

Mike Berman's

WASHINGTON POLITICAL WATCH

No. 124

March 30, 2013

It began on May 17, 2004

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State of the Nation

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President Obama

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The Congress

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Restaurants

Washington DC

San Francisco

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May 17, 2004 and the Decade that followed

State of Play

The Public

The Supreme Court

One More Milestone

It was May 17, 2004, in Cambridge, Massachusetts, a Monday like many other Mondays, except for one thing.

The night before, lines began to form in front of the Cambridge City Hall. At 12:01 a.m., for the first time, at any place in America, gay and lesbian couples could fill out a form entitled "Notice of Intent to Marry." While there was a three-day waiting period between the filing of the notice and the issuance of a marriage license, the waiting period was waived for a number of couples and they were married on that day.

When talking about that day at dinner a few nights ago, my friend Mary Breslauer's eyes lit up and she smiled. Mary was part of the group that led the effort to arrive at that moment.

[Note: Ten years earlier, in 1993, the Hawaiian Supreme Court ruled that the State could not deny gay people the right to marry each other. The right was taken away in 1998 when the voters enacted a State constitutional ban on same- sex marriage.

Vermont was the first State to enact civil unions, in 2000. But, as I learned a number of years ago from Mary, civil unions, by whatever name, are not the same as marriage.]

The decade that followed that morning in Massachusetts was the turning point.

It took another four and a half years after Massachusetts issued its first marriage license for Connecticut to become the second State to issue marriage licenses to gay and lesbian couples, on November 17, 2008. Since then seven additional States and the District of Columbia have begun issuing marriage licenses.

	Date Legalized	Date of Licenses	Legalization Method
Massachusetts	November 18, 2003	May 17, 2004	State Supreme Court
Connecticut	October 10, 2008	November 12, 2008	State Supreme Court
Iowa	April 3, 2009	April 27, 2009	State Supreme Court
Vermont	April 7, 2009	September 1, 2009	State Legislature, Veto Override
New Hampshire	June 3, 2009	January 1, 2010	State Legislature
DC	December 18, 2009	March 3, 2010	City Council
New York	June 24, 2011	July 25, 2011	State Legislature
Washington	November 6, 2012	December 6, 2012	State Legislature/Ballot Measure
Maine	November 6, 2012	December 29, 2012	Ballot Measure
Maryland	November 6, 2012	January 1, 2013	Ballot Measure

Nine additional States have enacted what can be described as broad domestic partnerships or civil unions.

	Date Legalized	Date of Licenses	Legalization Method
New Jersey	December 21, 2006	February 19, 2007	State Legislature following State Supreme Court Decision
Oregon*	May 9, 2007	February 1, 2008	State Legislature
Nevada*	May 31, 2009	October 1, 2009	State Legislature, Veto Override
California*	October 11, 2009	January 1, 2010	State Legislature
Illinois	January 12, 2011	June 1, 2011	State Legislature
Rhode Island	July 2, 2011	July 1, 2011 (retroactive)	State Legislature
Delaware	May 11, 2011	January 1, 2012	State Legislature
Hawaii	February 23, 2011	January 1, 2012	State Legislature
Colorado*	March 21, 2013	May 1, 2013	State Legislature

* These States have amendments to their State constitutions that ban same-sex marriage.

One State, Wisconsin, has enacted a limited civil union provision.

Two States, New Mexico (by opinion of its attorney general) and Rhode Island (by executive order of its governor), recognize same-sex marriages from States in which they are lawful.

But all is not roses. Thirty-eight States have anti-marriage constitutional amendments or statutes prohibiting same-sex marriages (including some of those which have enacted civil unions).

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Public Support Has Grown

The roughly ten-year period since that first marriage license was issued in Massachusetts has seen an unprecedented movement in public attitudes toward gays and lesbians marrying.

CBS

	<u>Should be Legal</u>	<u>Not legal</u>
Mar 2013	53%	39%
May 2012	42%	51%

While Democrats continue to be more supportive of same-sex marriage than Republicans, there has been considerable movement among Republicans since mid-2012.

	<u>Should be legal</u>			<u>Not legal</u>		
	<u>GOP</u>	<u>DEM</u>	<u>IND</u>	<u>GOP</u>	<u>DEM</u>	<u>IND</u>
Mar 2013	37%	63%	56%	56%	30%	36%
May 2012	13	63	43	81	25	53

Washington Post/ABC News

	<u>Should be Legal</u>	<u>Illegal</u>
September 2003	37%	55%
March 2013	58%	36%

The cross over point came in 2009/2010.

Democrats support gay marriage 72% to 23%

Independents support gay marriage 62% to 33%

Republicans oppose gay marriage 59% to 34%

Ten years ago Republicans opposed this form of union by 72% to 24%

While 33% believe that each State should be able to make their own laws, 64% believe it should be decided by the U.S. Constitution.

CNN/ORC

Since April 2011, a majority of respondents (51% in 2011) have stated that marriages between gay and lesbian couples should be recognized as valid.

March 2013 53% say they should be valid; 44% not valid

18-34 year olds	71% valid; 25% not valid
35-49 year olds	49% valid; 49% not valid
50-64 year olds	47% valid; 49% not valid
65+ years olds	36% valid; 61% not valid

57% of Americans acknowledge having a family member or friend who is gay or lesbian – up from 45% in 2007

PEW Research

Allow gays and lesbians to marry legally

	<u>Oppose</u>	<u>Favor</u>
2003	58%	33%
2013	44%	49%

People born after 1980 favor by 70%
Those born 1965-1980 favor by 49%
Those born 1946-1964 favor by 38%
Those born 1928-1945 favor by 31%

Same-sex couples can be as good parents as heterosexual couples

	<u>Agree</u>	<u>Disagree</u>
2003	54%	37%
2013	64%	32%

Homosexuality should be accepted by society

	<u>Accepted</u>	<u>Discouraged</u>
2003	47%	45%
2013	57%	36%

By 66% to 30% Americans believe that same-sex couples should have the same legal rights as heterosexual couples

Gallup

78% believe that there should be inheritance rights for gay and lesbian partners or spouses (11/12)

77% believe that there should be health insurance and other employee benefits for gay and lesbian partners or spouses (11/12)

By 54% to 39% Americans believe that marriage benefits should be made available to Federal Government employees who are legally married to a same sex partner.

Nate Silver 3/26/13

Average of 8 polls taken in 2013 – (from PollingReport.com)

51% approve same- sex marriage

42.5% oppose same –sex marriage

1996 - 28% approve same-sex marriage

69% oppose same-sex marriage

2004 – 32% approve same-sex marriage

60% oppose same-sex marriage

“the increase in support has been reasonably steady since about 2004”

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36 of 53 Democratic and Independent members of the Senate supported full marriage rights for same-sex marriage in the fall of 2012.

Today, 46 of 55 Democratic and Independent members of the Senate and one Republican Senator publicly support same-sex marriage.

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Last week the American Academy of Pediatrics, which represents 60,000 pediatricians, endorsed marriage equality for all consenting couples, including same-sex couples. In addition, the organization endorsed full adoption and foster-care rights for parents regardless of sexual orientation. [AAP Statement 3/20/13]

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The Supreme Court

Earlier this week, the United States Supreme Court heard two cases that are very much a part of the continuing effort to expand the availability of same-sex marriage.

One case involves the so-called Defense of Marriage Act, which by its terms deprives even those same-sex couples who are legally married in one State with access to Federal benefits. The second case deals with the Constitutionality of a California referendum which overturned a California Supreme Court decision that the right of marriage could not be denied to same-sex couples.

Rather than attempt to explain these two cases, WW asked its favorite Federal appellate lawyer, Andy Pincus, to lay out the cases in a way that they can be understood by non-lawyers and fallen-away lawyers.

This week's oral arguments before the Supreme Court in the two "gay marriage" cases have captured at least as much media attention as last year's "Obamacare" case – and maybe more. But the particular legal issues in each case, and the ways that the Court might resolve them, have received relatively less focus. Following is a summary – for non-lawyers – of the questions before the Court in each case.

United States v. Windsor: the federal Defense of Marriage Act

An individual's rights under more than 1,000 federal laws and regulations depend upon whether he or she is lawfully married – income tax rates, immigration rules, and Social Security survivors' benefits are just a few examples. Prior to 1996, federal law simply incorporated state law definitions of marriage – if individuals had entered into a valid marriage under state law, they were married for purposes of these federal laws as well.

The Defense of Marriage Act (universally known as "DOMA") changed that standard, providing that for purposes of federal laws and regulations "the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife." Even if a same-sex marriage is valid under state law, DOMA provides that the parties to that marriage are not spouses for purposes of any of these 1,000 federal laws

and regulations.

Edith Windsor and Thea Spyer were married in Canada in 2007. When Thea Spyer died, she left her estate to Edith Windsor, which triggered an obligation to pay more than \$363,000 in federal estate taxes – federal law provides that a surviving spouse's inheritance from the deceased spouse generally is not taxed, but because of DOMA that exclusion did not apply to Spyer's bequest to Windsor. Windsor, as executor of her spouse's estate, filed suit to recover the taxes, claiming that DOMA's exclusion of same-sex marriages from the federal definition of "marriage" violates the Constitution. Both the federal district court and the federal court of appeals ruled that DOMA is unconstitutional.

The Supreme Court first must decide whether it has the power to resolve this constitutional question. Federal courts are limited to deciding "cases and controversies." That means, among other things, that the party invoking a court's jurisdiction must have suffered an "actual injury" that provides "standing to sue."

Ordinarily, the federal government defends the constitutionality of federal statutes and the legal dispute between the federal government and the party challenging the statute satisfies the case-and-controversy requirement. Here, however, Windsor and the federal government agree that DOMA is unconstitutional. Does that mean there is no "controversy" for a court to resolve? The federal government and Windsor argue that the President's determination that federal agencies must comply with DOMA unless a court directs otherwise demonstrates the continued existence of the necessary controversy, and some prior Supreme Court decisions support that argument.

DOMA's constitutionality is being defended by the "Bipartisan Legal Advisory Group of the United States House of Representatives" (known as "BLAG"), which is made up of three Republicans and two Democrats (the Democrats oppose BLAG's defense of the statute). BLAG's participation could provide the needed case-or-controversy, but the Supreme Court has been skeptical of congressional "standing" in a number of past cases. BLAG's presence in the lawsuit therefore may not remedy any standing deficiency.

The consequences of a ruling that the Court cannot hear the case would be significant: same-sex spouses would have to continue to bring their own lawsuits in order to obtain the federal rights available to other spouses. Unless a court of appeals held DOMA

constitutional (and no court of appeals has reached that conclusion thus far), the Supreme Court could never issue a conclusive decision on the issue.

Assuming that the Supreme Court finds that it has the power to resolve the merits of the constitutional question, it will determine whether DOMA deprives spouses in state-recognized same-sex marriages of the equal protection of the laws. A key question in equal protection analysis is the extent of the burden on the government to justify the distinction drawn by the challenged law. Most legislative classifications need only a "rational basis"; categorizations based on race, on the other hand, are subject to "strict scrutiny" and must be justified by a compelling governmental interest. Distinctions based on gender receive "heightened scrutiny" – requiring that they are "substantially related to an important governmental objective."

The Supreme Court could determine that classifications based on sexual orientation, like the one in DOMA, must be justified by heightened scrutiny, a ruling that would make it easier to invalidate other laws that discriminate on this basis. Or it could conclude that only a rational justification is needed.

Importantly, a decision that the rational basis test applies does not mean that DOMA would survive. Several courts have held there is no rational justification for DOMA's distinction between state-recognized opposite-sex marriages and state-recognized same-sex marriages. Indeed, because the definition of marriage is an area in which the states are accorded broad authority, some of the Justices who are supportive of states' rights – such as Justice Kennedy – may conclude that DOMA can be upheld only if there is some significant federal interest in overriding states' decisions to recognize same-sex marriages. The Court could therefore invalidate DOMA without deciding that other types of laws discriminating on the basis of sexual orientation should be subject to heightened scrutiny.

Hollingsworth v. Perry: California's Proposition 8, which bans gay marriage

The California Supreme Court in May 2008 invalidated a state law that restricted marriage to opposite-sex couples. Six months later California voters approved a ballot initiative – Proposition 8 – that amended the California Constitution to provide that "[o]nly marriage between a man and a woman is valid or recognized in California." Two same-sex couples who wish to marry filed a lawsuit in federal court asserting that Proposition 8 violates the equal protection guarantee of the

United States Constitution.

The California officials named as defendants (including the Governor and Attorney General) declined to defend the constitutionality of Proposition 8. The individuals who proposed Proposition 8, and were designated as its official proponents, joined the lawsuit to defend the measure's constitutionality. Following a trial, the federal district court held Proposition 8 unconstitutional and the court of appeals agreed.

In this case too there is a question about whether the Supreme Court has the power to decide the constitutional question. The issue here is whether the proponents of a ballot initiative have a legal interest in the measure's constitutionality sufficient to create the required "case-or-controversy." Although the California courts have said that *state law* gives the proponents an interest in defending the measure's constitutionality, it is not clear that this state-law interest is concrete enough to satisfy the *federal law* case-or-controversy requirement. Many observers believe that the chances are significant that the Court will find a lack of "standing" and decline to address the merits of the constitutional question in *Hollingsworth*. (In contrast to the federal government's position in *Windsor*, California did not seek or support Supreme Court review of the constitutional question.)

If the Court does reach the merits, it will face the same question discussed above regarding the equal protection standard that should apply. Again, a heightened scrutiny standard is more likely to lead to invalidation of Proposition 8's ban on same-sex marriage. But even under a rational basis test, there remains the possibility that Proposition 8 could be invalidated.

The Court could issue a broad ruling that would invalidate all same-sex marriage bans. But several arguments have been advanced that would enable the Court to issue a ruling that would not apply nationwide, but rather would be tied to particular facts present in California. First, California initially recognized same-sex marriage and then changed its law to ban same-sex marriage. The Court could conclude that the elimination of a previously-recognized right requires special justification that is not present in this case – a rationale that would apply only to California.

Second, California's civil union law provides same-sex couples with all of the legal rights of married couples and, in addition, California permits same-sex couples to adopt children.

But California refuses to extend the designation "marriage" to those same-sex couples. The Court could conclude that in these circumstances there is no government interest that justifies depriving same-sex couples of the benefits of the "marriage" designation. (This argument, if accepted by the Court, would likely apply to eight other states that have civil union laws similar to California's.)

Of course, the Court could uphold Proposition 8 and reject the constitutional challenge, which likely would erect a significant obstacle to challenging other same-sex marriage bans on equal protection grounds.

Although the legal arguments advanced in *Hollingsworth* are of course important, perhaps more significant in the long term are some of the friend-of-the-court briefs that have been filed urging the Supreme Court to invalidate bans on same-sex marriage. One was filed by more than 100 Republicans, led by former Republican National Committee chairman Ken Mehlman. Another was filed by dozens of businesses. And still another by religious organizations. Whatever decision the Court renders, these briefs provide concrete evidence of the dramatic societal shift on the marriage issue, a shift that will influence the Court but that will have its greatest and most far-reaching effects outside the Court.

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One more milestone in the decade

In 1993, President Bill Clinton's attempt to fulfill his campaign promise to allow gays and lesbians to serve openly in the military resulted in the establishment of the "Don't Ask Don't Tell." Gays and lesbians could serve as long as no one knew about their sexual orientation.

Presidential candidate Barack Obama called for a full repeal of the law during his 2008 campaign. In December 2010, the law was repealed.

Beginning on September 20, 2011, gays and lesbians could serve openly in the United States military.

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State of the Nation

The NBC/WSJ found that 59% of Americans believe that things are off on the wrong track in this country. This is within a point or two of where Americans have been since January 2012. [2/13]

77% are dissatisfied with the way things are going in the country at this time. This is the highest number recorded by Gallup since July 2012. [3/13]

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When asked in December 2012 which government programs “could be cut back to help reduce the federal budget deficit,”

77% said no to Social Security

79% said no to Medicare

63% said no to Medicaid

49% said no to Food Stamps

33% said no to Defense

[Congressional Connections Poll]

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74% say that this is a bad time to find a quality job. [Gallup 3/13]

74% of adults, 76% of men, 73% of women, and 84% of 18 to 49 year olds would vote for allowing women in combat. [Gallup 1/2013]

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76% believe that “American politics in recent years has become more divided” than in the past. [USAToday/BPC 2/13]

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53% of us think the Federal Government threatens our personal rights and freedoms. This is by far and away the greatest number recorded on this question, at least going back to 1995 when 36% had that view. [PEW 1/13]

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71% back raising the minimum wage from \$7.25 per hour to \$9.00 per hour.
This includes 91% of Democrats, 68% of Independents, and 50% of Republicans.
[Gallup 3/13]

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Americans worry a great deal about

The economy - 68%

Federal spending and the budget deficit - 61%

Availability and affordability of health care - 59%

Gas prices - 55%

Unemployment - 50%

Social Security system - 50% [Gallup 3/13]

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The public thinks that Democrats would do a better job at

Looking out for middle class

Dealing with

Medicare

Healthcare

Reducing gun violence

Dealing with

Social Security

Energy policy

Immigration

Taxes

The economy

They see Republicans doing a better job of

Reducing the Federal deficit

Controlling government spending

Ensuring a strong national defense

[NBC/WSJ 2/13]

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A Little Bit of This and That

800+ different advertisers showed up in one or more Senate and House races in the 2012 election.

195 different sponsors participated in U.S. Senate races
11 was the average number of advertisers in a Senate race
28 was the highest number of advertisers in any Senate race – Indiana
615 different sponsors participated in U.S. House races
239 races experienced some advertising
15 was the highest number of advertisers in any House race – CT 5
14 was the 2nd highest number of advertisers in a House race – GA 12
10 was the number of different advertisers in 22 House races of which 21
were rated as competitive by the Cook Political Report
[Elizabeth Wilner, Kantor Media, Cook Political Report]

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President Obama

The public's grade for the job President Obama is doing (as found by Gallup) is 47%/45%. This is better than only one of the 5 previous two-term Presidents at this point in their second term. The list of 6 follows:

	<u>App</u>	<u>Dis</u>
Eisenhower	65	20 (3/20/57)
Clinton	59	35 (3/26/97)
Nixon	57	34 (4/21/73)
Reagan	56	37 (3/11/85)
<u>Obama</u>	47	45 (3/24/13)
G Bush (II)	45	49 (3/23/05)

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<u>Date</u>	<u>NBC/WSJ</u>	<u>WP/ABC</u>	<u>CNN/ORC</u>	<u>NYT/CBS</u>
Mar 2013	xxx	50/46%	47/50%	45/46%*
Feb 2013	50/45%	xxx	xxx	xxx
Jan 2013	52/44%	55/41%	55/43%	51/41%
				(* CBS alone)

54% disagree with Obama on the issues that mean the most to them. This is the highest level of disagreement since 55% expressed that sentiment in October 2010. [CNN/ORC 3/13]

In February the NBC/WSJ survey found 51% disapproving of Obama's performance on the economy. A month later 52% had the same view.

In March the public trusted Obama, rather than the Republicans in Congress, to do a better job of handling the economy (44% to 40%); handling immigration issues (45% to 39%); and handling gun control (42% to 41%). [WP/ABC 3/13]

Positive feelings toward President Obama have dropped by 17 points over the last four years, and negative feelings have grown by 26 points. There has been little change in either measure over the last two years.

	<u>Positive</u>	<u>Negative</u>	
Feb 2013	49%	40%	
Jan 2012	50%	39%	
Feb 2011	49%	35%	
Jan 2010	52%	32%	
Jan 2009	66%	14%	[NBC/WSJ 2/13]

When asked whether the President or the Democratic or Republican Parties most emphasized unifying the country in a bipartisan way, 48% said Obama, 37% said the Democratic Party, and 22% said the Republican Party. [NBC/WSJ 2/13]

42% say that Obama is “doing enough to cooperate” with Republicans in Congress, while 56% say he is not doing enough. 26% believe that the Republicans are doing enough to cooperate with Obama, while 70% say they are not doing enough. [CNN/ORC]

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The Congress

80% disapprove of the job that the Congress is doing. This is only slightly lower than the all-time high disapproval of Congress recorded in January 2012, when disapproval hit a high 84%. [WP/ABC 3/13] This level of disapproval is

confirmed in an early March Gallup survey, which found 83% expressing disapproval.

62% of Americans disapprove of the job being done by Democrats in Congress. 72% disapprove of the job being done by Republicans in Congress.

When asked for their view of Congress these days, 56% believe “the political system can work fine, it’s the members that are the problem.” In an unusual level of agreement, 58% of Republicans, 57% of Democrats, and 56% of Independents hold that view. [PEW 1/13]

The polarization of the House and Senate are all but complete. The chart below shows the number of Members of the House and Senate whose vote rating puts them between the most liberal Republican and the most Conservative Democrat.

	<u>Most liberal GOPer</u>		<u>Most conservative DEM</u>
		<u>House</u>	
1982		344 members	
1994		252 members	
2002		137 members	
2011		16 members	
2012		13 members	
		<u>Senate</u>	
1982		58 members	
1994		34 members	
2002		7 members	
2011		0 members	
2012		0 members	[National Journal]

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<u>THE U.S. SENATE</u>	
Democrats	53
Republicans	45
Independents	2

The question of the hour is whether Republicans can win six Senate seats in the 2014 election and regain control of the Senate. On today’s facts it is not likely,

but it is a long time until November 2014. Mid-term elections tend to favor the Party that does not hold the Presidency. Most of the seats up this year were last contested in 2008, a strong Democratic year in which Obama and his campaign provided a lot of wind at the back of Democratic candidates.

Six of the current Democratic Senators are not running for re-election. Two Republican Senators are not standing for re-election.

The impact of the fully engaged Super PACs and related organizations have not been felt in a mid-term election as yet.

It remains to be seen whether the Republican Party can avoid nominating out-of-step candidates. That phenomenon likely caused the loss of one Senate election in 2012, and probably two.

There are 35 Senate seats up in 2014, and once again the Democrats have a substantially larger number of seats to defend (21) than do the Republicans (14).

In Nate Silver's initial review of the races the Democrats end up holding the Senate with 50.4% of the seats.

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* Italics denotes the retirement of a current member.

Safe Democrat(9)	Leaning Democrat(7)	TossUp(5)	Leaning Republican(3)	Safe Republican(11)
Delaware	Alaska	Arkansas	<i>Georgia</i>	Alabama
Illinois	Colorado	Louisiana	Kentucky	Idaho
<i>Massachusetts</i>	Hawaii	<i>Iowa</i>	Maine	Kansas
<i>Michigan</i>	Minnesota	<i>So. Dakota</i>		Mississippi
<i>New Jersey</i>	Montana	<i>West Virginia</i>		<i>Nebraska</i>
New Mexico	New Hamp.			Oklahoma
Oregon	No. Carolina			So. Carolina
Rhode Island				So. Carolina
Virginia				Tennessee
				Texas
				Wyoming

	<u>Democrats</u>	<u>Republicans</u>
Seats not up in 2014	34	31
Safe in 2014	9	11
Leaning in 2012	7	3
Total	50	45

Toss-ups (5D)

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It is worth remembering that U.S. Senators represent the people within a geographic boundary, but do not represent a proportional number of Americans, as do Members of the House of Representatives.

62 Senators represent roughly one-fourth of the nation's population
 30 of the Senators are Republicans
 30 of the Senators are Democrats
 2 of the Senators are Independents

32 Senators represent roughly half of the nation's population
 13 of the Senators are Republicans
 19 of the Senators are Democrats

6 Senators represent one-quarter of the nation's population
 2 of the Senators are Republican
 4 of the Senators are Democrats

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THE HOUSE OF REPRESENTATIVES

Of course, the Democrats are talking about taking back the House. All it takes is holding all of their current seats and taking back 17 from the Republicans. There have been swings in House elections large enough to climb the hill facing the Democrats; however, those large swings have all benefited the Party not in the White House.

There has been no election in more than 150 years in which the Party controlling the White House gained even as many as 10 seats.

President Obama seems determined to help in House elections well beyond anything he has done in the past. It remains to be seen how popular he will be in the fall of 2014, and whether whatever his level of popularity can be transferred to various House candidates around the country.

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The U.S. House of Representatives

Republicans 233

Democrats 200

Vacancies 2

As it has for a very long time, WW regularly reprints and relies on the analysis of House Races published by the “Cook Political Report.”

	<u>1/24/13</u>	<u>2/21/13</u>
Total Dem	201	201
Solid Dem	167	166
Likely Dem	17	18
Lean Dem	11	11
Toss-up	7	7
D	6	6
R	1	1
Lean GOP	7	10
Likely GOP	18	17
Solid GOP	208	206
Total GOP	234	

“The Rothenberg Political Report” has also posted a report that deals with the entire House. [Thanks to the Rothenberg Report.]

	<u>3/12</u>
Total Democrat	201
Safe Democrat	176
D Favored	10
Lean D	6
Toss Up/Tilt D	6
Toss Up-D	3
Toss Up-R	2

Toss Up/Tilt R	5
Lean R	5
R Favored	13
Safe Republican	207
Total Republican	234

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Restaurants

Washington DC

Bistro Le Zinc

3714 Macomb Street NW
Washington, DC 20016
202-686-2015

Debbie and I were with Tom and Linda on our third visit to Le Zinc. On our first visit many months ago, things were a little ragged, so I did not write about it. But the second and third visits were quite good, so it seems time to share our experience.

The restaurant is fairly narrow. On the main level, as you come in, there are tables of various sizes along the right hand wall and several tables to the left, starting about half way into the restaurant. To the left there is a balcony several steps up, where there are additional tables which can be combined into a single table for a large group.

Linda and Debbie started with the Goat Cheese Salad. Tom opted for the Pear and Gorgonzola Salad, and I had the Classic French Onion Soup.

For main courses, Debbie and Tom selected the Rockfish special. Linda went with Mussels, and I savored Smoked Lancaster Chicken.

For dessert we shared Crepes with Ice cream and Berries topped with Zabaglione sauce.

The men's room is relatively small, but includes a white ceramic commode and a square white ceramic washbasin with rounded corners. The walls are red, and the floor is covered with very small mixed tiles.

Parking is on the street.

Lunch is served Tuesday through Friday, and dinner Tuesday through Sunday.

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Unum

2917 M Street NW
Washington, DC 20007
202-621-6959
<http://unumdc.com>

I had dinner at Unum twice over three days. The first evening was with Mary and Joe, and the second evening with Debbie, Maureen and Andy. Happily, the second visit was a repeat of a very enjoyable first visit.

The restaurant is relatively small and has a pub-like quality. Currently, it is only open for dinner. It seats about 60 people, including about a dozen at the bar, which is to your left as you enter the relatively narrow restaurant. The rest of the seating is at 2s and 4s. The way the tables are organized they can create larger tables.

Mary started with the Unum salad -- petite oak & tango lettuce, endive, cherries, Asian & Bartlett pears and sherry vinaigrette; and then enjoyed the boneless short rib pasta -- tagliatelle noodles, baby root vegetables, red-wine braising jus.

Joe opted for the beet salad -- raw, pickled & roasted beets, lemon-goat cheese & vanilla vinaigrette, followed by the cinnamon-pomegranate duck confit - pearl cous cous, figs, Tuscan kale, toasted almonds, shallot puree, and pomegranate sauce.

On that first evening, I ordered Unum rabbit terrine, Unum salad and the duck confit.

On the second evening, Maureen began with the beet salad and roasted organic chicken -- jus of olives, dried fruit, capers, with roasted fingerling potatoes.

Debbie also started with the beet salad, followed by the duck confit.

Andy opted for the Unum salad and the duck confit.

I started with the Unum chicken liver mousse, the beet salad, and the boneless short rib pasta.

The first evening ended without dessert. On the second night, we shared chocolate & mint -- mint ice cream, chocolate cemeaux, butterscotch pudding, chocolate soil & pizzle, and assortment of three sorbets, including a goat cheese sorbet.

One relatively unique, but desirable, feature of the menu is that half-portions can be ordered for five of the nine entrees, at half price. I tried a half-order of the short rib pasta because the waiter suggested that I would find it more than ample. He was right.

Phil Blane, the chef owner (along with his wife Laurie Schiller), roams the restaurant, visiting with guests.

The restrooms are in the basement, down a flight of wooden stairs with part of the stone foundation showing. The rest of the stairwell and hallway are painted red. The men's restroom is small but of serviceable size. There is a white ceramic commode and a square white ceramic wash basin in a counter. The walls here are also red, except for the wall behind the commode, which is covered in large green tiles, as is the floor.

Parking is on the street or in one of the lots within a few blocks. If you make a 6:30 p.m. reservation you have a reasonable chance of being able to park on the street in front of the restaurant, on which parking is not allowed from 4-6:30 p.m.

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San Francisco

(Note: On a recent trip I was able to enjoy meals at seven restaurants: Buckeye Roadhouse, Cliff House, Kokkari, Prospect, Quince, Sauce, and Serpentine.

Reports on three of those restaurants are included in this issue. The other four will be covered in the next issue.)

Quince

470 Pacific Avenue
San Francisco, CA 94133

415-775-8500

Fax 415-775-8501

info@quincerestaurant.com

[And Cotogna (see below)]

I visited Quince at a previous location in the Spring of 2007. At the time I wrote, “If this is not the single best restaurant at which we have ever eaten, it is certainly in the top two or three.”

While the new location is somewhat fancier than the previous location, and one friend of ours complained that it was too fancy (although the person had not been there), it remains a perfect dining situation.

On this occasion we had dinner with Dick, and Murray joined us for dessert.

The foods are interesting, tasty, and served in creative ways. The service is something beyond impeccable without falling into the trap of over-fawning attention, which can quickly become a distraction.

Debbie started with Nantucket Bay Scallop Crudo – Oro Blanco Grapefruit, Radish and Pantelleria Caper. Dick ordered Zuckerman’s Green Asparagus – Smoked egg yolk, Miner’s Lettuce and Hazelnut. I opted for Smoked Rainbow Trout – Lovage, Pearl Onion and Dill.

For her entrée Debbie went with Fagotelli – Phil Paine’s squab, Red Cabbage and Sunchoke. Dick had Acquerello Carnaroli Risotto – Dungeness Crab, Brussels Sprout and Kaffir Lime. I enjoyed John Dory – Little Gem Lettuce, Black Trumpet Mushroom and Prosecco.

Dessert for Debbie was Pistachio Millefoglie – Honey Comb, Lemon Confit and Sicilian Pistachio Gelato. Dick savored Chocolate Praline – Nocino Ice Cream and Full Belly Farm Walnut.

Murray, who joined us in time for dessert and conversation, chose Selections

From the Cheese Cart.

There are two unisex restrooms. Dick, being a regular reader of Washington Watch, reported soon after coming back from the restroom that there was a large and beautiful orchid plant in the restroom. About the unisex bathroom in the previous restaurant I wrote, “The unisex restroom is the narrowest I have ever encountered. It can’t be more than 4 feet wide and about twice as long. Yet even with its diminutive size, it is as elegant as the restaurant of which it is a part.”

The restrooms in the new location are equally as elegant, but somewhat larger. There are two sections of the room, separated by a floor-to-ceiling full wall that comes out about 3 feet from the back wall. To the left is a circular white ceramic washbasin embedded in a marble top, beneath which is a closed storage area. To the right is the white ceramic commode, which has some privacy from the sink. The orchid is located on a dark wooden shelf which is to your left as you sit on the commode. Good friends could be in the restroom at the same time; strangers might find it uncomfortable. The floors are dark and the walls are a white/tan color.

There is valet parking and reservations are a must.

* * * * *

Cotogna

490 Pacific Avenue
San Francisco, CA 94133
415-775-8508

This restaurant is literally next door to Quince, and is owned and operated by Michael and Lindsay Lusk, who also own and run Quince. Michael is the chef at both restaurants.

Cotogna is much more casual and is described as an Italian trattoria. I did not go in, but Dick reports that the restaurant is trendy and casual, with crowded tables. Some say that it is harder to get a reservation there than at Quince.

The difference between the two restaurants is demonstrated on its OpenTable entry. The price of a meal at Quince is described as \$50 or more. At Cotogna it is described as \$30 and under.

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Kokkari
Estiatorio
200 Jackson Street
San Francisco, CA 94111
415-981-0983
Fax 415-982-0983

Debbie and I went to Kokkari with John and Sue.

You enter this restaurant at a far corner of a large dining room that turns out to be one of two large dining rooms. The restaurant has a variety of private rooms that can become part of the main restaurant.

To the far left is long bar with about 15 high chairs/stools. Behind the bar is a large mirror with glass shelves holding a vast array of liquors and liqueurs.

There are two large dining rooms hold an array of 2s, 4s, 6s, booths of four, and a community table that looks to seat about 20. The path to the community table is a bit circuitous. There are also a number of private rooms, which can be opened for general restaurant seating. All-in-all, the restaurant seats about 180 people. While the tables are relatively close to each other, they seemed to have been placed to allow for the greatest amount of private conversation.

Each of the two main dining rooms has a large table which holds an endless amount of freshly baked bread and a carving station, so that servers can prepare an ample breadbasket for each table.

Sue and John started the meal with Fakes Supa - lentil, vegetable soup with braised greens. For her main course, Sue had two appetizers: Octapodaki tou Yiorgou - grilled octopus with lemon, oregano & olive oil, and Mapakia - wood oven-roasted Brussels sprouts with bacon and Lemon.

Debbie started her meal with Kolokithokeftethes - crispy zucchini cakes with cucumber & mint-yogurt dressing. I had Pantzaria - roasted beets with Greek yogurt and pistachio.

For her main course Debbie chose Rotisserie, slow roasted Napa Valley spring lamb served over roasted potatoes. John and I selected slow roasted Goat

shavings over Orzo Past, Feta, Tomato Sauce, and Artichoke.

For dessert we ordered two, very large, hot fudge sundaes (skipping the whipped cream).

Getting to the restrooms is a bit of an adventure. From where we were seated in a corner booth on the outside wall of the first dining room, one has to work one's way through both dining rooms and down a long hall, to reach an elevator that takes you to the area in which the restrooms are located.

The men's room had a single wall-attached white ceramic urinal and a fully enclosed commode room with a white ceramic commode. There are two hand washing stations with dark wooden counters, sunken white ceramic washbasins, and appropriate mirrors. The floor is dark brown and the walls are a light tan with a greenish hue.

In chatting with our server, who was well informed about the menu and really quite delightful, we learned that she works 30 hours a week at the restaurant while attending college full-time. What she earns at the restaurant, plus a grant from the state of California, will enable her to finish her schooling without student debt.

Reservations are necessary. The night we were there, a Thursday, the entire restaurant was packed when we arrived at 7 p.m. and packed when we left around 9:30 p.m.

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Cliff House
1090 Point Lobos
San Francisco, CA 94121
415-386-3330
www.cliffhouse.com

During one day of our California visit, Debbie and I spent a good chunk of the day checking out the sights of the Bay Area. Beginning with a walking tour of Muir Woods, we went from place to place. At lunchtime we ended up at Cliff House.

Cliff House has several observation areas and it is worth checking out each of them. On this particular day there were no seals in evidence, but an endless number of birds were hanging out on the various islands.

There are two restaurants in Cliff House. One is the Bistro, which is on the main floor. It is the most casual of the two restaurants. It includes two separate bar areas. No reservations are necessary, but there can be a wait at the height of meal time.

We ended up in Sutro's, which does take reservations, and has the best view of the ocean and several small rocky islands, which historically are hangouts for seals. We were lucky enough to get a table for two right at one of the wall-to-wall, floor-to-ceiling, glass windows.

Debbie chose Bouillabaisse - soft shell crab, shrimp, clams, mussels and saffron-tomato broth. I selected the Petite Romaine Caesar Salad to start. Then I went for the Two Crab Sandwich - warm Dungeness crab salad, fried soft shell crab, and root vegetable chips. The latter were a little too hard for my taste.

The menu offers eight appetizers and thirteen entrees. One of the appetizers, the Shellfish Platter, would make a fine entree.

Sutro's seats about 170, and the Bistro seats as many, if not more.

There are two restrooms, side by side, each designated for men and women. There is a single ceramic commode and a metal washbasin in a marble counter in each, with a large mirror over the counter. The floor is covered with large blue tiles, and the walls are covered with smaller tiles, some blue, some cream colored.

Mike

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