagree with strenuously.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING BLACK HISTORY MONTH: SUPPORTING THE SICKLE CELL TREATMENT ACT

Mr. TALENT. Mr. President, I rise today to honor Black History Month by supporting the Sickle Cell Treatment Act, which is S. 874, and inviting my colleagues to join me and my chief cosponsor, Senator SCHUMER, in doing the same. I am very pleased we now have over 40 bipartisan cosponsors in the Senate for this bill. We certainly would welcome more. I invite our colleagues to look carefully at this act and to support it. It is an important measure. It deals with a disease that afflicts many hundreds of thousands of Americans and a disease that really has not received enough attention and enough visibility in the last few years.

This bipartisan, bicameral legislation is designed to treat and find a comprehensive cure for sickle cell disease which is a genetic disease which primarily affects but not exclusively African Americans. About 1 in 300 newborn African-American infants is born with this disease, but the disease also affects people of Hispanic, Mediterranean, and Middle Eastern ancestry, as well as Caucasians.

More than 2.5 million Americans, mostly but again not exclusively African Americans, have the sickle cell trait, which is not the same as having the disease.

Why focus on sickle cell disease? Because it is the most common genetic disease that is screened in American newborns. People with the disease have red blood cells that contain an abnormal type of hemoglobin. These cells have a sickle shape, hence the name of the disease, that makes it difficult for the cells to pass through small blood vessels or carry the appropriate amount of oxygen or nutrients or antibiotics, if that has been prescribed. The tissue that does not receive normal blood flow because of the disease eventually becomes damaged and can and often does cause potentially life-threatening complications.

Stroke in particular is the most feared complication for children with sickle cell disease. It may affect infants as young as 18 months. I have personally talked with a number of parents whose children have had strokes as toddlers. One of the difficulties with this disease is recognizing it—and I will talk about that in just a minute—recognizing its symptoms. Young children can have strokes without the parents even realizing it for some time.

While some patients live without symptoms for years, many others do not survive infancy or early childhood.

I became involved with this effort because of an African-American doctor from St. Louis, Dr. Michael DeBaun, who treats children with sickle cell disease. When you meet the practitioners who specialize in treating people who have this disease, you meet a series of American heroes. Dr. DeBaun is one of them. After meeting and visiting with him about a year ago, I realized the hardship this disease puts on families and especially on the children, who often have to receive blood transfusion after blood transfusion in order to avoid strokes. And, yes, in order to stay alive.

About one-third of children with sickle cell disease suffer a stroke before age 18. These children require frequent blood transfusions, sometimes 15 to 25 units of blood a year, to prevent subsequent strokes.

If you study the disease, you will also learn firsthand how it can affect the daily lives of children. I will just use one example, 9-year-old Isaac Cornell, whom I also had the privilege of meeting. He is one of Dr. DeBaun's patients and attends fourth grade at Gateway Elementary School in St. Louis. About four times a year, Isaac misses school because of severe episodes of pain, with each episode lasting about 5 to 7 days. Every 4 weeks Isaac has to go for a blood transfusion at St. Louis Children's Hospital where he's treated by Dr. DeBaun. Isaac has a permanent port installed in his upper chest to allow for the transfusions. That is one of the reasons he cannot play contact sports or join the wrestling team.

Sickle cell disease affects Isaac's decisions every day. He has to drink plenty of water to lubricate his cells, he has to be careful not to overexert himself—and that is certainly difficult for a 9-year-old boy—and he has to be careful to get plenty of rest. Because so