

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 89, nays 0, as follows:

[Rollcall Vote No. 162 Ex.]

YEAS—89

Akaka	Dole	McCain
Alexander	Dorgan	McConnell
Allard	Durbin	Menendez
Allen	Ensign	Mikulski
Baucus	Enzi	Murkowski
Bayh	Feingold	Murray
Bennett	Feinstein	Nelson (FL)
Biden	Graham	Nelson (NE)
Bond	Grassley	Obama
Boxer	Gregg	Pryor
Brownback	Harkin	Reed
Bunning	Hutchison	Reid
Burr	Inhofe	Roberts
Byrd	Inouye	Salazar
Cantwell	Isakson	Santorum
Carper	Jeffords	Sessions
Chafee	Johnson	Shelby
Chambliss	Kennedy	Smith
Clinton	Kerry	Snowe
Coburn	Kohl	Specter
Cochran	Kyl	Stabenow
Coleman	Landrieu	Stevens
Collins	Lautenberg	Sununu
Conrad	Leahy	Thomas
Cornyn	Levin	Thune
Craig	Lieberman	Vitter
Dayton	Lincoln	Voinovich
DeMint	Lott	Warner
DeWine	Lugar	Wyden
Dodd	Martinez	

NOT VOTING—11

Bingaman	Frist	Sarbanes
Burns	Hagel	Schumer
Crapo	Hatch	Talent
Domenici	Rockefeller	

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now resume legislative session.

The Senator from Georgia.

Mr. ISAKSON. Mr. President, I ask unanimous consent to address the Senate as in morning business.

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

EXPERIENCING MEMORIAL DAY CELEBRATIONS ON FOREIGN SOILS

Mr. ISAKSON. Mr. President, I would like to call everybody's attention to the special day that today is. Today is the 6th day of June. Sixty-two years ago today on the shores of France and Normandy, Omaha Beach, Sword Beach, American troops and allied forces invaded France, pushed back the German Army, pushed through the Battle of the Bulge, and ultimately into Germany, and today, you and I enjoy freedom and liberty in this country, as Europe enjoys its freedom, and as, in fact, the world enjoys its freedom because of what those brave men and women did.

This past week, I had a unique occasion to travel with the chairman of the Veterans' Affairs Committee, Senator CRAIG from Idaho, and with GEN Jack Nicholson, who is the chairman of the

American Battle Monuments Commission. We traveled through Europe and northern Africa paying Memorial Day tributes to the men and women buried on those foreign shores.

I have to tell my colleagues, it was a life-altering experience for me. I am a patriotic American. I love this country more than anything on the face of this Earth. I have teared up more than once at the funeral of a friend who died in the service of this country. But I have never seen the outpouring of love and respect for our country or for our servicemen than I saw in the Netherlands or in Belgium or outside of Paris or at Bellewood outside of Paris or in Tunisia at the American cemetery in northern Africa.

I think it is appropriate for us to memorialize today what those of us who traveled on this trip saw to hopefully inspire other Members of the Senate, and hopefully every American at one point in time in their life, to travel to these marvelous memorials. I have been in elected office for most of the last 30 years. I have done more Memorial Day ceremonies than one would want to count. They have all been beautiful, they have all been meaningful, but, quite frankly, they usually aren't very well attended because Americans more often than not take Memorial Day as a 3-day vacation or a 3-day weekend. But I would like to tell you what the people of Margraten in the Netherlands take Memorial Day as.

When we went to the American cemetery in the Netherlands and saw the over 6,000 graves of the American men and women who died in liberating the Netherlands, we were moved. We were more moved by the fact that every one of those graves is adopted by a citizen of the Netherlands who cares for that grave, leaves flowers at that grave, and attends the ceremonies on Memorial Day, the American Memorial Day, which we conduct. On that day in the Netherlands there were over 7,000 citizens—7,000 Dutch—who came to pay tribute to the men and women of the United States of America who died on their soil so they could be free. The royal Dutch Air Force did a missing man fly-over formation, and the senior men's choir of Holland sang "God Bless America." It was a moving scene unlike anything I have personally seen. It renewed, for me, the faith and pride I have in all that is good about the United States of America.

Following that visit, we went to Normandy. We saw the monument the French had erected to the Rangers who stormed the Normandy cliffs and moved in and rooted out the Germans. We went to Omaha Beach and saw firsthand where the American troops came across, where the Canadian troops came across, where the British troops came across. We saw where in one day 2,500 men of America died on the beaches of Normandy so that all of us today can live in freedom and in hope and in peace.

I commend Chairman CRAIG for making this delegation. We found out we

were the first delegation that anyone could remember to ever do what we did. Not only do I hope we are not the last, I hope it is an annual occasion where Members of the Senate go and pay their respects to the brave Americans who died in the great wars of Europe, World War I and World War II; for without them, we would not enjoy what we do today, nor would the world enjoy the peace and the freedom and the liberty that it treasures and it enjoys.

So on this day of June 6, 2006, 62 years after 2,500 Americans died and tens of thousands of Americans pursued the German Army in France, I know what I will do tonight when I say my prayers. I will say a special prayer for those folks I never knew but without whom I never could have lived the life that I have, and I will say thanks. I will repeat the pledge I made to myself on the cemetery of Normandy. I said: Before I die, I am going to see to it that my children and my grandchildren get to visit this scene and have this experience because only through the preservation of the memory of what those men fought and died for will we as Americans ever be able to continue to make the commitments we have around the world to preserve liberty, preserve democracy, and protect the people of the world's right to determine their own future and their own peace and their own liberty.

So, Mr. President, on this day, June 6, 2006, I thank God for the men and women of the U.S. military, for the leadership of the 20th century, and pray that all of us will have the courage they had to continue to preserve the liberty we all treasure and enjoy.

I yield the floor.

MARRIAGE PROTECTION AMENDMENT—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S.J. Res. 1, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the consideration of S.J. Res. 1, proposing an amendment to the Constitution of the United States relating to marriage.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Colorado.

Mr. ALLARD. Mr. President, I ask unanimous consent that the time today from 6 to 6:30 be under the control of the majority and from 6:30 to 7 o'clock be under the control of the minority.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. We have no objection.

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

Mr. ALLARD. Mr. President, I ask that LARRY CRAIG be added as a co-sponsor to S.J. Res. 1.

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

Mr. ALLARD. Mr. President, we are now talking about S.J. Res. 1, the Protection of Marriage Amendment. We

have an allocation of time that has been set out for the Republican side. Later on there will be an allocation, I understand, of the Democrats' time.

I will allocate myself 20 minutes. Would the Presiding Officer notify me when I have used 17 minutes of that?

The PRESIDING OFFICER. The Chair will notify the Senator.

Mr. ALLARD. Mr. President, respect for the democratic process compels this Congress to protect traditional marriage in the face of a coordinated effort to redefine marriage through the courts.

Marriage, the union between a man and a woman, has been the foundation of every civilization in human history. It is incorporated into the fabric of our culture and civic life. It is the platform on which children, families, and communities are nurtured.

Unfortunately, the U.S. Constitution is being amended to reflect a new definition of marriage, not by democratically elected Members of Congress but by unaccountable and unelected judges.

As a result, I introduced S.J. Res. 1, an amendment to the Constitution that simply defines marriage as the "union of a man and a woman," while leaving State legislatures the freedom to address the question of civil unions.

Democracy and representative government are at the core of this debate. In 2004 and 2005, voters in 14 States overwhelmingly passed constitutional amendments protecting marriage. Today, 19 States have constitutional amendments protecting marriage and another 26 have statutes designed to protect traditional marriage. The will of the people is clear.

Unfortunately, dissatisfied with the outcome of the democratic process, activists have intensified their campaign to circumvent the democratic process and redefine marriage through the courts. Currently nine States face lawsuits challenging traditional marriage laws. Among these lawsuits are challenges to State constitutional amendments passed by an overwhelming majority of voters.

Recent decisions by activist judges not only fail to respect the traditional definition of marriage, they also highlight a lack of respect for the democratic process. The courts are driving a redefinition of marriage contrary to democratic principles.

The process to amend the U.S. Constitution is the most democratic in the world, requiring two-thirds of Congress and three-fourths of the States to ratify. It is a process the American people can trust.

If we fail to define marriage, the courts will not hesitate to do it for us.

My amendment reflects my belief that the institution of marriage is too precious to surrender to the whims of a handful of unelected, activist judges.

The will of the people should prevail.

Marriage is the foundation of every civilization in human history. As I said before, the definition of marriage crosses all bounds of race, religion, cul-

ture, political party, ideology and ethnicity. Marriage is not a partisan issue. Marriage is embraced and intuitively understood to be a union between a man and a woman by Republicans, Democrats, and Independents alike.

As an expression of this cultural value, the definition of marriage is incorporated into the very fabric of civic policy. It is the root from which families and communities are grown. Marriage is the one bond on which all other bonds are built.

Marriage is not some controversial ideology being forced upon an unwilling populace by the government, it is in fact the opposite. Marriage is the ideal held by the people and the government has long reflected this. The broadly embraced union of a woman and a man is understood to be the ideal union from which people live and children best blossom and thrive.

As we have heard in hours of testimony, in eight hearings, in numerous Senate committees over the last several years, marriage is a pretty good thing. A good marriage facilitates a more stable community, allows kids to grow up with fewer difficulties, increases the lifespan and quality of life of those involved, reduces the likelihood of incidences of chemical abuse and violent crime, and contributes to the overall health of the family. It is no wonder so many single adults long to be married, to raise kids, and to have families.

Today there are numerous efforts to redefine marriage to be something that it isn't. When it comes to same-gender couples there is a problem of definition. Two women or two men simply do not meet the criteria for marriage as it has been defined for thousands of years. Marriage is, as it always has been, a union between a man and a woman.

I believe the Framers of the Constitution felt that this would never be an issue—and if they had it would have been included in the U.S. Constitution. Like the vast majority of Americans, it would have never occurred to me that the definition of marriage, or marriage itself, would be the source of controversy. Not too long ago it would have been wholly inconceivable that this definition—this institution that is marriage—would be challenged, redefined or attacked. But we are here today because it is.

As a result of this coordinated campaign to redefine marriage through the courts, we stand here today, compelled by respect for the democratic process, to publicly debate an amendment to the U.S. Constitution. Again, this amendment simply reads:

Marriage in the United States shall consist only of the union of a man and a woman.

Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

The first sentence is straightforward: It defines marriage as an institution

solely between one man and one woman—just as it has been defined for thousands of years in hundreds of cultures around the world.

The second sentence simply ensures that the people or their elected representatives, not judges, can decide whether to confer the legal incidents of marriage on people. Citizens remain free to act through their legislatures to bestow whatever benefits to same-sex couples that they choose. It is aimed squarely at the problem of judicial activism.

Just as important as what it does do, is what it does not do. I have said it time and time again and I say here again today for the record: The amendment does not seek to prohibit, in any way, the lawful, democratic creation of civil unions or domestic partnerships. It does not prohibit private employers from offering benefits to same-sex couples. It denies no existing rights.

What our amendment does is to define and protect traditional marriage at the highest level, the U.S. Constitution. Importantly, the consideration of this amendment in the Senate represents the discussion of marriage in America in a democratic body of elected officials. I am not willing to surrender this issue to the courts.

I also believe it is important to make clear that on the question of federalism and States' rights I stand where I always have. While an indisputable definition of marriage will be a part of our Constitution, all other questions will be left to the States.

Contrary to assertions of those who believe my amendment infringes on the rights of the States, my amendment actually protects States' rights. Forty-five States have spoken with laws or constitutional amendments designed to protect traditional marriage. Unfortunately, same-sex advocates have, through the courts, systematically and successfully trampled on laws democratically enacted in the States. If marriage is redefined for anybody, it is redefined for everybody. My amendment takes the issue out of the hands of a handful of activist judges and puts it squarely back in the hands of the people.

Now is the time for Congress to fulfill its responsibility and send a constitutional amendment to the States for ratification.

Marriage, the union between a man and a woman, has been the foundation of every civilization in human history. This debate is not about politics or discrimination, it is about marriage and democracy.

Unfortunately, the U.S. Constitution is being amended to reflect a new definition of marriage—not by democratically elected Members of Congress but by unaccountable and unelected judges. If we fail to define marriage, the courts will not hesitate to do it for us.

I, for one, believe that the institution of marriage and the principles of democracy are too precious to surrender to the whims of a handful of unelected, activist judges.

Mr. President, I have behind me a number of charts I would like to go over for Members of the Senate. This is what the amendment is all about:

Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the Constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

In this very simple-to-understand chart form I have laid out for Members of the Senate exactly what happens when it is sent to the States and what it does to the courts. The State and Federal courts, what can they impose? They cannot redefine marriage. The courts cannot go ahead and redefine civil unions or domestic partnerships. The courts cannot grant rights or benefits of marriage. But it doesn't affect in any way employee benefits offered by private businesses.

Then we go down and look at the legislatures. What can they do? They can't redefine marriage. But they can deal with the creation of civil unions or domestic partnerships—that is left up to the State legislatures, granting the rights or benefits of marriage. Again, that is left up to the State legislatures. Again, through the States, we don't mandate anything that affects private businesses.

The next chart I would like to show to my colleagues in the Senate is how America is weighing in on the issue of marriage. We have a map of the United States here that clearly outlines those States where amendments have passed—in the dark green. If we look at those results from within the States, the State that passed with the least majority was Oregon with 57 percent, and the largest majority—it looks like it was in Mississippi: 86 percent. But the average margin of where States have enacted the constitutional amendment is greater than 70 percent.

Then we see that marriage amendments are expected in 2006 in a number of States throughout the country. The percentage of the voters who support the idea of the definition of marriage is a large percentage, a large margin.

Now I would like to go to our next chart to outline what the States have done to protect traditional marriage through statutory and constitutional defense of marriage acts. The blue lines show how the States have acted on the definition of marriage as it was allowed to occur through the defense of marriage acts. Obviously, we all recall that in the Senate we passed the Defense of Marriage Act by a large percentage and it passed the House by a large percentage. And it also passed in many States with a large percentage, with 45 States ending up passing the Defense of Marriage Act. The problem with the Defense of Marriage Act is it will not hold up against State challenges. Those court cases that have been brought forward could have an adverse impact on what a large majority of State legislatures have said and

what a large majority of houses have said.

The red reflects what has happened in regard to a constitutional amendment. We have 19 States that have passed those constitutional amendments and a number of amendments are pending before the States.

Now let me look at the following chart, and this is the number of States in which marriage laws have been challenged in court. Between 1992 and 1994, we had 5 cases that were challenged in court, and as these cases have accumulated through the years, now, in 2006, we have 22 cases that have been challenged. So we have a significant threat from the courts. This is an important issue to the American people, it is an important issue to the Congress, and it is something that should be addressed.

I believe that the institution of marriage and the principles of democracy are simply too precious to surrender to the whims of a handful of unelected activist judges. I urge my colleagues to join me in supporting the Marriage Protection Amendment.

I now yield the floor.

The PRESIDING OFFICER. The Senator has used 15 minutes.

The Senator from Kansas.

Mr. BROWNBACK. I believe under a previous agreement I am recognized for a period up to 20 minutes; is that correct?

The PRESIDING OFFICER. There is no agreement. The majority controls the 45 minutes remaining until the hour of 12 o'clock. The Senator from Kansas is recognized.

Mr. BROWNBACK. I thank the Chair. I ask if you would let me know when I have used 15 minutes of that time.

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

Mr. BROWNBACK. I thank my colleague from Colorado, Senator ALLARD, for his carrying of this amendment. When the issue first surfaced a couple of years ago, Senator ALLARD was the first one to put forward a constitutional amendment on the issue of marriage, a very simple one to define the union of marriage as a man and a woman.

The issue has taken many twists and turns since that time. The institution itself has been weakened over a number of years, and this is an effort to help it, help strengthen that institution and to have the definition of this institution done by legislative bodies and not by courts.

This is a very simple amendment. It is hard for me to understand why anybody would oppose it when 45 of 50 States have defined marriage as the union of a man and a woman, and this simply says that if States want to define it differently, they have to go through the legislative process and not the courts, so that the Court can't force it. It must be done by a legislative body. And if some States decide to do that, then that is provided for in this amendment. So the five States that have done something different are

provided for in the amendment. Yet the basics of it say marriage is the union of a man and a woman, as it has been as an institution for thousands of years.

So I thank my friend from Colorado for carrying this. It is a difficult topic. I would never have dreamed in my life, in coming to the Senate, that this would be a difficult topic, one that would be debated. When I came into the Senate in 1996, this was not discussed at all in the campaigns. It was not discussed in the campaign in 1998. It has only been of a recent vintage that this has come forward. Yet it has come forward because of the importance of the topic.

I want to discuss two points. This issue is going to be defined by the courts or the legislative bodies, period. We seek to have it defined by legislative bodies. We think that is the appropriate thing when you are dealing with such a fundamental institution of society as marriage. It should be defined by the people and the legislative bodies and not the courts. The situation in Europe, as it evolved, went through the court process. Therefore, we seek for these changes, if they are to be made, to go through the legislative body. I believe that marriage is such a foundational institution it should be defined as the union of a man and woman, and I will cover that in my discussion.

No. 2, this is important on how we raise the next generation in the United States. That is why we have favored the institution of traditional marriage, the union of a man and a woman, because we know in all the social data in all societies at all times that the best place to raise children is in the union of a man and a woman and in that sacred institution is the best place to raise your next generation, with that bonding together for life and children raised in that setting.

That is something for which we have got social data, but also we know that in our hearts. We know, sitting here right now, that, yes, that is the best place. I know that. I know that in my own heart. Yet I want to take us through what has happened to this weakened institution of marriage, what has happened then to our next generation. Here I am using the Moynihan principle. Senator Moynihan, who was in this body, since deceased, had a basic principle that he looked at. One of the key things we should look at is how we raise the next generation. It is something that any legislative body should be most concerned about because it affects what you are going to do in the future. It affects what the country is going to be in the future. And so we should maximize and look with great intensity at how you are impacting that next generation. I have to say, with the weakening of the institution of marriage over the past 30 to 40 years, with this redefining of marriage, which would define marriage out of existence, which is what we have seen in other countries, you are going

to harm your next generations and succeeding generations that you raise.

I want to back that up. I am going to go through a series of charts to paint the picture of what has happened to marriage in America today and why we would encourage the institution of marriage as the union of a man and a woman.

This doesn't need explanation. You can see where we are. With a 4-percent rate of out-of-wedlock births in 1930, we are at about a third of the children in the United States today born to unmarried women.

That is not to say you cannot raise great children in this setting because you can. A number of women struggle heroically to raise children, and good children, in this setting, as they can do. As I will show in these charts, it becomes far more difficult, and that is why institutions such as this and across the States, across the country, favor traditional marriage because you get more adults per child involved in that child's life and they are bonded together. They are thick. The blood is thick. They care for each other and they work to raise this child as my wife and I are working together to raise our children. It is tough. It is tough raising children. You need more adults per child, and you need adults who are committed for life so that that child does not have to worry about what is going to happen tomorrow or what is going to happen in the future. They know there are two parents who love that child unconditionally and are committed to that child unconditionally and they are going to work for that child and that is why we favor the institution of marriage. Yet you can see we are getting fewer and fewer children raised in that type of situation.

Now, then I mentioned, well, OK, you can raise good children in a single-parent household. Yes, you can. But the situation becomes more difficult. Developmental problems are less common in two-parent families. Lower half of class academically, as you can see in the green, is not as high in two-parent families; developmental delays, 10 percent. You are looking at, again, almost double the situation, and you are looking at double the problems with emotional behavior problems, single-parent versus two-parent families. That doesn't mean that you don't have problems in two-parent families. You do. It is just your numbers go down. So when you are looking at this in a macrosituation, as a Government, you are saying we want more children in these two-parent households.

The next chart shows that nearly 80 percent of all children suffering long-term poverty come from broken or never married families. This is something I want to develop a little further as well. We have a Brookings scholar, Ron Haskin, who testified at a hearing I hosted about welfare reform and the need to encourage marriage for those who are receiving welfare. And he says this:

There are only two ways known to man and to God to reduce poverty. No. 1 is work and No. 2 is marriage.

Here's what I want to show is if people will get married and stay married the number of children suffering in long-term poverty goes down substantially, if you will do that. And I want to develop this a little bit further.

Children in poverty—this is in the year 2000. You can see, if a child has been a child of a first marriage, less than 12 percent in poverty. You can see, if a child is in a situation where the mom has never married, 67 percent of your children in poverty come in that situation. Again, that is not casting aspersions on anybody. It is simply saying these are the facts of what happened.

Now, it is a bit of a sidebar, but it points to the policy impact of harming marriage. In other words, if we take policies that are harmful to marriage, it hurts children and it hurts marriage. If we take this policy move of defining marriage out of existence, saying it can be any two or more people who care for each other, it will fundamentally hurt your institution of marriage by a policy move.

Now, I want to reflect a policy move we did in welfare. In welfare, basically, we said—it is a very busy chart—we said to people if you get married, we are going to cut your welfare support. If you get married, we are going to cut your welfare support. What this shows are the various welfare programs in the country and it is those when you are going from \$20,000 income per year, very low, to \$40,000, which is where you get if two people get married, and I will develop this further, you fall off into the abyss as far as support you get from child care development funds, women and infant children, Federal housing, food stamps, all these things, you fall off the cliff to the point that you have an effective tax rate, if you get married and your income gets to \$40,000 by being married, an 88-percent maximum tax rate for you getting married in the welfare system. Therefore, it is no wonder that the people who get married are much more in the upper income and much less in the lower income.

This is a stark chart that should scare us all. This is income levels to percentage unmarried. And you can see at the lower income level, you are up as high as 70 percent not married, not getting married. Our public policies say, if you get married, we are going to throw you off welfare, and so fewer people get married. And it has an impact.

I want to show this final one quite quickly. This is the effective tax rate, maximum highest tax rate of you getting married on welfare and it is 88 percent, the impact of divorce on income of families with children. Again, I want to hit this pretty fast. When families separate, it drives income down, hurts children generally, although not in all situations, but I am painting the macropicture.

Now, what has happened to our children in this society since, say, 1960. The number of children—I showed an earlier chart—about a third are born out of wedlock. In the 1940s, it was about 4 percent. You can look at 1960, the number of children, either born out of wedlock or in previous years the parents were divorced, in 1960, we are up to 16, 17 percent, and today you are looking at over half. In America today, about half of the children under age 18 will spend a significant portion of their life in a single-parent household. Again, you can raise good children in that setting, but the numbers start moving against you.

OK. What does that have to do with same-sex marriage. The issue is we are looking at the policy choice of why we define marriage as the union between a man and a woman or any sort of grouping. The experience in other countries has been, when you redefine marriage broadly and you broaden it and say it can be any type of relationship between two or more people, you get fewer marriages and you hurt your children. That has been the situation.

I will go to several other countries that have redefined marriage, defined marriage out of existence. In the Netherlands, since proposals for same-sex marriage began to be debated, the out-of-wedlock birthrate has soared. It was a fairly stable country in out-of-wedlock births and was at low rate.

We will show in the next chart the same-sex marriage union, and the discussion, said to society: It really does not matter. The marriage institution is not a sacred institution; it is just whatever we define it to be. That tradition is tradition. We are going to go a different way.

What happened to out-of-wedlock birthrates? You can see the situation in the Netherlands, which is particularly important because it was one of the lowest out-of-wedlock birthrate countries in Europe for a number of years, shows that until 1980, below 5 percent of the population was born out of wedlock. When we get the court cases which we have in the United States today saying marriage should be redefined, we see the impact, as well as a Supreme Court case that rules against marriage being the union of a man and a woman. Then we get symbolic marriage registration, registered partnership, same-sex unions, and now we are up to 35 percent as seen in this skyrocketing chart.

One can say, that is the way it is, this number puts children in more disadvantaged situations, which is where our concerns should be, as to how you raise that next generation.

I will show another chart. We not only know this in the Netherlands but we know from Scandinavian countries, the Nordic countries that redefined marriage, experiences in Scandinavia and the Netherlands make it clear that same-sex marriage could widen the separation between marriage and parenthood here in the United States.

We know in some Nordic countries, you have counties now where 80 percent of the first-born children are born out of wedlock, and two-thirds of the second children are born out of wedlock. That has a significant impact, I argue, a devastating impact, on how that next generation is raised, given the difficulty of raising children in that one-parent union.

So if we redefine marriage, and define it downward, far less heterosexual marriages will be the broad policy impact of doing this. That has been the experience in other countries. You get more children raised in a sub-optimal atmosphere and you will have more difficulties with that next generation of children. This is important. This is critical.

I hear my colleagues complain, important issues? I remind my colleagues we spent 2 weeks before break on immigration, which is a critical topic, and we will take up the budget this next week, another a critical topic, yet I don't think one can look at an institutional question more profound, more important and active than what is taking place right now on the issue of marriage.

Marriage is a foundational institution. If we get more of it, we will have more stronger, healthier children, raised in better situations for the future of the country. If we get less of it, such as what this policy decision would do if we do not define marriage as a union of a man and a woman, we will have more problems on a trajectory we are already headed on. The institution of marriage has been weakened in the United States.

The institution of marriage has been weakened over the past 40 years. But the answer is not to kill it. The answer is to strengthen it. And it takes steps like the commonsense approach Senator ALLARD from Colorado is putting forward, defining marriage as a union between a man and a woman, saying only State legislatures, not the courts, can redefine it another way.

That should please everyone. Yet, I am afraid many of my colleagues on the other side of the aisle are going the opposite and claiming some sort of hyperbole about this being bigotry. It is not. It is people deeply concerned about the future of the country and the future of the next generation, concerned that they will say it is just politics. It is not. You have 45 of 50 States that have defined marriage as a union of a man and a woman and have spent significant resources to define and support the institution of marriage because of its importance to the society and to the Republic. This is a key, important debate.

I am delighted the leadership is calling this up. I hope my colleagues on the other side of the aisle will support it.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator has used 17 minutes.

The Senator from Colorado.

Mr. ALLARD. Mr. President, I compliment the Senator from Kansas for his tremendous effort and work on this very important issue. I know he has held hours upon hours of committee hearings and meetings to investigate with social scientists the impact of marriage on American lives and how it impacts the family.

I, for one, greatly appreciate the Senator's effort and support. He truly has been a partner in this effort to protect marriage. I appreciate his hard work. I recognize that in a public way.

I ask unanimous consent to have printed in the RECORD an article published by the Heritage Foundation, written by Mr. Ed Meese, titled "Marriage Amendment Protects Federalism," and a Statement of Administration Policy on the Senate Joint Resolution on the Marriage Protection Amendment, and a letter I have received from Mitt Romney, Governor of the Commonwealth of Massachusetts, in which he made a couple of statements that I will share with my colleagues.

First, he states in this letter:

Americans are tolerant, generous, and kind people. We all oppose bigotry and disparagement, and we all wish to avoid hurtful disregard of the feelings of others. But the debate over same-sex marriage is not a debate over tolerance. It is a debate about the purpose of the institution of marriage.

It goes further to talk of his experiences as Governor for the State of Massachusetts. He says:

... We are beginning to see the effects of the new legal logic in Massachusetts just two years into our state's social experiment. For instance, our birth certificate is being challenged: Same sex couples want the terms "Mother" and "Father" replaced with "Parent A" and "Parent B."

If the Senate will allow me to put this in context, I think the significance of his message is that marriage is being minimized. When we minimize marriage, we minimize its significance to society. As a result of that, our children will suffer.

I thank the President for his support. I also thank Governor Mitt Romney for his support.

I ask unanimous consent these be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARRIAGE AMENDMENT PROTECTS
FEDERALISM

(By Edwin Meese III)

July 12, 2004.—In our system of law, the powers of government are divided between the federal and state governments. The framers rightly left marriage policy, as so many other things, with the states.

Yet the fundamental definition of marriage is no mere policy issue. We're talking about the very integrity and meaning of one of the primary elements of civil society.

Nor is this a matter for state-by-state experimentation. Society isn't harmed when high-tax states live side by side with low-tax states. The market adjusts to the inconsistency. Not so with marriage. A highly integrated society such as ours—with questions of property ownership, tax and economic li-

ability, inheritance, and child custody crossing state lines—requires a uniform definition of marriage.

In a free society, certain fundamental questions must be addressed and settled for the good of that society. States can't impair the obligation of contracts, or coin their own money, or experiment with forms of non-republican government. We learned the hard way that the nation could not endure half slave and half free.

If marriage is a fundamental social institution, then it's fundamental for all of society. As such, it is not only reasonable but obligatory that it be preferred and defended in the law and, if necessary, protected in the U.S. Constitution.

This doesn't mean that marriage must be completely nationalized or should become the regulatory responsibility of the federal government. Policy decisions concerning questions such as degrees of consanguinity, the age of consent, and the rules of divorce should remain with the states.

The wisdom of extending certain benefits that stop well short of marriage—that don't undermine the distinctive status of marriage—are policy questions that should be the responsibility of state legislatures.

But we must protect the integrity of the institution as such by defining the societal boundaries and determining the limits beyond which no part of society can go.

A constitutional amendment that defines marriage would protect the states' capacity to regulate marriage by sustaining it as an institution. In order to guard the states' liberty to determine marriage policy in accord with the principles of federalism, society as a whole must prevent the institution itself from being redefined out of existence or abolished altogether.

STATEMENT OF ADMINISTRATION POLICY

S.J. RES. 1—MARRIAGE PROTECTION AMENDMENT
(Senator Allard (R) Colorado and 31
cosponsors)

The Administration strongly supports Senate passage of the Marriage Protection Amendment. Recent court decisions remind us that when activist judges insist on redefining the fundamental institution of marriage for their States or potentially for the entire country, the only alternative left to make the people's voice heard is an amendment to the Constitution. Without a constitutional amendment, judges and local officials could continue to attempt to redefine marriage. The Administration believes that the future of marriage in America should be decided through the democratic constitutional amendment process, rather than by the court orders of a few. The Administration urges both houses to pass the Marriage Protection Amendment and submit it to the States for ratification.

THE COMMONWEALTH OF MASSACHUSETTS,
EXECUTIVE DEPARTMENT,
STATE HOUSE,

Boston, MA, June 2, 2006.

Senator WAYNE ALLARD,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR: Next week, you will vote on a proposed amendment to the United States Constitution protecting the institution of marriage. As Governor of the state most directly affected by this amendment, I hope my perspectives will encourage you to vote "yes."

Americans are tolerant, generous, and kind people. We all oppose bigotry and disparagement, and we all wish to avoid hurtful disregard of the feelings of others. But the debate over same sex marriage is not a debate over tolerance. It is a debate about the purpose of the institution of marriage.

Attaching the word marriage to the association of same-sex individuals mistakenly presumes that marriage is principally a matter of adult benefits and adult rights. In fact, marriage is principally about the nurturing and development of children. And the successful development of children is critical to the preservation and success of our nation.

Our society, like all known civilizations in recorded history, has favored the union of a man and a woman with the special designation and benefits of marriage. In this respect, it has elevated the relationship of a legally bound man and woman over other relationships. This recognizes that the ideal setting for nurturing and developing children is a home where there is a mother and a father.

In order to protect the institution of marriage, we must prevent it from being redefined by judges like those here in Massachusetts who think that marriage is an "evolving paradigm," and that the traditional definition is "rooted in persistent prejudices" and amounts to "invidious discrimination."

Although the full impact of same-sex marriage may not be measured for decades or generations, we are beginning to see the effects of the new legal logic in Massachusetts just two years into our state's social experiment. For instance, our birth certificate is being challenged: same-sex couples want the terms "Mother" and "Father" replaced with "Parent A" and "Parent B."

In our schools, children are being instructed that there is no difference between same-sex marriage and traditional marriage. Recently, parents of a second grader in one public school complained when they were not notified that their son's teacher would read a fairy tale about same-sex marriage to the class. In the story, a prince chooses to marry another prince, instead of a princess. The parents asked for the opportunity to opt their child out of hearing such stories. In response, the school superintendent insisted on "teaching children about the world they live in, and in Massachusetts same sex marriage is legal." Once a society establishes that it is legally indifferent between traditional marriage and same-sex marriage, how can one preserve any practice which favors the union of a man and a woman?

Some argue that our principles of federalism and local control require us to leave the issue of same sex marriage to the states—which means, as a practical matter, to state courts. Such an argument denies the realities of modern life and would create a chaotic patchwork of inconsistent laws throughout the country. Marriage is not just an activity or practice which is confined to the border of anyone state. It is a status that is carried from state to state. Because of this, and because Americans conduct their financial and legal lives in a united country bound by interstate institutions, a national definition of marriage is necessary.

Your vote on this amendment should not be guided by a concern for adult rights. This matter goes to the development and well-being of children. I hope that you will make your vote heard on their behalf.

Best regards,

MITT ROMNEY,
Governor.

Mr. ALLARD. I yield to the Senator from Pennsylvania, who has been a strong leader and who has put in a large amount of effort in trying to protect the institution of marriage.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I thank and congratulate the Senator from Colorado for his terrific work on this issue, as well as the Senator from

Kansas, Mr. BROWNBACK, for his great work in the committee in moving this constitutional amendment forward.

This is a very difficult debate for a lot of people. It is very hard, sort of sad in some respects, that we are here talking about the issue of marriage, that talking about marriage is somehow a difficult debate. But it is for a lot of people. I know in many meetings of our colleagues when the issue of marriage comes up, heads drop. It is an issue that people feel uncomfortable talking about, something that maybe in some respects they feel like, Why is this even an issue?

That is a good question. Why is it an issue? I will talk about that in a minute.

There is a foundational question I would like to talk about that up until a couple of days ago I was not planning to talk about, which is, Why are we doing this now? This is the big buzz in the media. Oh, this is being brought up for political purposes; and this is all about politics and has nothing to do with the substance of the matter, and the media—which loves to pawn off issues and give spin to issues—has adopted this approach.

As Senator ALLARD would affirm, we have been considering now for several months what the best timing would be to bring this legislation up. We had a very forceful voice being heard from the American public. In fact, there is a chart of all the States that approved constitutional amendments in the last election of 2004. We are now up to 19 States in the country that have spoken; the people have spoken in those States.

There was a lot of momentum coming out of the 2004 election, so when we reconvened in 2005 we thought maybe this was a good time to bring it up, now that we have just had an election. We thought, in looking at this, it would be better if we had more court activity between the election and when we bring this amendment up. That, really, the issue is, as we have heard repeatedly in the Senate, we are trying to bring about a decision on marriage in this country through a democratic process.

I can't think of anything more democratic involving more people than a constitutional amendment. It takes two-thirds of this House, two-thirds of the other House and three-quarters of the States; 38 States have to ratify this amendment. Talk about a public debate where there is huge public input across America. The constitutional amendment is the way to do it. It is the most democratic way of making a decision on anything in this country.

We thought it would be a good juxtaposition to see further court erosion, further decisions made by courts to erode the public's will on the issue of marriage. I say the "public's will" only because we have 19 States and many others that have said what there really is with respect to marriage. So we are debating, almost month to month, and

we have had conversations, Is this the right time?

We had a Nebraska decision which has been talked about where a Federal court overturned the State constitutional amendment in the State of Nebraska. There was a case in Washington State. Washington State is an interesting State because, unlike Massachusetts, there is no residency requirement for marriage. Any couple from anywhere in the country can go to Washington and get married if the Supreme Court of Washington were to overturn their statute. Washington so far has not issued their opinion. They have had the case for 15 months and for some reason or another they have not decided to decide. We were waiting, trying to see if this was an appropriate time.

Last year we decided that we were not going to wait around for courts and we set this date for the first of June. That is why we are here today—not for any political reason. If it was purely politics, we would be debating this in September. We are debating it in June because we thought we would have 3 or 4 days as opposed to being compressed to 1 day in September. So we are here to give this the proper attention this vitally important issue deserves.

The other question that I did want to talk about is, How did we get here, not why are we doing it now, but how did this issue come about? There were a couple of States that were playing around with this issue for a while—Vermont and Hawaii. But the issue really got jump-started with the court decision—not surprisingly, a big court decision—the court decision that occurred in Washington with the United States Supreme Court is the *Lawrence v. Texas* case.

Lawrence v. Texas opened the floodgates for a variety of different litigation going across this country using, now, a constitutional right established by the United States Supreme Court in *Lawrence*. It was a seminal decision, there is no question about it.

We have a classic example of the U.S. Court forcing its will on establishing a right and then giving other courts the right or the ability to then project its power on to the people, to make decisions and force decisions, force legislation, as in the case of Massachusetts, onto the people.

I want to talk about that decision because I think it is important, but I want to talk about the decision before that. Just a few years ago, 15 years before *Lawrence v. Texas* was decided, a similar case was decided, *Bowers v. Hardwick*. I want to take a look at Justice White who wrote for the majority in *Bowers*, saying sodomy laws were constitutional, that moral laws passed by the States dealing with sexuality were, in fact, constitutional. There was no constitutional right that barred States and the public from regulating in this area. He said:

The right pressed upon us here [this is what the litigants in the *Bowers* case were

arguing] has no similar support in the text of the Constitution, it does not qualify for recognition under the prevailing principles for construing the 14th amendment. Its limits are also difficult to discern . . .

This limit of consensual sexual activity being a constitutional right which was made by the litigants, saying we have the right as individual adults under the Constitution to any kind of sexual behavior that we desire and the State cannot limit us.

He said:

Its limits were difficult to discern . . . And if respondent's submission is limited to the voluntary sexual conduct between consenting adults, it would be difficult, except by fiat, to limit the claimed right to homosexual conduct while leaving exposed to prosecution adultery, incest, and other sexual crimes even though they are committed in the home. We are unwilling start down that road.

What the Court said here was that if you open up the standard, the legal standard, if you change it for a constitutionally protected activity from that activity within marriage to that activity between consenting adults—and that was the decision here, change the standard from a Constitution that protects the marital union from State intrusion to consenting adults with respect to homosexual activity—in this case, the Court said: No, we can't go there. Because only by fiat could we then limit other activity beyond that.

Let's fast forward to shortly before the *Lawrence v. Texas* decision.

If . . . you have the right to consensual sex within your home, then you have the right to bigamy, you have the right to polygamy, you have the right to incest, you have the right to adultery. You have the right to do anything.

That comment has been reprinted probably 100,000 times in the last few years as an outrageous comment made by a U.S. Senator. It was the same comment that was made by Justice White in the majority opinion.

Let's fast forward a few months after that, Justice Scalia in the dissenting opinion in the *Lawrence v. Texas* case:

State laws against bigamy, same-sex marriage, adult incest, prostitution, masturbation, adultery, fornication, bestiality, and obscenity are likewise sustainable only in light of *Bowers'* validation of laws based on moral choices. Every single one of these laws is called into question by today's decision; the Court makes no effort to cabin the scope of its decision to exclude them from its holding.

What he is saying is that now that road which Justice White and the Court back in 1986 refused to go down, this Court in *Lawrence v. Texas* had headed us down that road.

Justice Scalia went on to say:

Today's opinion dismantles the structure of constitutional law that has permitted a distinction to be made between heterosexual and homosexual unions, insofar as formal recognition in marriage is concerned. If moral disapprobation of homosexual conduct is "no legitimate state interest" for purposes of proscribing that conduct; and if, as the Court coos (casting aside all pretense of neutrality), "[w]hen sexuality finds overt expression in intimate conduct with another

person, the conduct can be but one element in a personal bond that is more enduring," what justification could there possibly be for denying the benefits of marriage to homosexual couples exercising "[t]he liberty protected by the Constitution." Surely not the encouragement of procreation, since the sterile and the elderly are allowed to marry. The case "does not involve" the issue of homosexual marriage only if one—

And they are quoting the majority opinion again because the majority opinion said this doesn't deal with marriage, Scalia says this case does not involve the issue of homosexual marriage—

entertains the belief that principle and logic have nothing to do with the decisions of this Court.

The fact is, principle and logic have everything to do with judicial decisions. That is the problem with them. That is why they are different from legislative decisions. You see, when a court makes a judicial decision, they do so based on a judicial foundation that has a logical and rational basis to it and logical consequences. The logical consequence to the *Lawrence v. Texas* case is the next case, not a Supreme Court case before the U.S. Supreme Court but before involving Massachusetts.

What Massachusetts did was the logical thing from *Lawrence v. Texas*. In fact, they cite *Lawrence v. Texas* 5 times in the main opinion and 11 times in the combined majority opinions. It is the basis upon which they build their decision. Because unlike the majority opinion in *Lawrence v. Texas* which says this has nothing to do with marriage, it had everything to do with marriage.

The interesting thing about the *Lawrence v. Texas* decision—and this goes even more to judicial activism—they could have decided the *Lawrence v. Texas* decision for the plaintiffs in that decision. They could have found that statute unconstitutional. And in fact, had they done so—and in fact, they did in part of their opinion; they found it unconstitutional under equal protection grounds—had they limited their opinion to that, I would have agreed with the decision. I think the Texas statute probably was unconstitutional under equal protection grounds. And so when they started the decision out and they said: This is unconstitutional because of equal protection, I said that is right.

Here is what the court did and, unfortunately, what courts increasingly do. While we are here, we are going to establish a new constitutional right. While we are here, since we have the opportunity, since this case is before us, we are going to be activist jurists, and we are going to create a whole new body of law that will have huge ripples throughout society. So they did. They didn't have to, but they did. We are now debating this amendment because of it. They have this ripple effect which we are seeing throughout courts throughout the country, Federal as well as State.

Here in the Goodrich decision, it says:

It is clear from the quote below that the Goodrich decision was considered the "logical next step."

Our concern is with the Massachusetts Constitution as a charter of governance for every person properly within its reach. "Our obligation is to define the liberty of all, not a mandate of our own moral code."

There they were quoting *Lawrence v. Texas*. It went on to note that the *Lawrence* case "specifically affirmed that the core concept of common human dignity protected by the Fourteenth Amendment to the United States Constitution precludes government intrusion into the deeply personal realms of consensual adult expressions of intimacy and one's choice of an intimate partner. The Court also reaffirmed the central role that decisions whether to marry or have children bear in shaping one's identity."

The "logical next step," so the Goodrich decision is very much in conformity with the *Lawrence v. Texas* decision. That is why we are here. We are here because of judicial activism.

Our plea to the Members of the Senate is to allow the people to make the decision with respect to this foundational institution of our country—the traditional family, marriage—that courts who just happen to be deciding a case that didn't need them to decide it this way or use this logic or rationale, that courts just can't decide that they want to involve themselves into legislative affairs and send shock waves throughout our culture without the public having a right to say something, without the public having a right to put their stamp of approval on what is moral and just.

Some have said that the States can handle this. Some have said this is a federalist issue; We should not have Federal legislation on this; This is usurping States rights.

I don't know what involves the States more than having every State legislature in the country debate this issue. That is not usurping States rights; that is placing in the hands of the States the decision as to whether to move forward. Thirty-eight of the fifty States have to affirm this constitutional amendment. This is not an easy thing to do. That is why we don't have very many amendments to the Constitution. But it is a purely democratic process, just like the debate in the Senate. I think we should give the States, the people, the right to make this decision before a group of unelected judges, following the lead of the U.S. Supreme Court, do it for us.

First and foremost, this constitutional amendment is about democracy. It is about the people expressing their will on potentially the greatest moral issue of our time, and that is the integrity of the traditional family. That is issue No. 1.

Issue No. 2 is an important one, also. I heard the Senator from Kansas talk about this eloquently, so I won't spend

a lot of time. He did as good a job as any on the issue. That is the impact of the deconstruction of marriage on society. I heard the Senator from Kansas say that marriage is already in trouble in America. There is certainly little to argue that that is not true. It is true, marriage is in trouble. But I agree with him by saying just because something is in trouble doesn't mean you need to get rid of it altogether. Without question, once you change marriage from an institution whose societal purpose is focused on having children, being an institution that is the best place to rear future generations of society, once you change marriage from being principally about children, although not exclusively, certainly, but principally about children, to exclusively about adults, then you change marriage forever.

We did that in part 30-plus years ago with no-fault divorce laws. When they came into place, they said children will be helped by this. There will be fewer unhappy homes. I don't think there is a whole lot of evidence out there that would suggest children have been helped by the rapid increase in divorce. I know the Senator from Kansas had some charts up of how children in two-parent families don't end up in poverty as much, do better in school. I don't know of a social indicator out there that doesn't suggest that being in a married home is not more beneficial for children. That is certainly not to say that children raised in single-parent homes can't and don't do well. Most do. But the point is, society should be advocating for what is best for children and should set a standard for what is best.

We know what is best. We know it intrinsically, but we have supporting evidence as to what is best for children—less substance abuse, less abuse or neglect, less criminal activity, less early sexual activity, fewer out-of-wedlock births, fewer behavioral problems. It goes on and on. We know marriage is inherently good for children.

We also know that when we destroy marriage, when we deconstruct marriage, bad things happen. We saw that with no-fault divorce. More people got divorced. We changed the definition of marriage, and we say marriage is no longer about children, no longer about the next generation. Marriage is simply the affirmation of affection of two adults. Or, as Justices Scalia and White suggested, why limit it there. Why not, as we see in cases now being filed all over the country, why not three adults, four adults, five adults? What is the difference from the standpoint of a rationale? If marriage is not about one man and one woman for the purpose of a relationship of which to have children and continue society, if it is about two women and two men or two women and three men, why not whatever arrangement? If gender does not matter anymore, why does number matter? What is the significance? What is the logical argument to draw the

line here? As Justice White said, it would be by fiat to draw the line.

So we have a situation where without question, marriage would be undermined by this deconstruction. In fact, we see it. I have an article by Stanley Kurtz on what is going on in Europe, in countries that have, in fact, changed the definition of marriage. Those countries are now seeing dramatic declines in the number of marriages, not increases in the numbers of same-sex marriages but declines in the number of heterosexual marriages and dramatic and steady increases in the number of children being born out of wedlock.

I ask unanimous consent for 2 additional minutes.

The PRESIDING OFFICER (Mr. BURR). Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, the final point I want to make—and I will try to come back to the floor when I have more time—is regarding the impact of this movement in the country by the courts on religious freedom. There was an article written, which was on the front cover of the *Weekly Standard*, called “Banned in Boston,” where Maggie Gallagher talks about Catholic Charities in Boston having to get out of the adoption business because they will not consent, under their Catholic orthodox faith, to place children into same-sex couple homes. It is against the Catholic faith to do so. There is a very clear message from Rome that this is not proper behavior. They were refused their license, and now one of the longest standing adoption agencies in Massachusetts no longer places children for adoption. Why? Because all around faith, all around churches and parachurch organizations, and missionary organizations is, whether we like it or not, the Government.

When the Government comes down with things that are contrary to that faith group there will be friction.

In fact, Mark Stern, who is a lawyer for the American Jewish Committee, is quoted as saying:

It is going to be a train wreck, a very dangerous train wreck.

So not only will this new right that the court has established in the follow-on—the right of same-sex marriage—going to cause problems with democracy and problems with marriage, it is going to create huge problems for our faith-based organizations. It is something that we need to address. Thank you.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

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

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

Mr. REID. Mr. President, I just returned from my State of Nevada. For example, I did an event that received a lot of attention dealing with gas prices. Gas prices are so significant. Nevada has the third highest gas prices in all the country. Unfortunately, we have been in second place on occasion. It is not unusual to drive by a service station in Nevada and see the three different prices and the bottom one is \$3.40. The average price last week was \$3.19 a gallon.

What are we doing on the Senate floor today? No matter how a person feels about the marriage amendment, everyone knows it is not going to pass. It is not going to come close to passing. We voted on this a short time ago and got 48 votes. It takes 67 votes for a constitutional amendment to begin the process. This is not what the American people want to talk about. All you have to do is listen to the conservative talk shows, the liberal talk shows, read the newspapers, the liberal columnists, the conservative columnists. With rare exception, they say we are wasting the taxpayers' time doing this.

We have a war in Iraq going on. Are we having a discussion on the war in Iraq, where yesterday 80 Iraqis were killed, 7 having their heads cut off and put in a marketplace in baskets? Are we talking about that? We have soldiers valiantly fighting every day over there, Mr. President. We have been struggling to get a supplemental appropriations bill completed. They need our help.

In Nevada, like every other State in the Union, we have hundreds of thousands of people who have no health insurance. The State of Nevada leads the country in uninsured. The prescription drug bill was passed dealing with Medicare. It has been a nightmare for seniors and a gift for HMOs, pharmaceuticals, and insurance companies. When I was in college, I studied, among other things, political science. I don't know why, but it stuck in my mind.

A professor named Harmon Judd said: Let me explain this Federal system. What it means is, you have a central whole divided among self-governing parts. That was his definition. What are those self-governing parts? The 50 States; originally Thirteen Colonies, now 50 States. They are doing a pretty good job. Almost 50 States have either passed laws or constitutional amendments dealing with marriage. Over the top of that, we have the Defense of Marriage Act, which has been attacked numerous times by people trying to knock it out. It has been upheld by Federal courts three times, which basically says—not basically—it says a State does not have to give full faith and credit to another State's marriage laws. It is up to the State to determine what the marriage law is. That is what federalism is all about, as set forth, among other places, in the Defense of Marriage Act.

We really need to focus on stem cell research. There are hundreds of thousands of people crying for our help. They believe, as does the scientific community, that dread diseases can be moderated and cured—things such as Parkinson's disease, Alzheimer's, Lou Gehrig's, and diabetes. But we are not talking about that today.

Price gouging: Senator CANTWELL had 57 or 58 votes a short time ago on a price-gouging amendment. We could not break the logjam we had. We could not get enough support from the majority.

I ask unanimous consent that the Commerce Committee be discharged from further consideration of S. 1735, the Energy Emergency Consumer Protection Act, and that the Senate proceed to its immediate consideration.

Before there is a response as to whether this would be granted, I suggest to those within the sound of my voice that this is a price-gouging amendment. I was told it was 57 votes in the Senate. I ask unanimous consent that request be granted.

The PRESIDING OFFICER. Is there objection?

Mr. BROWNBACK. Reserving the right to object, and I will object, this issue is going to come up in front of the body on the overall energy situation. The Republican leadership is working on that, as well as on a stem cell compromise, as well as on the supplemental bill, which will be considered and brought forth in due order. This is not agreed to by the Republican leadership to come up; therefore, I do object.

Mr. REID. Reclaiming my time, in due consideration, Mr. President, everything around here with the majority is due consideration. We are going to do an energy bill after we finish gay marriage, estate tax, flag burning—things that are important to people but are way down the list of priorities of the people at home in Nevada. How about an energy bill or stem cells? We have been waiting more than a year to do something on stem cells—more than a year.

The PRESIDING OFFICER. Objection is heard.

Mr. DURBIN. Through the Chair, I ask if the Senator from Nevada is aware that the Gallup organization, which does polling across America, did a poll of 1,000 Americans in April which asked them the following question: What do you think is the most important problem facing America today?

I would like to ask the Senator from Nevada if he knows where the issue of gay marriage came in on this poll of Americans about the most important issues facing America today?

Mr. REID. I really don't know.

Mr. DURBIN. I will alert the Senator from Nevada that it tied for 33rd in the list of priorities for America today.

I ask the Senator from Nevada, since the Republican majority controls the Senate, they set the agenda for things that we debate and vote on; do they not?

Mr. REID. That is right.

Mr. DURBIN. Am I correct that Senator FRIST and the Republican majority have decided that instead of the war in Iraq where we continue to lose servicemen, instead of the energy crisis which forced the price of gasoline to record-high levels causing hardship to families and individuals resulting in laying off workers across America, instead of dealing with health care where over 46 million Americans have no health insurance whatsoever and many have health insurance that is totally inadequate, instead of dealing with the cost of higher education where working families are struggling to get their kids through school and children who are accepted at the best schools and universities face a mountain of debt, instead of dealing with those issues which rank in the top 10, is it true that the Republican majority has decided we need to focus this entire week in the Senate on No. 33, issues involving gay marriage?

Mr. REID. I respond to my friend that I am stunned. I am stunned that it has taken weeks, weeks, weeks, and weeks to even be able to deal with money for our troops, the supplemental appropriations bill. I am in a quandary. I am so grateful that I represent the people of Nevada in the Senate. But I want to do things that I can talk to the folks at home about that have relevance to their everyday lives, such as gas prices, sending their kids to school. Many academically talented children are not able to go to school because their parents are not rich.

Mr. DURBIN. If the Senator will yield for an additional question, they say debate on the floor of the Senate is about the "M" word, about marriage. It strikes me that it is not about the preservation of marriage, it is about the preservation of the "majority," the Republican majority. That is the "M" word behind this debate.

I ask the Senator from Nevada, if this issue is not creating a national problem or crisis, if it ranks so low among the American people, 33rd on the list of the important things facing America, why, I ask the Senator from Nevada, has the Republican majority ignored all the issues that people care about and count on us to do something about? Why are they ignoring all these issues and moving to this issue of gay marriage and proposing a constitutional amendment?

Mr. REID. Mr. President, the chairman of the Judiciary Committee on the floor yesterday said this issue dealing with marriage is a solution in search of a problem. It is being done, I believe, to divert, distort, and confuse Americans as to what the real problems are. Do anything possible, but don't talk about gas prices because if we talk about gas prices, we would have to bring out on the floor that the most oil-friendly Presidency in the history of this country is now at 1600 Pennsylvania Avenue. The President made his fortune in oil. Vice President CHENEY is still mak-

ing his fortune in oil. He made it with Halliburton. Secretary of State Condoleezza Rice was on the board of directors of Chevron. They liked her so much they named a tanker after her. The Secretary of Commerce made his fortune in oil. We could go on and on.

If we talk about the issues affecting the American people, then maybe what we would do is Senator MARIA CANTWELL's price-gouging bill. Exxon made \$34 billion in net profit last year, which is the most money a corporation has ever made in the history of America. So, no, the majority doesn't want to talk about these issues, about the tax credit for sending kids to college.

Mr. DURBIN. If the Senator from Nevada will further yield for a question, I ask the Senator, is it not true that the resolution before us would require 67 votes in order to be approved by the Senate?

Mr. REID. That is true.

Mr. DURBIN. And the last time we considered this measure, some 48 Senators voted for it? It fell far short of what it needed.

Mr. REID. Nineteen short.

Mr. DURBIN. So I ask the Senator from Nevada, does he reasonably believe now there are 67 votes or near 67 votes for this resolution?

Mr. REID. Mr. President, the distinguished Senator from Illinois knows, as I know, that there isn't a person in the Senate who thinks this has any chance of passing—no chance of passing. It will get 48, 50, 51 votes. I don't know how many votes it will get. If it were a straight up-or-down vote on an amendment, it would get less than that because some Republicans have said: This is a procedural vote, I am going to vote to allow it to go forward, but if it were here, I probably wouldn't vote for it. So you probably have in the Senate 41 or 42 sound votes for this.

Mr. DURBIN. If I can ask the Senator from Nevada, how much time do we have? If we take a week and spend it on a gay marriage amendment, and then a week and spend it on a flag amendment, and then another week and spend it on, let's say, repealing the estate tax on the wealthiest people in America, don't we have a lot of time left before the election to consider issues such as the war in Iraq, energy costs, health insurance for all American families, the cost of education, and the appropriations bills? How much time do we have if we take 3 weeks?

Mr. REID. Approximately 45 legislative days, that is all.

Mr. DURBIN. Before the election.

Mr. REID. That is right.

Mr. DURBIN. I ask the Senator from Nevada, he says we have 45 days, and we are going to spend 3 or 4 days this week on an amendment that doesn't have any chance, that ranks 33rd in a Gallup poll when it comes to the interests of the American people—I return to the same basic question: Why? Why are we doing this? Why aren't we focusing on issues that count if we have so little time?

Mr. REID. One of the Democratic Senators spoke with the majority leader. The majority leader said these things need to come up every year or two. That is the reason.

Mr. DURBIN. I ask the Senator from Nevada, it is a shame—I ask him, does he think that perhaps if this should come up every year, even though it doesn't have a chance of passing, whether or not we should consider bringing up every year an effort to make health care more affordable for the American people, whether we ought to consider every year dealing with the war in Iraq that continues to claim American lives, whether we ought to be passing new ethics laws to reform the lobbying system in Washington? I ask the Senator from Nevada, if we are going to have an annual occurrence, if these are, in fact, perennial issues, aren't there some that should be as a matter of course called before the Senate?

Mr. REID. Maybe—I think it has been about a year; I have lost track of the time—maybe what we are going to be coming up with after these, maybe we will have the Schiavo matter come up again. What does the Senator think of that?

Mr. DURBIN. I say to the Senator from Nevada, asking this question, isn't it true the last time the Republican leadership got in trouble in the House, when the majority leader, TOM DELAY, was in his difficulty, that someone brought up the issue of intervening in the tragedy of Terry Schiavo in Florida, injecting the Federal courts into the hospital room when this poor family had spent 15 years, when this young woman was on life support, that all the courts having decided that the family could make the decision, the most intimate personal decision, the Republican leaders in the House and Senate said: No, we are going to have the Federal court step in and make the decision, take the power away from the doctor and the families?

Isn't it interesting, I ask the Senator from Nevada, that when they were facing all this grief over TOM DELAY and ethical questions, they raised the Terry Schiavo issue, and now we find them raising the gay marriage issue because the polls are so low and the election draws near?

Mr. REID. We know, I say to my friend, what can be done in this body if we get a nudge from the President, a little bipartisanship. Look what we did, I say to my friend. We spent several weeks on the Senate floor on a bipartisan basis passing a comprehensive immigration reform bill. Why were we able to do that? Because the President decided to get involved in it. He decided it was time to do comprehensive immigration reform, and I complimented him on that.

Isn't that the way we should be legislating around here, I say to my friend, the distinguished Senator from Illinois? Shouldn't we be working in conjunction with the White House on these

issues, bills that we can pass, something that has some meaning, having the President lead a charge on health care reform, not little specks of things here? How about doing something here to lessen our dependence on foreign oil. We use in America 21 million barrels of oil a day—21 million barrels of oil every day, every day, 66 percent of it is from foreign sources. We have less than 3 percent, counting what is in Alaska, for the United States. We can't drill our way out of our problems. I say to my friend from Illinois, maybe that is what it is all about.

Mr. DURBIN. If I might ask through the Chair the Senator from Nevada, the Democratic leader, did we not attend the State of the Union Address just a few months ago when the President said America was addicted to oil? It was the lead in all the stories the next day: America is addicted to oil. Then we saw the gasoline prices skyrocket causing all these hardships.

I ask the Senator from Nevada: Have we received a proposal from this White House, from this administration since that famous State of the Union Address suggesting how we can change America's energy policies to make us less dependent on foreign oil, to protect American consumers and businesses, to punish profiteering, to promote the kind of energy innovation which will lead to conservation, efficiency, less pollution, and less dependence on foreign oil? Have we heard that kind of leadership from the White House to contrast with what the President called for that we spend this week on a constitutional amendment which has no chance of passing?

Mr. REID. It is a matter of priorities, I say to my friend, a matter of priorities, what is important to this administration. Obviously, it is not gas prices. Obviously, it is not college tax deduction. Obviously, it is not this debt.

I say to my friend, even in our conversation this morning, we haven't talked about the stagnant debt. And remember, in the last 3 years of the Clinton administration, the national debt was paid down by half a trillion dollars approximately. What do we have here? Red ink as far as you can see. Have we heard anything from the President to lower this debt?

Mr. DURBIN. I ask the Senator from Nevada the following question: Is it not true that 5 years ago—6 years now, almost 6 years now when President Bush came to office—that as the Clinton administration left, we had a surplus in the Federal Treasury, that we were taking the surplus revenue collected in America, paying down the long-term debt of Social Security so that it would be strong for years to come? Is it not also true that when President Clinton left office, the entire national debt accumulated over the history of the United States was about \$5.7 trillion or \$5.8 trillion, and that today the national debt is bumping up against \$9 trillion, and in the 6 years since Presi-

dent Bush has been in office, there has been a dramatic increase in this national debt?

Is it not also true that this President, despite a war which saps away \$2 billion or more every week, he has called for tax cuts on the wealthiest people in America and continues to call for those tax cuts, despite this deficit? And I ask the Senator from Nevada, is that what fiscal conservatism is all about?

Mr. REID. My only correction of the distinguished Senator is it is \$2.5 billion a week the war is costing us, about \$10 billion a month. I mentioned, I say to my friend, the definition I got in college about a central hole divided into self-governing parts of the States. I always thought the Republican majority, as it is now, believed in States rights. That is what federalism is all about.

Where in this debate, that shouldn't be taking place on the floor right now, is there any inkling of States rights? None. Forty-five States have already, through statute or constitutional amendment, as in Nevada—Nevada amended its constitution on this issue. But where are my friends, my Republican friends? Where are they on this issue of States rights? This isn't the first time we have brought up issues that have been defeated, defeated, defeated.

Medical malpractice is something the State of Nevada took on on its own, set their own rules. The Governor called a special session of the legislature. We now have rules in the State of Nevada dealing with medical malpractice.

That is not good enough for this Republican majority. We have voted, I believe, three times on a national law dealing with medical malpractice—take the States out of the picture.

So I ask my friend, he being involved in Government in one way or another most of his adult life, does he remember the Republicans at one time standing for States rights?

Mr. DURBIN. In query of the Senator from Nevada, I ask him, I thought I understood the basic difference between Democrats and Republicans, that the so-called Republican conservative philosophy was for fiscal conservatism, avoiding debt. Now we have the largest debt in the history of the United States and getting worse without any effort by the Republicans to deal with it.

Traditionally, the Republicans argue the Government is best that governs least and gives power to the local units of government closest to the people. Now we have with this amendment an attempt to amend the Constitution and to preempt the power of the States to establish standards for marriage.

I ask the Senator from Nevada: Did we not honor States rights with the passage of the Defense of Marriage Act which said that no State shall be compelled to recognize gay marriage if any State should enact such a law, as Massachusetts has?

I ask the Senator from Nevada: Isn't the Defense of Marriage Act consistent

with States rights, and isn't the proposed constitutional amendment an assault on the rights of States to establish the standards for marriage which they have throughout our history?

Mr. REID. And I remind my friend, the Defense of Marriage Act passed when we had a Democratic President and a Democratic majority in the House and the Senate. I am quite sure that is right, at least in the Senate; I don't know about the House. We passed it because it was the right thing to do—States rights.

The other point I suggest is that it is a wrong-placed priority doing this resolution and nothing with homeland security. Just last week, the Secretary of Homeland Security decided that New York, for example, would lose \$200 million. States all around the country will have less money to protect themselves. I would think that is worth a debate on the Senate floor. Does the Senator from Illinois agree with that—homeland security?

Mr. DURBIN. I respond to the Senator from Nevada and ask a question. I ask the Senator: If someone were to step back at this moment and say the Senate is debating a constitutional amendment, which everyone concedes will not pass, we are going to spend the whole week on it, and this issue ranks 33rd on the list of priorities of the American people, the States are already dealing with it directly, they have spoken to this through a variety of constitutional amendments and referenda in each and every State, virtually every State, I ask the Senator from Nevada, does that lead to the conclusion the cynicism the American people feel toward Congress and the leadership, the Republican leadership, in this Senate has been verified by the agenda we are dealing with this week?

Mr. REID. Our time has expired, and I say yes.

Mr. DURBIN. I yield the floor.

Mr. WARNER. Mr. President, I wonder if I might ask if we could extend the time over here for a few minutes, maybe 5 minutes, to make a brief statement on this issue.

Mr. REID. The recess would be delayed for 5 minutes? Is that the request?

Mr. WARNER. Yes.

Mr. REID. No objection.

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

Mr. WARNER. I thank the distinguished leader.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I rise today with respect to S.J. Res. 1.

When considering proposed amendments to the United States Constitution, I first look back to history. In the summer of 1787, 55 individuals gathered in Philadelphia to write our Constitution. It was a very hot summer, and it was a long and arduous debate, many drafts back and forth, but careful consideration was given. Finally, in mid September, it was over. The Constitu-

tion they produced was a monumental achievement. But the Framers did not know at that time what a great achievement they had made, one that would enable the United States, today, these 200-plus years later, to become the oldest continuously surviving Republic form of government on Earth today.

Article V of the U.S. Constitution lays out the process for amending this magnificent document. In their wisdom, our Founding Fathers purposefully made the task immensely formidable. Of both Houses of Congress, two-thirds have to vote in favor of passing a proposed amendment. Subsequently, three-fourths of the states have to ratify that amendment over a period of time.

History documents that there have been many attempts to amend the U.S. Constitution. According to one study—since 1789, over 10,000 amendments to the Constitution have been proposed in Congress, but only 27 have ever been ratified.

With this historical framework in mind, I have reviewed S.J. Res. 1—the Marriage Protection Amendment.

Mr. President, I ask unanimous consent that a document referred to as the "box chart" be printed in the RECORD following my statement.

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

(See exhibit 1.)

Mr. WARNER. The proposed constitutional amendment is simply two sentences. The first sentence reads that marriage in the United States shall only consist of the union of a man and a woman. This is a concept which I have consistently voted in support of—beginning with the Defense of Marriage Act in 1996, and basically on this same constitutional amendment 2 years ago. The time-honored, deeply rooted tradition of marriage between a man and a woman ought to be protected, and I support that.

But the second sentence of the proposed amendment gives me great concern. It states that neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman. It gives me concern because I don't think the second sentence speaks with the clarity to which the American people are entitled. Any number of calls are coming into my office, as they are to other Members, and clearly the callers are focusing on the first sentence. When you try to explain the second sentence, they don't understand it.

My colleagues who are supportive of this proposed constitutional amendment have stated that it is their intent that this second sentence will leave to the several States the decision of whether to recognize relationships other than marriage, such as civil unions or domestic partnerships. But if that is the case, why not simply state that in plain English that is under-

standable for the millions upon millions of Americans who are interested in this amendment? It is amazing to me that a little more than 2 weeks ago, this Senate overwhelmingly approved an amendment to make English the national language of the United States. Yet today we debate an amendment to the U.S. Constitution—one of the most grave responsibilities incumbent upon Members of Congress—America's founding document—and the second sentence of that proposed amendment fails in many ways to speak with the clarity of the English language to which our public is entitled.

Some who have spoken in support of this proposed amendment have employed a box chart on the floor of the Senate, and I have asked unanimous consent to include that in the RECORD in an effort to demonstrate that the resolution would protect marriage but permit States to recognize relationships other than marriage. If this is the case, why not simply say so? Why not simply say that the power to recognize or to prohibit relationships other than marriage shall be reserved to the several States? Or why not simply drop the second sentence altogether if it is confusing? Either option would clearly allow the 50 States to work their will on the issues of civil unions or domestic partnerships. I believe it is extremely important that we leave to the States that responsibility.

If we wrote the second sentence plainly, we wouldn't need a box chart to sit here on the floor and try to decipher it.

My own State, the Commonwealth of Virginia, is trying to work its own will on these issues right now. With the lack of clarity in this proposed federal amendment, I have to wonder whether the proposed federal amendment respects the right of the several States to act in this area.

As the second sentence of this proposed amendment is written now, the intent of the amendment simply isn't clear. What if a State legislature wanted to pass a State constitutional amendment to allow domestic partnerships? As I read this proposed amendment, it would likely preclude a State legislature from so acting. This type of unnecessary confusion will undoubtedly lead to considerable litigation if this proposed amendment is accepted in its current form.

That, it seems to me, is not the duty of the Congress of the United States, to write something that just calls upon the courts to try to determine what was the intent of the Congress. Then we have to go to the box charts. Well, to me, the box charts speak in plain English language, and that is why I am hopeful that the framers of this amendment will perhaps consider amending it.

Therein rests the concern I have with S.J. Res. 1. I unequivocally support the first sentence; I support protecting marriage as the union between a man and a woman. I am concerned, however,

that the second sentence of this proposed constitutional amendment is unnecessarily vague and could well trample on the rights of the several States of our great Republic.

I yield the floor.

EXHIBIT 1

MARRIAGE PROTECTION AMENDMENT

S.J. RES. 1

Marriage in the United States shall consist only of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.

	Redefinition of Marriage	Creation of "Civil Unions" or "Domestic Partnerships"	Granting the Rights or Benefits of Marriage	Employee Benefits Offered by Private Businesses
State or federal courts can impose?	Sentence 1 prohibits.	Sentence 2 prohibits.	Sentence 2 prohibits.	Unaffected.
Legislature can make change?	Sentence 1 prohibits.	Decision of State Legislature.	Decision of Legislature.	Unaffected.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 p.m. having arrived, the Senate stands in recess until 2:15 p.m. today.

Whereupon, the Senate, at 12:36 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

MARRIAGE PROTECTION AMENDMENT—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. Under the previous order, the time is divided equally until 2:30.

The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I am proud to be an original cosponsor of S.J. Res. 1, the Marriage Protection Amendment.

I have heard people say that perhaps this issue should be left to the States. As a general rule, you will not find anyone who is a stronger supporter of States rights than I am. But this is a national issue the definition of marriage is and has been a national issue.

A May 22 Gallup Poll shows that a solid majority of Americans—58 percent—are opposed to granting gay marriages the same legal rights as traditional marriages. Additionally, same-sex couples are traveling across State lines to get married; as they do so, they will become entangled in the legal systems of other States, due to the full faith and credit clause of the U.S. Constitution. A State-by-State approach to gay marriage will be a logistical and legal mess that will force the Federal courts to intervene and require all states to recognize same-sex marriages. This is the only possible outcome.

The definition of marriage must be addressed, and it must be addressed now. The homosexual marriage lobby, as well as the polygamist lobby, shares

the goal of essentially breaking down all State-regulated marriage requirements to just one: consent. In doing so, they are paving the way for legal protection of such repugnant practices as: homosexual marriage, unrestricted sexual conduct between adults and children, group marriage, incest, and bestiality. Using this philosophy, activist lawyers and judges are working quickly, State-by-State, through the courts to force same-sex marriage and other practices, such as polygamy, on our country.

In 1878, *Reynolds v. United States*, which upheld the constitutionality of Congress's antipolygamy laws, recognized that the one-man, one-woman family structure is a crucial foundational element of the American democratic society, and thus there is a compelling governmental interest in its preservation.

The eroding of State common-law marriage requirements comes with a price—If we can remove the opposite-sex requirement today, then what would keep us from removing the one-at-a-time requirement, or legal-age requirement tomorrow? In June of 2003, the U.S. Supreme Court signaled its likely support for same-sex marriage and Federal jurisdiction over the issue when it struck down a sodomy ban in *Lawrence v. Texas*.

The majority opinion extended the reach of due process and the 14th amendment of the U.S. Constitution to protect:

... personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education," and then declared that "[p]ersons in a homosexual relationship may seek autonomy for these purposes, just as heterosexual persons do.

In his dissent to *Lawrence v. Texas*, Justice Scalia pointedly cautioned:

This reasoning leaves on pretty shaky grounds state laws limiting marriage to opposite-sex couples . . .

Additionally, there is a case pending in the Tenth Circuit where the petitioners are using the homosexual marriage lobby's success in *Lawrence v. Texas* to bolster their claim to a "right" to polygamous conduct and marriage.

Not only are Federal courts ruling in favor of such marriages, State courts are, too. In 2004, the Massachusetts Supreme Court ruled that same-sex couples could marry. The State's high court ruling clearly ignored tradition—even its own State legislature.

Massachusetts Governor Mitt Romney, in his testimony on June 22, 2004, before the Senate Judiciary Committee, stated:

We need an amendment that restores and protects our societal definition of marriage, [and] blocks judges from changing that definition.

Not only has the Massachusetts court ruling affected that State, it has and will continue to open the floodgate of similar decisions by other State courts across the country.

Lawsuits are now pending in nine States, including my State of Oklahoma, asking the courts to declare that traditional marriage laws are unconstitutional. Same-sex couples from at least 46 States have received marriage licenses in Massachusetts, California, and Oregon and have returned to their home States. Many of these couples are now suing to overturn their home State's marriage laws. Unfortunately, using the equal protection and due process clauses in the U.S. Constitution, State and Federal courts have begun to strike down both the Federal and State Defense Of Marriage Act, DOMA, laws, which define marriage as between a man and a woman. The judicial branch is making this a Federal issue by stripping the power from the people's elected legislatures and forcing recognition of same-sex marriages.

Today, 45 States, such as Oklahoma, have statutory and/or constitutional protection for traditional marriage. On average, State constitutional amendments have passed with more than 71 percent of the vote, including with 76 percent in Oklahoma.

In societies where marriage has been redefined, potential parents become less likely to marry and out-of-wedlock births increase. According to Stanley Kurtz's 2004 article in the *Weekly Standard*, a majority of children in Sweden and Norway are born out of wedlock. Kurtz says:

Sixty percent of first-born children in Denmark have unmarried parents—not coincidentally, these countries have had something close to full gay marriage for a decade or more.

Just last month, May, in a *National Review Online* article, Stanley Kurtz again addresses the issue saying:

Europe's most influential sociologists are saying much the same things: Same-sex marriage doesn't reinforce marriage; instead, it upends marriage, and helps build acceptance for a host of other mutually reinforcing changes (like single parenting, parental cohabitation, and multi-partner unions) that only serve to weaken marriage.

In fact, liberal German sociologists, Ulrich Beck and Elisabeth Beck-Gernsheim, have openly and honestly expressed their eagerness to expand the welfare state and destroy the traditional family.

As Kurtz puts it, they want "the government to subsidize the new, 'experimental' forms of family that emerge in the aftermath of the traditional family's collapse."

When this issue was on the floor 2 years ago, many of my conservative colleagues made statements and observations that sufficiently framed this debate.

Senator ALLARD, the sponsor of this amendment, believes our Founding Fathers never envisioned that we would be changing the very structure of marriage and that we would be changing this core structure of society when he said:

We are in danger of losing a several-thousand-year-old tradition, one that has been vital to the survival of civilization itself.