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Senate

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord God, the Almighty and the all wise, how unreachable are Your judgments and Your ways past finding out. You are the source of all joy and the one who orders the morning. Let Your truth govern our words, dwell in our thoughts, purify our dealings, occupy and redeem our time.

Lord, bless our Senators with strength sufficient for today's challenges and illuminate their paths with Your light. May they walk in the way of integrity and sacrifice. Help them to give You their anxieties as they incline their hearts toward unity. Teach us all to cheerfully do Your will, so we may not fear the power of any adversaries. We pray this in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting Republican leader is recognized.

SCHEDULE

Mr. SANTORUM. Mr. President, today the Senate will resume consideration of the motion to proceed to S.J. Res. 40, the Federal marriage amendment. Discussions continue as to how best to proceed to the consideration of this constitutional amendment. While those negotiations continue, Senators are encouraged to come to the floor to speak on the amendment.

Friday, a number of Members came to the floor to talk on this issue, and we expect to resume the robust debate today. There will be no rollcall votes during today's session.

RECOGNITION OF THE ACTING MINORITY LEADER

The PRESIDENT pro tempore. The acting Democratic leader is recognized.

VOTING

Mr. REID. Mr. President, through the Presiding Officer to the acting leader, as we announced on Friday, we, the minority, would be willing to move to the resolution without a vote on a motion to proceed. We are willing to do that and set a time whenever the leader desires on Wednesday to vote on the resolution. Of course, that is with the understanding there would be no amendments to the resolution. We think that would be a fair way to approach this very important issue. There would be whatever time the leader wants. If he wanted to vote on Thursday, that would be fine. Whatever time is deemed necessary to the majority leader, we would be willing to abide by that. It would avoid a lot of the extraneous issues. It allows us to proceed without any procedural impediments and move right to the resolution.

We want to make sure there is no misunderstanding, that it is very simple. We are willing to move at any time convenient to the majority to a vote on the resolution itself, of course, with no amendments.

FEDERAL MARRIAGE AMENDMENT—MOTION TO PROCEED

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of the motion to proceed to S.J. Res. 40, which the clerk will report.

The legislative clerk read as follows:

A motion to proceed to consideration of Senate Joint Resolution 40, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

The PRESIDENT pro tempore. Under the previous order, the time until 6 p.m. shall be equally divided between the chairman and ranking member or their designees.

Mr. SANTORUM. Mr. President, in response to the Senator from Nevada, I appreciate his offer. I suggest we continue to work together to see if we can come up with a plan on how to proceed. It would be optimal to have a vote, a substantive vote.

As the Senator from Nevada may not be aware, there are different opinions on how to best address this issue. There are a couple of other proposals that have been floated out there that Members on our side would like to vote on by way of amendment to the underlying legislation.

This is an important piece of legislation. It is a piece of legislation on first impression here to the Senate and, given the importance of this legislation, it begs a full debate and the opportunity for different points of view to be expressed through the amendment process. While I appreciate the chance for an up-or-down vote on the Allard text, I do know of many Members who have different ideas and would like to see those ideas be reflected by way of amendment.

At this point, we are not capable of agreeing to that but we would be anxious to work with the Senator to see if there is some construct we can put together to allow this issue to be fully debated for those who have different

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points of view with respect to how to deal with this very important issue of protecting traditional marriage, that they have their opportunity to express their language, their preferable constitutional amendment as opposed to the one the Senator from Colorado has put forth.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Nevada.

Mr. REID. Mr. President, I have not spoken to anyone, but it appears from the body language I pick up and what I believe I hear my friend from Pennsylvania saying, they do not like the measure now before the body and they want to change it.

That is the problem we have when we report legislation directly to the floor without the necessary hearings. As to this matter that is now before the Senate, it is my understanding we have not had hearings before the Judiciary Committee where they should have gone on. The Senate Chamber is not the place to do what committees are there to do.

If there is some mistake or some other amendment that the Senators would rather have on the majority side, I suggest they take this back to the Judiciary Committee, have a full hearing, and decide really what they do want. It goes without saying it will not wind up being very pleasant if, in fact, we ever got to the resolution itself and this amendment were open to the amendment process. Everyone knows if that happens, this amendment would be bogged down with Christmas-tree-like ornaments called amendments.

We thought when we arrived and worked with our Members—Friday morning I personally called probably a dozen telling them what our plan was, not to have a procedural bottleneck to this legislation—that we would move immediately to that. That was not really what some wanted to do. Some wanted an up-or-down vote on the motion to proceed. We were able to show them it was better for the system that we move directly to the resolution.

We also thought we have so many things to do. Just last week we had a closed evidentiary presentation on what is going on around the world and in our country with homeland security. There are things we need to do in that regard. Last week the distinguished Presiding Officer was here where my friend, the junior Senator from Pennsylvania, now stands trying to work something out so that we could move forward on the Appropriations Subcommittee on Homeland Security bill. That is something we should work on. We have all the appropriations bills to do. There is so much this body needs to do and we were trying to open up as much time in the remaining time we have left in this short legislative session before the August break, before the two national conventions, to provide more time on the Senate floor.

The leader told me last week one of the things he was considering is going to the Australian Free Trade Agreement. Some Members feel very strongly about that. I know the committee has had hearings on this issue. I have spoken to Senator HATCH on more than one occasion.

My only point is that we should not be amending this resolution on the Senate floor.

It is my feeling the best way to move to this is to move immediately to the resolution itself, do not have a motion to proceed which, if cloture is attempted on the motion to proceed, I do not think we will ever get to the resolution, and that is not fair. People in the State of Nevada feel strongly about it, as in the State of Pennsylvania, the State of Colorado, and the State of Alaska, one way or the other.

We should have the opportunity to vote up or down on this resolution, not on some procedural issue. But it appears to me that is where we are headed. We are headed as we are doing on so many other issues. Class action: I was not a supporter of the class action legislation, but for the class action legislation there was a 5-foot jumpshot to make that legislation succeed. I have to say, the majority did not miss the jumpshot; they did not even bother to take the 5-foot jumpshot. They walked away from that legislation.

I think the same thing has happened on a number of other issues. It appears to me what the majority wants is the issue, not a resolution of the issue. And now, if we are going to have to vote on the motion to invoke cloture on the motion to proceed, the majority can walk out and say: See what those Democrats did. They wouldn't even let us vote on the resolution.

I will tell everyone within the sound of my voice, we will allow a vote on the resolution. We want to go immediately to the resolution that is now before the Senate. I believe it is two sentences long, so it should not take a lot of thought as to what the resolution contains. I would say, with the great minds we have on the Republican side—and I do not say that in any way to castigate anyone; I believe we have people with great legislative experience in the majority, and this issue has been around for a long time—why in the world would they bring something before the Senate they do not want?

So I hope we can avoid procedural pitfalls and move directly at a time convenient.

I also say this: Senator KERRY and Senator EDWARDS would like to vote on the resolution. But if we cannot set a time certain, set a time uncertain, and they may or may not make it. We do want a time certain within a respectable period of time, but I hope this is not being done, so they are being prevented from voting on it. As you know, we had an important issue here a couple weeks ago where we set a time certain, we thought we had a time certain, and, as a result of our misunderstanding, Senator KERRY wasted a whole day here and was not able to vote.

So for whatever reason the majority appears not to want us to vote on the resolution itself, I hope that can be resolved. We want to get along. We want to allow as much time as possible on other issues, so there can be adequate debate on other legislation other than this matter.

What is going to happen if we proceed down this road, I would assume, is if the majority leader decides to file a cloture motion on the motion to proceed tonight, we will vote on it Wednesday, and that will be the end of this debate. That would be too bad, because I think people should vote on the resolution itself and not be able to hide under some procedural vote.

Maybe there are those on the other side who would rather not vote on the amendment itself. I think if we had a good, straight, up-or-down vote on the resolution, I would be surprised if we did not get 8 to 12 Republican Senators voting against the resolution now before this body. That may be another part of what the leadership is doing in this instance, saying simply: We are not going to allow the embarrassment to take place where this resolution gets 40 or 42 votes, when 67 are needed.

There are many who have said—and we have heard speeches on the floor—why are we doing this? Why are we voting on something that is doomed to failure? It will not pass. The constitutional amendment will not pass the Senate. In fact, as I said, if we had an up-or-down vote, maybe 42 votes would be in favor of it. That is 25 short of enough to meet the constitutional muster.

So for whatever reason, for whatever plan the majority has, we want a vote on the resolution. However, if the majority decides to bring this resolution to the floor, and it is amendable, I do not think the motion to proceed will prevail. I cannot speak for every Senator over here, but I can speak for a few of them.

The PRESIDENT pro tempore. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I appreciate the willingness of the Democratic whip to agree to having substantive votes because I think it is important to have a substantive vote. As someone who is a cosponsor of the amendment, I will assure you, I have no desire to have anything but an up-or-down vote on the amendments that have been talked about over here on this side of the aisle.

The point I would simply want to make to the Senator from Nevada is, No. 1, this issue has had many hearings. There have been seven hearings in congressional committees, four in the Judiciary Committee, ranging from one that was on September 4 of last year, one on March 3 of this year, one on March 23 of this year, and one on May 13. The first three were in the Judiciary Committee. The Subcommittee on Science, Technology and Space had one on May 13. The Finance Committee

had one on May 5. The HELP Committee had one on April 28. And recently, the Judiciary Committee again had one on June 22. So there have been seven hearings.

This issue has been studied. As a result of the study, there are predominantly two different tracks people would like to take here. You have many who are supporting Senator ALLARD's approach. There is another approach many Members on our side would like to take. All we are suggesting is that at least those two ideas be given the opportunity to be voted on.

I do not think we are going to look for a whole long list of amendments. My guess is we would be content with one amendment to provide a little different option for Members on both sides of the aisle to look at, and maybe both sides of the aisle to be supportive of. This may be a situation where we have options available that can attract bipartisan support. Obviously, Senator ALLARD's amendment has bipartisan support; Senator MILLER is on that amendment.

It sort of bothers me a little bit when I hear the comment made—and it has been made over and over, not only here on the floor but by many pundits—about we have more important things to do. I cannot think of anything more important to America than family and marriage. I cannot think of anything more important than the basic social building block of our country, and that is what marriage is, that is what the family is. And it is in jeopardy. It is in serious, real jeopardy as a result of what the courts are doing—certainly in Massachusetts and potentially around the country—what mayors are doing, what county executives are doing, and others who are unlawfully acting. But in the case of Massachusetts, under the color of law, at least, or maybe lawfully, if you concede that, they are reinterpreting the Constitution to change the definition of marriage.

Now, to me, that is a very serious issue. I cannot think of a more important issue to come before the Senate than to say: What should the future of our culture look like? I think we need to do that in a way that is thoughtful and that is open to different ideas on how to address this issue, because one person, as well meaning as he may be—and I strongly support his amendment—he has one idea, a group of us have an idea. But there are other ideas out there that should be considered when this very important issue is debated. Why? So we can find the sweet spot, we can find what can build the greatest consensus in the Senate to do something to protect an institution which is at the core of who we are as a culture.

While I would say, yes, as we say around here, we try to keep the trains running on time and passing appropriations bills, I think the chairman of the Appropriations Committee, who happens to be the Presiding Officer at this time, will tell you we are not ready to pass all the appropriations bills at this point, that we are still waiting for the House to act and to do things to put us in position to deal with that. There are important issues at hand, but I cannot think of anything more important than this issue.

So I say to the Senator from Nevada, I would hope he would constructively engage in negotiation with us so we can have a full and fair debate, so we can have different alternatives so the Senate can work its will and hopefully try to find some language that will accommodate a supermajority of Members. I haven't heard any Member come down here and debate the substance of this issue. I suspect I will not hear any Member of the Senate come down here in the next 48 hours or longer and say that marriage should be something other than one man and one woman. There may be, but so far I have not heard that in the Senate.

Most who are opposing the constitutional amendment do so for a variety of reasons but not because they don't support the definition of traditional marriage. If that is the case, I would think we would want to work hard to try to find some way in which to protect this institution. Everybody admits, even those who are not for this constitutional amendment that has been proposed, that traditional marriage is under assault in the courts. Some would suggest this is an issue we just should not deal with. Some would suggest this is too heavyhanded a way.

Let's bring some people together. Let's bring the debate together. Let's see if we can find the language that would address this issue and stop what I believe is the death knell of our society, which is the ultimate breakdown of the traditional family and the meaning of that to future generations of children.

I know the sponsor of the amendment is here. I will yield the floor to allow him to speak. If the Senator from Nevada has a comment, I would be happy to yield.

Mr. REID. The Senator is giving up the floor?

Mr. SANTORUM. I yield the floor.

Mr. REID. Mr. President, I will be very brief because I know the Senator from Colorado has worked hard on this issue. I always thought we were going to vote on one constitutional amendment. It appears now—we haven't seen the request and I acknowledge neither has the Senator from Pennsylvania but I know the staff is working on a unanimous consent request to present to us—we will be voting on two constitutional amendments. That wasn't what I think any of us contemplated.

We will be happy to review in detail any of the proposals that the majority has. We always try to be as fair as we can. I hope we can do that sooner rather than later. We will respond as quickly as we can to the good-faith efforts of the majority, and we will respond in as good faith as we can to their offer.

I appreciate the comments of my friend from Pennsylvania. He and I disagree on a number of issues, not as many as some would think. I understand how seriously he feels about this issue. His heartfelt concern is something that is shared by many people in this body, both Democrats and Republicans. It is an important issue. Therefore, I think we should move to the resolution before the Senate and have an up-or-down vote on it as quickly as possible.

Let me say to the Senator from Colorado, who has spent so much time on this issue, I recognize his deep concern. I apologize to him because he has been here since we started.

The PRESIDENT pro tempore. The Senator from Colorado.

Mr. ALLARD. Mr. President, I wish to briefly respond. First, I thank the majority leader and the minority leader for working on this issue. I think we can get it worked out as to how we should proceed on the floor. This is an important issue this country faces in how we are going to deal with marriage. It has not been an issue hastily brought to the floor of the Senate. There have been hearings for at least almost 10 months now on this very issue.

We have had four hearings in the Judiciary Committee and the other three scattered throughout other committees, talking about the impact on children and what has happened from a socioeconomic change in countries—for example, Scandinavian countries that have recognized same-sex marriage for some time, how that has deteriorated and the fact there are so many children today born out of wedlock in those countries, whereas before that societal change happened where we define marriage, babies born out of wedlock was not such a high number. In fact, in the Scandinavian countries now, we have a greater incidence of babies born out of wedlock than are born in wedlock.

We have countries, such as the Netherlands, just more recently accepting the idea of same-sex marriage which have been recognized prior to that as countries that valued the traditional institution of marriage and actually had a very low divorce rate and very low rate as far as children born out of wedlock. But when we look at the Netherlands now, we see, with the demeaning of the value of marriage, that there are more and more children being born out of wedlock. That is a disturbing trend to many of us.

When you go to put together language that goes in the Constitution, it is with a lot of consideration and you have to spend a lot of time visiting with a lot of constitutional scholars. I have done that. This has been debated among our Federal colleagues. There are people who have different views, as with any constitutional amendment that has ever been brought to the Senate or before the Congress. There are always different views on that. I can't recall a constitutional amendment

that ever came before the Congress when there was not some debate on it.

When you are asking to bring it to the floor, you have to expect there are going to be some differences of views. The preponderance has been that those provisions we have in this particular amendment that I have put together and introduced is the right balance because we define marriage as a union between a man and a woman. I don't think there is any doubt about that language. It is very straightforward.

We have a second sentence in the amendment that says there is a limited role for the courts. In other words, the courts shall not go ahead and define marriage other than what we have defined here. But we recognize there is a definite role for the States. We allow States to move ahead, through the democrat process, and to deal with issues such as civil unions and domestic partnerships and the benefits that may accrue with those types of classifications through the legal system.

This has been carefully thought out. We have individuals over here who have sort of the Federalist philosophy. I have sort of a Federalist philosophy. I don't want to see the Government messing around in State affairs, so we have kept that at a very minimum. All we do is define marriage at the Federal level. Then we say it is up to the States now to decide how they want to deal with civil unions and domestic partnerships. We needed to do that in order to limit the power of the courts.

This is a constitutional amendment. It deserves a lot of thought and debate. I am very pleased to have a number of cosponsors. The hearings have gone very well. I do wish that in our hearings we had had more participation from the Democrats. In fact, I can recall a number of hearings where nobody showed up from the other side. There were two hearings held where there was a lot of participation from the other side, but at the other five hearings there wasn't any participation at all. So this is an opportunity for people to participate.

Anytime you talk about some kind of rule that you are going to put forward in the Senate where you limit debate, limit people's ability to participate, it is always going to be somewhat controversial. I don't think the assistant minority leader should be particularly alarmed at the fact we are having some discussions about how we should move forward. The last time I looked, I think there were some four bills that have been blocked from becoming major bills—such as the energy bill, for example—from coming to the floor of the Senate because of a filibuster. We have a number, I think about four bills or so that have passed the Senate and are not allowed to go anywhere because the other side has not appointed conferees. We have had the obstruction going on with the judges.

That is well known. I don't need to go over that, what has been debated. We spent a couple of all-nighters in the Senate talking about the obstruction of the judges and how it is important that we fill those positions.

My hope is we can move forward and come up with a reasonable rule, where everybody feels comfortable. That is what we are trying to do on this side. The two meetings that had such good participation were both in the Judiciary Committee. At the first one we had, I and a number of other individuals had an opportunity to testify in front of the committee. Another was with Governor Romney from Massachusetts who came forth to testify. He pointed out to the committee the complications they have had in their State as a result of this debate, how it needs to be clarified, and that he came down in support of defining marriage as being between a man and a woman.

There were a lot of implications that I think came out of his testimony and needed to be debated and brought out. I hope we will be able to have an opportunity—in fact, if nobody does it, I plan on putting his testimony in the RECORD. I thought it was very good testimony.

So here we are, and we have before us now, after the initiation of the debate last Friday, this amendment that talks about marriage. Again, I want to make clear that everybody understands the language. It says:

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

The second sentence is:

> 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.

That language came about after a lot of deliberation, which included staff and members of the Judiciary Committee. Even though it wasn't voted formally out of the committee, there has been a considerable amount of debate and a lot of scholarly thought about it, and constitutional experts have been approached as far as what would be the best language.

I think we need to move forward with the debate. I am looking forward to hearing from the other side on this important issue. So far, we have had red herring arguments and them wanting to talk about something else other than this amendment and the issues it brings up. I hope we can now settle down and get a good debate from the other side about why they don't think marriage ought to be defined as a union between a man and woman, or why they don't think this is a good amendment. So far we have heard argument on procedure and that doesn't get to the meat of the debate.

I urge my colleagues on the other side to step forward. Let's hear their views and have this debate on this most important amendment.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Pennsylvania is recognized.

Mr. SANTORUM. Mr. President, I was not here on Friday, so I did not get a chance to hear a lot of the debate going on. I commend my colleagues. I read some of their statements. I thank them for the high level of debate that has taken place so far.

Whether it was Senator SMITH's comments, or Senator CORNYN's comments, or Senator ALLARD's, and others, they are trying to bring to the debate two fundamental points, which are that every person in America, every person in this world, has worth and dignity and we should respect them, irrespective of the choices they make in their lives. That is an important concept that I hope we do not stray from in this debate; that this is not a debate about questioning the value or worth of an individual or the dignity of an individual or the rights of an individual. What this is about is the fundamental importance to our society of preserving, protecting, and promoting marriage as a union between one man and one woman.

So I hope we can engage in a debate where we can keep both things in mind, because sometimes it is thought that if you are for traditional marriage, somehow you are against somebody. That is not how I see it. I think traditional marriage is good for everyone. It results in a healthier society, more stable children.

I am going to refer throughout the course of my remarks over the next couple of days to a paper that was presented at Emory University on May 14, 2003, which I think is one of the best studies I have seen in looking at this issue of marriage. One of the reasons I think it is so good is, No. 1, it responds to all of the allegations or charges made against those who support traditional marriage. It is authored by two people, one of whom is gay. So you are hearing arguments from someone who you would think normally would agree that traditional marriage should be redefined; in fact, he argues in this paper, quite effectively and forcefully, that traditional marriage is important to be maintained—not because he thinks it discriminates against him, but because it is important for our culture and society.

I want to read a few things from the summary of that report just to give people a sense of why this is such an important issue to be debated. In this country, we tend to take marriage for granted, thinking that somehow or another it will just happen, that people will get together and marry and will have children, whether we have an institution called marriage or whether that institution of marriage is redefined to include a whole host of other different relationships that really won't affect the basic traditional marriage. In other words, some might say, how will my relationship affect me? How will that affect your marriage?

Well, let me address that because I think this summary does a pretty good job in doing this. The name of the article is ''Marriage Ala Mode; Answering

Advocates of Gay Marriage,'' by Professor Katherine Young and Paul Nathanson.

The summary begins:

There's nothing wrong with homosexuality. One of us, in fact, is gay. We oppose gay marriage, not gay relationships.

They go on to say:

Most people assume that heterosexuality is a given of nature and thus not vulnerable to cultural change, that nothing will ever discourage straight people from getting together and starting families. But we argue—and this is important—that heterosexual bonding must indeed be deliberately fostered by a distinctive and supportive culture.

Because heterosexual bonding is directly related to both reproduction and survival, and because it involves much more than copulation, all human societies have actively fostered it. . . .This is done through culture: rules, customs, laws, symbols, rituals, incentives, rewards, and other public mechanisms. So deeply embedded are these, however, that few people are consciously aware of them.

Much of what is accomplished in animals by nature (''biology,'' ''genetics,'' or ''instinct'') must be accomplished in humans by culture (all other aspects of human existence, including marriage). If culture were removed, the result wouldn't be a functioning organism whether human or nonhuman. Apart from any other handicap would be the inability to reproduce successfully. Why? Because mating (sexual intercourse), which really is largely governed by a biological drive, isn't synonymous with the complex behaviors required by family life within a larger human society.

What are they saying? Will heterosexuals continue to copulate, have sexual relations? Sure. Will they build families. Nobody is suggesting that if we get rid of the definition of traditional marriage, there is going to be a explosion of nontraditional marriage. That is not what they are saying or what I am saying. I suggest that in those countries that have, in fact, adopted whether it is same-sex marriages or civil unions, they have not seen a traumatic growth in the number of same-sex unions or same-sex marriages. In fact, there have been very few of them in the countries that have adopted those laws.

But what has happened? There is a gradual and systematic decline in heterosexual marriages, not heterosexual unions. People will continue to hook up. In fact, that is what occurs more and more in cultures, even in this country, where marriage is not held up as something that is important. We see it around us. There are cultures and subcultures in America where marriage is seen to be an older, passe convention.

What happens is there is actually more sexual activity, certainly among multiple partners and, what? Breakdown of the family, children being born out of wedlock, and communities and cultures in decay. That is what I see on the horizon for America.

It is not the reaffirmation of marriage by including more people in it but the degradation of marriage because it becomes simply a social convention without meaning. One may say: What is the big deal? What is the problem if that happens? The problem, if we look at communities in America where marriage has broken down, we see communities that are not functioning very well. We see children who are the most at risk in our society because moms and dads are not around the home to provide for them. So we have community breakdown, we have family breakdown, and we have government intervention trying to repair this situation.

There have been huge government expenditures over the last 40, 50 years trying to repair what is broken as a result of the family not being there to raise these children.

I was a student at Penn State many years ago. I always like to get back to my college campus. A few years ago, I went to speak to a group of students, the editorial board of the Daily Collegian. The Daily Collegian is the college paper. I am not sure that in the 14 years I have been in public life they have ever said anything positive about me. Nevertheless, I went to meet with them.

We had a very animated discussion, as one tends to have on college campuses with young people with vibrant ideas and a zeal for ideology. We were disagreeing on everything, not surprising. I do not know how it came up—I have been digging my memory banks and I cannot remember exactly how it came up—but I asked the question, What do you see as the biggest problem facing America? One young man in the back raised his hand and said: The breakdown of the traditional family. The breakdown of the family.

I thought immediately when he said that, first, he must not have been engaged in the discussion for the previous half hour, and I thought he would be laughed at and ridiculed by others around the table. What I found was unanimous agreement. One after another of these young folks, who would not be considered traditionalists or conservatives, went on about how the breakdown of the family is sort of at the root of the instability or insecurity they are feeling in their lives and that the culture is experiencing at this time. They talked about divorce. They talked about how marriage was not what it used to be.

In fact, there was a survey done where they asked kids in the 1970s whether divorce should be harder to get, and about 50 percent of the kids said, yes, divorce should be harder to get.

They asked a similar group of kids 25 years later, in the late 1990s, whether divorce should be harder to get, and 75 percent of the kids now say divorce should be harder to get. Why? Because they realize the impact of the breakdown of marriage and family.

One of the criticisms we hear from those who oppose this constitutional amendment is: Marriage is already in very bad shape. Divorce rates are high. Marriage does not work already in America. This is no big deal. You cannot really hurt marriage.

I make the opposite point. I think it is obvious. They are right, marriage is already in tough shape. Many commentaries have said heterosexuals have messed up marriage as bad as they can in this country and in other countries around the world.

I make the claim that further deluding and debilitating marriage is not the answer because we know of the dire consequences that a breakdown in marriage results in with respect to children.

I make the opposite argument: Yes, I would argue divorce laws should be tougher. I agreed with Louisiana when they put in covenant marriages. I believe the no-fault divorce laws in the 1970s changed the essence of marriage, which is about a man and a woman entering into a selfless relationship, a union on which they would further give of themselves in the creation of new human life and nurturing that life. It was a selfless act, giving of oneself, giving up things to each other. That is how successful marriages work, and that is how successful marriages nurture successful children.

With no-fault divorce and with the culture that came along with it, we have marriage being about adults, not about children. It is no longer about forming a union for the raising of children in the next generation. It is about: Am I happy in my marriage? Am I being fulfilled? It is less selfless and a little bit more selfish.

So if we look at this next generation of marriage, what is that? Is it about the selfless or is it about the selfish definition? Is it about children? Certainly a change in the definition of traditional marriage to include people of the same sex is not about children, it is about adults. That further takes us away from the central principal purpose of marriage, which is the bonding of a man and a woman for the purpose of creating a union by which children for the next generation are born. So we continue to get further away from the ideal, and when we do that, children suffer and cultures die.

I repeat, I do not know why people come here and insist that somehow this is not important; that somehow this discussion does not rise to the level of a constitutional amendment. That is another real funny one. I am sure that was discussed on Friday. The Presiding Officer gave an absolutely brilliant opening statement on Friday, and I commend him for his wonderful statement. I know he knows what the last constitutional amendment was.

I have heard two complaints about constitutional amendments: This issue is not important enough to rise to a constitutional amendment. That is No. 1. This is not important enough. No. 2, this limits rights, and no other constitutional amendments have limited rights.

The last constitutional amendment, the 27th amendment to the Constitution, limited pay raises for Members of

Congress. So let's throw out the limiting rights. My rights have been limited as a result of the 27th amendment. As a Member of Congress, we cannot pass a pay raise and accept it midterm. Constitutional amendments have been used to limit rights.

No. 2, this does not rise to a level of importance. I do not think in the grand scheme of things whether Members of the House and Senate can receive a pay raise during their term is one of the great pressing issues that face our culture and our country. So the idea that the Constitution is not used for issues that are not of great weight and do not limit rights is ridiculous.

The second point is, I do not believe this limits rights. What this does is promote a public good. It does not limit rights. It simply promotes a public good, and it is the union of a man and a woman for the purpose of forming that union and providing for the next generation.

I suggest this constitutional amendment is necessary and is important enough to be debated today. Again, I hope we can come up with some agreement that will allow the different points of view as to how we solve this problem, and maybe some other points of view from the other side of the aisle as to how we solve this problem.

To get to the bottom line of this debate, the bottom line is children need mothers and fathers, and society should be all about that. Society should be all about creating the best possible chance for children to have a mother and a father. Unless the State endorses that, unless our laws enforce that, then I think it is fairly obvious that our culture will not, and that left to our own devices, as these authors say, we will simply not have these unions.

In fact, if we look at other countries, Stanley Kurtz has done some research in countries around the world where this has occurred. In his article, ''Decline in Marriage in Scandinavia and the Netherlands,'' he talks about the reduction in the rate of marriage among heterosexuals. He talks about the increase in the number of children born out of wedlock as a result of the institution of a different definition of marriage. So we see in other countries that when marriage is changed, it is devalued. It does not become special. It does not become unique. It is not reinforced by society as something as the ideal. As a result, people do not engage it.

For example, the countries of Denmark, Sweden, and Norway have either marriage or civil unions for same-sex couples. Sixty percent of first-born children in those countries are now born out of wedlock. Now, that is equivalent to some of the poorest neighborhoods in our society. Remember, I talked earlier about how the breakdown of marriage has affected the poorest communities in our society and our culture, and in many of those cultures marriage is not accepted, and as a result the Government has to come in and bail out those communities because there are no unions, there are no families, there is no support network for these children? In middle-class and upper middle-class, socialistic, equality-driven Scandinavia, where there are no ghettos of poverty that we see in America, 60 percent of first-born children in these countries are born out of wedlock. Why? Because marriage is not important. It has no meaning. So people simply do not get married.

There is a long laundry list which I will get into in more detail. I am trying to make a general overview of some of the arguments, but I will be getting into more detail throughout the next couple of days.

Marriage is about children. Marriage is about the glue that holds the basic foundational societal unit together, and that is the family. When we change the composition of that glue, we weaken the bonds of marriage and then we weaken the American family.

Why a constitutional amendment? I think the Senator from Colorado said it, and I know others have, too, that if we really believed we could solve this problem short of a constitutional amendment, let me assure everyone I would not be on the floor of the Senate today arguing this issue. This is hard. It is hard to come to the Senate floor and argue for any constitutional amendment. It is doubly hard to actually pass one because 67 votes are needed in the Senate, plus three-quarters of the States. If we could come up with a legislative solution that would solve the problem that I see of runaway courts, I would be very anxious to find it. We tried back in 1996 with the Defense of Marriage Act, but just about every legal scholar who has come around has said the Defense of Marriage Act will not stand, from the left to the right, and I will get into that in further discussion.

I see the Senator from California is in the Chamber, so I am not going to spend much more time, but the idea that we could pass a statute to constrain the courts from reinterpreting the Constitution I believe is folly. We cannot. The only way for us to have the American people define what marriage is, instead of State courts defining what marriage is, is through the constitutional amendment process.

Some will get up and say, let us leave it to the States, let the States fight this, like Massachusetts is doing, let the States fight this battle. What we are seeing in Massachusetts is the States cannot fight this battle. Ultimately, if one looks at the Lawrence v. Texas decision and the full faith and credit clause, there is no question in my mind that the States will be powerless to defend themselves against these runaway judges.

In essence, the Constitution will be amended. It will either be amended by a group of State judges who will grab from the language of the Constitution a right for anybody to be married to anybody else or the American people through the process that was established in our Constitution, which is a very difficult process.

As a citizen, it is rather upsetting to look at the Constitution as a document and say, well, to create new rights under the Constitution we have to have two-thirds of the Senate, two-thirds of the House and three-quarters of the State legislatures, or four judges in Massachusetts. I looked through the Constitution many times and I never saw that four-judges-in-Massachusetts clause, but that is what goes on. We either do it that way or go through this complex process that is very hard. Why? Because constitutional rights are big deals. It is an important thing. We should not create new rights in our Constitution without a very deliberative, thoughtful process, and the American public should be engaged in that process. That is what we are about today. We are about engaging the American people in the thoughtful process of determining what marriage should be in America.

I would argue that those who oppose this process are saying one thing: Let the courts do the work that I do not have the courage to stand up and fight for myself. Let's be clear about that. Let the courts do the work that I do not have the courage to articulate for myself. Oh, we will all get up and say we are for traditional marriage and we like traditional marriage. If my colleagues are for traditional marriage, there is one way to make sure it is maintained. They can say, I do not like this idea or I do not like that idea, but there is one way to make sure, if they are really for traditional marriage, if they really believe this is an important building block of our society, if they really believe marriage is about the union of one man and one woman for the purpose of the future of our culture, there is one guaranteed sure-fire way to make sure that is maintained, and that is through a constitutional amendment.

Now, my colleagues can argue until the cows come home that they do not like this way of doing that, and that is fine, and that there are other alternatives to pursue, but if they really care about preserving one man and one woman in a union called marriage, there is one sure-fire way to do it, and that is to vote for a constitutional amendment that does it. Any other excuse is simply that—an excuse to let someone else do their dirty work.

I do not hear any of my colleagues who say this is not the way to amend the Constitution writing letters to the litigants in Massachusetts and 11 other States who are suing to change the marriage laws in those States to allow for a redefinition of marriage. Where is the outrage? Where are they writing saying, oh, we do not think that is the way it should be changed, either. We do not hear them criticizing those who want to change traditional marriage and saying do not do this, do not file

these lawsuits, do not seek to have these marriages recognized. We hear nothing. We just hear, we will just let someone else handle this.

All it takes for this change in marriage in America is for well-meaning, good people to moderately, deliberately, simply do nothing—just sit back, claim their virtue, claim their belief in one man and one woman in marriage, and allow someone else to change it, and then come and say, well, it is too late, or we cannot take marriage away; these people are already married. How can we take that right away?

If my colleagues believe in their heart, for the betterment of America, that marriage must be maintained for the good of the American family as a union between a man and a woman, there is only one choice, and that is to vote yes. Anything short of that is a hollow act, is a smokescreen, to the American people and to their constituents. My colleagues cannot claim to be for something and then vote against it and let someone else do the exact opposite of what they say they want, and that is what the courts will do. So I plead with my colleagues, who I believe have every good intention, to search their souls and to think about the consequences for America.

Because other speakers have arrived, I will yield the floor in a minute. I know people come with good intentions and I know people do not want to be seen as intolerant, and they do not want to be seen as hateful or mean spirited or being against anybody.

It is not easy, standing up against this popular culture in which we live. But think about the future of America. Think about the future of America without the institution of marriage because that is what we are debating. It is not a matter of redefining marriage. It is simply that marriage will be a social convention which will have no meaning and therefore we will be without it.

Think about the future of children in America, where we say they do not deserve a mother and a father and that we are not going to give them the legal force to encourage it and hold it up as the right thing to do.

Look in the faces of those children and say: You just were not important enough for us to stand against what is very unpopular in the culture of today. I daresay, this debate, this vote, this issue will be read in history books in America—I hope in America—years from now as that turning point. I hope my colleagues are on the right side of history.

I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from California is recognized.

Mrs. FEINSTEIN. Mr. President, I wish to make an argument directly contrary to the arguments just presented by the distinguished Senator from Pennsylvania. I do not consider myself an expert on marriage. I have been married for a long time. I have one daughter, three stepdaughters, and five grandchildren. I celebrate marriage. I understand the difficulties in working to keep it together. But I believe this is a waste of time.

The votes are not present to submit this amendment to the States. The timing is just a few months before an election, and family law has always been relegated to the States. This essentially would be the first departure from that.

My argument today is based on my understanding of the law. My understanding of what is happening in the States indicates to me that the States are well able to handle the issue of marriage on their own. The tenth amendment of the U.S. Constitution clearly states:

> The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Marriage is not once mentioned in the Constitution. Most authorities believe it to be a power reserved to the States.

As early as 1890, that is 114 years ago, in In Re Burrus, the United States Supreme Court, in a child custody dispute, stated:

> The whole subject of the domestic relations of husband and wife, parent and child, belongs to the laws of the states, and not to the laws of the United States.

Later, in a 1979 Supreme Court decision, Hisquierdo v. Hisquierdo, the Court stated in dicta:

> Insofar as marriage is within temporal control, the States lay on the guiding hand.

Furthermore, the courts have long held that no State can be forced to recognize a marriage that offends a deeply held public policy of that State. States, as a result, have frequently and constitutionally refused to recognize marriages from other States that differ from their public policy. Polygamous marriages, for example, even if sanctioned by another State, have consistently been rejected. Marriages between immediate family members have also been rejected by States, even if those marriages are accepted in other parts of the country. In no case that I know of has the full faith and credit clause of the U.S. Constitution been used to require a State to recognize a type of marriage that would violate its own strong public policy. So States have been on their own with respect to family law, including marriage.

Even as we consider the Federal Marriage Amendment, we see that the States are taking their right and powers as they relate to family law and marriage very seriously. Thirty-three States have passed their own Defense of Marriage Acts, banning same-sex marriages, and five have passed ballot initiatives banning same-sex marriages.

My own State, California, passed a Defense of Marriage Act in the year 2000. Proposition 22 was ratified by an overwhelming majority of Californians, 61 percent. The California Family Code now states that:

> Only marriage between a man and a woman is valid or recognized in California.

That is the law of my State. That policy statement trumps all local and other law.

Earlier this year, the mayor of my city, Gavin Newsom, of San Francisco, decided this law was unconstitutional and ordered the county clerk to issue marriage licenses to same-sex couples. These actions did not go unnoticed, and the California State Supreme Court subsequently enjoined the county clerk from issuing any further marriage licenses, and the county complied. Oral arguments were heard on the cases on May 25, and the State Supreme Court will issue its decision within 90 days.

However, I want to make clear, crystal clear, that the Court is not deciding on the constitutionality of Proposition 22, which said that marriage shall be between a man and a woman. Rather, the Court issued orders to show cause in Lewis v. Alfaro and Lockyer v. City and County of San Francisco, limited to the following issue: Were the officials of the city and county of San Francisco exceeding or acting outside the scope of their authority in refusing to enforce the provisions of Family Code sections 300, 301, 308.5, and 355 in the absence of a judicial determination that those statutory provisions are unconstitutional? In other words, acting in defiance of the statewide referendum?

The orders to show cause are specifically limited to this legal question, and they do not include the substantive constitutional challenge to the California marriage statutes themselves. The marriage statute, therefore, is not in jeopardy of being overturned.

When we look around, we see that California is not the only State where people are speaking out about same-sex marriage. In fact, a lively debate is taking place throughout the country.

On July 6, the Washington Times ran an article entitled, ''Marriage Gets a Boost in Michigan.'' The article notes that the supporters of traditional marriage in Michigan recently turned in approximately 475,000 signatures to put a State constitutional amendment before the voters this November. An organizer of the effort was quoted to say:

> The people responded. . . . They're tired of politicians and activist judges making changes without having a voice. This gives them a voice.

The article goes on to say:

> Michigan's achievement marks a four-for-four victory for those who want marriage amendments on the November ballot.

Montana, Oregon and Arkansas will place similar measures on their ballots this November. Mr. President, your own State will have one on the ballot. North Dakota and Ohio are collecting signatures necessary for ballot measures.

As you can see, the States have taken up the just powers accorded to

them by the Constitution of the United States and are responding to this issue, and that is as it should be.

The Family Research Council reported in a press release on July 9:

[A]n unprecedented nine States already have State constitutional amendments on the ballot this fall and that number is expected to increase to at least 14 States. Thirty-eight States have previously gone on record stating marriage is between one man and one woman. The people are making their voices heard in their States but unfortunately that is not enough.

Yet in the words of the Family Research Council, these actions by States are ''unprecedented'' and show that a process is, indeed, taking place throughout the country and that the people are active participants. Through that process, the people do have a voice and they are being heard. I believe interference from Washington in this political process is premature, unnecessary, and not in the context of the Constitution of the United States.

In light of this, it appears that proponents of the Federal Marriage Amendment disregard the debate occurring in the States and point only to Massachusetts and the fact that marriage licenses are being issued legally to same-sex couples there. They argue that the same-sex marriages in Massachusetts, the first State to allow such marriages, are what is driving the need to enshrine in the Constitution language that marriage is between a man and a woman. I disagree.

Even in Massachusetts, the State legislature has begun work on a State constitutional amendment to bar same-sex marriages but allow civil unions. This amendment is certainly not guaranteed to pass, but it is clear that the people of Massachusetts are dealing themselves with the issue as was intended and, again, it would seem without the need of assistance from Washington.

Because several dozen States have already passed a prohibition on same-sex marriage, it seems clear that in those States an argument could be made that strong public policy would lead to a refusal to recognize out-of-State same-sex marriages.

So it is not a problem demanding an immediate solution. There is a process taking place in the States throughout the country as was envisioned by the Constitution. For us to act now is not only premature but it isn't going to work because the votes are not here.

So why are we doing this? Why are we doing this when we have only passed one appropriations bill? Why are we doing this when last week we just had a briefing on the impact of terrorism on this Nation and we haven't passed a Homeland Security bill? Why are we doing this when the Constitution has reserved family law to the States and when States by the dozens have already taken up the issue and passed, either by legislature or by vote of the people, marriage amendments? Why are we doing this?

The only answer I can come up with is because this is political. It is to drive a division into the voters of America, into the people of America, one more wedge issue at a very difficult time to be used politically in elections. Everybody in this body knows they are nowhere close to 67 votes. If there were a motion to proceed, there might not even be enough votes for a motion to proceed.

Why are we doing this? Why are we stirring up the Nation? I probably have 53,000 pieces of mail on this subject alone. People do not understand that the Constitution relegates family law to the States, and has relegated the issue of adoption, marriages, and everything having to do with family law to the States.

My daughter happens to be the supervising judge of the family court in San Francisco. You can talk to any judge and see just that. The States have responded. It is not as if the States have ignored those issues. More than 36 States—more than three dozen States—have passed legislation, and 8 are moving shortly.

For the life of me, I don't understand what honest motive there is in putting this in front of this body to philosophically debate marriage on a constitutional amendment that is not going to happen, and which is enormously divisive in all of our communities.

I hope my colleagues will exercise prudence and tread carefully with our Constitution. I don't think we want to put out an amendment—I don't think we can, but let us say with some change and there were 67 votes, as the Senator from Pennsylvania correctly said, it then has to go to a vote of three-quarters of the State legislatures. When three-quarters of the States have already taken action, why would they ratify this? I think it is a useless exercise.

I have been on the Judiciary Committee long enough now to be able to take an issue and see if it is properly before us. I don't believe a constitutional amendment reserving the right of marriage to a man and a woman is properly before us because I believe that is an area clearly relegated to the States, and the States are exercising that right.

Thank you very much. I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I have been watching this debate and there hasn't been much from the other side, but I commend the distinguished Senator from California for at least coming to the floor and expressing her viewpoints on this. As you know, she is a very important member of the Senate Judiciary Committee, and I enjoy working with her. I also understand her arguments that the States ought to decide these issues. But more preferably interpreted, if she likes the status quo that means the State courts must decide these issues and not the people of the States or the State legislatures. Frankly, I agree that the States should be able to decide these types of issues. The powers should not be taken away from them and given to the courts.

In fact, 40 States have decided this issue in the Defense of Marriage Act, called DOMA. You would think that would be enough. I believe the other 10 States will adopt the Defense of Marriage Act over time which provides a marriage should be between a man and a woman.

If my colleagues believe that the States ought to decide these matters, then they have to acknowledge that the 40 States which have should trump the 4-to-3 decision by an activist Massachusetts Supreme Court.

The debate over marriage boils down to two fundamental questions: Should our goal be to keep marriage limited to a man and a woman? And, if so, is amending the U.S. Constitution necessary to accomplish that goal?

The answer to both questions is yes.

The first question, whether we should keep marriage between a man and a woman, can be examined in several ways. First, we can look at different kinds of polls. In the last few months, polls by reputable news organizations such as CBS News, FOX News/Opinion Dynamics, Newsweek, Time/CNN show that by at least 2 to 1 Americans would not redefine marriage. Not only is this polling overwhelming, but it exists in the face of a barrage by the liberal media urging a different answer to this question. These polls tell something about the opinions of individual Americans, again, that flies in the face of having four justices in Massachusetts decide under the full faith and credit clause to impose this upon everybody in America rather than have the people in America or the people within the individual States decide these matters. These polls tell something about the opinions of individual Americans.

Another kind of poll examines what the elected representatives of the American people do on their behalf. Two years ago, the Supreme Court repeated its long-held guidance that ''the clearest and most reliable objective evidence of contemporary values is the legislation enacted by the country's legislatures.'' That evidence confirms the same conclusion: The American people oppose redefining traditional marriage.

In 1996, Congress overwhelmingly passed the Defense of Marriage Act. As I mentioned, 40 States have adopted it and President Clinton, a Democratic President, signed it into law. As its name implies, this legislation was intended to defend what marriage has always been, a union between a man and a woman.

Since 1996, the citizens and legislatures in nearly every State in the Union have taken one or more steps to further protect traditional marriage. Again this year, citizens in several more States have collected hundreds of thousands of signatures to put before voters State constitutional protection for traditional marriage.

Speaking of signatures, last Friday, some of my colleagues received nearly 1.5 million petitions from Americans to protect traditional marriage and more are on the way.

This issue is not going to go away. Whether traditional marriage should remain what it always has been, the goal most Americans support, requires amending the U.S. Constitution. If the answer is yes, no one should be able to get away with professing support for traditional marriage but refusing to do what is necessary to make it real. Some have indeed tried to have it both ways, saying they want to keep marriage between a man and a woman but refusing to take any real steps to do so.

Last Friday, for example, I pointed out how Senator KERRY, the distinguished Senator from Massachusetts, has publicly said marriage should be between a man and a woman, yet voted against the Defense of Marriage Act which would allow that to occur. I pointed out he said there is no reason to vote for the Defense of Marriage Act because the States have enacted contrary to it. His own State, since then, has.

Does that mean he would vote for a new Defense of Marriage Act or does it mean that he would vote for the only thing that can possibly change the situation, and that is a constitutional amendment? He has indicated he will not.

Members cannot have it both ways. Members cannot vote against DOMA, argue it is unconstitutional, and now say that a constitutional amendment is not necessary because DOMA won't protect us. This is exactly what the junior Senator from Massachusetts is doing.

Look at this chart, ''But isn't DOMA unconstitutional?''

Senator KERRY said in the Advocate, September 3, 1996:

DOMA does violence to the spirit and letter of the Constitution.

In other words, it is unconstitutional, he said in 1996.

The distinguished senior Senator from Massachusetts, Senator KENNEDY, in his remarks on the floor of the Senate September 10, 1996, said:

Scholarly opinion is clear: [DOMA] is plainly constitutional.

Professor Laurence Tribe of Harvard Law School, a heralded liberal professor, for whom I personally have high regard and consider a friend, in a letter submitted to the record of Senate proceedings on June 6, 1996, said:

My conclusion is unequivocal: Congress possesses no power under any provision of the Constitution to legislate—

As it does in DOMA—

any such categorical exemption for the Full Faith and Credit Clause of Article IV.

And the ACLU, in February of 1997, said:

DOMA is bad constitutional law . . . An unmistakable violation of the Constitution.

These are leading liberals who do not think DOMA or the Defense of Marriage Act was constitutional, yet today argue against the only way to resolve this matter. Oddly enough, most all of them are saying the States ought to decide these matters.

I agree. If we pass a constitutional amendment, it will be up to the States whether or not that constitutional amendment will be ratified, and three-quarters of the States will have to ratify it in order for it to be ratified. I might add, that means the people themselves will have to be very much involved in it throughout the country, unlike having four judges in Massachusetts decide this issue for all of America. Once they decided that Massachusetts law, then under article IV of the Constitution, the full faith and credit clause, every State in the Union must recognize those Massachusetts marriages, which would upset the domestic relation laws of 49 other States.

Let's face it, one of the reasons so many of my friends across the aisle will argue strenuously this week that the time is not ripe for consideration of this issue on the Senate floor, or that the Senate has much more important things to do, is because they wish to avoid getting crosswise with the tens of millions of Americans who support traditional marriage. It is more than tens of millions, it is hundreds of millions of Americans who support traditional marriage. Yet, also, they do not want to offend their many supporters who wish to allow these novel, non-traditional, same-gender marriages.

I cannot blame them for feeling that way, but sometimes you have to make decisions in this body that make sense and that are right, that are moral decisions. There is nothing more important than marriage and traditional family marriage at that. Sustaining traditional marriage is absolutely critical to our country. I don't care how important economics or any other issue is, this is one of the most important issues in the minds of most Americans, and it should be because our moral climate depends on what we do here.

For my friends on the other side, their politically expedient solution is this: As quietly as possible, vote against the marriage amendment today and leave it up to the court to reinterpret the Constitution tomorrow. That sounds pretty good. Why don't we just leave it up to the courts? We have had a lot of 5-to-4 decisions in the Supreme Court. This was a 4-to-3 decision in a State supreme court that will bind all of America. That is what they want. They want the courts to do that which they could never get through the elected representatives of the people as evidenced by both the distinguished Senator from Massachusetts, who is running for President and his Vice Presidential nominee who is from North Carolina, who is also running. They both believe traditional marriage ought to be maintained, but they do not believe we should do anything about it if it is not. I hope we can change their minds.

The real question is whether protecting traditional marriage requires amending the Constitution. As Senator SMITH, the distinguished Senator from Oregon, said in the Senate last Friday, it would be better if the answer were no. Polls suggest that many Americans would prefer their elected representatives be able to legislate in this area. That, indeed, is the way it was traditionally done.

In polling, as in life, however, the devil is in the details. A CBS News/New York Times poll in March asked whether laws should be determined by the ''Federal Government or by each State government.'' This sounds as if the choice is between the Federal or State legislatures. That, however, is not the choice and never has been. The choice today is between the judiciary and the legislature. But the polls never asked about that. In other words, polls are polls are polls, depending on how the question is raised.

The fact is, the judiciary is deciding for all of America, and an obscure supreme court in Massachusetts, at that is deciding this issue for all of America. So the States really do not have a chance to decide this issue on their own because if the supreme court of the State of Massachusetts, if that ruling is continuously upheld, and it appears it will be, even by the Supreme Court under the Lawrence case, then every State in the Union is going to be bound by those marriages.

Another poll taken at the same time—this one by ABC News and the Washington Post—asked whether Americans would support amending the U.S. Constitution ''or should each state make its own laws''—another false choice. Activist judges are rapidly making it impossible for States to make their own laws regarding marriage, making a constitutional amendment the only option, if we want to preserve traditional marriage.

The polls never ask about that. These highly misleading polls make one wonder whether the liberal media outlets conducting them have some kind of agenda here. No. I know that is being skeptical, but I think almost anybody with brains would conclude they do have an objective here.

Does protecting traditional marriage require amending the U.S. Constitution? The best prescription depends on an accurate diagnosis. Simply put, when an issue such as this one that traditionally was decided by State legislatures is redefined by judges in constitutional terms, the only effective option is amending the Constitution.

The judiciary has been flexing its cultural muscles for decades, imposing its own values upon the American people, supposedly in the name of the Constitution. There can be no doubt that traditional marriage is in the path of what Supreme Court Justice Antonin Scalia, in 1992, called the judiciary's ''social engineering bulldozer.''

That same year, the Supreme Court invented a constitutional right to define ''one's own concept of existence, of

meaning, of the universe, and of the mystery of human life.''

Four years later, the Court said resistance to making public policies more favorable to homosexuals ''seems inexplicable by anything but animus.''

Last year, the Court combined these ideas to take away from State legislatures the ability to prohibit certain kinds of sexual practices. The Lawrence v. Texas case in 2003: these are some quotes directly out of that case. Justice Antonin Scalia, who dissented in that case, said:

> 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. . . .what justification could there possibly be for denying the benefits of marriage to homosexual couples exercising ''[t]he liberty protected by the Constitution?''

I might add, also in the Lawrence case, Justice Kennedy argued that:

> The present case . . . does not involve whether the government must give formal recognition to any relationship that homosexual persons seek to enter.

Justice Scalia understood, however, that

> This case ''does not involve'' the issue of homosexual marriage, only if one entertains the belief that principle and logic have nothing to do with the decisions of this Court.

Justice Scalia said the Lawrence decision:

> ''leaves on pretty shaky grounds state laws limiting marriage to opposite-sex couples.''

If that is so, and he is right—and he certainly has been proven right so far—then the argument of the distinguished Senator from California really does not hold any water because the States are going to be overruled, 40 of them at least, and I believe all 50 in the end. If we do not do something about it, they are going to be overruled in their desire to keep traditional marriage alive.

Now, Evan Wolfson, the director of Freedom to Marry, said this:

> But when [Scalia's] right, he's right. We stand today on the threshold of winning the freedom to marry.

Finally, the Supreme Judicial Court of Massachusetts applied all of this by inventing a constitutional right to same-sex marriage. That was not a legislature. That was not the people speaking. In fact, it was not even a unanimous court speaking. It was a 4-to-3 decision by four of the most liberal State justices in the country versus three very liberal justices in the country. It was a hard-fought decision. It was hardly the will of the people being met.

It is almost ludicrous to come here and say the will of the people should be met here. If that is true, then we ought to give them that chance with a constitutional amendment which will be submitted to the will of the people out there. Everybody in America who can vote will have a right to vote for or against this constitutional amendment. We ought to at least give them that chance.

Well, as I say, the Supreme Judicial Court of Massachusetts applied all this by inventing a constitutional right to same-sex marriage. Step by step, by recasting these cultural questions in constitutional terms, the courts took them away from the American people and their elected representatives.

Now, that flies in the face of what we have heard from those on the other side of this issue: Let the States take care of this. Give me a break. Four liberal justices versus three liberal justices have said this is going to be applied to all of America, because it applies as law in Massachusetts, and under the full faith and credit clause that law must be recognized in every State in the Union.

Well, these were not a bunch of random, coincidental legal events. These falling dominoes were part of the very same strategy that today is targeting State and Federal laws protecting traditional marriage.

Last Friday, I outlined the five current fronts in the legal war to redefine marriage. There may be more on the way. Politically driven lawyers are nothing if not creative. This is why nearly all legal analysts and scholars, either grudgingly or enthusiastically, conclude that the ability of legislatures to make real decisions in this area may already be a thing of the past. In other words, the people's right—the people's right—to make real decisions in this area may be a thing of the past. Why not just let these four liberal justices against three liberal justices make this decision for everybody?

This is why a constitutional amendment to preserve traditional marriage is the only effective solution, and why this is not premature. It might have been premature if the Supreme Court's ''cultural bulldozer'' were still idling. It might have been premature if the Supreme Court had not embraced the insulting and false conclusion that traditional views on certain cultural questions are nothing but irrational animus. It might have been premature if the Supreme Court had not created a constitutional right to sexual autonomy. It might have been premature were there not already dozens of lawsuits challenging laws protecting both State and Federal laws protecting traditional marriage.

But these things have already happened, and more aggressive legal assaults are coming. The judiciary's ''cultural bulldozer'' is in gear, on the move, and has already done too much damage. If anything, we are behind the curve, not ahead of it.

Some call this election year politics. Well, I suppose any measure considered by a political institution can be called politics. Yes, this is an election year. This is merely a cliche substituting for an argument. Those who use it perhaps have no real argument, and so they use this cliche to imply that we would not be trying to defend traditional marriage if this were 2003 or 2005. Simply saying that demonstrates how absurd that argument is.

Supporters of traditional marriage, that is to say, the large majority of the American people—that is the people out there in the States who they are calling upon to make these decisions but are having it taken away from them by a four-liberal-justice to three-liberal-justice decision in Massachusetts—have not dictated the timetable here. The minority who want to redefine marriage have done that. They brought the lawsuits that took these issues from the American people.

Since the Supreme Judicial Court of Massachusetts had used the State constitution to redefine marriage, amending the State constitution is the only way to protect it. Yet the court gave the legislatures just 6 months to do what it knew in Massachusetts takes 3 years to do under their constitutional form of government. This issue is already out of the people's hands.

As Senator SMITH said on this floor last week, words have meaning. Activists, with the help of judges, are seeking to change the meaning of the word ''marriage'' to further their political agenda. The proponents of the marriage amendment are saying: Stop. We want to retain the word ''marriage'' to its real meaning of a male and female union, and it is inescapable that amending the U.S. Constitution is the only way to accomplish that goal.

Think about it. I don't have any desire to discriminate against anybody, let alone homosexuals in our society or gay people. I know the distinguished Senator from Oregon feels exactly the way I do about it. I have been the author of the three AIDS bills along with Senator KENNEDY. We fought those through here on this floor against what were overwhelming odds at the time and passed them overwhelmingly because of the arguments we made. It is no secret that along with Senators SMITH, FEINSTEIN, KENNEDY, and others, I am the author of a hate crimes statute that I believe would do justice in our society while still preserving capital punishment. But it is a long way from where we have been.

There is no question that I do not believe in discriminating against gays. But like my friends on this side who have always argued, particularly my friend from Oregon, I draw the line, as do he and others, when it comes to traditional marriage. I believe it is the basic fabric of our country. Traditional marriage means children. It means raising children born to that marriage. I believe gay people ought to be able to do whatever they believe they should in the privacy of their own homes, but I don't think they should have the right to redefine traditional marriage.

We have had traditional marriage in this world for over 5,000 years. This is not some itty-bitty, inconsequential, off-the-subject debate. This is one of the most important debates in history.

Because if we don't stand up for traditional marriage at a time when a lot of things seem to be falling apart, we are going to reap the whirlwind.

This is an age where any child can bring up pornography on the Internet. At one time if you clicked on Harry Potter, you would get pornography geared to those children. We all know that. Click on almost any children's book or subject or title or person mentioned in a children's book and you get pornography for children. I don't need to go through all the other ills of our society to let everybody know that we are living in a world where there is a lot of filth, a lot of degradation. We have to stand up against it. We have to protect the traditions that do make sense in our society, and traditional marriage is at the top of the list.

We might differ on some other matters, but it is difficult for me to see how anybody could differ on traditional marriage, even though I know my gay friends do. Does that justify the laws in some, if not all, States that prohibit a gay partner from being able to go into an intensive care unit and care for his or her gay partner? That doesn't justify that. I think that is terrible, that our laws do not take care of that. Does it mean a gay person can't benefit from the laws of estates and trusts? I believe under current laws they can, but if they can't, we ought to correct those laws. Does it mean they can't buy insurance for their gay partner? We ought to make it possible that they can. You could go through various things where there are inequities, but we don't solve those inequities by changing a 5,000-plus-year definition of traditional marriage. We should solve those problems, and I am willing to work on these problems with my liberal counterparts on the other side and conservatives as well, I am willing to work and try to resolve the problems. But I simply draw the line when it comes to traditional marriage.

Gay people have a right to be free, to not be discriminated against. They have a right to live in their relationships within the privacy of their own homes, just like others who have different approaches toward life. But that doesn't give them or anybody else the right to define traditional marriage.

I come from a culture where at one time polygamy was a religious belief and was practiced by a small percentage of people in my faith. My great-grandfather was one of the great colonists, one of the great pioneers of the West. Jeremiah Hatch had 3 wives and 30 children. Those were the days when they lived this principle because they believed it to be a spiritual principle. They believed it was important to bring as many children into the world as they could, among other things. They believed it was a spiritual principle of the faith. But when Reynolds v. Simms came down, the Supreme Court case not allowing plural marriage, basically my faith did away with plural marriage. I have to say no one would argue that it should ever come back. Just to make the point, I would never argue that it should come back. I have been offended by some people indicating that there might be some argument for it.

What is important here is that all we are asking in this amendment is, sentence one:

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

That is 5,000 years of practice throughout the world.

And the second sentence says:

> 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.

That does not say you cannot have civil unions because if a State determines that is what they should do, then the State can determine that. If you want to leave it up to the States, this is the way to do it. Not only would 38 States have to ratify this amendment—and I believe all 50 would—but they would also have the right, if they so choose, to resolve these problems I have been mentioning here that are problems for gay people that ought to be resolved.

The important thing is that if we are going to leave it up to the people, this is the way to do it. It is the only way to do it. Otherwise we are leaving it up to four liberal justices in Massachusetts versus three liberal justices in Massachusetts who didn't agree with them and who basically opted for traditional marriage or at least who seemed to opt for traditional marriage.

There is a vast movement beginning in America in every State legislature to amend their constitutions to prohibit or should I say to reaffirm the respective State's belief in traditional marriage. Assuming that most States will do this—and I believe most will—would those State constitutions be upheld under the Lawrence case or under any future cases? There is a real question whether that may be the case.

The best way to allow the people to decide this is to have a constitutional amendment so that they really have a say in what goes on. I can live with whatever the people decide to do. But doing it this way, by allowing a 4-to-3 vote in Massachusetts to bind every State in the Union to Massachusetts marriages through the full faith and credit clause, seems to me to be something that flies in the face of 5,000 years of traditional marriage and family life.

I notice the distinguished Senator from Kentucky here.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. BUNNING. Mr. President, I thank the chairman for yielding. I rise to discuss probably the most important issue this body or I have ever debated on the floor of the Senate since I have been a member, 6 years.

Our Nation faces a potential disaster. I hope my colleagues in the Senate realize we have a responsibility to affirm the ideal of marriage and protect one of the most basic building blocks of our society: the family.

The first thing we have to understand is that Government did not create marriage or the union between man and woman. It is something much more fundamental than legislation or laws. Marriage is older than the Constitution of the United States. It is older than America. Marriage exists in every known human society, bringing men and women together to create and to provide for the next generation of society, and it is not the right of any government anywhere to undermine or destroy it. It is a shame that some of my colleagues in the Senate do not recognize the pressing need before us to safeguard a cultural institution that has served human beings so well for thousands of generations. We must act before it is too late.

In America today, we are facing a depressing situation, where unelected officials are attempting, because of their own arrogance, to redefine marriage. I do not know the reason why these judges believe they are so wise and how they cannot see the dangerous consequences of their actions. But they now threaten our way of life. It is up to us to act to ensure that the American people have the opportunity to decide what is right for the society in which they live.

Marriage matters to our society. Mothers and fathers both matter to children. Only a man and a woman have the ability to create children. It is the law of nature. No matter how much some might not like it or want to change it or push for technology to replace it, this law is irrefutable. It is upon this law that so much of our society and our cultural institutions are based—families, communities, work, schools.

When the families suffer, when they are undermined, we all suffer. We know that weak families lead to more poverty, welfare dependence, child abuse, substance abuse, illness, educational failure, and even criminal behavior. Failing to protect marriage will send the message to the next generation that we do not care about them and that we have thrown away a cultural institution that has served human beings throughout recorded history.

Traditional marriage has been central to the understanding of family in Western culture from the very beginning, and the central reason for marriage has been for the rearing of children. Children have the best chance to succeed when they are reared in stable, traditional families. A loving family provides the foundation children need to succeed, and strong families with a man and a woman bonded together for life always have been and always will be the key to such families.

Eight years ago, Congress tried to protect marriage by passing the Defense of Marriage Act, which defined marriage as the legal union between

one man and one woman as husband and wife. As a member at that time of the U.S. House of Representatives, I was proud to support that legislation. But since then, activist judges and some local officials have aggressively tried to circumvent the law and the will of the people in redefining marriage. These extremists have devised a clever strategy to override public opinion and force a redefinition of marriage on the Nation through the court system. Because they knew they could not make their case through elected legislatures, they decided to work through unaccountable officials in hand-picked areas of this country.

The liberals' effort started in Vermont when the State supreme court ordered the State legislature to legalize same-sex marriages or create same-sex civil unions. Then they moved to Massachusetts, where the supreme court forced the State to give full marriage licenses to same-sex couples. This happened even though the citizens of Massachusetts opposed the effort and no law had been passed to authorize it. Nevertheless, in Massachusetts, same-sex marriages became a reality.

The activists will not stop trying to impose their extreme views on all of the rest of us, and they have now plotted a State-by-State strategy to increase the number of judicial decisions redefining marriage without—I say without—the voice of the people being heard.

Under our Constitution, States are required to give full faith and credit to the laws of other States. While the Federal Defense of Marriage Act was once thought to be enough protection for States that did not want to allow same-sex marriages, it now is very clear that the liberals who have no respect for the law are pushing a strategy to completely undermine the Defense of Marriage Act. Now the only recourse left to those of us who want to follow the law and to defend our cultural institutions is to amend the U.S. Constitution.

I wish this were not the case. But States are profoundly threatened by these activist court decisions, and we have been backed into a corner. In the meantime, couples from all over the country have traveled to those States with same-sex marriages to receive their licenses and plan to return to their home States.

At least 42 States have statutes that define marriage as a union of a man and a woman, but because of the acts of a few extremists, all of these laws are threatened. In fact, at least 10 States currently face court challenges to their marriage laws, and 9 States, including my own, Kentucky, expect to have a constitutional amendment on the ballot this fall in efforts to protect traditional marriage. So we are facing a situation where our Constitution and our laws are going to be amended one way or the other—by the people's representatives or by unelected judges.

Those of us who defend traditional marriage were not looking for this struggle, but it has been forced upon us, and I feel we must do what we can to prevail. We believe there is little else left more important to our Nation and to our future. When a small handful of unelected activists take it upon themselves to rewrite laws and to try to overturn cultural institutions we have always relied upon, then we must use every tool at our disposal to defend what we believe is right.

I do not take amending the Constitution of the United States lightly. None of us in this body does. However, the only way to prevent this social misjudgment from being made by the courts is to allow the people to speak on the issue through a constitutional amendment process. It is the most democratic, grassroots, political mechanism available left to let the people speak. The people are the ones who live under the law. They should be able to decide if they want to make such a fundamental and drastic change.

I hear from constituents of the Commonwealth of Kentucky every day asking me, begging me, to support the Federal marriage amendment so they can be heard. In fact, I hear more about this than probably any other issue since I was elected to office. It is that important to that many people. And because it is such a critical issue—traditional marriage—any attempt to change something so fundamental should be ultimately left to all of the people and not a select few to decide.

We must act, and we must act now. I urge my colleagues to let the voice of the people be heard and act to save marriage. Please support this constitutional amendment to define what marriage is. It is the most important action we can take in this Senate.

I urge support, and I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I suggest the absence of a quorum and ask that the time be equally divided.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. 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. KYL. Mr. President, today I rise in support of S. J. Res. 40, the Federal marriage amendment to the U.S. Constitution. I do so with conviction that this course is the right one, but with considerable frustration that we have come to this point as a nation. This constitutional amendment, in my view, should not be necessary.

The core definition of Western civilization's most stable and important social institution, traditional marriage, should not be jeopardized by litigation and court decisions. Activist trial lawyers should not be filing lawsuits asking courts to change the basic rules of marriage for all society. Judges should not be denouncing traditional marriages as a stain on the Constitution that must be washed away. But that is where we are: Confronting a coordinated, well-funded, and persistent campaign in the courts to undermine marriage.

After careful study, I have come to the conclusion that the only way to protect traditional marriage from these undemocratic forces is to pursue a constitutional amendment that protects traditional marriage. Only through such a constitutional amendment process will the American people genuinely have the opportunity to speak out and guarantee that traditional marriage is protected.

I wish to spend a few moments explaining why I think this issue is so important.

In short, traditional marriage—marriage as the union between a man and a woman—exists, first and foremost, as the best environment for the protection and nurturing of children. Traditional families are where we hope the children will be born and raised, and where we expect them to receive their values. And we hope these things for a good reason.

As one social scientist who testified before the Finance Committee earlier this year said, children on average experience the highest levels of overall well-being in the context of healthy marital relationships.

This testimony is consistent with an overwhelming body of social science testimony received by the Finance, Health, Judiciary, and Commerce Committees earlier this year. If we want our Nation's children to do well, we need to do what we can to ensure they grow up with mothers and fathers. So we need to protect the place where mothers and fathers properly unite—marriage.

I believe traditional marriage is an institution worth saving, and I believe we send a very important message to our children when we stand up for the institution of marriage. We tell them that marriage matters; that traditional family life is a thing to be honored, valued, and protected. We tell them marriage is the best environment for raising children, and we tell them every child deserves a mother and a father. We point them to the ideal and that the radical redefinition of marriage through the court threatens this ideal.

We cannot strip marriage of its core—that it be the union of a man and woman—and expect the institution to survive, as we have come to know it.

It is because I feel so strongly about preserving and even encouraging a healthy marriage culture that I have been so disturbed by the legal developments our Nation has witnessed over the past 10 years. We are on the Senate floor discussing an amendment to the Constitution because activist lawyers persist in filing lawsuits to force States to redefine marriage to include same-sex couples. These activists are

dodging the will of the American people who overwhelmingly oppose a redefinition of marriage and instead have been asking judges to rewrite the marriage laws.

More than a year ago, I asked the staff of the Republican Policy Committee, which I am privileged to chair, to analyze the court campaign of these activists and to speculate on their prospects for success. We concluded at that time the Massachusetts high court would likely find traditional marriage unconstitutional, and that a number of lawsuits attacking marriage would begin to expand dramatically.

While some quarreled with those predictions, unfortunately they have proven to be 100 percent correct. I wish to summarize briefly these legal developments that brought us to the point we are.

There is in this country a collection of activist lawyers who genuinely and sincerely believe marriage should be redesigned so couples of the same sex could marry. Groups such as the ACLU, Lambda Legal, and Gay and Lesbian Advocates and Defenders, GLAD, and others have frankly explained their strategy. Their goal is to use the courts to force the entire Nation to adopt same-sex marriage. They understand they cannot do it through the democratic process convincing people of the wisdom of their position, but must rather succeed in convincing judges to overturn our long-time understanding of the meaning of marriage.

They saw their first great victory in Vermont in 1999. In response to a suit by the ACLU and other activist groups, the Vermont State Supreme Court ordered the legislature to recognize same-sex marriage or to create some form of civil union that was exactly like marriage.

Vermont citizens at the time opposed both same-sex marriages and civil unions, but the court mandate was clear: Legislators must create same-sex marriage or some form of same-sex civil union or the court would do it for them. The legislators chose civil unions in the face of the court's dictate, but it can hardly be said that they acted in accordance with the democratic process. No, this was ruled by lawsuit, not by legislation.

These activist lawyers who had succeeded in Vermont quickly turned to new States, this time aiming for a complete transformation of the marriage laws. It is true that homosexual couples had gained all the rights and benefits available under Vermont law as married couples. The same-sex marriage activists did not just want rights and benefits, they wanted to redefine marriage itself to change the cultural norms that have characterized this institution of man and woman for ages.

These groups acted carefully. They put most of their efforts into a new lawsuit in Massachusetts. The people of Massachusetts opposed same-sex marriage, and their legislators would never change the law to allow it. But the activists were not interested in a democratic solution. They knew they could not convince many millions of citizens to undermine traditional marriage, so they decided to focus on just four people, the majority of the supreme court of the State. They did what too many Americans do nowadays, they filed a lawsuit. The result was a resounding defeat for traditional marriage and the people of Massachusetts who continue to oppose same-sex marriage in their State.

In November 2003, a 4-to-3 majority of the Massachusetts Supreme Judicial Court ruled in Goodridge v. Massachusetts Department of Health that the State constitution required the State to recognize same-sex marriages.

Of course, the State constitution said no such thing. It contained the same basic equal protection and due process clauses that exist in most State constitutions and in our U.S. Constitution. These clauses had never been understood to require the rewriting of marriage itself, but that is what the four judges determined.

As breathtaking as this decision was, even more stunning was the disdain that these four judges showed for traditional marriage and its supporters. The court wrote that there was ''no rational reason'' to preserve traditional marriage laws; that support for traditional marriage was rooted in little more than ''persistent prejudices'' and that the several-thousand-year-old institution of marriage was little more than ''an evolving paradigm'' that could be redrafted and rewritten by the courts whenever they desired.

One judge even scoffed at what he called the ''mantra of tradition.'' In a followup opinion reaffirming and expanding the earlier decision a few months later, the same four justices even said that the marriage laws of Massachusetts were ''a stain on the Constitution,'' and that the stain must be eradicated by the court.

Incredibly, the court even suggested that it would be better to abolish civil marriage altogether than preserve it in its traditional form.

On May 17 of this year, the Goodridge decision took effect, and the State began issuing same-sex marriage licenses in Massachusetts. Many same-sex couples from other States traveled to Massachusetts and then returned back to their own States.

While the Massachusetts Legislature has given preliminary approval to a State constitutional amendment to return marriage to its traditional meaning, it will be more than 2 years before the citizens can even vote on that amendment. In the meantime, for hundreds of people who have traveled to Massachusetts from all over the country, same-sex marriage is a reality.

So what happens next? Is it realistic to believe that same-sex marriage can be isolated to Massachusetts? Will the activist lawyers who brought that suit continue to press their claims on behalf of these ''couples'' who return to their States of residence? The answer is clear. The activist groups already are seeking to bypass the legislative process and impose their agenda through courts in other States.

There are now more than 35 lawsuits pending in 11 States across our Nation in which States' marriage laws have been challenged as unconstitutional, States such as California, Florida, Indiana, Maryland, Nebraska, New Jersey, New Mexico, New York, Oregon, Washington, and West Virginia. Many of these lawsuits are brought by the same lawyers who filed suits in Vermont and Massachusetts, activists from the ACLU, LAMBDA Legal, and GLAD in particular. In fact, the lawsuit in Maryland was filed only last week by the same legal team at the ACLU that is managing lawsuits in New Jersey and elsewhere. Many more lawsuits surely will follow.

As I said, the activist court strategy is no secret. The ACLU, LAMBDA Legal, a group calling itself Freedom to Marry, are very open about their hopes of imposing same-sex marriage through the courts.

Let us look at some of the lawsuits we can expect. First, these activists will file more suits challenging State marriage laws the same way they did in Massachusetts and are doing in 11 other States today.

Second, there will be lawsuits seeking to strike down the Defense of Marriage Act so that same-sex couples can get access to Federal benefits such as tax filing status, Social Security benefits from same-sex partners, and many of the other benefits or rights that the Federal Government grants to married spouses.

Already, for example, there is a lawsuit pending in Florida that directly claims that DOMA is unconstitutional.

Third, these activists will file lawsuits trying to force other States to recognize same-sex marriages in Massachusetts and any other place where they can convince judges to change the marriage laws against the people's will. Such a lawsuit currently is pending in Washington State, where a same-sex couple received a marriage license in Oregon and now insists that Washington must recognize that marriage, despite clear State law to the contrary.

Finally, there will be many other lawsuits that cannot be anticipated that will happen as same-sex married couples move from State to State, as many Americans nowadays do. These couples will try to get divorced when marriages fail. They will try to execute and enforce wills when one of them dies. They will have all kinds of run-of-the-mill business disputes as happens in other situations, and courts will struggle to figure out how to treat their legal relationships when these disputes arise.

Those struggles will take on a constitutional dimension. For example, two women who received a marriage license in Canada later decided to declare bankruptcy in Washington State.

They filed their petition jointly as though they were married. Because all bankruptcies are filed in Federal court pursuant to Federal law, the Defense of Marriage Act is implicated. The bankruptcy trustee has objected to their joint petition, citing DOMA's provision that for the purposes of all Federal law, marriage is the union of a man and a woman.

The bankruptcy petitioners now argue that DOMA itself is unconstitutional and that the bankruptcy court must recognize the Canadian same-sex marriage. Thus, a simple bankruptcy petition has taken on constitutional dimensions. Cases such as this will proliferate, some filed by activists and some filed by citizens just trying to live their lives, as appears to be the case in the bankruptcy petition in Washington State.

The result will be tremendous confusion in the courts throughout the Nation, as some States recognize same-sex marriage for some purposes while other States recognize them only for other purposes.

As these lawsuits progress, it will be the courts, not the people, that make the decisions on whether same-sex marriage will spread throughout the entire Nation.

In the not too distant future, the legal activists who are managing this attack on traditional marriage laws will decide that they are ready for the big case, a case before the U.S. Supreme Court. After wreaking havoc on traditional marriage throughout the Nation, these activists will tell the Supreme Court that the confusion in the States demands a national solution. They will argue, not unpersuasively, that we are one Nation, that we cannot long function with such fundamentally inconsistent understandings of marriage.

When that day comes, when the U.S. Supreme Court is presented with the opportunity to rule traditional marriage laws unconstitutional, it is very possible that the Court will side not with the oft-surveyed views of the American people but rather will find a constitutional reason to say the people have been wrong all this time.

Legal and cultural confusion cannot long endure on this question. When a case reaches the Supreme Court, it most likely will craft a national solution. What the same-sex marriage activists expect and hope for is exactly the result that concerns me. Once the Court has spoken, while there surely will be great public outcry if contrary to public opinion, our history shows it is very difficult to change a Supreme Court decision by constitutional amendment.

The only way the American people will ever have a voice in this matter is if Congress sends to the States for ratification a constitutional amendment defining and protecting traditional marriage. Federal DOMA, which has already been challenged, could easily be struck down by the courts. Marriage laws in the States likely will be struck down just as happened in Massachusetts. No Federal law, no Federal regulation, no State law, no State constitutional amendment, can prevent this from happening. The only solution is an amendment to the Constitution and the only question is when to start the process. The more time that elapses with conflicting State law and same-sex couples seeking to have their marriages recognized in different States, the more our society will be conflicted and the more lawyers and judges will be making the decisions.

The constitutional process is the most democratic, the most grassroots, the most respectful process available for the establishment of national policy. A constitutional amendment requires the support of two-thirds of both Houses of Congress. Then it requires the support of the legislatures of three-fourths of the States of the Union. Then, and only then, can the amendment become effective.

This is, as it should be, a very high hurdle. But it is a high hurdle that guarantees that the American people have a full and complete opportunity to speak to the issue, that they can express their views to their Senators, to their Congressmen, and to their State legislators. It takes time, but in the end, as opposed to court decisions, if a constitutional amendment passes, we know that the American people want it.

Look at the proposed constitutional amendment that is before us and examine what it will do. It is on the chart directly behind me. The first sentence reads:

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

The sentence is straightforward. It provides a common definition of marriage throughout the United States, one man and one woman. It guarantees that the central definition of marriage is preserved throughout our country. It protects the American people who overwhelmingly believe traditional marriage should survive against those who would undermine it. We are one nation. While we have a wide variation in many thousands of laws among different jurisdictions, for the central, core issues in the way we organize our society, we have common views and common laws.

That is why, as a nation, we denied one State admission into the Union until it outlawed polygamy. We recognized that marriage was only between one man and one woman, and we would not even let that State enter the Union if it did not agree with that basic, core value.

This first sentence just reaffirms what has long been our national policy and ensures that no court can say otherwise.

Now, turning to the second sentence, it reads.

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.

This sentence simply ensures that only the people or their elected representatives, not judges, can decide whether to allow marriage or its legal incidents can be conferred on people. This would prevent what happened in Vermont. The State supreme court hijacked the democratic process and coerced the legislature to create same-sex civil unions. The people didn't want it but the court decreed it. The second sentence of this amendment would prevent that kind of result.

The reason to add the second sentence, thus, would be to ensure no court would be able to construe the State or Federal constitution to require the creation of same-sex marriage or any institution or arrangement containing the incidents or benefits that derive from marriage itself. In other words, courts will not be able to create a right to civil unions based on the equal protection or due process clauses of the Constitution. They will not be able to twist the constitutional language, in other words, to serve these narrow policy goals.

However, the marriage amendment in no way bars or bans these kinds of special civil union or domestic partnership arrangements, as long as they are enacted through the legislative process. The marriage amendment preserves our current State organized regime by protecting the rights of citizens to act in their State legislatures to provide whatever benefits to same-sex couples that they should choose. Those benefits could be narrow, granting special inheritance rights, for example, or they could be broad, a full civil union law, for example.

In another example the legislatures of California and New Jersey have recently created arrangements they call domestic partnerships, that grant many of the benefits of marriage to same-sex couples.

Let me say again, the legislatures of those States passed those laws. Benefits were granted through the democratic process. Nothing in the marriage amendment prevents the citizens of a State from acting through their regular legislative process to grant benefits to same-sex couples in that State. So if a State wanted to create marriage-like ''civil unions,'' it could still do so. A legislature's only constraint is it could not create same-sex marriage.

Before I close, I would like to say a few words to address a concern about the amendment that I have heard expressed by some of my Senate colleagues. Some claim the question of same-sex marriage can be handled effectively on a State-by-State basis. Some, including people I respect very much, have told me if Massachusetts wants to have same-sex marriage, it should be able to do so and that Arizonans should not care. They argue that because our States tend to manage most family law matters, there is no reason to place this issue in the U.S.

Constitution. They think of the issue as a thing of the distant future, something that we need not bother with. ''Let Massachusetts worry it,'' in effect.

I respect those who make this argument, but I strongly disagree with the notion that Congress can punt on the protection of marriage. The problem, it seems to me, with this line of thinking is that it assumes—in perfectly good faith, I am sure—a world that simply does not exist. The citizens of each State are not being permitted to decide this question. We should all sympathize with the citizens of Massachusetts who have been forced to see marriage in their State redefined and undermined, without the vote of the legislature or the citizens of that State.

Massachusetts is only the beginning. We see from the 35-plus lawsuits in 11 different States that the activists will continue to campaign in the courts. The lawyers who are championing this cause are not going to permit a State-by-State democratic solution. States rights implies not the courts but the people making the decisions.

The most prominent leader of the same-sex marriage movement, Evan Wolfson, who helped file the lawsuits in Vermont and Massachusetts and elsewhere, has candidly made the point. He scoffs at those who think the Nation can tolerate fundamentally different conceptions of marriage on a State-by-State basis. He understands that it is all or nothing. As he says on his Web site:

America is one country, not 50 separate kingdoms. If you're married you're married.

In other words, people move around so much in this Nation that we cannot long endure a scenario in which some marriages disappear at the State line. The legal, social, and cultural complications are simply too great. The question of whether traditional marriage is to survive must ultimately be decided for the entire Nation.

In conclusion, the question is, Who decides? Will it be judges, scattered across the land and ultimately over in the Supreme Court? Or will it be the American people, through the constitutional amendment process? This is not some idle question of political theory. The process determines the result. If courts make the decision, they will redefine marriage for every State. If the people can decide, I have confidence they will stand up for marriage.

So, in conclusion, I call on my colleagues not to stand in the way of the people's right to speak. Let the American people make the ultimate decision as to whether we will jettison thousands of years of history and reinvent marriage or whether we will stand by the institution that we all rely upon so much for the future of our children.

I will say it again. This question cannot and will not ever be decided on a State-by-State basis. Either we will preserve traditional marriage in this Nation or we will see it redefined everywhere. The vote we will have in this Chamber is the first step, and I hope my colleagues will join me in making the right one.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Will the Senator from Arizona yield for a question?

Mr. KYL. I am happy to yield.

Mr. SANTORUM. The last point my colleague made is one that is very important. A lot of people in the Senate, and even some across the country, have suggested that the Defense of Marriage Act will stand.

There is a lot of legal opinion. The Senator from Utah spoke about how the Defense of Marriage Act probably will not stand. But your point is, even if the Defense of Marriage Act stands, the Defense of Marriage Act only protects States from other States forcing their laws on us.

Your point is even if that State can resist that, you lose anyway. Can you explain that? I think that is a very important point. The Defense of Marriage Act really doesn't save marriage.

Mr. KYL. Mr. President, I think the Senator from Pennsylvania is exactly correct. I would like to argue that the Defense of Marriage Act is constitutional, but I share the same concerns that have been expressed by others, that the Court will find it unconstitutional. But in either result, this challenge will continue in the State courts. We have the precedent of Massachusetts, and a very clear strategy that the lawyers on the other side have outlined. They have not tried to hide their intentions. They have been very forthright about their intentions of getting State courts to declare State laws and the State constitutions to require same-sex marriage, just as they did in the State of Massachusetts. These 35 lawsuits in 11 different States—at least some of them—will argue this precise point. It is quite possible that on the same basis that the Massachusetts Supreme Court decided that its due process and equal protection language required the recognition of same-sex marriages, that identical language or almost identical language in all of the State constitutions—identical also, by the way, to the Federal Constitution—would require that other States like Massachusetts recognize same-sex marriage. So it won't matter that DOMA says that one State doesn't have to recognize the marriages of another if State by State the courts decide that in those respective States the law requires or the Constitution requires otherwise.

Mr. SANTORUM. The potential exists if DOMA is maintained and protected that you could have—let us just say some of the more liberal State courts that we have out there, whether it is Massachusetts, New Jersey, California, New York, big States—most of these are actually fairly large States that we are talking about—if marriage were defined in those States and let us say not in Pennsylvania, Arizona, Utah, or Alabama, what would be the result? How would America function? What would marriage be in America? What would be the environment in which we would be living? It is a very interesting question we are now faced with just in Massachusetts, but we have sort of seen one isolated little case that is still in question. But as an accepted matter that there are now in many States potentially couples who are married who are not traditional couples, what would be the impact on our society?

Mr. KYL. Mr. President, there is one area I agree with the proponents of same-sex marriage on, and that is, the country is going to go one way or the other. You cannot survive a situation in which some States recognize certain benefits, other States recognize other benefits, other States don't recognize any, others recognize same-sex marriages, others, civil unions, and so forth. He makes the point that it has to ultimately be all or nothing. I don't see how on that point he is wrong because people in this country move around.

I cited the case of the bankruptcy petition filed by the Canadian couple, but it could have just as easily been a married couple in Oregon and moving to Washington. The fact is disputes will arise all over the country in courts of States that didn't necessarily confront the question but will have to confront some element of it. When two people present themselves as having been lawfully married in another State and they have some dispute between them, the court of my State, for example, isn't going to be able to avoid the issue and will have to decide one way or other.

We are going to end up, I fear, in the situation in which a definition of marriage has many different meanings all across the country. Something as fundamental as that—as I said, the one thing I agree with the proponents of same-sex marriage on—cannot stand. You have to either define it one way or the other for our society to function—just to function. It becomes a question of, A, what that definition should be—and that is why I have a disagreement with those folks—and, B, who makes the decision.

My primary point is that the people of the country should be making the decision, not just a few lawyers and judges. The best way for people to have a voice in this is by the constitutional process in which they are directly and indirectly involved through the Senate, through the House, and through their own State legislatures.

Mr. SANTORUM. I thank the Senator.

Mr. SESSIONS. Mr. President, will the Senator from Arizona yield?

Mr. KYL. I would be happy to yield. I actually give up the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SESSIONS. Mr. President, I thank the Senator from Arizona. He is one of the Senate's finest legal scholars. He has argued a number of cases

before the Supreme Court, I believe three or more. He won all of those cases. There is not one lawyer in a thousand in America who has argued a case before the Supreme Court, much less three.

I would like to just ask one simple fundamental question, if the Senator could explain it to our colleagues and to the people of this country. If the Supreme Court found, as they indicated that they may in the case of Lawrence v. Texas, that marriage under the Due Process or Equal Protection clauses of the Constitution has to include same-sex marriages rather than just the traditional marriage form, will that not wipe out all of the constitutional amendments that are being passed in the States of America and all the statutes in America and the Defense of Marriage Act that we passed in this Congress?

Mr. KYL. Mr. President, the Senator from Alabama is also an extraordinarily fine lawyer in his own right. Of course, the answer is yes. Once the Supreme Court has spoken, and there is language in this Lawrence case that suggests to many that the Court would be inclined to rule in that fashion, then the Court has just enunciated the supreme law of the land and no State constitutional provision or Federal law in any way could attempt to override that. That would be the law of the land.

Mr. SESSIONS. If California passed it with 90 percent of the vote, or 60 percent, as I believe they did pass a statute by ballot initiative, no matter what the people voted, it would be trumped and wiped out by the ruling.

Mr. KYL. Mr. President, the Senator from Alabama is correct. The Federal Constitution trumps State constitutions. Even if the people of a State amend their own State constitution, were the Supreme Court to declare that same-sex marriages are required by the equal protection or the due process clause of the U.S. Constitution, that would be the supreme law of the land, overriding any other Federal law, State law, or State constitution.

Mr. SESSIONS. I thank the Senator from Arizona.

Mr. President, I would like to share a few thoughts this afternoon. I thank him for his insight into the complexity and the confusion that will result if we don't have a national standard as we have always had on marriage.

I thank the Senator from Pennsylvania for his courage and compassion and understanding of the importance of family.

I thank the President for his eloquent remarks last Friday on this important matter.

I thank the chairman of the Judiciary Committee, Senator HATCH, for his brilliance and for the comprehensive statements he made today and Friday concerning the need for and the custom and the legality of a constitutional amendment on this question.

People say, Why do we need to do it now?

I was in a hearing and one of the individuals said, Well, the State of Massachusetts may pass a constitutional amendment, and that would sort of, he indicated, solve the problem. I asked him, if it is all right for the people of Massachusetts or Michigan or Alabama or Utah to pass a constitutional amendment that defines marriage, what is wrong with the people of the United States and the Federal system passing a constitutional amendment to deal with marriage?

All of the people who seem to be questioning and suggesting we should not go forward with this kind of amendment are doing so on the basis that State constitutions are being amended. But as we heard from Senator KYL, a State constitution will not solve the matter if the Supreme Court acts as they have indicated they will. I believe it is perfectly appropriate for the people of the United States to consider whether they would want to amend our Constitution.

Some say that marriage is just not important, that this is not a matter we ought to spend any time on, and why now. They say, you are just bringing this up because there is an election ongoing. Let me say that it was just last year that the Supreme Court ruled in Lawrence. It was less than a year ago when Massachusetts ruled in their case that made so much of an impact, and the result of the Massachusetts case was just brought into effect May 17 of this year.

What started this debate was not people who believe in family as we have always known it. They didn't start this debate. They didn't start the discussion, the debate and legal activism, that attempts to change a fundamental American institution. It was the courts that did so activist lawyers and activist judges.

It would indeed be unthinkable to most people that we would ever need to discuss a constitutional amendment to defend marriage. Unfortunately, the integrity of the legal system is being eroded as political agendas are being implemented more and more through rulings of the courts. That, let me say, fundamentally goes to the heart of the American democracy.

Democracy in this country rests power with the people. But lifetime-appointed judges usurp this power—and it does not even take all nine on the Supreme Court, or all seven on the Massachusetts Supreme Court. In fact, it was four out of the seven judges on the Massachusetts Supreme Judicial Court, unaccountable to the public, who issued an opinion and cannot be held to account.

If we vote on issues the American people do not affirm, do not approve of and object to, we can be removed from office. That is the way the system works.

We must not allow this power to go to the courts. In fact, that is precisely the issue that has driven the debate ever since President Bush has been in office, even going back to President Reagan: What do you want out of judges on the courts of America? Do we want judges who impose agendas to do what they think is right under the circumstances? Or do you want judges who follow the law—Judges who care about the law and are respectful of it and indeed respectful of the people of the United States of America who, through their elected representatives, they believe should be setting social policy in this country.

That is the challenge we are facing. That is the second important part of this debate. The first is marriage is an institution of tremendous importance and the rulings we have seen in courts today will undoubtedly erode the validity, impact, and power of that institution that has helped raise healthy generations of Americans year after year. That is one aspect.

The other aspect is the power of unelected judges. That power is frightening. We have seen a number of opinions from the Supreme Court of the United States that cause concern. We saw the Supreme Court avoid ruling recently on the Pledge of Allegiance case that challenged the ''under God'' language in the Pledge. They could have ruled on that and nailed that issue down. I suspect it suggests the Court is undecided about that. Certainly a number of their opinions have given a basis for the Ninth Circuit Court of Appeals to strike down the Pledge of Allegiance.

The Supreme Court of the United States, in my view, is seriously drifting from its principles. We have had members of that court, more than one, start talking about European law as they analyze legal matters. They have forgotten the American Constitution is a contract between the American people and their Government. It empowers our Government to carry on certain powers and not to do others and retain to the democratic process other actions.

This amendment will have a twofold impact. No. 1, it will protect the integrity of marriage, a critical institution to our culture; No. 2, it will indicate to our courts that the American people are not incapable of defending their liberties when they are under attack by courts. They seem to think this issue will be stirred up for a number of months and then it will settle down and people will go away; that is the way it is going to be, do not worry about it. There will be editorials and church people will carry a sign and someone will sign a petition, but we have lifetime appointments and we are like philosopher kings. We can see the long term and what is good for America. We have decided this is the right thing for America to do. We will take the heat for a few months or a year or two and it will go away, we will be affirmed, and we will affirm our view and stand by it and that will be the end of that. These small-minded citizens will go away.

I am afraid there is an arrogance in some of these opinions that goes that far. It disturbs me.

One of the dissenting justices in the State of Massachusetts, I suppose the most liberal State in the country, certainly the most liberal judiciary, stated that the Goodridge v. Massachusetts decision ''exceeds the bounds of judicial restraint,'' and he went on to note this decision ''replaces the intent of the legislature with that of the court.''

In other words, that is precisely what they did. The judges on the court, four of the seven, got it in their minds how marriage ought to be defined in America and they went back and took the equal protection clause of the state constitution, very similar to the U.S. Constitution, and the Massachusetts Supreme Judicial Court interpreted that clause to effect a policy change that the founders and the drafters of that constitution certainly never thought possible many years before when that equal protection clause was passed.

I suggest, without doubt, it replaced the intent of a legislature, a body in Massachusetts that is accountable to the public, with the intent of the court. That is what activism is. That is what Senator HATCH so eloquently talked about for many years in the committee he chairs. When judges impose their personal or political views, liberal or conservative, through the redefinition of the meaning of language in the Constitution, they are activist judges. We need to deal with that.

I will take a moment to go over something that has been discussed before, the Lawrence v. Texas case in 2003. Some say the Supreme Court is not going to say we have to recognize same-sex marriages along with traditional marriage. Read that opinion. Senator HATCH pointed it out.

This is the language of the Court:

> In Planned Parenthood in Southeastern Pa. v. Casey, the court reaffirmed the substantive force of the liberty protected by the Due Process Clause.

That is broad language, trust me. I don't know what that means, but it is not good.

I repeat: ''reaffirmed the substantive force of the liberty protected by the Due Process Clause.''

And continuing:

> The Casey decision again confirmed that our laws and tradition afford constitutional protection to personal decisions relating to marriage, procreation, contraception, family relationships, child rearing, and education . . .

And they went on to state:

> Persons in a homosexual relationship may seek autonomy for these purposes, just as heterosexual persons do.

So, persons ''in homosexual relationship may seek'' the same protections for these purposes, the purposes above, which includes marriage.

Justice Kennedy, who wrote the opinion for the majority in Lawrence, made clear that the holding of the case did not involve formal recognition of same-sex marriage because the holding of the case had to do with sodomy laws in Texas. It didn't have anything to do with marriage. It does not involve whether the Government must give formal recognition to any relationship that ''homosexual persons seek to enter.'' He suggests it was not about marriage.

The Court did not issue a decision about marriage—that is correct. Justice Scalia is also correct in responding, saying ''this case 'does not involve' the issue of homosexual marriage only if one entertains the belief that principle and logic have nothing to do with the decisions of this court.''

In other words, the logic of the case is so compelling and powerful that if properly applied to the next case that comes before the Court, it will hold that homosexual marriage must be recognized in the same way.

That is why we are here. No one, in my view—not one Member of this body—would be able to say that marriage, as we have traditionally known it in America, is not in jeopardy as a result of this opinion. Everybody knows the Supreme Court of the United States is on the verge or may be on the verge of ruling like the Massachusetts Supreme Judicial Court did.

So marriage in America under the U.S. Supreme Court is in jeopardy. Marriage as we know it is in jeopardy by the Supreme Court. So what is wrong with this body simply allowing the American people, through their elected representatives, to pass a constitutional amendment on something as important as marriage? It is not unimportant. I reject the idea that this institution which is so valuable to our culture is not important and not worth debate in this body. They are the same ones who say: Oh, look, States are passing constitutional amendments. We don't need to pass one. But if States can pass a constitutional amendment, what is wrong with the Federal Government passing one?

And talk about confusion, as Senator KYL said, let's say the Supreme Court rules consistent with Massachusetts. How long will it take for a constitutional amendment to be passed? In the meantime, what will happen to the marriages and all the arrangements that will be accruing around the country legally? Are they all going to be upset?

So if we are concerned about the power of the courts—I know Senator HATCH is because they are reaching beyond the traditional role of a court through activist decisions—and if we are concerned about marriage, why don't we move on this amendment? Why don't we send it forward to the people of the United States so they can consider it? Somebody said: Well, I don't like every word that is in this constitutional amendment. Maybe I could support it, but I would like it to be a little different. Well, if we move this amendment forward on the floor so it can be considered by this body, then people can offer amendments to change it. We will debate and talk about how to better word the amendment if it needs to be changed. I feel comfortable with the way it is, but I am willing to debate and talk about any changes.

I believe this body can make a difference. I believe we need to speak on this issue for several reasons. One is because we need to send a message to the courts that we control the culture of this country, we control how intimate relationships like marriage ought to be defined; that is, we the people, and not unelected, lifetime-appointed judges.

I have another chart to show; a lot of liberal lawyers in the country also agree with what I have been saying. Laurence Tribe, from Harvard Law School, last fall, right after the decision in Lawrence or about the time this decision was rendered, said:

> You'd have to be tone deaf not to get the message from Lawrence that anything that invites people to give same-sex couples less than full respect is constitutionally suspect.

So again, isn't that affirmation of what I have said, that the Supreme Court is on the verge or may yet step forward with a Massachusetts-type ruling?

There is another quote I think is interesting. In Justice Scalia's dissent, he said the Lawrence decision:

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

''Pretty shaky grounds.''

Evan Wolfson, director of the Freedom to Marry group that favors the Massachusetts ruling, said:

> But when [Scalia's] right, he's right. We stand today on the threshold of winning the freedom to marry.

He is talking about the U.S. Supreme Court.

I believe this Senate needs to consider the matter of marriage in America. We need to think seriously about it. We need to consider whether the social science evidence I have discussed and others have discussed earlier indicate these rulings will further undermine marriage in America, thereby endangering our culture, as it inevitably will. And we need to consider the reach of Federal judges which continues to expand beyond their legitimate role.

This amendment provides an opportunity for the people to speak on both those questions. I think it is important for us. I urge my colleagues to think clearly about it. This is not harmful or negative or targeted to anybody. It is an amendment that will focus on affirming traditional marriage, family, and children, which is what a State has a right to be interested in: the institution that nurtures, raises, and educates the next generation who will lead our country. Those are important issues. I hope we will move forward with the debate, we will allow this issue to come before the Senate, we will debate it and debate the language of the amendment—and if we improve it, so be it—and then pass it and send it out to the people of America.

I thank the Presiding Officer and yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). Who yields time?

Mr. HATCH. Mr. President, I suggest the absence of a quorum and ask that the time be divided equally.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CORNYN. 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. CORNYN. I ask unanimous consent that I be permitted to speak for such time as I may consume.

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

Mr. CORNYN. Mr. President, I want to speak for a few minutes about the social impact of the marginalization of the American family and traditional marriage over the past years. First, I want to address specifically some of the questions that have been raised both here in this Chamber and in the media and by others who have asked two main questions that seem to be coming back time and time again. One is, why can't we leave this to the States? Secondly, there are those who ask, why now? Why do we need a Federal constitutional amendment now before the U.S. Supreme Court strikes down traditional marriage laws? And then I would like to address more of the social consequences of what we are seeing.

First, the idea of leaving this decision to the States, while an appealing concept in theory, as a practical matter is impossible. Indeed, as I and others on this floor have said so on many occasions in talking about this issue, it has been decisions out of the U.S. Supreme Court interpreting the Federal Constitution and creating a broad right of personal autonomy that have, even addressing the marriage context and relationships between people of the same sex as well as traditional couples and the institution of marriage, it is that broad rationale that has now been bootstrapped by the Massachusetts Supreme Court in the Goodrich case to create this right, this right that did not exist in 1780 when John Adams wrote the Massachusetts Constitution, but all of a sudden was discovered some 224 years later by the Massachusetts Supreme Court.

Of course, the Massachusetts Supreme Court was not the one who dreamed up this right. We have to give credit where credit is due. And that is to the decision of the U.S. Supreme Court in Griswold v. Connecticut, in the Roemer case out of Colorado, and then in the Lawrence v. Texas case last summer.

It would be nice if we could say, for those of us who do believe in the primary authority of the States in all matters except insofar as the Constitution mandates that it is a Federal Government responsibility, I would at first blush find it appealing to be able to leave such matters and others to the States. But we know as a practical matter that that is impossible; first, because of the likelihood that the current challenges to State marriage laws under the Federal Constitution may succeed under the framework, under the roadmap that has been laid out by the U.S. Supreme Court in Lawrence v. Texas. And those challenges currently exist in Utah, Florida, and Nebraska. So no matter what State laws exist, obviously the Federal Constitution, as interpreted by the U.S. Supreme Court, has supremacy. That is what the supremacy clause is all about.

So while it may be appealing to say that we would like to leave this matter up to the States, the very real and present risk is that a Federal court, interpreting the Federal Constitution, will strike down all State marriage laws that stand in the way of same-sex marriages under the rationale used by the U.S. Supreme Court in Lawrence, as embraced by the Massachusetts Supreme Court in interpreting their State constitution in the Goodridge case.

But there is also another practical consideration, and that is on May 17, when the Massachusetts Supreme Court called traditional marriage a ''stain that must be eradicated,'' terming it ''invidious discrimination'' and without rational basis, when they embraced this revolutionary and radical notion, redefining the traditional institution of marriage after these many years, they didn't just affect the rights of people within the confines of the State of Massachusetts.

What happened, of course, is that couples came to Massachusetts from other States and took advantage of the laws of Massachusetts—at least insofar as interpreted by the Massachusetts Supreme Court—and said they wanted to be married and then move back to the States where they live. Indeed, we know that happened. Same-sex couples have come to Massachusetts and married and returned to their States in 46 different States.

So to suggest that what happens in Massachusetts stays in Massachusetts is wrong, as a practical matter. But the problem is, of course, that now we know there are a handful—I think at last count perhaps 9 or 10—of challenges to State laws restricting marriage or protecting traditional marriage by those who were married in Massachusetts—same-sex couples—who then moved back to their home State and filed a lawsuit in their State courts seeking to force their State to recognize the validity of that same-sex marriage.

As I and others have talked about on numerous occasions, the fact is, this is part of a national litigation strategy by those who would seek to overturn traditional marriage between a man and a woman. And we are not playing offense on this issue; we are playing defense in trying to defend traditional marriage against this national litigation strategy.

So those are just two reasons it is putting your head in the sand to say that this is a matter that is just limited to one State. As a practical matter, we saw on television in San Francisco where one mayor and local officials, in violation of California law, invited people to come there and get married. Now, of course, that issue is balled up in litigation pending before the California Supreme Court. So this is not a local issue confined to the States, nor is it a matter that can be handled, practically or legally or otherwise, by individual States, no matter how hard they might try.

The other question that has been raised is, Why now? The U.S. Supreme Court has not ruled traditional marriage to be unconstitutional and required same-sex marriages a national constitutional matter—not yet. Although it is clear in the hearings that we had in the Senate Judiciary Committee that using the tools that the U.S. Supreme Court provided in these cases that I have already discussed, clearly there is a path mapped out, and the logical conclusion of the rationale used in those decisions is to strike down traditional marriage as we know it.

But the question is, Why now? Some said, well, this may happen—I was talking to one of my colleagues on the other side of the aisle at about noon. He said: Well, this may happen in 3, 4, or 5 years, but it is not an imminent threat right now. So why in the world would we seek to amend the Constitution at this time?

Well, I point, by way of practical example, to what is happening in Massachusetts today. The decision to embrace this radical redefinition of marriage on May 17 was not put to a vote of the people of Massachusetts; it was an edict from the supreme court of that State. But once we saw that the elected representatives of the people of Massachusetts decided to meet and discuss this issue, well, we have seen that they have chosen to reject the decision of the Massachusetts Supreme Court and to protect traditional marriage. The problem is, in Massachusetts, their law requires two successive sessions of the Massachusetts Legislature to meet and agree on the constitutional amendment before it can be passed by the people, effectively meaning that there is no constitutional amendment in that State possible until 2006.

In the meantime, what are the people to do? Well, the people of that State and their elected representatives are watching this progression of same-sex marriages because the Supreme Court of Massachusetts demanded it and ordered it. Even though it is going to ultimately be overruled by the people, in the meantime you are going to have a couple of years in which couples—same-sex couples—are going to seek to be married and be officially married

under the laws of Massachusetts, only to have it then prohibited in 2006 going forward.

Well, I would think that people who ask why now would see that as an example of why it is important to do it here and now—before the Federal courts in this country adopt the reasoning of that Massachusetts case.

We know the U.S. Constitution has been amended 27 times. We know it is reserved for special cases, and the burden on someone who would seek to amend the Constitution is very high—a two-thirds vote of the Congress and three-quarters of the States having to vote to ratify. And that is appropriately so. But it is, as we have discussed, the only way that we the people can have a vote and can have a voice on this important issue, especially once the Federal courts, under the guise of interpreting the Federal Constitution, were to hold otherwise.

We know just from the history of those 27 amendments that, on average, they have taken about 8 years. I could be wrong on that figure, and I will doublecheck that, but it has taken roughly 8 years to ratify an amendment to the Constitution, on average. So we know if, in fact, a Federal court today were to hold that traditional marriage violated the Constitution, then the American people were to decide, through their elected representatives, to pass a constitutional amendment, we may find ourselves in effectively the same box that the people of Massachusetts find themselves in now, where in that case you have effectively a 2-year period in which same-sex couples are getting married under the auspices of the decision of the Massachusetts Supreme Court, and to effectively not be able to undo this example of a very aggressive judicial activism. So the same situation would apply under the Federal Constitution because of the amount of time it usually takes to get a Federal constitutional amendment to pass.

So those are two questions that I wanted to address specifically. But I must also say, Mr. President, that I have been profoundly disappointed at the silence that has been basically the only response we have heard from our colleagues on the other side of the aisle. I truly believe that they would prefer that this issue would just go away and that it not draw too much attention because they know if the American people get energized on this issue, they will agree with those of us who believe that traditional marriage and families are worthy of protection by virtue of this constitutional amendment.

They are hoping that nobody pays very much attention, that it will sort of slide by, and that they will not feel the negative repercussions of their objection to this important amendment and the protection of traditional family and traditional marriage through this process.

I wish rather than just not saying very much at all or anything, they would come to the floor and actually debate the issue. If they think they have a strong case, if they think that reason and justice and logic are on their side, I say let's talk about it.

This is sometimes called the world's greatest deliberative body, but it is hard to have very much deliberation, it is hard to have very much debate if the opponents to this amendment simply boycott the debate and hope the issue passes without many people paying much attention, and they are able, as I said, to avoid the wrath of the people for failing to take what steps we find it within our means and ability to take to protect traditional marriage.

Last March, I chaired a hearing in the Senate Judiciary Subcommittee on the Constitution regarding the decision I mentioned a moment ago, the U.S. Supreme Court's decision in Lawrence v. Texas. The Goodridge decision had not actually been handed down last September when we first had that hearing. But in the interim, between that time and this, of course, in March and then May, we had the Goodridge decision handed down which has resulted in an explosion of litigation across America.

During those hearings, both in September and then later on—we actually had a total of three hearings in the Subcommittee on the Constitution—we had some thought-provoking testimony. But at the hearing in March, I was personally moved by the sentiments of Pastor Daniel de Leon of the Templo Calvario Church in California and the testimony of Rev. Richard Richardson of the African Methodist Episcopal Church in Boston whom we were honored to have in attendance.

Both testified they would rather be at home working with the members of their congregations rather than having to come to Washington to testify why it is important to defend traditional marriage. But it is because of the work they do, because they see the results in the decline of marriage and traditional families in their communities every day, that they believe traditional marriage is so important and worth defending.

Some say we are not likely to win this vote that, as I understand, could happen on Wednesday. Regardless of the outcome of this amendment at this time, I believe it is important we have a national discussion on the importance of marriage and a discussion that is based on facts.

We have heard a lot of people talk about the benefit of marriage for adults. We have heard some discussion about hospital visiting rights and inheritance rights, even though many of these issues could be solved simply by a matter of contract between the parties involved. We have learned that people who want to can actually enter into arrangements that will achieve the results they want short of marriage by signing a few simple documents.

We have even heard some discussion about government benefits, even though with these benefits come burdens, and the actual financial ramifications of these benefits are a matter for debate.

Yet I have heard little conversation about what I believe to be the most important issue that is related to what we are discussing, and that is the benefits of marriage for children. It is easy for some people to step back and say this issue does not affect them, but the facts, the social science research that we see from other countries demonstrates otherwise.

This research shows us that this issue affects everyone but particularly children. None of us can, if we are going to claim to be in good faith about this debate, ignore these facts and these examples, nor should we, I believe, be neutral or merely stand on the sidelines.

Scandinavia, as we have heard before, has treated same-sex households as marriage for more than a decade. This practice was instituted in Denmark in 1989, in Norway in 1993, and in Sweden in 1994. The direct reaction to these decisions was relatively small. Few people, it seems, were actually interested in the new arrangements, in the new rights they achieved to marry a person of the same sex, and to this day the number of participating households is rather low.

But the greatest effect was not upon those who sought this new institution but on the society at large. Sad to say, there has been an enormous rise of family dissolution and out-of-wedlock childbirth. Today, about 15 years after Denmark created this new institution, a majority of children in Scandinavia are born out of wedlock, including more than 50 percent in Norway and 55 percent of the children in Sweden, and in Denmark, a full 60 percent of first-born children have unmarried parents.

In Scandinavia, as a whole, traditional marriage is now an institution entirely separated from the idea of child rearing or childbearing, and it is an incidental union, no longer an important one, much less a unique one.

Scandinavia is not alone. In the Netherlands, during the mid-1990s, the rate of out-of-wedlock childbirth began to shoot up by an astonishingly high rate of 2 percentage points a year, a rate matched by no other country in Europe.

By 2003, the out-of-wedlock birthrate had nearly doubled to 31 percent of all Dutch births. It is no coincidence that these were the years when the social debate over legalizing same-sex marriage was the loudest in the Netherlands.

During Holland's drive for same-sex marriage, advocates in Parliament and elsewhere openly scorned the idea that marriage ought to be defined by its childbearing and child rearing character. Of course, there is always a risk that if you spend a decade telling people that marriage is not about family and it is not about children they might

just start believing you. But that is apparently what happened in the Netherlands. The Dutch people simply stopped getting married, even when they had children. When it is no big deal, marriage becomes just another choice on a menu of relationship options, and the children pay the price.

Respected British demographer Kathleen Kiernan drew on the Scandinavian case to form a four-stage model by which to gauge a country's movement toward Swedish levels of out-of-wedlock births.

She said in stage 1 the vast majority of the population produces children without marriage, such as in Italy. In the second stage, cohabitation is tolerated as a testing period before marriage, and it is generally a childless phase, such as we currently have in America. In stage 3, cohabitation becomes increasingly acceptable, and parenting is no longer automatically associated with marriage. While Norway was once at this stage, recent demographic and legal changes have pushed it into stage 4, along with Sweden and Denmark.

In the fourth stage, marriage and cohabitation become practically indistinguishable, with many children, even most children, born and raised outside of traditional marriage.

According to Kiernan, once a country has reached a stage, return to an earlier phase is very unlikely.

As you can see, Mr. President, the dissolution of marriage is passed on to children, to the next generation, and the devaluation of marriage as an important institution continues.

In America, the results could be even more significant than in Scandinavia or the Netherlands because, after all, we already have a significant problem of out-of-wedlock childbirth in our own country. When the example of traditional marriage is removed, when cohabitation and marriage are equally respected and when childbearing is no longer something that ought to ideally come in the context of traditional marriage, I fear the problem of single-parent households will only worsen.

We have a wealth of social science research from hundreds of sources over the course of decades which consistently reflects both the positive ramifications for children of a stable, traditional marriage and the negative effects of family breakup, including divorce and out-of-wedlock childbirth. Marriage provides the basis for the family, which remains the strongest and most important social unit.

As we have heard, countless statistics and research attest to the fact that when marriage becomes less important because it is expanded beyond its traditional definition to include other arrangements, that untoward consequences such as greater out-of-wedlock childbirths occur. People simply regard marriage as less significant and certainly, by definition, no longer unique.

Let me be clear. There are literally thousands, tens of thousands, probably hundreds of thousands, of single parents in this country who do a heroic job of raising their children in single-parent households. Nothing I have suggested is meant at all to disparage the great work they do. It is only to point out what social science and common experience would tell us is true, and that is, if possible, the optimal condition to raise any child, in terms of the family in which they are raised, is a family that is intact and where they have a loving father and a loving mother.

We recognize there are circumstances where that is not possible for a variety of circumstances for every child, but that should not deter us from seeking the optimal situation for every child if it is, in fact, possible.

Here in America we made the decision we ought to particularly encourage and support those who marry and have children. This, of course, is not a partisan issue. That is one reason why I am so disappointed by the silence with which we are met on the other side of the aisle, talking about this important issue. In fact, it was one of the most distinguished Democratic Members of this body, Senator Daniel Patrick Moynihan, who argued more than a decade ago that we must stop ''the breakup of family inevitably'' as best we can. He said:

> The principle social objective of American National Government at every level . . . should be to see that children are born into intact families and that they remain so.

We don't raise our neighbors' children as our own, but we do help all the children in every community every time we affirm and reinforce the importance of traditional marriage, through our speech, by our actions, in our culture, and by our laws. It is a position reinforced through our laws and our practices, and I believe it is right. Government should not be neutral, nor should it pretend to be neutral when it comes to children and families.

Most Americans take for granted that traditional definitions of family and marriage as we know them will always exist but that, as we have seen, is a mistake. We see in Scandinavia and the Netherlands why that assumption would be a mistake. Now we see that same development occurring in one of our States and being spread through litigation throughout the country.

The American people are not persuaded that this radical redefinition of marriage is needed or that it is a good thing. When given the opportunity to express themselves, they have always supported traditional marriage clearly and forthrightly.

I, for one, believe that a national discussion of this issue is a good thing. Those of us on the side of traditional marriage must not flinch and we should not back down and we should not allow people to paint our motivations as hateful or hurtful because, indeed, they are not.

We recognize two simple propositions simultaneously in this country. One is the essential dignity and worth of every human being. But, second and at the same time, we recognize that we see enormous benefits to our children, to society, and to all of us by preserving the traditional institution of marriage. We are merely seeking to defend the fundamental bedrock of our society, the wellspring of families and the welfare of children. That is what we are for. We, who have the responsibility of serving in elective office, have the duty to act to protect marriage as a social good, not to ignore this issue until it is too late.

Some believe traditional marriage itself is about discrimination, that all traditional marriage laws are unconstitutional and therefore must be abolished by the courts. They align themselves with four justices in Massachusetts who contend the traditional institution of marriage is ''rooted in persistent prejudices'' and ''invidious discrimination'' and not in the best interests of children.

These activists, out of the mainstream as they are, accuse others of writing discrimination into the Constitution. Yet they are the ones who are willing to write the American people out of our constitutional democracy.

Now that the threat to traditional marriage is a Federal threat, a Federal constitutional amendment is the only way to preserve traditional marriage laws nationwide before it is too late. We need stable marriages and stable families. The institution of marriage is just too important to leave to lawyers and lawsuits and to chance.

Unless and until the American people are persuaded otherwise, we have a duty as their representatives to defend the laws they have passed, indeed the laws that we have passed, such as the Defense of Marriage Act in 1996, and not let extremists in the courts or outside them reshape society according to their own whim. We can be confident in the fact that a constitutional amendment is the most representative process we have in American law.

There is no possible response to this judicial activism, to this rewriting of the Constitution by judicial fiat, but an amendment. Give the States a voice. Give the people a voice. They deserve no less on such an important issue.

I suggest the burden of proof is on those who seek to experiment with traditional marriage, an institution that has sustained society for countless generations. The experimenters must present their case to us, that the radical new social unit they propose is good for the community, is good for families, and most of all good for children. Thus far, the laboratory where this experiment has already been run, in Scandinavia and the Netherlands, has given us nothing but disastrous results.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the majority's time

has expired. The Senator from Mississippi.

Mr. LOTT. I ask unanimous consent that I be allowed to proceed.

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

The Senator from Mississippi is recognized.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Texas for his leadership on this issue and for his comments. To have a former State attorney general of the State of Texas and a former member of the Texas Supreme Court speak on this subject as an enlightened judge and as an authority, in my opinion, on the Constitution, is a very important part of this process. So I look forward to hearing more of his thoughts on this subject as he has talked about the case law, the legal precedents, and what is at stake with this amendment.

I know others have done it, but let me take a moment to read the amendment we are proposing to the Constitution, because there has been a lot of discussion about what we should do. I have seen a number of different amendments or language being proposed, many of them a couple of paragraphs, quite long or complicated. This one is very simple, direct, right to the point and I think does what needs to be done. Some people would say it does not go far enough, but I think this is the careful way the Constitution should be amended.

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.

It is quite simple and direct. Will it lead to some court consideration in the future? Surely. But what has caused this problem is the aggressive actions of the activist courts to take decisions in Massachusetts and in other places that have left us no alternative. So I rise today in strong support of S.J. Res. 40, the Federal marriage amendment. It would amend the Constitution to provide specific protection for the institution of traditional marriage. I am an original cosponsor of this measure because I believe marriage should only consist of a union between a man and a woman.

Traditional marriage has existed as a fundamental building block of our society for thousands of years, and we have learned that it provides the best and most stable environment for nurturing the children who become America's and the world's next generations. Now we see the courts have been moving in this area on what I consider a radical quest to sweep away the traditional definition of marriage, one man and one woman, by allowing same-sex couples to marry.

This undemocratic activism by the courts can only be stopped, the future stability of our society protected, and this whole area clarified, by the safeguard of a constitutional amendment. Some Senators have argued that while they support traditional marriage, they do not believe a constitutional amendment is necessary or proper at this time. They maintain the Defense of Marriage Act, passed in 1996, is sufficient to protect traditional marriage by allowing individual States to bar the recognition of same-sex marriages that may be allowed in other States. Unfortunately, I am convinced they are incorrect.

When the Supreme Court of Massachusetts directed the Massachusetts legislature to authorize same-sex marriages, the inadequacy of the Defense of Marriage Act, DOMA, as it is commonly referred to, was exposed. Approximately three-fourths of the States have laws protecting traditional marriage, indicating the democratically enshrined views of the residents of those respective States. But activist courts in many of those States could unfortunately overturn these laws by forcing that State to authorize same-sex marriage or to recognize same-sex marriages performed in other States. Additionally, now that the State of Massachusetts has endorsed same-sex marriages, the legal system in every other State will be impacted when couples of the same sex are married in Massachusetts but go to other States to seek divorces or probate wills, even if that particular State chooses not to recognize such marriage. This development could obviously create, and is beginning to create, legal chaos in the country.

Furthermore, sadly, it is only a matter of time before the Defense of Marriage Act is overturned by unelected Federal judges who ''find'' rights in the U.S. Constitution which simply are not there, such as the U.S. Supreme Court did in the Lawrence v. Texas case. Therefore, a constitutional amendment protecting marriage is the only way to adequately guarantee the sanctity of this fundamental institution.

Those who oppose the amendment say the U.S. Constitution should only be amended on rare occasions and for crucial reasons, if at all. I agree, and I think this is a rare situation and a critical one. I have been disappointed occasionally over the years that we have not been able to succeed in amending the Constitution. A few years ago we lost in the Senate by one vote to have a constitutional amendment requiring a balanced budget. A few years after that, we actually had balanced budgets and a number of Senators said, see, we do not need it. Well, here we are again.

By the way, there would have been an exception for national emergencies or national security requirements that we are now dealing with.

When we look at the Constitution, wonderful document that it is, the original Constitution turned out not to be perfect. We had the articles of the Constitution and we went through Article V, Article VI, Article VII, and stopped, and then we had the 10 amendments that are referred to as the Bill of Rights. So there were 10 amendments that were soon added, and in the last century alone we added 12 amendments. Most people would say some of those amendments are not exactly earth-shattering amendments. The 27th, being the last one, is one that took almost the entirety of this country's history to get through the process to actually be ratified, but it had to do with the compensation of the services of Senators and Representatives. I will bet if we asked the American people to list the 10 things they think the Constitution should perhaps be amended for, that would not be one of the top 10.

It is a sacred document. It is one we should defend and protect. We take an oath to it. We do not take an oath to the people. We take an oath to protect and defend the Constitution, and I think we should do that.

There are occasions when we should consider the process. They should be in areas that are critical and they should be rare. We have not had a serious debate on a constitutional amendment now for about 6 or 8 years. A constitutional amendment dealing with marriage being between one man and one woman seems to me to be an issue that is important enough for us to have a debate on amending the Constitution.

There are those who say it should not be amended lightly. I certainly agree with that. But our Founding Fathers made sure it would not be done often and that it would not be done lightly. The process for ratification of an amendment is a very difficult and lengthy one. Under the Constitution, within Article V itself, it says it requires a two-thirds vote of both Houses of Congress to approve a constitutional amendment and three-fourths of the State legislatures must ratify the amendment for it to become a part of the Constitution.

There is one other very difficult procedure in the Constitution in which a convention process can be conducted to get an amendment approved. I know how difficult that is, too, because some years ago I actually joined in a bipartisan effort to try to go through the State legislatures to take advantage of this part of the Constitution to have a convention that would lead to a balanced budget requirement in the Constitution. My own State legislature took that action, as well as several other States, but it soon fizzled out and I do not believe that process has been used in the history of our country. So this is not an issue we should take lightly. It is rare, it is exceptional, and it is one that will take a lot of thought and debate before we get through the process.

Some people say, well, what about federalism? What about the rights of the States? That is what we are talking about.

If we do not deal with this issue that may arise from the full faith and credit clause, some States such as, say, Alabama or Oklahoma are going to have a

real problem in dealing with what the courts have directed in the State of Massachusetts.

Full faith and credit says we have to respect each other's laws. But I do think we need clarity in this very critical area. I think the Constitution deserves to be amended when it deals with something so traditional and which is such a vital part of our country and our future.

Marriage is our most basic social institution, and its traditional definition as the union of a man and a woman is intended to be the best environment for rearing children. There is a reason that we have a ''traditional'' definition of marriage: God's design and the resulting evidence of science and common sense clearly demonstrates that the union of a man and a woman is the best, most secure and nurturing atmosphere in which to bring up children.

This does not mean that single parents, foster parents, and others cannot do heroic jobs of raising children—because many children are being raised by these heroes. However, marriage is meant to affirm the ideal model in which to bring up the next generation. Mothers and fathers both matter, and both make critical contributions in the lives of children. A man and a woman united in marriage can uniquely provide the many different attributes that children need as they are reared to become our next generation, and both make important contributions.

I am going to yield the floor at this point, since I am about to lose my voice talking about this subject, but I think this is an issue whose time has come. I commend the leader and Senator SANTORUM for making sure this issue is debated in the Senate.

The PRESIDING OFFICER. The Senator from Texas.

Mr. CORNYN. Mr. President, I ask unanimous consent that Senator SANTORUM be recognized for so much time as he may consume.

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

Mr. CORNYN. Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. SANTORUM. Mr. President, I ask unanimous consent to be able to speak for such time as I may consume.

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

Mr. SANTORUM. I thank the Chair.

Mr. President, I congratulate both the Senator from Mississippi and the Senator from Texas for their excellent comments and for adding to this debate.

I think one of the main facts we tend to overlook in this institution is the importance of the debate—the importance of engaging in a subject matter and having a colleague focus on an issue and having the American public focus on an issue.

I think in a very short period of time the issue of marriage actually has come to the fore in America—to actually start to think about what marriage is. What is the purpose of marriage? What is it all about, and how does it fit into American culture?

I told the story when the Massachusetts decision was first handed down about being questioned by college students. As the Presiding Officer knows, we are constantly bombarded by high school and college students who come down and visit with us. It is a wonderful thing when you get a chance to stay in touch with what the young mind is thinking and the popular culture they are influenced by.

Once Goodridge was handed down, I would get the question, How do you feel about changing the definition of marriage? I would enter into a discussion. I came up with the idea of asking those young people, before I answered that question, What is the purpose of marriage? Absolutely without fail, for about a 2-month period of time, as I would do that almost on a daily basis when we were in session because the issue was a hot issue at the time, I would get three or four hands going up. The answer would be to affirm the love between two people. That was the answer.

I would ask several other folks, generally speaking, some sort of variation on that theme. There would usually be some young man—usually a young man, occasionally a young lady, in the back, always in the back—who would put his hand up and sheeplishly say something like procreation and rearing of children.

I have to tell you that for a several-month period of time, when that young man or young lady would raise their hand and would say that, the majority of the kids in the group would laugh, which somewhat startled me. Then, of course, I would say I agree with that man in the back or that young lady in the back about the principal purpose of marriage. Yet to many of our young people that was not something which was considered. The only thing that was considered was about them in a sense. Consider yourself. Why do you want to be married? Well, to make me happy, to join me with someone I love. That is what marriage is about. It is about me.

I would suspect, if you went back and talked to your grandmother or great-grandmother, and you asked what the purpose of marriage is, they would probably give you a very different answer. Thankfully, I am getting a different answer now when I ask that question. More and more people are saying what that sheepish young boy or young girl would say in the back, and there are fewer and fewer laughs when they say it is about children.

I can only give as a reason for that the fact that we have had this debate as to what marriage means and the importance of it to our society. It is like the oxygen we breathe. We breathe it and we know it is there. It is essential to life, but we sort of take for granted that it is just going to be there. That is our bodily function because it is just going to be there. The body politic, the body, the social body, that culture that is in America sort of takes marriage for granted. When we see places where marriage maybe has been taken too much for granted or simply been pushed aside as something that isn't necessary, we see how culture and society suffer greatly.

One of the things I wanted to do in the little time I have here—and I think the Senator from Kansas is here, and I know he wants to speak—is talk about what the purpose of marriage is. Why is this issue so central? We tend to talk about what the need for this amendment is and get sort of wrapped up in the procedure.

I think one of the great blessings of the Senate is an opportunity to debate, educate, and to think through things.

I earlier quoted a study by professors Young and Nathan. I will go through a little bit more of this article. But they lay out in a paragraph of the study the purpose, if you will, the reason for marriage, and why society must encourage it.

As I mentioned in my earlier comments, if society doesn't encourage marriage and fidelity between a man and a woman, the natural inclination is certainly—as I think we have seen in many subcultures in America—not to be faithful, not to be responsible fathers, not to be involved with a woman for a long-term commitment. This is something which, if not nurtured by culture, could cause us to evolve very quickly into a rather self-absorbed, self-centered culture, with men being the principal stirrer of that lethal cocktail in America.

But to quote professors Young and Nathan:

> The culture of marriage must encourage at least five things. A, the bonding between men and women that ensures their cooperation for the common good; B, the birth and rearing of children, at least to the extent necessary for preserving and fostering society in a culturally approved way; C, bonding between men and children so that men are likely to become active participants in family life; D, some healthy form of masculine identity which is based on the need for at least one distinctive, necessary and publicly valued contribution to society and is especially important today because the other two cross-cultural definitions of manhood, provider and protector, are no longer distinctive now that women have entered the public realm; and E, the transformation of adolescence into sexually responsible adults so young men and women are ready for marriage and the beginning of a new cycle.

So why do we support marriage? Why do we hold up marriage as a special institution to which we give prestige and esteem, that we support with cultural and social norms, to which we give

legal preferences, legal protection? Why do we do this as a culture? Why has every culture in the history of man provided the same kind of nurturing and support for husbands, for men and women to become husbands and wives and fathers and mothers?

We do this for the reasons that are laid out here—at least for these reasons laid out here. Some of them are really interesting, if you dig into them as to how, without this kind of nurturing, we can see very clearly how our society would be harmed.

I haven't heard anybody get up and argue that marriage between a man and a woman is bad. I haven't heard anybody get up and suggest that we should change the definition of ''traditional.'' In fact, I haven't heard anybody here, nor do I expect to hear anyone here, advocate for the States to change the definition of traditional marriage.

One wonders if there is unanimity of opinion as to what marriage is. And I suspect, although I would be happy to hear people come forward and disagree with these elements that I have just laid forth—but if there is agreement as to what marriage is and the purpose and the benefits of society for marriage, why are we so reticent in doing what we know for sure will protect that institution?

Again, Members can make the arguments up and down that there are other ways we can protect marriage: The States can do it, the State courts can do it, the legislatures can do it, the DOMA statute, or the House, which is looking at some sort of limitation of jurisdiction. We can look at a whole variety of different things and say this could work, this might work, this may happen, but ultimately we know for sure one thing will work. A constitutional amendment defining marriage will, without question, work.

We have to ask ourselves, if marriage is this institution so critical to the future of our society, it is so foundational for our children and for men and women to build these bonds for the common good—and after the Senator from Kansas speaks, I will go through chart after chart of the benefits children gain from being in a married family—if we accept that social good, then why is there not overwhelming support for something most people even 10 years ago would have said: This is common sense. Of course marriage is between men and women. We do not have to put that into the Constitution. Everyone agrees with that.

Yes, everyone agrees, but Members will stand up in the Senate and say: We all agree with that, but it does not belong in the Constitution. Marriage is not important enough. Families are not important enough to be protected by our Constitution, to be protected from rogue judges who say things like marriage is a stain on our laws that must be eradicated.

I believe ultimately we will protect marriage. Let's start now. Let's come together and make some commonsense decisions about protecting the institution that is so valuable to this country, that we know is a public good. We can do that starting this week.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I ask unanimous consent to speak on the proposed marriage amendment for up to 30 minutes.

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

Mr. BROWNBACK. Mr. President, I rise to speak on this proposed amendment, constitutional amendment to protect marriage. I am an original cosponsor. I support the Allard amendment. He has done an absolutely fabulous job of bringing this forward. I will articulate those reasons for my colleagues and for others.

This is a critical battle. We are at a critical stage in the culture of the United States. What happens on this particular issue will have a profound impact on the future of the United States of America. It is that which we are actually debating today.

I have no doubt it is imperative we act now by means of a constitutional amendment to protect marriage. As some of my distinguished colleagues have already pointed out, this action has been made necessary not by election year politics but by the reckless actions of a judiciary bent on radical social experimentation.

Let there be no mistake, the stakes in this battle of the future of our culture are enormous. This attempt by the judiciary to radically redefine marriage is both a grave threat to our central social institution and a serious affront to the democratic rule in our Nation.

On our reaction to this threat hinges the future of marriage and our future as a self-governing people. Both are at stake. Most Americans believe homosexuals have a right to live as they choose. They do not believe a small group of activists or a tiny judicial elite have a right to redefine marriage and impose a radical social experiment on our entire society.

Let us be clear, this is not a battle over civil rights; it is a battle over whether marriage will be emptied of its meaning in contradiction to the will of the people and their duly elected representatives. We are a democracy, not a people ruled by a judicial dictator. In order to reach a predetermined outcome with regard to marriage, judges such as the five judges responsible for the Goodridge decision in Massachusetts are disregarding thousands of years of custom and experience, the laws of every society, and the beliefs of every major religious tradition. Unless action is taken by Congress to protect marriage by means of a constitutional amendment, the marriage laws of 50 States will be at the mercy of Federal judges, and marriage itself will be redefined out of all recognition.

The Defense of Marriage Act passed by Congress in 1996 is not enough. Without a constitutional amendment, Federal judges will likely rule DOMA, the Defense of Marriage Act, unconstitutional under the doctrine of full faith and credit, and marriages recognized in one State will be required to be recognized in all.

As several of my distinguished colleagues have noted, challenges to DOMA are already making their way through the courts. This radical attempt to redefine marriage also highlights the need to rein in an increasingly reckless judiciary. When activist judges show no regard for legal intent or precedent, using their positions to achieve policy goals, they must be resolutely opposed. In fundamentally altering the definition of marriage and changing duly approved marriage laws, these judges show contempt for the democratic process itself.

The choice is clear: Either we amend the Constitution and protect the rights of the people to self-determination in this process or the Constitution will be amended, in effect, by the edict of judges.

The time has come to act. If we continue to let activist judges determine the fate of marriage, the battle may be lost and we could lose the institution of marriage. Marriage can be lost.

It is important to take a step back from the heat of this controversy in order to understand why defending the institution of marriage is so important to the Nation's future. America's political system is framed around a particular understanding of human freedom, an understanding of freedom not as mere license but as something that must be guided and governed by a fundamental internal moral code. In keeping with human nature, the direction is toward both the individual good and the common good.

Our great experiment and freedom as a nation has not been without its difficult moments of trial when we have struggled with our very identity as a people as we attempted to resolve the tensions inherent in the responsible exercise of freedom. The attempts to grapple with the evils of slavery in the 19th century and civil rights struggles of the 20th century are primary examples.

In the long view of history, it seems likely we will look back at the social changes identified with the decline of marriage and the family, which began to make cultural inroads in the 1960s, and conclude that this vast cultural experiment has been a very harmful one, particularly harmful on children. That experiment, of course, continues today, but there are indications America is beginning to reevaluate that experiment, to assess where it is heading, and whether, as a people, we need to correct course.

A vitally important part of this assessment is to study the social science data regarding what happens when sexuality and children are taken outside

of the context of marriage and what happens when marriage declines as an institution as a result of a culture in which divorced or out-of-wedlock births, cohabitation, and single parenthood have become a social norm.

One of the central questions before our society right now is whether this course is desirable and, if not, what can be done to avert it. Particularly important is what the social science evidence has to tell about how children have been affected by the weakening of the institution of marriage over the last 40 years. It is incumbent upon those who deal with public policy issues to investigate this trend and its consequences on society.

A very wise man who served in this body for a number of years, the late Democratic Senator from New York, Daniel Patrick Moynihan, was a great cultural commentator. He once wrote this:

[T]he central conservative truth is that it is culture, not politics, that determines the success of a society. The central liberal truth is that politics can change a culture and save it from itself.

I think we see both truths in action in this debate.

Senator Moynihan also wrote:

[T]he principal objective of American government at every level should be to see that children are born into intact families and that they remain so.

The ''principal objective,'' according to the late-Senator Moynihan.

I have no doubt about what the outcome of this debate over an amendment to protect marriage would be if more of us in the public policy arena adhered to this principle, because seeing to it ''that children are born into intact families and that they remain so'' is, in a nutshell, what this whole debate is all about. And the only way to achieve that laudable aim is to protect the traditional meaning of marriage as the union between one man and one woman and prevent rogue judges from defining marriage out of existence.

The costs to our society, should Federal judges force the States to recognize the legal equivalence of same-sex unions, would be significant—even disastrous—when measured in terms of the effects on our central social institution, the family.

Marriage is at the center of the family, and the family is the basis of society itself. The Government's interest in the marriage bond, and the reason it treats heterosexual unions in a manner unlike all other relationships, is closely related to the welfare of children. Government registers and endorses marriage between a man and a woman in order to ensure a stable environment for the raising and nurturing of children. Social science on this matter is conclusive: Children need both a mom and a dad.

Study after study shows children do best in a home with a married, biological mother and father, and the Government has a special responsibility to safeguard the needs of children. The social costs of not doing so are tremendous. Child Trends, a mainstream child welfare organization, has noted:

[R]esearch clearly demonstrates that family structure matters for children, and the family structure that helps the most is a family headed by two biological parents in a low-conflict marriage. Children in single-parent families, children born to unmarried mothers, and children in stepfamilies or cohabitating relationships face higher risks of poor outcomes. . . . There is thus value for children in promoting strong, stable marriages between biological parents.

Giving public sanction to homosexual ''marriage'' would violate this Government responsibility to safeguard the needs of children by placing individual adult desires above the best interests of children. There is no reliable social science data demonstrating that children raised by same-sex couples do as well as children raised by married, heterosexual parents. Redefining marriage is certain to harm children and the broader social good if that redefinition weakens Government's legitimate goal of encouraging men and women who intend on having children to get married.

If the experience of the last 40 years tells us anything, it is that the consequences of weakening the institution of marriage are tragic for society at large. While it has become fashionable to champion a wide variety of ''alternative family forms,'' it is abundantly clear that children are much less likely to thrive in the absence of their biological father. Children who grow up without their fathers are two to three times more likely to fail in school, and two to three times more likely to suffer from an emotional or behavioral problem. They can achieve, but it is a much more difficult route.

I have a series of charts to share with my colleagues to make this point.

Developmental problems are less common in two-parent families. To show where this goes, they are five times more likely to be poor. Nearly 80 percent of all children suffering long-term poverty come from broken or never-married families—80 percent of all children suffering long-term poverty.

I want to show this chart to my colleagues. Eighty percent of children suffering long-term poverty come from broken or never-married families.

The crisis of child poverty in this country is, in large degree, a crisis of marriage. The percentage of children in intact families living in poverty is very small compared to those in families where the father is not present.

I want to show another chart to my colleagues: Percentage of children in poverty in 2000. You can see across the chart, for children in never-married families, 67 percent of the children are in poverty. If you go down on the chart to those children in families where the parents are in their first marriage, where the parents stay in that union, less than 12 percent of the children are in poverty.

Marriage has the effect of lifting families and children out of poverty. After the birth of a child out of wedlock, only 17 percent of poverty-level income mothers and children remain poor if the mother marries the child's father. More than half of those mothers and children remain poor if the mother remains single.

That is shown on this chart. If the mother remains single, over half remain below the poverty level. If she gets married, less than 17 percent remain below the poverty level.

Divorce, on the other hand, impoverishes families and children. It has been estimated that the average income of families with children declines by 42 percent after divorce.

This is the impact of divorce on the income of families with children. As this chart shows, you can see, after divorce, the income level of that average family declines 42 percent. Divorce is a key contributor and creator of child poverty.

Children who grow up fatherless are also at a much increased risk of serious child abuse. A child whose mother cohabits with a man who is not the child's father is 33 times more likely to suffer abuse than a child living with both biological parents in an intact marriage—33 times more likely to suffer child abuse.

You can see the child abuse levels in families: with married biological parents, comparative rates of abuse, 1 percent; biological mother cohabiting, 33 percent. Indeed, one of the most dangerous environments for a child today is in a home with a mother cohabiting with someone to whom she is not married. It is an incredibly dangerous situation overall—not for everybody and not in all circumstances, but the numbers just go up dramatically.

Married mothers are also half as likely to be victims of domestic violence than mothers who have never been married. As teenagers, fatherless children are more likely to commit crime, engage in early and promiscuous sexual activity, and to commit suicide.

It is clear that both children and society as a whole pay an enormous price in fatherless homes.

The American people realize this. A Gallup poll from several years ago showed almost 80 percent of the public agrees with the proposition that ''the most significant family or social problem facing America is the physical absence of the father from the home.''

It is a problem that requires urgent attention in our country. Nearly 25 million children today reside in a home where the father is absent. Half of these children have never stepped foot in their father's home. Less than half of all teenagers currently live with their married biological mothers and fathers.

That is what this chart shows us. Less than half of all teenagers live with their married biological mothers and fathers.

This year, approximately 1 million children will endure the divorce of

their parents and an additional 1.2 million will be born out of wedlock. Altogether, the proportion of children entering broken homes has more than quadrupled since 1950.

You can see this chart goes from 1950 up until about the year 2000. This shows children born out of wedlock, children born in previous years whose parents are divorced, and you can see that trend line and what that has done in America since 1950.

This is a crisis for both our children and our country, the fact that so many children are growing up without fathers. It has been exacerbated by the decline of the institution of marriage. According to the Census Bureau, the number of cohabiting couples has increased from a half million to almost 5 million in the last 30 years. The number of households with neither marriage nor children present has gone from 7 million in 1960 to just under 41 million in 2000.

All this is not to say that good children cannot be raised in other family settings. They can. Many healthy children are raised in difficult circumstances. Many single parents struggle heroically and successfully to raise good children. Still, social science is clear, the best place for a child is with a mom and a dad. Both are needed.

Traditional marriage is a social good because it dramatically reduces the social costs associated with dysfunctional behavior. Supporting and strengthening marriage significantly diminishes public expenditure on welfare, raises government revenues, and produces a more engaged, responsible citizenry.

There is a real question about the future of societies that do not uphold traditional marriage. Once a society loses sight of the central importance of marriage in raising children, the institution can go into a tailspin. If marriage begins to be viewed as the way two adults make known their love for each other, there is no reason to marry before children are born rather than after. And if it is immaterial whether a couple should be married before the birth of a child, then why should they marry at all?

In Europe, many parents have stopped marrying altogether because they no longer view marriage as having anything to do with parenthood or children. The legalization of same-sex marriage has been instrumental in working this change in perspective, leading most to think of marriage as simply the expression of mutual affection between two consenting adults. As a result, couples are marrying later and later after children are born, or simply foregoing marriage altogether. Rates of parental cohabitation have skyrocketed, and family dissolution has become endemic.

The experience of other nations demonstrates that the imposition of same-sex ''marriage'' and civil unions leads to a weakening of marriage. As scholar Stanley Kurtz has shown, in Scandinavia, the system of marriage-like same-sex registered partnerships established in the late 1980s has contributed significantly to the ongoing decline of marriage in that region. In The Netherlands, same-sex marriage has increased the cultural separation of marriage from parenthood, resulting in a soaring out-of-wedlock birthrate. Kurtz warns that same-sex ''marriage'' could widen the separation between marriage and parenthood here in the United States, and perhaps undo the progress we have made in arresting the once seemingly inexorable trend towards higher rates of illegitimacy among some communities in the United States.

And Stanley Kurtz is not alone in pointing to the negative effects these developments have had on marriage in The Netherlands.

I think it is important to go into this point at some length, because we have a case study of what can happen to the institution of marriage when it is redefined to include same-sex relationships. We have a case study. We know what happens when you redefine it. It has happened in The Netherlands.

In a letter released just last Thursday addressed to ''parliaments around the world debating the issue of same-sex marriage,'' a group of Dutch scholars raised concerns about gay marriage's negative effects on the institution of marriage in The Netherlands. In a letter published in the July 8 edition of a Dutch paper, five Dutch academics suggested that ''there are good reasons to believe the decline in Dutch marriage may be connected to the successful public campaign for the opening of marriage to same-sex couples in The Netherlands.''

The letter's signatories came from several academic disciplines, including the social sciences, philosophy, and law. The scholars caution against attributing all of the recent decline of Dutch marriage to the adoption of same-sex marriage, but they did say, ''There are undoubtedly other factors which have contributed to the decline of the institution of marriage in our country. Further scientific research is needed to establish the relative importance of all these factors.'' However, they conclude, ''At the same time, we wish to note that enough evidence of marital decline already exists to raise serious concerns about the wisdom of the efforts to deconstruct marriage in its traditional form.''

In recent years, they note, there is statistical evidence of Dutch marital decline, including ''a spectacular rise in the number of illegitimate births.'' By creating a social and legal separation between the ideas of marriage and parenting, these scholars warn, same-sex marriage may make young people in The Netherlands feel less obligated to marry before having children.

The publication of the letter of warning in this Dutch paper was accompanied by a front page news story and an interview with two of the signatories. In the interview, Dutch law professor M. van Mourik said that ''the reputation of marriage as an institution [in Holland] is in serious decline.'' According to Mourik, the Dutch need to have a national debate on how to restore traditional marriage. The decision to legalize gay marriage, said Mourik, should certainly never have happened. ''In my view that has been an important contributing factor to the decline in the reputation of marriage.''

One of the letters' other signatories, Dr. Joost van Loon, is a Dutch citizen who heads a research unit on culture and communication at Britain's Nottingham Trent University. Van Loon has done comparative studies of family life and sexual attitudes in The Netherlands and Britain, and is also acquainted with research on American marriage. Van Loon believes that gay marriage has contributed to a decline in the reputation of Dutch marriage. He says, it's ''difficult to imagine'' that the Dutch campaign for gay marriage did not have ''serious social consequences,'' said Van Loon, citing ''an intensive media campaign based on the claim that marriage and parenthood are unrelated.''

Mr. President, I ask unanimous consent that this letter and background documentation be printed in the RECORD.

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

DUTCH SCHOLARS ON SSM

[New statement. Here it is in Dutch. What follows is an unofficial English translation]

At a time when parliaments around the world are debating the issue of same-sex marriage, as Dutch scholars we would like to draw attention to the state of marriage in The Netherlands. The undersigned represent various academic disciplines in which marriage is an object of study. Through this letter, we would like to express our concerns over recent trends in marriage and family life in our country.

Until the late 1980's, marriage was a flourishing institution in The Netherlands. The number of marriages was high, the number of divorces was relatively low compared to other Western countries, the number of illegitimate births also low. It seems, however, that legal and social experiments in the 1990's have had an adverse effect on the reputation of man's most important institution.

Over the past fifteen years, the number of marriages has declined substantially, both in absolute and in relative terms. In 1990, 95,000 marriages were solemnized (6.4 marriages per 1,000 inhabitants); by 2003, this number had dropped to 82,000 (5.1 marriages per 1,000 inhabitants). This same period also witnessed a spectacular rise in the number of illegitimate births—in 1989 one in ten children were born out of wedlock (11 percent), by 2003 that number had risen to almost one in three (31 percent). The number of never-married people grew by more than 850,000, from 6.46 million in 1990 to 7.32 million in 2003. It seems the Dutch increasingly regard marriage as no longer relevant to their own lives or that of their offspring. We fear that this will have serious consequences, especially for the children. There is a broad base of social and legal research which shows that marriage is the best structure for the successful raising of children. A child that

grows up out of wedlock has a greater chance of experiencing problems in its psychological development, health, school performance, even the quality of future relationships.

The question is, of course, what are the root causes of this decay of marriage in our country. In light of the intense debate elsewhere about the pros and cons of legalising gay marriage it must be observed that there is as yet no definitive scientific evidence to suggest the long campaign for the legalisation of same-sex marriage contributed to these harmful trends. However, there are good reasons to believe the decline in Dutch marriage may be connected to the successful public campaign for the opening of marriage to same-sex couples in The Netherlands. After all, supporters of same-sex marriage argued forcefully in favour of the (legal and social) separation of marriage from parenting. In parliament, advocates and opponents alike agreed that same-sex marriage would pave the way to greater acceptance of alternative forms of cohabitation.

In our judgment, it is difficult to imagine that a lengthy, highly visible, and ultimately successful campaign to persuade Dutch citizens that marriage is not connected to parenthood and that marriage and cohabitation are equally valid 'lifestyle choices' has not had serious social consequences. There are undoubtedly other factors which have contributed to the decline of the institution of marriage in our country. Further scientific research is needed to establish the relative importance of all these factors. At the same time, we wish to note that enough evidence of martial decline already exists to raise serious concerns about the wisdom of the efforts to deconstruct marriage in its traditional form.

Of more immediate importance than the debate about causality is the question what we in our country can do in order to reverse this harmful development. We call upon politicians, academics and opinion leaders to academics and opinion leaders to acknowledge the fact that marriage in The Netherlands is now an endangered institution and that the many children born out of wedlock are likely to suffer the consequences of that development. A national debate about how we might strengthen marriage is now clearly in order.

Signed,

Prof. M. van Mourik, professor in contract law, Nijmegen University.

Prof. A. Nuytinck, professor in family law, Erasmus University Rotterdam.

Prof. R. Kuiper, professor in philosophy, Erasmus University Rotterdam J. Van Loon PhD, Lecturer in Social Theory, Nottingham Trent University H. Wels PhD, Lecturer in Social and Political Science, Free University Amsterdam.

STATEMENT OF NICHOLAS ZILL, PH.D., VICE PRESIDENT AND DIRECTOR, CHILD AND FAMILY STUDY AREA, WESTAT, INC., ROCKVILLE, MD

TWO-PARENT FAMILY GOOD FOR CHILDREN

''On average, the presence of two married parents is associated with more favorable outcomes for children both through, and independent of, added income. Children who live in a household with only one parent are substantially more likely to have family incomes below the poverty line, and to have more difficulty in their lives than are children who live in a household with two married parents.'' (quoting annual report published by the Federal Interagency Forum on Child and Family Statistics, 2003)

''[T]he research evidence clearly shows that indicators of children's achievement and social behavior are more favorable in two parent biological families than in two-parent step, adoptive, or foster families.''

FACTS ON TODAY'S CHILDREN

Nearly 25% of U.S. children under the age of 18 are living with only their mothers, typically as a result of marital separation or divorce or birth outside of marriage. (U.S. Census Bureau)

5% of U.S. children are living with only their fathers. (U.S. Census Bureau)

4% of U.S. children are living with neither parent. (U.S. Census Bureau)

10% to 15% of U.S. children are living in a stepfamily situation, with their mother and a stepfather or their father and a stepmother. (U.S. Census Bureau)

69% of U.S. children are living with two married parents, but only 55% of U.S. children are living with two married biological parents. (U.S. Census Bureau)

About 1 in 3 children born in the U.S. today is born to unmarried parents—''many of whom will never get married to each other.''

STATEMENT OF PATRICK F. FAGAN, WILLIAM H.G. FITZGERALD FELLOW IN FAMILY AND CULTURE ISSUES, HERITAGE FOUNDATION

IMPACT OF FAMILY BREAKDOWN

60% of U.S. children born in 2000 entered a broken family: 33% born out of wedlock and 27% suffering the divorce of their parents. In contrast, only 12% of U.S. children born in 1950 entered a broken family: 4% born out of wedlock and 8% suffering the divorce of their parents. (CDC/NCHS Series Report)

''The children of parents who reject each other suffer: in deep emotional pain, ill health, depression, anxiety, even shortened life span; more drop out of school, less go to college, they earn less income, they develop more addictions to drugs and alcohol, and they engage in increased violence or suffer it within their homes.''

U.S. children from intact families that worship God frequently have an average GPA of 2.94, while children from fragmented families that worship little or not at all have an average GPA of 2.48. Children from intact families that worship little or not at all have an average GPA of 2.75. Children from fragmented families that worship frequently have an average GPA of 2.72. (National Longitudinal Survey of Adolescent Health).

Mr. BROWNBACK. We have studied this question thoroughly. I and a number of my distinguished colleagues have held extensive hearings on the importance of protecting and strengthening the institution of marriage. Traditional marriage is a boon to society in a variety of ways, and government has a vital interest in encouraging and providing the conditions to maintain as many traditional marriages as possible. Marriage has economic benefits not only for the spouses but for the economy at large. Even in advanced industrial societies such as ours, economists tell us that the uncounted but real value of home activities such as child care, senior care, home carpentry, and food preparation is still almost as large as the ''official'' economy. Not least of the reasons heterosexual marriage is a positive social good is the fact that, in the married state, adults of both sexes are vastly healthier, happier, safer, wealthier and longer lived.

It is ironic, then, that the very governments that stand to benefit in so many ways from intact, traditional unions have, in recent years, seemed determined to follow policies that have the effect of weakening marriage.

If the movement for civil unions and same-sex marriage succeeds, we may well be dealing a fatal blow to an already-vulnerable institution. It is possible to lose the institution of marriage in America. And that is precisely the hidden agenda of many in this cultural battle: To do away with the traditional definition of the family entirely. An influential organization of lawyers and judges, the American Law Institute, has already recommended sweeping changes in family law that would equalize marriage and cohabitation, extending rights and benefits now reserved for married couples to cohabiting domestic partners, both heterosexual and homosexual.

Once the process of ''defining marriage down'' begins, it is but a short step to the dissolution of marriage as a vital institution altogether.

It is incumbent on this Senate to protect the institution of marriage from this vast social experiment to redefine it out of existence. I urge my colleagues to vote for this constitutional amendment and to do so now.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

DEATH OF AMERICAN SOLDIERS IN IRAQ

Mr. REID. Mr. President, over 11,212 constitutional amendments have been offered in Congress since the Bill of Rights was ratified. As I said here this morning, I certainly understand the depth of feeling of the Senators who have spoken on this issue. I watched the Presiding Officer speak this morning. I watched the Senator from Texas, the Senator from Kansas. I have tried to follow the debate very closely. I know the intensity of their feelings on this matter.

I would like to change direction a little bit and get back to some of other topics that are also important. One of the issues I wanted to talk about is what is going on in Iraq. Over the weekend, I don't know how many soldiers were killed in Iraq. It was more than 10, probably 12.

In today's paper, the Washington Post, on page A11, there is a very short story: ''Insurgents Kill Three U.S. Troops in Northern Iraq.'' But if you read more closely, this very short story talks about the death of not three but seven American soldiers.

This has become so routine, the death of our military in Iraq, that we bury it someplace in the back of the newspapers.

This is a large newspaper, the Washington Post. I would not be surprised if most papers in the country don't even have a story on it—seven soldiers killed. Between the publication of this yesterday morning and today, seven soldiers were killed, all with families.

Today, in America, there are people who are still crying and will cry for weeks and will never forget the deaths of their loved ones—sons, husbands, neighbors.

Mr. President, in addition to the depth of the feeling we have on this constitutional amendment now before the body, let's understand that we have a war going on in Iraq, and our men and women are being killed on a daily basis in significant numbers. I hope we will understand that when we have seven soldiers killed in Iraq, it should be more than a headline on page A–11 of the newspaper.

The PRESIDING OFFICER. The Democratic leader is recognized.

Mr. DASCHLE. Mr. President, I know the majority leader is expected on the floor of the Senate shortly to file cloture on the resolution currently pending. I must say I am baffled by the decisions and actions taken by the majority on occasions such as this. I am baffled because when I left on Friday, I had made a proposal to the majority leader that we were prepared for an up-or-down vote on this resolution, with 2 days of debate, and we would move on, preferably, hopefully, to homeland security. I left with the understanding that would be the order.

I find now, for reasons that are still unclear to me, it is the majority that is unwilling to accept that unanimous consent request. We have no objections on our side, none. We could go to that resolution under unanimous consent, with no amendments, with an up-or-down vote. I have told several of our colleagues that would be the order, having had the conversation I did with Senator FRIST. So it is an amazing position to be in to come back today and realize that it is the majority that cannot produce the unanimous consent request that would allow us the vote we expected we would have on Friday. Of course, this is on top of the unanimous consent vote we were expecting to have last week with regard to amendments and an ultimate final passage on class action. So we will have wasted a couple of weeks once again. I don't know how many weeks we have wasted this year. I am going to go back and try to find out how many weeks have been totally devoid of any legislative accomplishments.

In spite of the fact that we have agreed, I hear all these charges of obstructionism. The obstructionism oftentimes is on the other side. They cannot get their act together. That is clearly the case here. No one should be misled. No one should misunderstand why we are having to deal with a cloture motion on the motion to proceed, because our Republican friends don't have one version, they have now several versions they would like to bring to the Senate floor to have voted on because they cannot agree on one version. That is the truth.

It is all the more ironic and troubling because this is legislation that ought to go through the committee, if any should go through. We are treating this as a sense-of-the-Senate resolution. We are amending the U.S. Constitution, and we are bringing language to the floor of the Senate that hasn't had the benefit of consideration in committee, hasn't had the hearings, hasn't had the vote. We are treating it as just another old amendment.

This is an amendment that will be added to a document that is precious, that we treasure, that we ought to have respect for. Frankly, to be in a situation like we are in now, to be forced into a debate under these circumstances, is just wrong.

I intend to make a unanimous consent request. I will wait until the majority leader comes to the Senate floor to do so, but I will then ask unanimous consent that we have an arrangement like I thought we were scheduled to agree to last Friday; that is, we take up this resolution, we have a good debate, we have a vote, and then we move on. Under these circumstances, we could be at this for weeks, if not months, given all of the other pressing issues we must face. We have yet to deal with appropriations bills. We have just been briefed about the serious threat our country is facing—arguably as great a threat as any we have seen since 9/11—and we have yet to pass a homeland security bill. We have yet to pass the railroad security bill. We have yet to pass legislation to deal with our porous borders, our ports, our railroad tunnels. We have yet to find ways in which to help first responders. But somehow we can add amendment after amendment on gay marriage.

Mr. President, this is a matter that Lynne Cheney had right this weekend. The wife of the Vice President said this ought to be left to the States. The wife of the Vice President was right. We ought to listen to her advice and let the States continue to make these decisions, and we ought to get on with the business of the Senate.

I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I know the majority leader is coming to the Senate floor, and I know the Democratic leader has kindly waited until he has arrived to make his unanimous consent request.

In the couple of minutes that remain until he gets here, I would like to offer my own response, not on behalf of anybody else other than this one Senator from Texas. I, frankly, don't think it is a waste of time to talk about the institution of the American family, traditional marriage, which is my strong belief. I don't think the American people feel it is a waste of time. We have a lot of important issues to discuss. I certainly think this deserves to be at the top of the list, although there are certainly many important issues.

Mr. REID. Will my friend yield for a question?

Mr. CORNYN. As soon as I get through, I will be glad to.

One of the concerns I personally have about the unanimous consent request that will be proffered is it would not allow for any amendments to be made. I just point out to the distinguished Democratic leader my own concern that, as he pointed out, this has not actually been voted out by the Judiciary Committee, but it has been through a number of committee hearings, three of which I have chaired, and I believe there have been at least two others chaired on this important issue by the Judiciary Committee and others.

I am concerned with the offer that we have an up-or-down vote on this matter on Wednesday, without the opportunity for anyone to offer amendments. That is a concern I have shared with the majority leader and others. Indeed, it was just last week on the class action bill, where the majority leader offered that piece of legislation but filled the amendment tree so there was no opportunity for our friends on the other side to offer an amendment, they objected mightily because no amendments were allowed. So I remind my colleagues that if it is a concern that you cannot offer amendments on a piece of ordinary legislation, it is doubly a matter of concern—at least it is to me, and I speak for myself—where there would be no opportunity to offer amendments on this legislation.

Finally, it is my understanding that a cloture motion is being circulated. So we are not talking about weeks and months of debate on this issue; I think we are talking about a matter of days. I believe we ought to have a full and fair debate and let everybody have a chance to be heard.

So far, we have not heard very much from our colleagues on the other side of the aisle on this issue. There have been some who, like the Democratic leader, have said we ought to leave it to the States. I and others have tried to articulate why that is not possible. I wish it was possible.

Mr. REID. Will my friend yield now for a question?

Mr. CORNYN. I will be glad to yield for a question.

Mr. REID. Mr. President, there is no one who disagrees this matter should not be debated, but the Senator from Texas has indicated there should be a full and complete debate. We have agreed to debate it for however long he wants. Our suggestion is 2 days. Does the Senator think the debate should be more than 2 days? If not, for how many days does he think it should be?

Mr. CORNYN. I think 2 days of good, strong debate would not be a bad idea, but I would not want to, at least up front, totally preclude the possibility of offering any amendments, and that may, indeed, necessitate longer debate, depending on what happens during the course of the give-and-take on the floor.

Mr. REID. Again, through the Chair to my distinguished colleague from Texas, he also understands one of the ways we get bogged down on issues—on some occasions, not always—is by unlimited amendments. The Senator from Texas will recall in the matter dealing with class action, there was no desire on our behalf, that is, the minority, to

have unlimited amendments. We indicated we would have a limited number of amendments.

On this constitutional amendment, the Senator understands if the majority offers an amendment, we have people on our side who are champing at the bit to offer amendments. Does the Senator understand that?

Mr. CORNYN. I was not aware, Mr. President, that our colleagues on the other side of the aisle had any interest in offering any amendments or really debating this subject very much, for that matter, given their absence on the floor today. I was not aware of any amendments that might be offered by our colleagues on the other side of the aisle. I think that is not a bad idea myself.

Mr. REID. Mr. President, again I say through the Chair to my distinguished colleague, he also understands, under the rules in the Senate, it would be very easy to delay this process for at least a couple weeks. As the Senator knows, we have all kinds of legislation to do, some of which was laid out by the distinguished Democratic leader.

We believe—I am speaking for myself—it would be in the interest of the Senate if we could dispose of this amendment that was brought to the Senate floor at an early date and, the time we would want to debate it, of course, would be up to the majority leader. We are willing to debate it for whatever time the Senator believes appropriate. Two days is certainly appropriate.

I would also say to my distinguished colleague, we had people speak on the amendment today on this side. I spoke this morning before the Senator from Texas arrived. I know Senator FEINSTEIN has spoken, and there are others who certainly will speak at some time. The fact there has been more Republicans than Democrats speaking on the amendment today does not take away from the serious view we have of this most important legislation.

Mr. CORNYN. Mr. President, I appreciate the questions and the opportunity the Democratic whip has given to respond, but that has not changed my view that it is not a good idea for this body, on something as serious as a constitutional amendment, to have one on the Senate floor, but then enter into a unanimous consent agreement that no amendments be considered. I agree time is precious, especially with the short time that remains for legislative action, but I do think on something as fundamental as the American family and preservation of traditional marriage that a little bit of time—certainly a couple of days, maybe even a week I would be willing to do if it was necessary to actually get some action to address this important issue. I would personally want to take longer. Here I defer to the discussions between the distinguished Democratic leader and the majority leader.

I yield the floor.

Mr. DASCHLE. Mr. President, I will respond. As I understand it, Senator FRIST is not planning to come to the floor in the immediate time period, but I will just say, as the distinguished Senator from Texas knows, a constitutional debate is a different kind of debate on the Senate floor. This is not any other bill. The debate, of course, last week had to do with whether we could use the so-called class action bill as a vehicle to raise other issues that are of great importance to us in statutory form. This is a constitutional amendment, amending the Constitution of the United States, therefore leaving open other amendments relating to the Constitution.

Somebody could offer an amendment eliminating the first amendment, modifying the first amendment, and all it takes is 51 votes. Somebody could offer an amendment—as I understand it, Senator HOLLINGS is thinking very seriously about offering an amendment limiting campaign spending. That is actually one amendment that I have supported in the past. That takes 51 votes.

Anyone who thinks that whatever amendments would be offered would be simply relevant to marriage I think would be faced with a rude awakening that this could open up the whole Constitution to a series of amendments, and maybe a good discussion about some of these other issues may be warranted. Again, it is a question of time.

It is a question of thoughtful consideration about whether we want to amend the Constitution in ways outside of marriage for which there have not been hearings. I am told there was one hearing on this particular text, but most of the hearings that have been held have been held on the general issue of amending the Constitution and defining marriage.

There is no argument, in my view, among many of us, most of us, about whether a marriage ought to be between a man and a woman. It ought to. The real question is whether or not we ought to amend the U.S. Constitution, and then if we open it up to amendment, whether we ought to amendment it in other ways as well, including campaign finance reform, maybe victims' rights, maybe limitations on the first amendment. Others have suggested an amendment on flag burning. There are a lot of amendments out there. In fact, I am told in the 108th Congress, just last week I was informed that 67 constitutional amendments have been proposed in this Congress, in the 108th Congress. I am quite sure, of course, that not all of them were offered in the Senate.

I can just imagine the array of ideas presented by our colleagues regarding amending the U.S. Constitution. As I say, it takes 51 votes. Ultimately, of course, it takes 67 votes to pass whatever package has been approved. But that is what we get ourselves into. We need to think very carefully. We all say we would support and defend the Constitution each time we are sworn in as a U.S. Senator—support and defend the Constitution. Some of us see this as supporting and defending the Constitution in its most important way. So we do not take lightly these challenges, these situations.

I will say again, I think it is regrettable we have not been able to reach a unanimous consent agreement on how to proceed. We are actually going to vote on a motion to proceed without knowing what proceeding means because we do not have any way of knowing how many different ideas for amending the Constitution will be offered.

As the Senator from Nevada noted, we could be on this for a long time.

I will wait to proffer this request, and if I am not here, I know the distinguished assistant Democratic leader will offer this consent request, but we will be prepared to offer it at the appropriate time.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. FRIST. Mr. President, over the course of Friday, through the weekend and through today, we have been discussing the process for consideration of the marriage amendment. We have had a good discussion, good debate in the Senate both Friday and today in talking about the substance of the underlying amendment.

There has been frustration expressed on the other side of the aisle that we had not agreed to their unanimous consent agreement. This started discussions within the last week of a proposal that had been made to have debate and then a vote on the one amendment. I appreciate both sides of the aisle talking, trying to bring this to appropriate closure.

As majority leader, as I told the assistant Democratic leader at the end of last week, I thought it was very important to consult the rest of my colleagues beginning Friday afternoon. We had the discussion Friday and into today. After consultation with my colleagues, I found there is great interest in offering one amendment which is literally a one-sentence amendment. The Democratic leader has made statements in the Senate and made mention that the overall process could take a long period of time. I disagree. I don't think this needs to be a long, arduous process.

From this side of the aisle, we have offered an agreement that allows for two votes, one on the Allard amendment and then a one-sentence amendment. We are giving the other side of the aisle both of those amendments. This does not have to be a difficult process. It does not have to be as difficult as portrayed by the other side.

We can be done with the whole process by 1 o'clock on Wednesday. That would be the plan. I don't think this is an inordinate amount of time to spend on such an important issue to the American people.

I find a lot of the comments that have been made interesting because we have had our share of difficulties in moving as expeditiously on any piece of legislation recently, and now we have a proposed agreement by the other side of the aisle for a very quick vote. There seems to be, from their standpoint, this disbelief that we might have an amendment.

There are many important issues to be considered by the Senate. I wish we did not have as much delay so we could schedule them in a timely way. This particular matter on marriage is a very important matter. We can handle this constitutional amendment in a very responsible, judicious, and civil way. That is certainly my intent.

We have offered a unanimous consent agreement to do this. I am awaiting an answer from the other side of the aisle.

Mr. REID. Mr. President, the problem with what has transpired over the weekend is Senator DASCHLE and I spent Friday until somewhat late in the afternoon calling Democrat Senators to see if they would be willing to go forward on gay marriage without offering any amendments. There really was a kickback from a number of the Senators saying they had amendments to offer. We were able to contact Senators and convince them it was the best thing for the Senate to go directly to a vote on the amendment. This was reported in the Senate.

We simply are unable to agree to the suggestion of the Senator from Tennessee, the distinguished majority leader, because if you offer an amendment, we offer an amendment, it would just go on forever.

Mr. President, I ask unanimous consent the motion to proceed to S.J. Resolution 40 be agreed to, that no amendments or motions be in order to the joint resolution, and that the Senate vote on passage of the joint resolution at 12 noon on Wednesday, July 14.

Mr. FRIST. Mr. President, reserving the right to object, as I mentioned in my comments a few moments ago, from our side of the aisle there is a wish to offer one other amendment. Again, it is an amendment we presented to the other side of the aisle.

I, as majority leader, do not want to cut off that discussion, that debate, because this obviously is a very important consideration dealing with marriage.

That being the case, I would ask the assistant Democratic leader to modify his unanimous consent request with the following:

I ask unanimous consent that the motion to proceed be agreed to; provided further that the only amendments in order to the resolution be a first-degree amendment offered by Senator ALLARD and a first-degree amendment to be offered by Senator SMITH; provided further that no other amendments or motions be in order to the joint resolution, and that all debate time on the resolution and amendments be equally divided between the chairman and ranking member or their designees; provided further that at 12 noon, on Wednesday, July 14, the Senate proceed to a vote on the Allard amendment, to be followed by a vote on the Smith amendment, to be followed by third reading and a vote on passage of S.J. Res. 40, again, as amended, if amended, with no other intervening action or debate.

The PRESIDING OFFICER. Does the Senator so amend his request?

Mr. REID. Reserving the right to object, Mr. President, here is the quandary in which we find ourselves. If amendments are offered to a constitutional amendment on the floor, it only takes a simple majority of the Senate to amend the resolution that is on the floor.

So let's assume that someone offers an amendment dealing with flag burning, even though it takes 67 votes to pass a constitutional amendment dealing with flag burning, by a simple majority that could be attached to S.J. Res. 40. Or let's assume that in addition to that, someone offers an amendment on victims' rights. Again, it would take 67 votes to pass a constitutional amendment. But in this instance, it would take 51.

So we would have this gay marriage amendment strapped with not only the gay marriage amendment—in whatever fashion we find that with the amendments suggested by the distinguished majority leader—but it would also have a flag burning amendment attached to it. It would have a victims' rights amendment attached to it. And Senator HOLLINGS, as we all know, wants to offer an amendment dealing with campaign finance reform. So it just will not work.

I know how hard the distinguished majority leader is trying to work something out, but I think he is going down the wrong road. What we should do is get rid of this amendment. And I do not say that in any derogatory fashion. I say ''get rid of'' so we can go to other matters; we can go to something that we need to work on Wednesday afternoon.

In a colloquy I had with the distinguished Senator from Texas, Mr. CORNYN, former attorney general of the great State of Texas, he said: We need sufficient time to discuss this amendment. I said: Two days? That is what we have agreed to. If you want 3 days, we will do that.

So we are trying to be reasonable. I know how strongly people feel about this issue, but we cannot accept a modification. Therefore, Mr. President, I object.

The PRESIDING OFFICER. The Senator does not modify his request.

Does the majority leader object?

Mr. FRIST. Reserving the right to object, and I plan to object, Mr. President, but just to clarify, our unanimous consent request is just two amendments and not opening it up to other amendments like a flag burning amendment, victims' rights, or other amendments.

Mr. REID. Mr. President, I understand that.

Mr. FRIST. So our intent is to very much keep it very controlled in the consideration of amendments. With that being the case, having heard the objection to the modification, I object to the request.

The PRESIDING OFFICER. Objection is heard.

CLOTURE MOTION

Mr. FRIST. Mr. President, I send a cloture motion to the desk to the pending motion.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 620, S.J. Res. 40, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

Bill Frist, Orrin Hatch, Jim Talent, Wayne Allard, Mike Crapo, Mitch McConnell, Jeff Sessions, Larry E. Craig, John Cornyn, Craig Thomas, Jim Inhofe, Richard Shelby, Conrad Burns, Sam Brownback, George Allen, R. F. Bennett, Elizabeth Dole.

Mr. REID. Mr. President, if I could be heard very briefly. I know the time is late.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, we on this side are disappointed with the objection that the distinguished majority leader made to our request. But I would like to add that upon the disposition of this matter, the marriage amendment, we are prepared to proceed to the consideration of the Homeland Security appropriations bill, not under the restrictions that were suggested by the distinguished Senator from Alaska, but we are willing to work with the majority on coming up with some way to proceed to that most important legislation. We would hope the majority would consider going to that, if not next, soon thereafter.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I appreciate the comments of the assistant Democratic leader. Since last week, we have been in discussion, and we are working closely with Senator STEVENS, the distinguished chairman, and others in terms of an appropriate arrangement to proceed to homeland security.

Mr. President, I ask unanimous consent that the live quorum as required under rule XXII be waived; provided further that notwithstanding the provisions of rule XXII this vote occur at 12 noon on Wednesday, July 14.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators speaking for up to 10 minutes each.

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

BUDGET SCOREKEEPING REPORT

Mr. NICKLES. Mr. President, I hereby submit to the Senate the budget scorekeeping report prepared by the Congressional Budget Office under Section 308(b) and in aid of Section 311 of the Congressional Budget Act of 1974, as amended. This report meets the requirements for Senate scorekeeping of Section 5 of S. Con. Res. 32, the First Concurrent Resolution on the Budget for 1986.

This report shows the effects of congressional action on the 2004 budget through June 25, 2004—the last day that the Senate was in session before the recent recess. The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of the 2004 Concurrent Resolution on the Budget, H. Con. Res. 95, as adjusted.

The estimates show that current level spending is above the budget resolution by $8.6 billion in budget authority and by $28 million in outlays in 2004. Current level for revenues is $3.1 billion above the budget resolution in 2004.

Since my last report dated April 20, 2004, the Congress has cleared and the President has signed the following acts which changed budget authority, outlays, or revenues for 2004: the Surface Transportation Extension Act of 2004, Part II—P.L. 108–224; the TANF and Related Programs Continuation Act of 2004—P.L. 108–262; the Surface Transportation Extension Act of 2004, Part III—P.L. 108–263; the Child Nutrition and WIC Reauthorization Act of 2004—P.L. 108–265; and, an act approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003—P.L. 108–272. In addition, the Congress has cleared for the President's signature H.R. 4103, the African Growth and Opportunity Acceleration Act of 2004.

I ask unanimous consent that the budget scorekeeping report be printed in the RECORD.

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

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 12, 2004.

Hon. DON NICKLES,
Chairman, Committee on the Budget,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: The enclosed tables show the effects of Congressional action on the 2004 budget and are current through June 25, 2004 (the last day that the Senate was in session before the recent recess). This report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended.

The estimates of budget authority, outlays, and revenues are consistent with the technical and economic assumptions of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, as adjusted.

Since my last letter, dated April 19, 2004, the Congress has cleared and the President has signed the following acts, which changed budget authority, outlays or revenues for 2004:

The Surface Transportation Extension Act of 2004, Part II (Public Law 108–224);

The TANF and Related Programs Continuation Act of 2004 (Public Law 108–262);

The Surface Transportation Extension Act of 2004, Part III (Public Law 108–263);

The Child Nutrition and WIC Reauthorization Act of 2004 (Public Law 108–265); and

An act approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003 (P.L. 108–272).

In addition the Congress has cleared for the President's signature H.R. 4103, the AGOA Acceleration Act of 2004.

The effects of these actions are detailed in Table 2.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosures.

TABLE 1.—SENATE CURRENT-LEVEL REPORT FOR SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF JUNE 25, 2004

[In billions of dollars]

	Budget resolution	Current level[1]	Current level over/under (–) resolution
On-Budget			
Budget Authority	1,873.5	1,882.1	8.6
Outlays	1,897.0	1,897.0	*
Revenues	1,331.0	1,334.1	3.1
Off-Budget			
Social Security Outlays	380.4	380.4	0
Social Security Revenues	557.8	557.8	*

[1] Current level is the estimated effect on revenue and spending of all legislation that the Congress has enacted or sent to the President for his approval. In addition, full-year funding estimates under current law are included for entitlement and mandatory programs requiring annual appropriations even if the appropriations have not been made.

Note.—* = less than $50 million.

SOURCE: Congressional Budget Office.

TABLE 2.—SUPPORTING DETAIL FOR THE SENATE CURRENT-LEVEL REPORT FOR ON-BUDGET SPENDING AND REVENUES FOR FISCAL YEAR 2004, AS OF JUNE 25, 2004

(In millions of dollars)

	Budget authority	Outlays	Revenues
Enacted in previous sessions:			
Revenues	n.a.	n.a.	1,330,756
Permanents and other spending legislation [1]	1,117,131	1,077,938	n.a.
Appropriation legislation	1,148,942	1,179,843	n.a.
Offsetting receipts	−365,798	−365,798	n.a.
Total, enacted in previous sessions:	1,900,275	1,891,983	1,330,756
Enacted this session:			
Surface Transportation Extension Act of 2004 (P.L. 108–202)	1,328	0	0
Social Security Protection Act of 2004 (P.L. 108–203)	685	685	0
Welfare Reform Extension Act of 2004 (P.L. 108–210)	107	59	0
An act to reauthorize certain school lunch and child nutrition programs through June 30, 2004 (P.L. 108–211)	6	6	0
Pension Funding Equity Act of 2004 (P.L. 108–218)	0	0	3,363
An act to require the Secretary of Defense to reimburse members of the United States Armed Forces for certain transportation expenses (P.L. 108–220)	13	7	0
Surface Transportation Extension Act of 2004, Part II (P.L. 108–224)	482	0	0
TANF and Related Programs Continuation Act of 2004 (P.L. 108–262)	80	35	0
Surface Transportation Extension Act of 2004, Part III (P.L. 108–263)	422	0	0
Child Nutrition and WIC Reauthorization Act of 2004 (P.L. 108–265)	7	6	0
An act approving the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003 (P.L. 208–272)	.....	.....	−2
Total, enacted this session	3,130	797	3,361
Passed pending signature: AGOA Acceleration Act of 2004 (H.R. 4103)	0	0	−2
Entitlements and mandatories: Difference between enacted levels and budget resolution estimates for appropriated entitlements and other mandatory programs	−21,334	4,221	n.a.
Total Current Level [1 2]	1,882,071	1,897,001	1,334,115
Total Budget Resolution	1,873,459	1,896,973	1,331,000
Current Level Over Budget Resolution	8,612	28	3,115
Current Level Under Budget Resolution	n.a.	n.a.	n.a.

[1] Pursuant to section 502 of H. Con. Res. 95, the Concurrent Resolution on the Budget for Fiscal Year 2004, provisions designated as emergency requirements are exempt from enforcement of the budget resolution. As a result, the current level excludes $82,460 million in budget authority and $36,644 million in outlays from previously enacted bills.

[2] Excludes administrative expenses of the Social Security Administration, which are off-budget.

Source: Congressional Budget Office.
Notes: n.a. = not applicable; P.O. = Public Law.

TRIBUTE TO RONALD R. MAZIK

Mr. HARKIN. Mr. President, today I want to take a few minutes to remember Ronald R. Mazik and pay tribute to the many contributions he has made to his community, to his profession, and to this country.

Ron played many roles and achieved much in his lifetime. As an athlete, engineer and businessman, he excelled in a wide array of endeavors. Of his many achievements, one is particularly deserving of mention: as a pioneer in the field of telehealth.

Ron conceptualized and initiated innovations in the use of video and advanced communication systems, which are revolutionizing the way health services are provided to people with exceptional needs. His seminal work in interactive video promises to improve both the accessibility and quality of supports to those with developmental, mental and physical challenges, and brings us closer to our dream of insuring that all citizens lead a full and healthy life. The intellect and energy that Ron applied toward that goal must be regarded as an olympic performance.

Of Ron's contributions to the field of telehealth and to society, those close to him knew that he most valued his role as a father to his sons, Ron and Ken. With his many accomplishments, he unfailingly looked to his sons as his greatest source of pride and of joy.

It is an honor to recognize Ronald R. Mazik for his contributions to all of our lives.

RETIREMENT OF JAMES E. MCMULLEN

Mr. SPECTER. Mr. President, today I rise to honor James E. McMullen, Deputy Assistant Secretary, Budget and Strategic Planning of the Department of Labor on the occasion of his retirement. In his capacity as Deputy Assistant Secretary, Mr. McMullen was responsible for the Department's management and implementation of the Government Performance and Results Act, GPRA, and provided senior departmental staff with recommendations, guidance, and assistance in making decisions and selecting appropriate alternatives to meet short- and long-range budget goals. Mr. McMullen was also responsible for the development of policies, systems, and procedures for the Department's budget of $60 billion, and was charged with planning, directing, and coordinating the formulation and presentation of the Department's budget submissions to the Office of Management and Budget and to Congress.

Mr. McMullen has served as Associate Deputy Secretary of Labor. In that position he assisted the Deputy Secretary in the Development of positions on major policy issues and provided policy guidance and program direction to Assistant Secretaries.

Mr. McMullen previously served as the Deputy Assistant Secretary for Administration and Management. In that position, he was responsible for the day-to-day management of the Department's budget, human resources, information technology, administrative services, grant and contract policy, civil rights, and safety and health.

Mr. McMullen served as the Department of Labor's Budget Director for several years. He joined the Department's Office of Budget in August 1980 and held several positions of increasing responsibility. Mr. McMullen came to the Department of Labor as a Presidential management intern. During his internship, he worked for the House Appropriations Committee and the Office of Management and Budget, as well as several locations within the Department.

In April 2004 he received the Philip Arnow Award, which is the highest honor given to a career employee in the Department of Labor. In 1999 he received the Meritorious Executive Rank Award, and he has received special recognition from the William A. Jump Memorial Foundation for his outstanding achievements in public service.

I have been either chairman or ranking member of the Labor-HHS-Education Appropriations Subcommittee since January 1989, working in partnership with Senator TOM HARKIN. For all these years, Jim McMullen has been a fixture at our budget hearings, and has provided outstanding assistance to our committee. His will be hard shoes to fill, and he will be missed. We wish him well in his future endeavors, and thank him for his dedication to duty, hard work, and professionalism that set such a high standard for others to follow in public service.

AMERICAN LEGION PENNSYLVANIA DEPARTMENT COMMANDER ROBERT D. ''BOB'' SHALALA

Mr. SPECTER. Mr. President, today I recognize an American patriot whose commitment and dedication to the cause of our veterans has been long established. From 1960 to 1964, Bob Shalala served on active duty in the United States Navy aboard the U.S.S. *Galveston*, the U.S.S. *Wright* and the U.S.S. *Fred T. Berry*. Before his active duty ended, he served as the aide to the Commanding Officer of a naval air squadron and was also selected to join the Navy's Blue Jacket Choir, which entertained audiences around the country. Returning to Pennsylvania, he started his illustrious 40-year career as a Philadelphia police officer and twice was selected as Police Officer of the Year.

His remarkable career in the American Legion of Pennsylvania began with the Legion's Philadelphia Police Post. In the next 37 years, Bob gave new meaning to the word ''leadership'' as he served in every position from the Post level to District Commander to Sectional Commander to the top position—Department Commander. In between, he managed to chair a host of different committees and served as the Pennsylvania American Legion top membership recruiter for 2 years while placing second nationally in the Legion's membership effort.

Not surprisingly, Bob Shalala's goal as Department Commander over the past year has been to improve and promote membership. The American Legion in the State of Pennsylvania is the largest in the country and the position of Department Commander is a formidable one. From peers and members comes that Bob accepted the challenge of leadership and has set a high standard for his successors to emulate. An excellent spokesman, Bob Shalala departs his position as Department Commander in July 2004 with the gratitude of the Department's 240,000 members for a job performed exceedingly well. As the mantle of leadership passes to a new Department Commander, I express my gratitude to Bob Shalala for serving Pennsylvania veterans with such alacrity and dedication. He has faced the churning sea and completed his mission. In nautical terms that Navy men will understand, I raise high the flag hoist signaling Bravo Zulu—well done.

PENNSYLVANIA AMERICAN LEGION AUXILIARY PRESIDENT ANN CONEYBEER

Mr. SPECTER. Mr. President, today, I honor the many women who serve our veterans through their tireless efforts and membership in auxiliaries of such organizations as the Veterans of Foreign Wars and the American Legion to name a few. These women, the wives, mothers, sisters and daughters of veterans give tirelessly of their time to provide needed assistance and funding to veterans and their families in the communities.

In particular, I cite Ann Coneybeer—the outgoing President of the Pennsylvania American Legion Auxiliary. In July 2004, Ann will complete her tour of duty in this elected position.

Ann had four brothers who served in World War II thus making her eligible for membership in the Legion. For the past 41 years she has been a very active member where she has served as Unit President, Western Vice President and Department Vice President. In between Ann held a number of chairmanships at the State level including Leadership, Americanism, Constitution and By-Laws, Finance, Membership, Parliamentarian, Poppy and Veterans Affairs & Rehab and Children and Youth. Serving as Chairman is often a thankless job, but Ann fulfilled these responsibilities with dedication, energy and persistence.

As Ann Coneybeer departs office, I extend to her my thanks and the thanks of Pennsylvania veterans and their families for her many years of service, for her leadership and, most of all, for her belief in the cause of our Nation's veterans and our Nation's principles. She is truly a great American and it is a privilege that I honor her today.

ADDITIONAL STATEMENTS

LOCAL LAW ENFORCEMENT ACT OF 2003

• Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the-

Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On February 10, 2000, in Bay Shore, NY, Javier Morales was charged with allegedly assaulting a man he believed was gay.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.●

RETIREMENT OF DR. TALLEY

● Mr. JOHNSON. Mr. President, I rise today to acknowledge the work of a wonderfully talented individual, whose leadership has helped the University of South Dakota Medical School grow, and advance an excellent reputation within the national health care community during his 17-year tenure as dean. At the age of 68, Dr. Robert Talley retires from his role as dean to become the University of South Dakota's interim director for internal medicine residency in Sioux Falls, where he will continue to teach and guide our South Dakota medical community.

Dr. Talley graduated from the University of Michigan in 1958 and from the University of Chicago Medical School in 1962. He went on to Yale New Haven Hospital where he pursued an internship and residency. He then completed cardiology and clinical pharmacology fellowships at Grady Memorial Hospital in 1969.

Dr. Talley's career took him to various positions in San Antonio, with the University of Texas Medical School and Veterans Administration Hospital from 1969 through 1975. He became the chairman of the USD Department of Internal Medicine in 1975, and was promoted to dean in 1987. Dr. Talley was a founding member of the Medical Service Plan, the predecessor of University Physicians.

While Dr. Talley served as dean, the medical school received full accreditation during each review. Dr. Talley developed a model of medical student clinical education, which is considered cutting edge in the United States, and helped to form unique partnerships with the South Dakota Health Science Research Foundation and the Wegner Health Science Information Center. In the past 5 years, funded research in the basic biomedical sciences division alone grew 189 percent, resulting in great part from Dr. Talley's reorganization of the basic biomedical sciences division at the university. Dr. Talley provided outstanding leadership in medical education and is responsible for significant innovation in USD's approach to the education of South Dakota's health care providers.

At the national level, Talley is a member of the Liaison Committee on Medical Education, which accredits 125 undergraduate medical education programs in the United States. He served as chair of the American Medical Association Section on Medical Schools and chair of the Internal Medicine Committee, National Board of Medical Examiners. Most recently, the American College of Physicians—American Society of Internal Medicine bestowed a Mastership rank on Dr. Talley in recognition of his distinguished contributions to internal medicine.

Dr. Talley could have devoted his talents to private practice. But instead he chose to be an educator—he chose to use his skills in a manner that would enable him to reach a wide circle of individuals and which has had profoundly important public policy consequences.

He knows his students by name and utilizes the wide range of his students' abilities to enhance classroom discussion. His approach to teaching enriches health education on multiple levels that will prepare students for real-life situations in working with patients. Dr. Talley's impact on the University of South Dakota, its students and faculty, and on the entire State will be felt for generations to come.●

TRIBUTE TO KENT A. SMITH

● Mr. HARKIN. Mr. President, as a Member of the Senate who has worked in the area of medical research and health care, I draw the attention of the Congress—and Nation—to the retirement of a truly outstanding civil servant: Kent A. Smith. For the past quarter century, Mr. Smith, as deputy director, has managed the day-to-day operation of the National Library of Medicine, a part of the National Institutes of Health, U.S. Department of Health and Human Services. The National Library of Medicine is the largest medical library in the world, and it serves as the indispensable hub of national and international scientific medical communication.

The administrative and managerial astuteness of Mr. Smith has converted the vision of the Library's directors, Donald A.B. Lindberg, M.D., and his predecessor, Martin M. Cummings, M.D., into outstanding operational programs. There are many examples. One of the great success stories at the Library and the National Institutes of Health in the last decade is the National Center for Biotechnology Information. This institution, which serves as the collector and disseminator of molecular sequence data resulting from the Human Genome Program, is absolutely indispensable to the conduct of 21st century biomedical science. Its various web services are used almost a billion times each year by people around the globe. Mr. Smith provided invaluable support to members of the House and Senate, and their staff, in developing the legislation that created the center.

He has also been closely associated with the amazingly successful entry of the National Library of Medicine into the world of web-based consumer health information relied on by millions of Americans. His skill at managing people and budgets has allowed the Library to move beyond its traditional emphasis on serving exclusively scientists and health professionals. Today, such heavily used consumer information services as MedlinePlus, ClinicalTrials.gov, NIHSeniorHealth.gov, and the Household Products Database are testimony to his success in administering such a diverse institution as the Library now is.

Kent Smith, trained in mathematics, economics, and management, is known to medical librarians around the world. In our country he has had close ties to the 5,000 member institutions of the National Network of Libraries of Medicine, and he has championed their cause in many venues. His leadership and tireless efforts have had great impact on the development of federal information policies that ensure broad public access to an expanding universe of electronic government health information resources.

He is also known for his strong leadership of national and international organizations in the information field. He has served as President of the National Federation of Abstracting and Indexing Services, President of the International Council of Scientific and Technical Information, Chair of the Policy Group of the Federal Library and Information Center Committee, Vice President of the UNESCO General Information Program, and Chairman of CENDI, a group of federal scientific and technical information and technology managers.

I am aware that there are many farsighted and dedicated managers serving the people of the United States. It is a pleasure for me to honor one with whom I am personally acquainted and who, on the occasion of his retirement, richly deserves our thanks for a job well done.●

IOWA AMERICAN LEGION AUXILIARY UNITS

● Mr. GRASSLEY. Mr. President, I wish to take this opportunity to recognize the activities of two American Legion Auxiliary Units in Iowa, the Walter T. Enneberg 358 Auxiliary Unit in St. Ansgar, IA, and Auxiliary Unit 278 in Osage, IA. I thank them for their contributions to their communities. I ask unanimous consent that a newspaper article detailing the activities of the St. Ansgar unit and a summary of the activities of the Osage Unit be printed in the RECORD.

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

[April 17, 2004]

AMERICAN LEGION UNIT #358 REVIEW

The American Legion Unit #358 of St. Ansgar, meets on the second Tuesday of each month. The evening starts with a potluck-

supper with the members of the Legion, followed by our business meeting. We presently have 106 paid up members.

The hostesses for each month send personal care kits to the Mental Health Institute at Independence, the Iowa Veteran's Home at Marshalltown, the Iowa Training School at Eldora, the USVA Hospital at Knoxville, or the Mitchell County Care Facility at Osage.

We have been busy with many pleasant and worthwhile activities this year, including:

Sponsoring a high school junior at Girl's State and having her present a report at one of our meetings.

Sponsoring two blood drives with the Blood Center of Iowa.

Conducting a Poppy Day in St. Ansgar.

Sponsoring a Fluff and Pillow cleaning as a fund raiser.

Presenting apples to the St. Ansgar School administrators, teachers, support staff and school board members during American Education Week.

Providing a special article for our local newspaper during American Education Week featuring a picture and short interview with each teacher of our school district.

Presenting each of the residents of Mitchell County Care Facility with a personal, specially selected Christmas gift. This year the cost of this special project was about $250.

Awarding a $200 scholarship to a second year college student—some years we have given more than one scholarship.

Assisting with food and decorations for the annual Birthday Ball sponsored by the St. Ansgar American Legion and sharing the cost of this lovely evening.

Giving special contributions on Flag Day to support our special projects. This replaces the bake sale and coffee hour that we use to sponsor.

Marching in the Memorial Day parade..

Entering a patriotic float in the parade on June 21st to celebrate 150th anniversary of the founding of St. Ansgar.

Presenting a special program on July 3 at the Good Samaritan Center in St. Ansgar about the history of our flag. Legion members conducted the 13 folds of the flag for the residents.

Taking paper back books to the Veterans Home in Marshalltown.

Paying one half of the cost of food for the annual Legion/Auxiliary membership dinner in November.

Contributing $25 toward the cost of cases of microwave popcorn sent by Alamo Scouts to our troops in Iraq.

Sharing the cost with the Legion for a new flag for the St. Ansgar Senior Citizens Center.

Providing walkers, wheel chairs and other medical equipment as needed by anyone in the community.

Contributing $100 toward the project headed by Ruth Loney to provide stockings from Fox River Mills for our servicemen and women.

Contributing $100 toward President Rozena MaVey's project for a lighted flag at the entrance of the Veteran's Home in Marshalltown.

Sending coupons to service families in Germany.

Osage Unit 278 held their annual Bake Sale Luncheon on April 16th at the American Legion Post home in Osage. Each year the proceeds of this event are used to award $250.00 scholarships to worthy graduating seniors of Osage High School.

This year's event was highly successful and the Unit will be awarding five (5) scholarships of $250.00 each to seniors chosen through the application and interview process. Awards will be presented at the Osage High School Awards Assembly the week of April 20th.

Osage Auxiliary Unit 278 takes pride in performing many acts of service to the community, state and nation. Our greatest endeavor is to support our veterans and our troops in this current war which has placed many of our young men and women in the military in harm's way.●

HONORING THE CITY OF LENNOX

● Mr. JOHNSON. Mr. President, I wish to honor and publicly recognize the 125th anniversary of the founding of the town of Lennox, SD. The town of Lennox has a proud past and a promising future. In 1879, the Milwaukee Railroad established a branch where the town stands today.

The town of Lennox was named after B.G. Lennox, private secretary to S.S. Merrill, a railroad executive. By 1880, 90 people lived in Lennox, and the town has experienced steady growth since then. The 2000 census listed Lennox as having a population of just over 2,000 people.

Lennox is governed by a seven-person city council. There are numerous projects and major developments underway in Lennox. Currently, the city is upgrading its water system, with two new water towers and a new well to ensure that the city has plenty of water. The Lennox Commercial Club has many of the town's businesses as members and meets monthly to sponsor promotions and encourage business growth. An active senior center, the Good Samaritan Center, the Hilda's Heritage Home all provide support for seniors.

Small towns like Lennox are the backbone of rural States such as South Dakota. A growing community built by good neighbors and a strong foundation is a great place to raise a family. The town has been celebrating throughout the year and is continuing through July with events at the high school, community church and a sauerkraut/polka party on the town's main street. This sort of wholesome, small town celebration is a great example of rural South Dakota's commitment to good values and local history. It is with great honor that I share this great community with my colleagues.●

RECOGNIZING GREG CANNELL OF AMERICAN FALLS, IDAHO

● Mr. CRAIG. Mr. President, I rise to recognize Mr. Greg Cannell of American Falls, ID, for his heroic actions in saving the life of a rural mail carrier. Last December, Greg selflessly and fearlessly jumped into near-freezing waters to save a mail carrier who had skidded off a winding mountain road and into the nearby river.

On December 1, 2003, Ron Meadville, a rural mail carrier, was returning from his 110-mile route along the remote North Fork road northwest of Salmon, ID. Greg Cannell and a friend, Tina Taysom, were traveling ahead of Meadville on the same road. Cannell and Taysom pulled over to look at some deer, and Meadville passed them. When Cannell pulled back on the road and rounded a bend, he couldn't see the mail truck but saw a set of skid marks that veered off the road, toward the near-frozen river. Meadville had hit a patch of ice that sent his truck hurtling over the 25-foot embankment to land upside down in the Salmon River, in more than 5 feet of 33-degree water. Greg Cannell acted immediately. He stopped his truck, jumped out, slid down the steep embankment and plunged into the river. After several strenuous attempts, Cannell was able to pull open the truck door, grab Meadville's hand, and pull him out through an opening between the seat and the doorjamb. By this time, Meadville was experiencing hypothermia.

Cannell and Taysom pulled Meadville up the embankment to their vehicle. Meadville managed to tell them that he lived about a mile from where they were. Cannell took him to his home where he helped Meadville's wife care for him. Cannell refused any care for himself until he knew Meadville was safe.

Greg Cannell risked his own life to save a stranger. He refuses to be called a hero, but he is truly a hero to Ron Meadville and his family. Without his courageous actions, Ron Meadville would not be alive today. Greg Cannell's actions truly were heroic and it is a pleasure for me to honor him and share his story.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:04 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2828. An act to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

H.R. 3980. An act to establish a National Windstorm Impact Reduction Program.

H.R. 3598. An act to establish an interagency committee to coordinate Federal manufacturing research and development efforts in manufacturing, strengthen existing programs to assist manufacturing innovation and education, and expand outreach programs for small and medium-sized manufacturers, and for other purposes.

The message also announced that pursuant to section 1501(b) of the National Defense Authorization Act for Fiscal Year 2004 (P.L. 108–136), the Minority Leader appoints the following individuals on the part of the House of Representatives to the Veterans' Disability Benefits Commission: Col. Larry G. Brown of Oregon and Mr. Joe Wynn of Washington, DC.

At 3:23 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1167. A bill to resolve the boundary conflicts in Barry and Stone Counties in the State of Missouri.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3598. An act to establish an interagency committee to coordinate Federal manufacturing research and development efforts in manufacturing, strengthen existing programs to assist manufacturing innovation and education, and expand outreach programs for small and medium-sized manufacturers, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 3980. An act to establish a National Windstorm Impact Reduction Program; to the Committee on Commerce, Science, and Transportation.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–8381. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, a report entitled ''Implementation Guidance for the Filter Backwash Recycling Rule''; to the Committee on Environment and Public Works.

EC–8382. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, two Uniform Resource Locators for documents that the Agency recently issued; to the Committee on Environment and Public Works.

EC–8383. A communication from the Group Manager, Regulatory Affairs, Bureau of Land Management, transmitting, pursuant to law, the report of a rule entitled ''Location, Recording, and Maintenance of Mining Claims or Sites'' (RIN1004–AD62) received on July 6, 2004; to the Committee on Energy and Natural Resources.

EC–8384. A communication from the Acting Chair, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Subsistence Management Regulations for Public Lands in Alaska, Subpart C and D—2004–2005 Subsistence Taking of Wildlife Regulations'' (RIN1018–AJ25) received on June 24, 2004; to the Committee on Energy and Natural Resources.

EC–8385. A communication from the Administrator, National Nuclear Security Administration, Department of Energy, transmitting, pursuant to law, a report relative to the Agreement Between the Government of the United States of America and the Government of the United Kingdom of Great Britain and Northern Ireland for Cooperation on the Uses of Atomic Energy for Mutual Defense Purposes; to the Committee on Energy and Natural Resources.

EC–8386. A communication from the Administrator, National Nuclear Security Administration, Department of Energy, transmitting, pursuant to law, a report relative to calendar year 2003 sales to designated Tier III countries of computers capable of operating at a speed in excess of a specified number of theoretical operations per second by companies that participated in the Advanced Simulation and Computing Program of the Department; to the Committee on Energy and Natural Resources.

EC–8387. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a draft of proposed legislation relative to maritime transportation security, and for other purposes; to the Committee on Commerce, Science, and Transportation.

EC–8388. A communication from the Secretary of Homeland Security, transmitting, pursuant to law, a report relative to progress on a demonstration project using the Coast Guard Housing Authorities; to the Committee on Commerce, Science, and Transportation.

EC–8389. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Navigation and Navigable Waters; Technical, Organizational, and Conforming Amendments'' (RIN1625–ZA02) received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8390. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Special Anchorage Area; Madeline Island, WI'' (RIN1625–AA01) received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8391. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zones (Including 6 Regulations)—COTP San Francisco Bay 03–009, CGD13–04–002, COTP San Francisco Bay 03–026, CGD09–04–001, CGD01–03–020, CGD08–04–004'' (RIN1625–AA00) received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8392. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Fire-Suppression Systems and Voyage Planning for Towing Vessels [USCG–2000–6931]'' (RIN1625–AA60) received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8393. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Training and Qualifications for Personnel on Passenger Ships [USCG–1999–5610]'' (RIN1625–AA24) received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8394. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Operation Regulations (Including 4 Regulations)—CGD11–04–005, CGD05–04–118, CGD01–04–047, CGD01–04–048'' () received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8395. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Drawbridge Regulations (Including 7 Regulations)—CGD01–04–019, CGD01–04–033, CGD01–03–115, CGD01–04–021, CGD01–04–027, CGD01–00–228, CGD07–04–010'' () received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8396. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Penalties for Non-Submission of Ballast Water Management Reports [USCG–2002–13147]'' (RIN1625–AA51) received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8397. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Country of Origin Codes and Revision of Regulations on Hull Identification Numbers [USCG–2003–14272]'' (RIN1625–AA53) received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8398. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Update of Rules on Aids to Navigation Affecting Buoys, Sound Signals, International Rules at Sea, Communications Procedures, and Large Navigational Buoys [USCG–2001–10714]'' (RIN1625–AA34) received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8399. A communication from the Chief, Regulations and Administrative Law, Coast Guard, transmitting, pursuant to law, the report of a rule entitled ''Safety/Security Zones (Including 17 Regulations)—CGD09–04–034, CGD09–04–032, CGD09–04–025, CGD09–04–024, CGD09–04–023, CGD09–04–035, CGD09–04–030, CGD09–04–031, CGD09–04–027, CGD01–04–075, CGD05–04–106, COTP San Francisco Bay 04–013, CGD05–04–105, COTP Huntington 04–001, CGD01–04–053, COTP Charleston 04–046, COTP San Francisco Bay 04–012'' (RIN1625–AA00) received on July 6, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8400. A communication from the Acting Under Secretary and Acting Director, United States Patent and Trademark Office, transmitting, pursuant to law, the report of a rule entitled ''Revision of Power of Attorney and Assignment Practice'' (RIN0651–AB63) received on June 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8401. A communication from the Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service, Office of Sustainable Fisheries, transmitting, pursuant to law, the report of a rule entitled ''Final Rule to Implement Amendment 63 to the FMP for Groundfish in the Gulf of Alaska'' (RIN0648–AR73) received on June 24, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8402. A communication from the Regulations Analyst, Office of the Chief Counsel, Transportation Security Administration, transmitting, pursuant to law, the report of a rule entitled ''Privacy Act of 1974: Implementation of Exemption'' (RIN1652–AA28) received on June 25, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8403. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled ''Closure of Fishing for Species that

Comprise the Deep-Water Species Fishery by Vessels Using Trawl Gear in the Gulf of Alaska'' () received on July 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8404. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of the discontinuation of service in acting role for the position of Assistant Secretary for Budget and Programs, Department of Transportation, received on July 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8405. A communication from the Attorney Advisor, Department of Transportation, transmitting, pursuant to law, the report of a nomination confirmed for the position of Assistant Secretary for Budget and Programs, Department of Transportation, received on July 1, 2004; to the Committee on Commerce, Science, and Transportation.

EC–8406. A communication from the Chairman, Federal Maritime Commission, transmitting, pursuant to law, a report relative to the Commission's competitive sourcing efforts; to the Committee on Commerce, Science, and Transportation.

EC–8407. A communication from the Secretary of Commerce, transmitting, pursuant to law, a report relative to the International Anti-Bribery and Fair Competition Act of 1998; to the Committee on Commerce, Science, and Transportation.

EC–8408. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $100,000,000 or more to Poland; to the Committee on Foreign Relations.

EC–8409. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the manufacture of defense articles or services in the amount of $50,000,000 or more to the Republic of Korea; to the Committee on Foreign Relations.

EC–8410. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the manufacture of significant military equipment abroad; to the Committee on Foreign Relations.

EC–8411. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles that are firearms sold commercially under a contract in the amount of $1,000,000 or more to Japan; to the Committee on Foreign Relations.

EC–8412. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of major defense equipment sold commercially under a contract in the amount of $14,000,000 or more to South Korea; to the Committee on Foreign Relations.

EC–8413. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Sweden; to the Committee on Foreign Relations.

EC–8414. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the manufacture of significant military equipment abroad; to the Committee on Foreign Relations.

EC–8415. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the major defense equipment valued at $14,000,000 or more to the Government of Sweden; to the Committee on Foreign Relations.

EC–8416. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or services sold commercially under a contract in the amount of $50,000,000 or more to Israel; to the Committee on Foreign Relations.

EC–8417. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report on Bulgaria's status as an adherent to the Missile Technology Control Regime; to the Committee on Foreign Relations.

EC–8418. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to Danger Pay to government civilian employees; to the Committee on Foreign Relations.

EC–8419. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to Danger Pay to government civilian employees; to the Committee on Foreign Relations.

EC–8420. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the Department's report relative to its competitive sourcing efforts; to the Committee on Foreign Relations.

EC–8421. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report relative to countries that are not cooperating fully with U.S. antiterrorism efforts; to the Committee on Foreign Relations.

EC–8422. A communication from the Assistant Secretary of Legislative Affairs, Department of State, transmitting, pursuant to law, the report of Presidential Determination 2004–31 relative to waiving prohibition on United States Military assistance with respect to Burkina Faso and Dominica; to the Committee on Foreign Relations.

EC–8423. A communication from the Acting Administrator, U.S. Agency for International Development, transmitting, pursuant to law, a report relative to the transfer of funds from the Development Assistance Account to the account for Operating Expenses of the Agency; to the Committee on Foreign Relations.

EC–8424. A communication from the Assistant to the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the report of a rule entitled ''Community Reinvestment Act Joint Interim Rule with Request for Comments'' (Doc. No. R–1205) received on July 8, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–8425. A communication from the Director, Legislative and Regulatory Activities Division, Comptroller of the Currency, transmitting, pursuant to law, the report of a rule entitled ''Community Reinvestment Act Regulations'' received on July 7, 2004 ; to the Committee on Banking, Housing, and Urban Affairs.

EC–8426. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations; 69 FR 29662'' (Doc. No. FEMA–B–7446) received on July 7, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–8427. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations; 69 FR 31026'' (Doc. No. FEMA–B–7557) received on July 7, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–8428. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Suspension of Community Eligibility; 69 FR 31022'' (Doc. No. FEMA–B–7833) received on July 7, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–8429. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Final Flood Elevation Determination; 69 FR 31028'' (44 CFR 67) received on July 7, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–8430. A communication from the Acting General Counsel, Federal Emergency Management Agency, transmitting, pursuant to law, the report of a rule entitled ''Changes in Flood Elevation Determinations; 69 FR 31024'' (4 CFR 65) received on July 7, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–8431. A communication from the CEO and Managing Director, transmitting, pursuant to law, the 2003 management reports of the twelve Federal Home Loan Banks; to the Committee on Banking, Housing, and Urban Affairs.

EC–8432. A communication from the Chief Operating Officer and President, Resolution Funding Corporation, transmitting, pursuant to law, the Corporation's statement on the system on internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8433. A communication from the Chief Operating Officer and President, Financing Corporation, transmitting, pursuant to law, the Corporation's statement on the system on internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8434. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Seattle, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8435. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of San Francisco, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8436. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Topeka, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8437. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Chicago, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8438. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Indianapolis, transmitting, pursuant to law, the Bank's statement

on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8439. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Des Moines, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8440. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of New York, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8441. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Dallas, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8442. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Boston, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8443. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Pittsburgh, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8444. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Atlanta, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8445. A communication from the President and Chief Executive Officer, Federal Home Loan Bank of Cincinnati, transmitting, pursuant to law, the Bank's statement on the system of internal controls; to the Committee on Banking, Housing, and Urban Affairs.

EC–8446. A communication from the Senior Paralegal for Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Community Reinvestment Act Regulations'' (RIN1550–AB91) received on July 8, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–8447. A communication from the Fiscal Assistant Secretary, Department of the Treasury, transmitting, pursuant to law, the Treasury Bulletin and a report entitled ''Security of Personal Financial Information''; to the Committee on Banking, Housing, and Urban Affairs.

EC–8448. A communication from the Assistant Director, Executive and Political Personnel, Department of Defense, transmitting, pursuant to law, the report of a vacancy, designation of acting officer, and nomination for the position of Under Secretary of Defense, Comptroller, Department of Defense, received on July 7, 2004; to the Committee on Armed Services.

EC–8449. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, transmitting, pursuant to law, a list of officers authorized to wear the insignia of the next highest grade; to the Committee on Armed Services.

EC–8450. A communication from the Principal Deputy for Personnel and Readiness, Office of the Under Secretary of Defense, transmitting, pursuant to law, a report relative to female members of the Armed Forces; to the Committee on Armed Services.

EC–8451. A communication from the Deputy Chief of Naval Operations, Office of the Chief of Naval Operations, Department of Defense, transmitting, pursuant to law, a report relative to the Naval Warfare Center, Weapons Division Administration at China Lake and Point Mugu, CA; to the Committee on Armed Services.

EC–8452. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sulfuric Acid; Exemption from the Requirement of a Tolerance'' (FRL #7364–4) received on July 7, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LUGAR for the Committee on Foreign Relations.

*Kenneth Francis Hackett, of Maryland, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of three years.

*Christine Todd Whitman, of New Jersey, to be a Member of the Board of Directors of the Millennium Challenge Corporation for a term of three years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. COLEMAN:

S. 2638. A bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BAYH:

S. Res. 403. A resolution encouraging increased involvement in service activities to assist senior citizens; to the Committee on the Judiciary.

By Mrs. CLINTON (for herself, Mr. SCHUMER, Mr. CORZINE, and Mr. LAUTENBERG):

S. Con. Res. 123. Concurrent resolution recognizing and honoring the life and legacy of Alexander Hamilton on the bicentennial of his death because of his standing as one of the most influential Founding Fathers of the United States; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 977

At the request of Mr. FITZGERALD, the name of the Senator from Pennsylvania (Mr. SPECTER) was added as a cosponsor of S. 977, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage from treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 1392

At the request of Mr. HARKIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1392, a bill to amend the Richard B. Russell National School Lunch Act to improve the nutrition of students served under child nutrition programs.

S. 1411

At the request of Mr. KERRY, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1411, a bill to establish a National Housing Trust Fund in the Treasury of the United States to provide for the development of decent, safe, and affordable housing for low-income families, and for other purposes.

S. 1630

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2-1-1 telephone service for information and referral services, and for other purposes.

S. 1840

At the request of Mr. CONRAD, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 1840, a bill to amend the Food Security Act of 1985 to encourage owners and operations of privately-held farm and ranch land to voluntarily make their land available for access by the public under programs administered by States.

S. 1902

At the request of Mr. REED, the names of the Senator from North Dakota (Mr. DORGAN), the Senator from Ohio (Mr. DEWINE) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 1902, a bill to establish a National Commission on Digestive Diseases.

S. 1909

At the request of Mr. COCHRAN, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1909, a bill to amend the Public Health Service Act to improve stroke prevention, diagnosis, treatment, and rehabilitation.

S. 2176

At the request of Mr. BINGAMAN, the name of the Senator from Iowa (Mr. HARKIN) was added as a cosponsor of S. 2176, a bill to require the Secretary of Energy to carry out a program of research and development to advance high-end computing.

S. 2363

At the request of Mr. HATCH, the name of the Senator from Illinois (Mr.

FITZGERALD) was added as a cosponsor of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2461

At the request of Mr. DEWINE, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. 2461, a bill to protect the public health by providing the Food and Drug Administration with certain authority to regulate tobacco products.

S. 2502

At the request of Mr. CRAIG, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from Alaska (Mr. STEVENS) were added as cosponsors of S. 2502, a bill to allow seniors to file their Federal income tax on a new Form 1040S.

S. 2542

At the request of Mr. KENNEDY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2542, a bill to provide for review of determinations on whether schools and local educational agencies made adequate yearly progress for the 2002–2003 school year taking into consideration subsequent regulations and guidance applicable to those determinations, and for other purposes.

S. 2551

At the request of Mr. FRIST, the names of the Senator from Texas (Mr. CORNYN), the Senator from Illinois (Mr. DURBIN) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. 2551, a bill to reduce and prevent childhood obesity by encouraging schools and school districts to develop and implement local, school-based programs designed to reduce and prevent childhood obesity, promote increased physical activity, and improve nutritional choices.

S. 2560

At the request of Mr. LEAHY, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2560, a bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes.

S. 2600

At the request of Mrs. CLINTON, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Indiana (Mr. BAYH) were added as cosponsors of S. 2600, a bill to direct the Architect of the Capitol to enter into a contract to revise the statue commemorating women's suffrage located in the rotunda of the United States Capitol to include a likeness of Sojourner Truth.

S. 2603

At the request of Mr. SMITH, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 2603, a bill to amend section 227 of the Communications Act of 1934 (47 U.S.C. 227) relating to the prohibition on junk fax transmissions.

S. RES. 389

At the request of Mr. CAMPBELL, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Idaho (Mr. CRAPO) were added as cosponsors of S. Res. 389, a resolution expressing the sense of the Senate with respect to prostate cancer information.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. COLEMAN:

S. 2638. A bill to amend title 38, United States Code, to require an annual plan on outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

Mr. COLEMAN. Mr. President, today I have introduced the Veterans Benefits Outreach Act.

Caring for our veterans is a commitment that supersedes politics. The President and Congress are united in our promise to provide veterans with access to quality care and benefits.

Spending for veterans medical care has doubled since 1993. President Bush's budget for the VA increased by 9 percent in fiscal year 2002, 13 percent in 2003 and another 4 percent in 2004. We in the Senate passed a budget resolution calling for another 5 percent increase next year. We have begun giving veterans concurrent receipt of their disability and retirement benefits, and are working to fix the survivor benefit plan.

But what good are these benefits if people don't know they can apply for them? According to an article that ran on the front page of the St. Paul Pioneer Press today entitled: ''Wounded and Forgotten,'' there are an estimated half a million veterans who are eligible for Federal disability payments but are not receiving them—simply because they don't know that they can.

We need to do a better job of educating veterans about their rights. To this end, my legislation calls for the Veterans Administration to develop a strategy each year to reach out to veterans who are not taking advantage of the programs they're eligible for—to give them a chance to make an informed decision about the benefits America has promised them.

In addition to veterans who are not getting their benefits because they are unaware of them, there are some veterans who know they are eligible but have been turned away because of lost documents. You see, in 1973, the National Personnel Records Center in Missouri caught on fire, destroying thousands of veterans' personnel records.

The law already calls for the VA to give veterans the benefit of the doubt when they are missing documents that had been destroyed in the fire. But it is clear that in practice this is simply not the case. Too many veterans get nothing more than a postcard telling them their case cannot be proven because of the destruction of their records three decades ago.

It is simply unconscionable that these veterans should have to suffer because their records were ruined while in the custody of the government. To deal with this problem, my legislation also directs the VA to set up an appeals process for those whose applications are rejected because of documents lost in that fire.

My legislation is about going the extra mile to do the right thing. These are not hand-outs, these are not new entitlement programs—these are benefits prescribed under the law for people who have already qualified for them by serving their country. We must do whatever it takes to give America's veterans the benefits we promised them.

I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2638

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Veterans Benefits Outreach Act of 2004''.

SEC. 2. ANNUAL PLAN ON OUTREACH ACTIVITIES.

(a) ANNUAL PLAN REQUIRED.—Subchapter II of chapter 5 of title 38, United States Code, is amended by inserting after section 523 the following new section:

''§ 523A. Annual plan on outreach activities

''(a) ANNUAL PLAN REQUIRED.—The Secretary shall prepare each year a plan for the outreach activities of the Department for the following year.

''(b) ELEMENTS.—Each annual plan under subsection (a) shall include the following:

''(1) Plans for efforts to identify veterans who are not enrolled or registered with the Department for benefits or services under the programs administered by the Secretary.

''(2) Plans for informing veterans and their dependents of modifications of the benefits and services under the programs administered by the Secretary, including eligibility for medical and nursing care and services.

''(c) COORDINATION IN DEVELOPMENT.—In developing an annual plan under subsection (a), the Secretary shall consult with the following:

''(1) Directors or other appropriate officials of organizations recognized by the Secretary under section 5902 of this title.

''(2) Directors or other appropriate officials of State and local education and training programs.

''(3) Representatives of non-governmental organizations that carry out veterans outreach programs.

''(4) Representatives of State and local veterans employment organizations.

''(5) Businesses and professional organizations.

''(6) Other individuals and organizations that assist veterans in adjusting to civilian life.

''(d) INCORPORATION OF ASSESSMENT OF PREVIOUS ANNUAL PLANS.—In developing an annual plan under subsection (a), the Secretary shall take into account the lessons learned from the implementation of previous annual plans under such subsection.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 523 the following new item:

''523A. Annual plan on outreach activities.''.

SEC. 3. APPEAL OF CLAIMS DENIED BECAUSE OF LOSS OF RECORDS RESULTING FROM 1974 FIRE AT THE NATIONAL PERSONNEL RECORDS CENTER.

The Secretary of Veterans Affairs shall develop and implement procedures by which veterans may appeal claims denied by the Secretary on the basis that records destroyed in the 1974 fire at the National Personnel Records Center could substantiate such claims.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 403—ENCOURAGING INCREASED INVOLVEMENT IN SERVICE ACTIVITIES TO ASSIST SENIOR CITIZENS

Mr. BAYH submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 403

Whereas approximately 13,000,000 individuals in the United States have serious long-term health conditions that may force them to seek assistance with daily tasks;

Whereas 56 percent of the individuals in the United States with serious long-term health conditions are age 65 or older;

Whereas the percentage of the population over the age of 65 is expected to rise from 13 percent in 2004 to 20 percent in 2020;

Whereas 15 percent of all seniors over the age of 65 suffer from depression;

Whereas studies have suggested that 25 to 50 percent of nursing home residents are affected by depression;

Whereas approximately 1,450,000 people live in nursing homes in the United States;

Whereas by 2018 there will be 3,600,000 seniors in need of a nursing home bed, which will be an increase of more than 2,000,000 from 2004;

Whereas as many as 60 percent of nursing home residents do not have regular visitors;

Whereas older patients with significant symptoms of depression have significantly higher health care costs than seniors who are not depressed;

Whereas people who are depressed tend to be withdrawn from their community, friends, and family;

Whereas the Corporation for National and Community Service (CNS) Senior Corps programs currently provide seniors with the opportunity to serve their communities through the Retired and Senior Volunteer Program, Foster Grandparent Program, and Senior Companion Program;

Whereas through the Senior Companion Program in particular, in the 2002 to 2003 program year, more than 17,000 low-income seniors volunteered their time assisting 61,000 frail elderly and homebound individuals who have difficulty completing daily tasks;

Whereas numerous volunteer organizations across the United States enable Americans of all ages to participate in similar activities;

Whereas Faith in Action, 1 volunteer organization, brings together 40,000 volunteers of many faiths to serve 60,000 people with long-term health needs or disabilities across the country, 64 percent of whom are 65 years of age or older;

Whereas the thousands of volunteers that, through the Senior Companion Program and volunteer organizations nationwide, provide companionship and assistance to frail elderly individuals, nursing home residents, and homebound seniors, deserve to be commended for their work;

Whereas the demand for these services outstrips the number of volunteers, and organizations are seeking to enlist more individuals in the United States in the volunteer effort;

Whereas companionship and assistance programs for seniors with long-term health needs offer many demonstrated benefits, such as: allowing frail elderly individuals to remain in their homes; enabling seniors to maintain independence for as long as possible; providing encouragement and friendship to lonely seniors; and providing relief to home care givers;

Whereas regular visitation and assistance is the best way of assuring seniors that they have not been forgotten, and State and local recognition of regular visitation programs can call further attention to the importance of volunteering on an ongoing basis; and

Whereas a month dedicated to service for seniors and recognized across the United States will call attention to volunteer organizations serving seniors and provide a platform for recruitment efforts: Now, therefore, be it

Resolved, That the Senate—

(1) designates the month of August as ''Service for Seniors Month'';

(2) recognizes the need for companionship and assistance with daily tasks among seniors with long-term health conditions throughout the year, and encourages the people of the United States to volunteer regularly at a nursing home or long-term care facility;

(3) encourages volunteer organizations that offer companionship and assistance to seniors to incorporate ''Service for Seniors Month'' in their recruitment efforts;

(4) encourages individuals in the United States to volunteer in these service organizations in order to give back to a generation that sacrificed so much; and

(5) requests that the President issue a proclamation calling on the people of the United States and interested groups to observe ''Service for Seniors Month'' with appropriate ceremonies and activities that promote awareness of, and volunteer involvement service for, seniors with long-term health needs.

SENATE CONCURRENT RESOLUTION 123—RECOGNIZING AND HONORING THE LIFE AND LEGACY OF ALEXANDER HAMILTON ON THE BICENTENNIAL OF HIS DEATH BECAUSE OF HIS STANDING AS ONE OF THE MOST INFLUENTIAL FOUNDING FATHERS OF THE UNITED STATES

Mrs. CLINTON (for herself, Mr. SCHUMER, Mr. CORZINE, and Mr. LAUTENBERG) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 123

Whereas Alexander Hamilton dedicated his life to serving his adopted country as a Revolutionary soldier, aide-de-camp to General George Washington, Representative to the Continental Congress, member of the New York State Assembly, first Secretary of the Treasury of the United States, and Inspector General of the Army;

Whereas Alexander Hamilton was a poor teenage immigrant to New York from the West Indian Islands of Nevis and St. Croix;

Whereas in the early days of the Revolutionary War Alexander Hamilton was commissioned as a captain and raised and trained his own New York artillery regiment and served valiantly in the battles of Long Island and Manhattan;

Whereas Alexander Hamilton quickly captured the attention of General George Washington who made him his aide-de-camp and confidant throughout the most difficult days of the Revolutionary War;

Whereas in 1781, Lieutenant Colonel Alexander Hamilton of the Continental Army led a bold attack of New York troops during the siege of Yorktown, the decisive and final battle of the Revolutionary War;

Whereas in 1782, Alexander Hamilton was elected as a member of the Continental Congress from New York;

Whereas as a private citizen Alexander Hamilton served many philanthropic causes and was a co-founder of the New York Manumission Society, the first abolitionist organization in New York and a major influence on the abolition of slavery from the State;

Whereas Alexander Hamilton was a strong and consistent advocate against slavery and believed that Blacks and Whites were equal citizens and equal in their mental and physical faculties;

Whereas Alexander Hamilton was one of the first members of the founding generation to call for a convention to drastically revise the Articles of Confederation;

Whereas Alexander Hamilton joined James Madison in Annapolis, Maryland in 1786 to officially request that the States call a constitutional convention;

Whereas Alexander Hamilton was elected as a delegate to the Constitutional Convention of 1787 from New York, where he played an influential role and was the only delegate from New York to sign the Constitution;

Whereas Alexander Hamilton was the primary author of the Federalist Papers, the single most influential interpretation of American constitutional law ever written;

Whereas Alexander Hamilton was the most important individual force in achieving the ratification of the Constitution in New York against the strong opposition of many of the delegates to the ratifying convention;

Whereas Alexander Hamilton was the leading voice of the founding generation in support of the controversial doctrine of judicial review, which is the backbone for the role of the Supreme Court in the constitutional system of the United States;

Whereas on September 11, 1789, Alexander Hamilton was appointed by President George Washington to be the first Secretary of the Treasury;

Whereas as Secretary of the Treasury Alexander Hamilton salvaged the public credit, created the first Bank of the United States, and outlined the basic economic vision of a mixed agricultural and manufacturing society supported by a strong financial system that would underlie the great economic expansion of the United States for the next 2 centuries;

Whereas Alexander Hamilton was the leading proponent among the Founding Fathers of encouraging a strong manufacturing base for the United States in order to create good paying middle-class jobs and encourage a society built on merit rather than class or skin color;

Whereas in pursuit of this vision Alexander Hamilton founded The Society for Establishing Useful Manufactures which in turn founded the town of Paterson, New Jersey, one of the first industrial centers of the United States;

Whereas Alexander Hamilton proposed and oversaw the creation of the Coast Guard for law enforcement in territorial waters of the United States;

Whereas in 1798, President John Adams called upon Alexander Hamilton to raise an army in preparation for a possible war with France and, as Inspector General of the Army, he trained a powerful force of well-equipped soldiers who were able to help deter war at this vulnerable stage in the founding of the United States;

Whereas throughout the founding era Alexander Hamilton was the leading advocate of a strong national union led by an efficient Federal Government with significant protections for individual liberties;

Whereas on July 11, 1804, Alexander Hamilton was fatally wounded in a duel in Weehawken, New Jersey at the hands of Vice President Aaron Burr; and

Whereas Alexander Hamilton died in Manhattan on July 12, 1804, and was eulogized across the country as one of the leading visionaries of the founding era: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) honors the great importance of the life and legacy of Alexander Hamilton to the United States of America on the bicentennial of his death;

(2) recognizes the tremendous significance of the contributions of Alexander Hamilton to the United States as a soldier, citizen, and statesman; and

(3) urges the people of the United States to share in this commemoration so as to gain a greater appreciation of the critical role that Alexander Hamilton had in defense of America's freedom and the founding of the United States.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. DOMENICI. Mr. President, I announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources.

The hearing will be held on Tuesday, July 20, 2004 at 10 a.m. in Room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 2590, a bill to provide a conservation royalty from Outer Continental Shelf revenues to establish the Coastal Impact Assistance Program, to provide assistance to States under the Land and Water Conservation Fund Act of 1965, to ensure adequate funding for conserving and restoring wildlife, to assist local governments in improving local park and recreation systems, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC 20510–6150.

For further information, please contact Kellie Donnelly at 204–224–9360 or Shane Perkins at 202–224–7555.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I announce that the Committee on Indian Affairs will meet on Tuesday, July 20, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a hearing on S. 2605, the Snake River, Nez Perce, Water Rights Act of 2004.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I announce that the Committee on Indian Affairs will meet on Wednesday, July 21, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on pending Committee matters, to be followed immediately by a hearing on S. 519, the Native American Capital Formation and Economic Development Act of 2003.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I announce that the Committee on Indian Affairs will meet on Thursday, July 22, 2004, at 10 a.m. in Room 485 of the Russell Senate Office Building to conduct a business meeting on pending Committee matters, to be followed immediately by an oversight hearing on pending legislation to reauthorize the Indian Health Care Improvement Act.

Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

RECOGNIZING THE 25TH ANNIVERSARY OF THE ADOPTION OF THE CONSTITUTION OF THE REPUBLIC OF THE MARSHALL ISLANDS

Mr. FRIST. Mr. President, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of H. Con. Res. 410, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 410) recognizing the 25th anniversary of the adoption of the Constitution of the Republic of the Marshall Islands and recognizing the Marshall Islands as a staunch ally of the United States, committed to principles of democracy and freedom for the Pacific region and throughout the world.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the concurrent resolution be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 410) was agreed to.

The preamble was agreed to.

VITIATION OF APPOINTMENT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate's action with respect to the appointment of Clare M. Cotton, of Massachusetts, to serve as a member of the National Commission on the Cost of Higher Education, be vitiated.

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

ORDERS FOR TUESDAY, JULY 13, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, July 13. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then begin a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the Democratic leader or his designee, and the final 30 minutes under the control of the majority leader or his designee; provided that following morning business, the Senate resume consideration of the motion to proceed to S.J. Res. 40, with the time until 8 p.m. equally divided between the chairman and ranking member or their designees.

I further ask consent that the Senate recess from 12:30 p.m. until 2:15 p.m. for the weekly party luncheons.

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

PROGRAM

Mr. FRIST. Mr. President, tomorrow, following morning business, the Senate will resume debate on the motion to proceed to the marriage amendment. Senators will be speaking on this issue throughout the day tomorrow, and I encourage those Members who have not had a chance to speak to come to the floor during tomorrow's session. I remind my colleagues that moments ago I filed cloture on the motion to proceed to the joint resolution. I felt it necessary to file cloture in order to ensure that we not only be able to bring the legislation up for consideration, but also to ensure the ability to offer amendments. If we are able to reach an agreement, then we would vitiate that scheduled cloture vote.

THE JOBS BILL

Mr. FRIST. One final mention this evening, and it relates to the FSC/ETI or JOBS bill. We believe it is very important for the interests of the United States for us to go to conference on the FSC/ETI or jobs in manufacturing bill. The House-passed measure is here, and we need to act soon to get that bill moving forward. I do encourage Members to allow us to go forward and to proceed to conference and have the will of that conference be expressed on this very important issue.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the

Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:39 p.m., adjourned until Tuesday, July 13, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate July 12, 2004:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JAMES BALLINGER, OF ARIZONA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2010, VICE CLEO PARKER ROBINSON, TERM EXPIRING.

TERENCE ALAN TEACHOUT, OF NEW YORK, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2010, VICE GORDON DAVIDSON, TERM EXPIRING.

JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION

GEORGE PERDUE, OF GEORGIA, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE JAMES MADISON MEMORIAL FELLOWSHIP FOUNDATION FOR A TERM EXPIRING NOVEMBER 5, 2006, VICE CARROLL A. CAMPBELL, JR., TERM EXPIRED.

UNITED STATES SENTENCING COMMISSION

RUBEN CASTILLO, OF ILLINOIS, TO BE A MEMBER OF THE UNITED STATES SENTENCING COMMISSION FOR A TERM EXPIRING OCTOBER 31, 2009. (REAPPOINTMENT)

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS DEPUTY JUDGE ADVOCATE GENERAL OF THE NAVY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5149:

To be rear admiral

CAPT. BRUCE E. MACDONALD, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS JUDGE ADVOCATE GENERAL OF THE NAVY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5149:

To be rear admiral

REAR ADM. JAMES E. MCPHERSON, 0000

IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. BRENT E. WINGET, 0000

IN THE ARMY

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. GLENN K. RIETH, 0000

WITHDRAWAL

Executive message transmitted by the President to the Senate on July 12, 2004, withdrawing from further Senate consideration the following nomination:

JAMES M. STROCK, OF CALIFORNIA, TO BE A MEMBER OF THE UNITED STATES ADVISORY COMMISSION ON PUBLIC DIPLOMACY FOR A TERM EXPIRING JULY 1, 2006, WHICH WAS SENT TO THE SENATE ON NOVEMBER 21, 2003.