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White House Is Avoiding Gay Marriage as an Issue

Spokesman Tries to Defuse G.O.P. Attacks

By TODD S. PURDUM

WASHINGTON, May 15 — President Clinton, who has long supported gay rights but paid a heavy political price for his failed effort to allow homosexuals in the military, appears determined to keep the issue from rolling his re-election campaign, and the White House is going out of its way to defuse potential Republican attacks.

This time the question is same-sex marriage, which Mr. Clinton has long opposed. Some Republican strategists have argued that it can be a potent election-year issue, and indeed Senator Bob Dole, the presumptive Republican Presidential nominee, is a co-sponsor of a bill that would deny Federal recognition to such unions if they were legalized by states.

Mr. Dole has received conflicting advice from prominent Republicans on whether to highlight the issue, and his aides report that he personally is reluctant to use it to attack Mr. Clinton. Nevertheless, Mr. Clinton's spokesman went to some lengths this week not only to restate the President's longstanding opposition to homosexual marriage, but also to hint that Mr. Clinton would sign the bill defining marriage as a union exclusively between a man and a woman, if it passes.

Asked on Monday why the President opposed same-sex marriage, the White House press secretary, Michael D. McCurry, said, "He believes this is a time when we need to do things to strengthen the American family, and that's the reason why he's taken this position."

But even as he sought to defuse the issue, Mr. McCurry showed why it is likely to be a nettlesome one for the President as he tries to balance the

interests of a core constituency with those of moderate voters. Some of Mr. Clinton's gay supporters said they heard in Mr. McCurry's words a disconcerting note of catering to the right on the issue of "family values."

Mr. Clinton announced in 1992 that he opposed same-sex marriages, and his gay supporters long ago agreed to disagree with him on the subject. Still, they say, there is a big difference between opposing same-sex marriage, which is not marriages, and his gay supporters long ago agreed to disagree with him on the subject. Still, they say, there is a big difference between opposing same-sex marriage, which is not legal any-

Clinton's camp courts moderates and hopes gay supporters will be steadfast.

where but is the subject of a pending court case in Hawaii, and passing a Federal law institutionalizing opposition to it. Many gay-rights advocates argue that same-sex marriage is a key to stable, monogamous homosexual partnerships. "I don't think there's any question that the statement was extraordinarily political in nature, because no one in the White House can make a cogent argument about how gay people committing themselves to a life-long relationship threatens the American family," said David B. Mixner, an old friend of Mr. Clinton's who has raised money for his campaigns among gay supporters. "It is a ridiculous statement."

Mr. McCurry declined on Monday and again on Tuesday to elaborate on his remarks, except to say that "the President believes that marriage as an institution ought to be reserved for a union between one man and one woman," and that the White House was having trouble enough preserving health and medical benefits for those now covered by them without trying to extend them to same-sex partners.

Nelson Warfield, a spokesman for Mr. Dole, said: "Bill Clinton has no more credibility on this issue than he does on any other. If he were truly opposed to same-sex marriage, he'd join Bob Dole in supporting this legislation."

Today, the House Judiciary Committee's subcommittee on the Constitution held a hearing on the measure, which would deny Federal tax, welfare, pension, health, immigration and survivors' benefits to same-sex couples if any state legalized such unions. Opponents argue, among other things, that it would violate the constitutional guarantee that each state will give "full faith and credit" to the laws of any other states.

Andrew Sullivan, the editor of The New Republic who is an advocate of legally sanctioned same-sex partnerships, testified against the bill.

"I think to be in favor of same-sex marriage is to be very pro-family, pro-stability, pro-monogamy and responsibility," said Mr. Sullivan, a British-born, conservative Catholic. Moreover, Mr. Sullivan said, the bill is an effort to pre-empt states from allowing such marriages before any have even done so.

"It's really bizarre for this Congress to be giving the Federal Government this role in an issue which is so historically the states' concern," he said. "It's the first time in the history of the United States that the Federal Government has sought to define marriage itself."

William J. Bennett, the former Education Secretary, has urged Mr. Dole to make same-sex marriages an issue because, he said in a telephone interview today, "Presidential election years are the time to talk about big issues, and this is a more important issue than the gas tax."

Some other Republicans, including Senator Alfonse M. D'Amato of New York and Patrick J. Buchanan, have warned that the issue is a non-starter, but Mr. Bennett insisted it could be politically potent.

"I think that Bill Clinton will be uncomfortable with this issue," he said. "My guess is that the Clinton people have held off many of their colleagues in the gay rights movement by saying, 'Hey, we're not going to fight for you on this one, we will take care of you later.'"

White House aides acknowledge their calculation that gay supporters would be unlikely to abandon Mr. Clinton over this issue, and Mr. Sullivan conceded. "We've learned not to place our hopes in President Clinton," he said.

George Stephanopoulos, the President's senior adviser, said of the Republicans: "They see a wedge and they're throwing all the wedges up against the wall right now to see if one will stick. The President's position is clear and has been for a long time."

May 10, 1996

PRIVATE AND ~~CONFIDENTIAL~~

MEMORANDUM FOR HAROLD ICKES

DETERMINED TO BE AN
ADMINISTRATIVE MARKING

INITIALS: JAM DATE: 3/25/13
2013-0028-F

FROM: Marsha Scott and Richard Socarides

RE: Equal Marriage Rights For Gays

For the last several years gay and lesbian civil rights groups have been litigating in Hawaii the issue of whether under the Hawaii Constitution people of the same sex have an equal protection right to marry. An intermediate decision by the state's highest court dealing with the standard of review in such a case has led many legal scholars to believe that the trial court will eventually rule that there is such a right. The trial of the action will now likely begin in October and a trial court decision would be handed down some time after the election. A final ruling by the Hawaii Supreme Court will likely come in late 1997 or early 1998.

If such a right exists in Hawaii, the thinking goes, that under the full faith and credit clause of the U.S. Constitution, civil marriages validly performed in Hawaii would have to be recognized by other states and by the federal government for purposes of granting benefits and the like.

Up until now our friends in the gay community have generally given us a pass on the President's stated personal opposition to gay marriage. Recognizing that this is an issue on which public opinion runs against them, gay leaders -- while not happy about the President's opposition -- are willing to let the courts be the final arbiter of rights on this issue.

The new bill in Congress, however, would provide that irrespective of what the courts decide, for purposes of federal law only marriages between a man and a woman are to be recognized. Thus, even if state courts held that gay people could marry, the federal government would deny them all the benefits it grants to other married persons (ie. social security rights, joint tax filings, immigration rights -- to name a few). Thus, the gay groups argue, the law is fundamentally

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--page 2--

unfair, violates notions of equal protection and would, in effect, carve out an exception to the full faith and credit clause as it applies to gay people. They argue this is nothing different than if the federal government decided it was not going to extend benefits to married person of a certain race.

I believe that we have been extremely successful in rebuilding our relationships to our friends in the gay communities despite the fiasco of gays in the military, the disjointed handling of the colorado case and the President's stated personal opposition to gay marriage. However, our support for this bill would be taken by many in the gay communities as an expression by the President of deep ceded bias against gay people (ie. they simply should not be entitled to the same benefits as similarly situated straights -- even if they work hard and play by the rules) and as caving in to Republican scapegoating of gays.

I recommend that the President re-state his strong personal opposition to same-sex marriage, talk about our many efforts to support traditional families and persons in traditional marriages, but oppose this bill as an unwarranted intrusion on what for over 200 years has been the sole prerogative of state legislatures (the definition of marriage). Congress has more important things to do than to get in the marriage license business.

Alternatively, the President should state his personal opposition to same-sex marriage, and say that the Justice Department is studying the serious constitutional issues raised by the legislation. If the bill is voted on and passes with overwhelming support by both parties, a different result may be warranted.

~~TALKING POINTS~~

Gay and Lesbian Administration Officials Reception

~~Acknowledgments from Advance~~

I would like to welcome you all here to the historic Vice Presidential Ceremonial Office. I am happy and honored to be hosting the very first meeting of openly gay and lesbian appointees -- not just the first for our Administration -- but the first time ever in any Administration.

This is truly an historic meeting.

I know this has been a tough time for many of you. The political season can make life complicated for many and some of the rhetoric has been particularly painful for those of you in this room.

But let me say, the Clinton-Gore Administration is committed to you. The President strongly believes that gay and lesbian individuals should not be subject to unfair discrimination, which is why he has endorsed legislation outlawing discrimination against gays and lesbians in the work place -- The Employment Non-discrimination Act.

I know I don't need to repeat our Administration's record to you, we fought these out together, but let's not forget the highlights:

- *successfully fought for the repeal of the Dornan Amendment,
- *signed the Hate Crimes Sentencing Enhancement Act ,
- *helped defeat anti-gay ballot initiatives in Oregon, Idaho and Maine,
- *issued an executive order mandating that security clearances no longer be denied based on sexual orientation,
- *convened the first White House Summit on AIDS and HIV

Now, let's talk as friends. Friends sometimes differ and we are not going to agree one hundred percent on the issues. On the issue of same sex marriage, we do differ and the President is not walking away from his longstanding position.

The Republicans, who are desperate, are now trying to find whatever wedge issues they can. But, let's not allow the Republicans to win by dividing us over this issue.

Like it or not there are those in the Republican Party who would like the whole election to be about gay marriage. If it is, we all lose. There is not a consensus of public opinion yet.

Our experience with the gays in the military issue taught us that the cause of gay civil rights will not be advanced over an issue about which there is no public consensus.

President Clinton has done more for gays and lesbians than all other presidents combined. While this issue may be particularly difficult, our Administration is in this for the long haul. We are united by so many issue and divided by so few.

We at the White House have committed ourselves over the last 24 hours to do a better job of talking about this issue, to make sure we do so in a way that is respectful of gay and lesbian relationships.

The President and I are proud that we have more openly gay and lesbian appointees than ever before. You are an integral part of this Administration. You will be of the campaign and the second term too.

If we all stay focused and work together and treat each other with respect and dignity, we'll get through this and be the better for it.

Thanks for being here, for serving our Administration and your country.



ANSWERS TO QUESTIONS ABOUT THE DEFENSE OF MARRIAGE

by
Robert H. Knight

Q: In restricting marriage to one man and one woman, aren't you imposing your beliefs on others?

A: Marriage has been the foundation of civilization for thousands of years in cultures around the world. It is the single most important social institution, and it is the basis for the procreation of children and the heart of family life. Those who are trying to radically redefine it for their own purposes are the ones who are trying to impose their values on the rest of the population. Ordinary people did not pick this fight. They are not the aggressors. They are merely defending the basic morality that has sustained the culture for everyone against a radical attack.

Q: Oh, come on. Whom does it really hurt if a same-sex couple want to get married?

A: When homosexual couples seek state approval and all the benefits that the state reserves for married couples, they impose the law on everyone. According non-marital relationships the same status as marriage would mean that millions of people would be disenfranchised by their own governments. The state would be telling them that their beliefs are no longer valid, and would turn the civil rights laws into a battering ram against them:

- Business men and women would be required to provide "family" health benefits to homosexual couples.
- Children would be taught in schools that homosexual sex is the moral equivalent of marital love.
- Same-sex "marriage" would facilitate the adoption of children by homosexual couples.
- Sex-based distinctions in the law would be removed (as was proposed in the rejected Equal Rights Amendment).

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Law is not a suggestion, but, as George Washington observed, it is force. Official state sanction of same-sex relationships as "marriage" would bring the full apparatus of the state against those who believe that marriage is between one man and one woman. Traditional morality would, in effect, be outlawed.

Q: But if two people -- any two people -- love each other, why not let them marry?

A: Marriage is not just a matter of feelings. It is the specifically defined legal, social, economic and spiritual union of a man and a woman. The two sexes must be present for it to be marriage. If that definition is radically altered based on the "feelings" of those in other relationships, then the sky is the limit. There is no logical reason for not letting several people marry, or for gutting other requirements, such as minimum age, blood relative status or even the limitation of the relationship to human beings.

Q: Don't morals change? Haven't we heard all these tired phrases used in defense of not letting women vote or even in defense of slavery?

A: Various social movements have succeeded because they were in accord with natural law and the basic precepts of the moral code. Homosexuality has never been considered morally good, and it is a quantum leap from ending slavery to saying that homosexuality must now be considered good, healthy and worthy of state-protected benefits. Homosexuals enjoy all the rights every other citizen already has -- they can vote, own property, etc. -- but they cannot claim special treatment beyond those rights. Anytime they achieve that, they threaten the civil rights of those who disagree with them.

Q: For years, in some Southern states, blacks and whites were prevented from marrying by anti-miscegenation laws. Eventually, the courts overturned these laws. Aren't same-sex couples being similarly discriminated against? Isn't it only a matter of time before these repressive laws are also overturned?

A: As Colin Powell has observed, skin color and sexual behavior are entirely different. The first is a benign, inborn characteristic that has no bearing on conduct or character, the second is behaviorally-based and has everything to do with character, morality and society's basic rules of conduct. If the civil rights laws begin deviating into behavior and away from race, ethnic origin, place of birth or other immutable characteristics, there is no stopping point. New laws would have to be coined almost daily to accommodate the flood of claims based on behavior (smokers, compulsive gamblers, pornography fanatics, sex addicts and pedophiles could all claim new "rights" to protection against discrimination). One non-immutable characteristic that does get protection is religion, because that is enshrined in the Constitution. But there is no constitutional right to engage in sodomy (see *Bowers v. Hardwick*)¹ and demand that the state elevate it into protected status.

Q: But studies show that homosexuals are born that way. How then can you blame them for their condition?

A: Nobody is “blaming” anyone for having homosexual desires. The “genetic” studies that have been publicized have been conducted by self-styled homosexual activists or have been misrepresented in the media. The studies themselves typically have tiny sample sizes, biased selection, and other major methodological flaws, and are not replicated by reputable scientists.² By contrast, 70 years of therapeutic counseling and case studies show a remarkable consistency concerning the origins of the homosexual impulse as an uncompleted gender identity seeking after its own sex to replace what was not fully developed.³ Do homosexuals choose to be gay? Mostly, no, but they can choose their behavior, and they can change their orientation,⁴ as researchers Masters and Johnson showed in their landmark studies⁵ and as numerous examples of successful personal transformation testify.⁶

Q: Isn't the traditional view of marriage religious in nature? And if so, doesn't the restriction of marriage to one man and one woman violate the religious beliefs of those who disagree?

A: Although marriage does indeed arise from religious traditions, most notably the Bible, it is an independently quantifiable good for society. Hence, the state has an interest in preserving and protecting the special status of marriage, regardless of religious beliefs. A society can get along just fine without any homosexuality, but no society can get along without marriage. That is why the state encourages marriage. In 1885, the Supreme Court felt so strongly that marriage was to be protected that it declared it as a requirement for admission of new states to the Union. Any prospective state, the court said, had to have law resting “on the basis of the idea of the family, as consisting in and springing from the union for life of one man and one woman in the holy estate of matrimony; the sure foundation of all that is stable and noble in our civilization, the best guaranty of that reverent morality which is the source of all beneficent progress in social and political improvement.”⁷

Q: What about childless couples? Since you say that marriage must be protected partly because of its importance in forming families, does this mean that heterosexual couples who do not have children shouldn't get marriage licenses?

A: Of course not. Although most people marry with the intention of someday starting families, the married couples who do not have children still have the potential for becoming mothers and fathers, either biologically or through adoption. Marriage is a societal good even without children, as husbands and wives serve as role models for children in their neighborhoods. Procreation is an important aspect of society's high regard for marriage, but it is not the only reason marriage is protected. Children do not benefit when homosexuality is presented as a neutral or positive lifestyle choice.

Q: But with the threat of AIDS and other diseases among promiscuous, homosexual men, wouldn't it be a societal good to encourage homosexual monogamy?

A: In cities where homosexual monogamy is already being encouraged, AIDS and other sexually-transmitted diseases are skyrocketing.⁸ It is not "homophobia" that is causing this, but the behavior itself, which is destructive emotionally, physically and morally to individuals, families and societies. That is why it has been discouraged in all successful cultures. Socrates and Plato wrote that homosexuality was harmful to individuals and society and should be discouraged. Even in "steady" homosexual relationships, dangerous sex occurs, since the defining homosexual sex act is patently unhealthy by any standard. State sanction of homosexuality in any form is an invitation to the young to experiment with something that may prove deadly. Any public health benefits available by discouraging promiscuous homosexual activity can be achieved without redefining traditional marriage, which is per se a profoundly important public health measure.

Besides, homosexual literature acknowledges that homosexual "monogamy" is largely fictional. Most homosexual relationships are fleeting. Those that endure more than a few years do so because of an agreement to have outside partners. As *New Republic* editor Andrew Sullivan, a homosexual, writes in his book *Virtually Normal*, "the openness of the contract" of homosexual "marriage" reflects "greater understanding of the need for extramarital outlets between two men than between a man and a woman." In other words, the homosexual concept of "monogamy" is non-monogamous. Homosexual activist Michaelangelo Signorile frankly admits that the goal of homosexual activists is to "fight for same-sex marriage and its benefits and then, once granted, redefine the institution of marriage completely, to demand the right to marry not as a way of adhering to society's moral codes but rather to debunk a myth and radically alter an archaic institution...."⁹

Q: Don't most people want homosexuals to be treated fairly?

A: Yes. Most people have no ill will toward homosexuals, but this does not mean that a tiny segment of the population (less than 2 percent) should be allowed to radically redefine society's moral code. Even in liberal Hawaii, recent polls show that more than 70 percent of residents oppose same-sex "marriage," and national polls show that about two-thirds of respondents oppose same-sex "marriage." This is not about tolerance, but about a tiny group seeking to use the law to impose its version of morality on everyone else.

Q: Still, don't homosexuals suffer discrimination when they can't marry?

A: No. Homosexuals have precisely the same right to marry as anyone else. Marriage is the bringing together of the two sexes. That is the whole point. To enter marriage, you must meet its qualifications. Any attempt to get around the rules that everyone else plays by is an attempt to have special rights, not equal rights. Eliminating an entire sex from the picture and then calling it "marriage" is not a mere expansion of an institution, but rather the destruction of a principle.

Q: What about domestic partnerships? If you won't go along with same-sex "marriage," why not at least allow committed same-sex couples to get some benefits?

A: The state should never be in the business of encouraging unhealthy behavior by granting special benefits for it. A homosexual life does not offer the richness of the complementary relationship that men and women find in marriage and family life. People should not be written off as if they can do no better than be mired in an unhealthy, unnatural behavior. The more that homosexuality is encouraged, the more damage will be wreaked among individuals, families and society. This is not compassion but its opposite: a ruthless social Darwinism that devalues people as impulse-driven incorrigibles. Each human soul is of inestimable worth, and homosexuals are no different from anyone else. They deserve the truth, not an officially sanctioned lie.

3/22/96

Robert H. Knight is director of cultural studies at the Family Research Council, a Washington, D.C.-based research and educational organization.

ENDNOTES

¹ *Bowers v. Hardwick* 478 U.S. 186, 190 (1986). In rejecting the claim, the Court said, "Nor are we inclined to take a more expansive view of our authority to discover new fundamental rights imbedded in the Due Process Clause. The Court is most vulnerable and comes nearest to illegitimacy when it deals with judge-made constitutional law having little or no cognizable roots in the language or design of the Constitution.... There should be, therefore, great resistance to expand the substantive reach of those Clauses, particularly if it requires redefining the category of rights deemed to be fundamental."

² See, for instance, William Byne and Bruce Parsons, "Human Sexual Orientation: The Biological Theories Reappraised," *Archives of General Psychiatry*, Vol. 50, March 1993, pp. 228-239.

³ See Elizabeth R. Moberly, *Psychogenesis: The Early Development of Gender Identity* (London: Routledge & Kegan Paul Limited, 1983); Joseph Nicolosi, Ph.D., *Reparative Therapy of Male Homosexuality* (Northvale, New Jersey: Jason Aronson Inc., 1991); and Charles W. Socarides, M.D., *Homosexuality: A Freedom Too Far* (Phoenix: Adam Margrave Books, 1995).

⁴ E. Mansell Pattison, M.D., and Myrna Loy Pattison, "Ex-Gays: Religiously Mediated Change in Homosexuals," *American Journal of Psychiatry*, 137:12, December 1980. "All subjects manifested major before-after changes. Corollary evidence suggests that the phenomenon of substantiated change in sexual orientation without explicit treatment and/or long-term psychotherapy may be much more common than previously thought." (P. 1553.)

⁵ Mark F. Schwartz and William H. Masters, "The Masters and Johnson Treatment Program for Dissatisfied Homosexual Men," *American Journal of Psychiatry*, 141, 1984, pp. 173-181.

⁶ For example, Starla Allen, "Uncovering the Real Me," *Exodus International Update*, February 1996. Richard A. Cohen, M.A., "TCM Testimony of the Month," *Transformation Press*, No. 19, February 1996, p. 3.

⁷ *Murphy v. Ramsey* 114 U.S. 15, 45 (1885).

⁸ Survey from the Centers for Disease Control reported by Associated Press, "HIV Found in 7 Percent of Gay Young Men: Education Fails to Halt Spread," *The Washington Times*, February 11, 1996, p. A-3; Michael Warner, "Why Gay Men Are Having Risky Sex," *Village Voice*, New York, January 31, 1995, Vol. XL, No. 5.

⁹ Quoted in *Out* magazine, December/January 1994, p. 161.

THE PRESIDENT HAS SEEN

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THE WHITE HOUSE
WASHINGTON

May 10, 1996

MEMORANDUM FOR THE PRESIDENT

THROUGH: LEON PANETTA 

FROM: JACK QUINN
GEORGE STEPHANOPOULOS
MARSHA SCOTT

SUBJECT: GAY MARRIAGE LEGISLATION

This week, legislation on gay marriage was introduced by Bob Dole and Don Nickles in the Senate, and by Bob Barr (plus five other Republicans and two Democrats) in the House. We understand that there will be joint Senate-House hearings on the gay marriage bills as early as next Wednesday.

The proposed legislation has two parts. The first provides that states need not give "full faith and credit" to other states' recognition of gay marriage -- a provision that appears to anticipate legalization of gay marriage in Hawaii. This provision is of no real substantive significance, however, since the Constitution's "full faith and credit" clause already would permit each state to choose whether to recognize a gay marriage granted by another state.

The second part of the legislation would set forth that under any federal statute, rule or regulation, the terms "marriage" and "spouse" shall only refer to heterosexual marriage. This provision would mean that any federal funds, privileges or protections, including those administered by states, could not be made available to same sex married partners, even if same sex marriages are recognized by the state where they reside. This provision does have substantive significance and may be viewed by the gay and lesbian community as a form of overt discrimination. At least for now, however, it would not alter the status quo, since no state recognizes same sex marriages and neither does the federal government. There are, of course, many difficult issues facing our communities related to what benefits and rights can be associated with same sex partnerships outside the context of marriage. But those difficult issues are not addressed by this bill.

Given your stated and longstanding opposition to gay marriage, we believe there would not be a substantive basis for you not to sign the proposed legislation if it were to be adopted by Congress. **It is therefore our recommendation that you should sign this legislation if it is enacted.**

At the same time, we believe that your willingness to sign this legislation should not be announced until it is absolutely necessary to do so. While it is critical that your position be unambiguous and unwavering, there is a risk that too early an announcement of a willingness to sign the bill could cause Republicans to add even more draconian provisions.

For this reason, we recommend that in the first instance, the White House should state that you are opposed to gay marriage, but that there has not yet been an opportunity to review this legislation. The legislation has not yet even been marked up by committee, and thus it is premature for the White House to comment. If and when this approach is no longer viable, the White House would state that you would be prepared to sign this bill if enacted by Congress.

Assuming your approval of this approach, Marsha, George and others will be talking to key leaders in the gay and lesbian community to explain your position and why it is necessary for you to take this action. We can expect that many gays and lesbians will be hurt, if not offended, by this approach to the proposed legislation.

_____ AGREE

_____ DISAGREE

_____ DISCUSS

Q Why does he oppose same-sex marriages?

MR. MCCURRY: He believes this is a time when we need to do things to strengthen the American family, and that's the reason why he's taken this position.

Q He doesn't think that strengthens the --

Q To your knowledge has his position been enunciated before publicly?

MR. MCCURRY: Yes.

Q When?

MS. GLYNN: As early as 1992, but after that as well.

MR. MCCURRY: I think -- in 1992, Mary Ellen says.

Q How does he feel about legislation that would outlaw it?

MR. MCCURRY: Well, there is a piece of legislation that is under consideration on the Hill and we'll look at the legislation.

Q I just want to clarify. This morning when you were saying things like Floyd Brown should go back under the rock where he lives, you said you would check and --

MR. MCCURRY: I can offer --

Q I just want to clarify -- you said you would check with the President to see whether those words reflected his position or whether you were just reflecting --

MR. MCCURRY: I told the President what I had said and he didn't seem to be despondent about my characterization.
(Laughter.)

Q What would you like to add, Mike?

Q Any other form of geography you want to --

Q You said you could add.

Q Mike, would you enunciate why you think that same-sex marriage -- or why the President thinks it would weaken the institution of the American family?

MR. MCCURRY: I haven't talked to the President at length on it, but I'll talk to him further and amplify that. I just gave you our position.

Gay Marriage Talking Points

---- The President has long opposed gay marriage based on his belief that the institution of marriage should be reserved for unions between one man and one woman.

---- The President strongly believes that gay and lesbian individuals should not be subject to unfair discrimination, which is why he has endorsed legislation outlawing discrimination against gays and lesbians in the workplace. But he does not believe that the federal government should promote gay marriages.

[If asked about domestic partnerships or providing federal benefits to partners in gay and lesbian partnerships---]

---- These decisions are best left to state and local governments and private institutions. But since the President does not believe that the federal government should recognize gay marriage, he does not believe it is appropriate for scarce federal resources to be devoted to providing spousal benefits to partners in gay and lesbian relationships.

MEMORANDUM TO THE VICE PRESIDENT

FROM:  Marsha Scott
DATE: May 15, 1996

SUBJECT: Same Sex Marriage

For the last several years gay and lesbian civil rights groups have been litigating in Hawaii the issue of whether under the Hawaii Constitution people of the same sex have an equal protection right to marry. An intermediate decision by the state's highest court dealing with the standard of review in such a case has led many legal scholars to believe that the trial court will eventually rule that there is such a right. The trial of the action will now likely begin in October and a trial court decision would be handed down some time after the election. A final ruling by the Hawaii Supreme Court will likely come in late 1997 or early 1998.

If such a right exists in Hawaii, the thinking goes, under the full faith and credit clause of the US Constitution, civil marriages validly performed in Hawaii would have to be recognized by other states and by the federal government for purposes of granting benefits and the like.

Up until now our friends in the gay community have generally given us a pass on the President's stated personal opposition to gay marriage. Recognizing that this is an issue on which public opinion runs against them, gay leaders, while not happy about the President's opposition, are willing to let the courts be the final arbiter of the rights on this issue.

The new bill in Congress, however, would provide that irrespective of what the courts decide, for purposes of federal law, only marriages between a man and a woman are to be recognized. If state courts held that gay people could marry, the federal government would deny them all the benefits it grants to other married persons (i.e. social security rights, joint tax filings, immigration rights, family and medical leave, etc.) It also exempts from having to recognize other states' legal definitions of marriage. Thus, the gay groups argue, the law is fundamentally unfair, violates notions of equal protection and would, in effect, carve out an exception to the full faith and credit clause as it applies to gay people. They argue this is nothing different than if the federal government decided it was not going to extend benefits to married persons of a certain race.

It was hoped that we could state the President's opposition to same sex marriage and delay discussing the bill until it worked its way through Congress. Michael McCurry, however, when asked

in two recent press briefings whether the President supported the Same Sex Marriage Bill, responded by reiterating the President's position of opposing same sex marriage and then took it another step. He said that the President opposes this because "He believes this is a time when we need to do things to strengthen the American family." This last statement is not the President's position. It is this statement which is now causing great consternation among gays and lesbians as well as the press.

Hearings on this bill were held today by the House Judiciary Committee with Congressman Canady chairing. Barney Frank is the ranking Democrat. Congressman Canady opened the hearings by referring to a letter the Committee received from the Justice Department declaring that "the Department of Justice believes that H.R. 3396 would be sustained as constitutional." This was in response to a request for an Administration official to testify at these hearings. What was supposed to be a routine notification that we would not testify, has been interpreted by the Republicans and our gay and lesbian friends as an embrace of the bill and a definite statement of its' constitutionality.

The President has not spoken publicly on this issue. However, Jack Quinn, George Stephanopoulos and Marsha Scott have all publicly stated the President's opposition to gay marriage. (The language used by Jack is included in this packet.) There is still strong sentiment in the gay and lesbian community for the President to veto this bill if it reaches his desk. However, it appears that the bill is being fast tracked through both Houses. There is also strong indication that it will pass with overwhelming majorities. If it reaches his desk, it is the opinion of the Senior Staff that he must sign it.

You must address this issue with the appointees. Many of them are in long-term, committed relationships and are very conflicted and concerned about what they perceive to be our position. There is no consensus within the gay and lesbian communities over the timing of this national discussion of marriage. However, they are not divided over the issues addressed by the discussion. There is a growing fear among the communities that we are doing a "Sister Souljah" and distancing ourselves from their support and visibility. There are also charges that we are beginning a set of separatist laws at the federal level which some are equating with apartheid.

You have great respect within the gay and lesbian communities. They look to you for a fair and compassionate explanation. The President is being identified with the problem. You are not. Even though there will be no press, your words will be quickly repeated. Governor Romer of Colorado faced a similar situation and I have included the letter which he sent in explanation of his veto. To further help you with language around this sensitive issue, a booklet from the Human Rights Campaign is also included.

Event: APPOINTEES RECEPTION
Place: Vice Presidential Ceremonial Office, OEOB
Time: 5:00pm
Date: May 16, 1996

The Vice President will be meeting in the ceremonial office with 60 gay and lesbian appointees as well as staffers from the Re-elect and the DNC. The event is hosted by the Human Rights Campaign.

This is an historic event. There has never been a meeting in the White House during any Administration, of all the openly gay and lesbian appointees; let alone one hosted by the President or Vice President.

The Vice President will be introduced by Bruce Lehman, Assistant Secretary of Commerce and Commissioner for Patents and Trademarks. Bruce is the highest ranking openly gay official in our administration. Roberta Achtenberg, former Assistant Secretary of HUD will also be in attendance. She is currently a consultant to Secretary Cisneros.

Bruce will speak for approximately 5 minutes. Bruce will acknowledge HRC's sponsorship of the event and Elizabeth Birch, Executive Director.

The Vice President will speak for approximately 5 minutes. At the conclusion he will meet and greet.

There will be no press. Photographs will be informal.

If time is available, Marsha Scott will escort the Vice President from the West Wing Office. She will update him on the same sex marriage bill.

Philip Dufour and Marsha Scott will meet briefly with the Vice President before he enters the reception to go over any other concerns.

IN THE HOUSE OF REPRESENTATIVES

Mr. BASS of Georgia (for himself, Mr. LAMBERT, and Mr. SCHENKENSCHMIDT)
introduced the following bill, which was referred to the Committee on

A BILL

To define and protect the institution of marriage.

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 "Defense of Marriage
Act".

SEC. 2. POWERS RESERVED TO THE STATES.

(a) **IN GENERAL.**—Chapter 115 of title 28, United
States Code, is amended by adding after section 1738B
the following:

"§ 1738C. Certain acts, records, and proceedings and
the effect thereof

"No State, territory, or possession of the United
States, or Indian tribe, shall be required to give effect to
any public act, record, or judicial proceeding of any other
State, territory, possession, or tribe respecting a relation-
ship between persons of the same sex that is treated as
a marriage under the laws of such other State, territory,
possession, or tribe, or a right or claim arising from such
relationship."

(b) **CLERICAL AMENDMENT.**—The table of sections
at the beginning of chapter 115 of title 28, United States
Code, is amended by inserting after the item relating to
section 1738B the following new item:

"1738C. Certain acts, records, and proceedings and the effect thereof."

SEC. 3. DEFINITION OF MARRIAGE.

(a) **IN GENERAL.**—Chapter 1 of title 1, United
States Code, is amended by adding at the end the follow-
ing:

"§ 7. Definition of 'marriage' and 'spouse'

"In determining the meaning of any Act of Congress,
or of any ruling, regulation, or interpretation of the var-
ious administrative bureaus and agencies of the United
States, the word 'marriage' means only a legal union be-
tween one man and one woman as husband and wife, and
the word 'spouse' refers only to a person of the opposite
sex who is a husband or a wife."

(b) **CLERICAL AMENDMENT.**—The table of sections
at the beginning of chapter 1 of title 1, United States
Code, is amended by inserting after the item relating to
section 6 the following new item:

SUMMARY AND ANALYSIS
DEFENSE OF MARRIAGE ACT
AS INTRODUCED ON MAY 7, 1996
BY

REPS. BOB BARR (GA), STEVE LARGENT (OK), JIM SENSENBRENNER (WI), SUE
MYRICK (NC), ED BRYANT (TN), BILL EMERSON (MO), HAROLD VOLKMER (MO),
IKE SKELTON (MO)

The Defense of Marriage Act (DOMA) does two things. First, it provides that no State shall be required to give effect to a law of any other State with respect to a same-sex "marriage." Second, it defines the words "marriage" and "spouse" for purposes of Federal law.

The first substantive section of the bill is an exercise of Congress' power under the "Effect" clause of Article IV, section 1 of the Constitution (the Full Faith and Credit Clause) to allow each State (or other political jurisdiction) to decide for itself whether it wants to grant legal status to same-sex "marriage." This provision is necessary in light of the possibility of Hawaii giving sanction to same-sex "marriage" under its state law, as interpreted by its state courts, and other states being placed in the position of having to give "full faith and credit" to Hawaii's interpretation of what constitutes "marriage." Although so-called "conflicts of law" principles do not necessarily compel such a result, approximately 30 states of the union are sufficiently alarmed by such a prospect to have initiated legislative efforts to defend themselves against any compulsion to acknowledge same-sex "marriage."

This is a problem most properly resolved by invoking Congress' authority under the Constitution to declare what "effect" one State's acts, records, and judicial proceedings shall have in another State. Congress has invoked this authority recently on two other occasions: in the Parental Kidnaping Prevention Act of 1980, which required each State to enforce child custody determinations made by the home State if made consistently with the provisions of the Act; and in the Full Faith and Credit for Child Support Order Act of 1994, which required each State to enforce child support orders made by the child's State if made consistently with the provisions of the Act.

The second substantive section of the bill amends the U. S. Code to make explicit what has been understood under federal law for over 200 years: that a marriage is the legal union of a man and a woman as husband and wife, and a spouse is a husband or wife of the opposite sex. The DOMA definition of marriage is derived most immediately from a Washington state case from 1974, Singer v. Hara, which is included in the 1990 edition of Black's Law Dictionary. More than a century ago, the U. S. Supreme Court spoke of the "union for life of one man and one woman in the holy estate of matrimony." Murphy v. Ramsey, 114 U.S. 15, 45 (1885).

DOMA is not meant to affect the definition of "spouse" (which under the Social Security law, for example, runs to dozens of lines). It ensures that whatever definition of "spouse" may be used in Federal law, the word refers only to a person of the opposite sex.



U. S. Department of Justice

Office of Legal Counsel

Office of the
Assistant Attorney General

Washington, D.C. 20530

May 14, 1996

The Honorable Henry J. Hyde
Chairman
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The Attorney General has referred your letter of May 9, 1996 to this office for a response. We appreciate your inviting the Department to send a representative to appear and testify on Wednesday, May 22 at a hearing before the Subcommittee on the Constitution concerning H.R. 3396, the Defense of Marriage Act. We understand that the date of the Hearing has now been moved forward to May 15.

H.R. 3396 contains two principal provisions. One would essentially provide that no state would be required to give legal effect to a decision by another state to treat as a marriage a relationship between persons of the same sex. The other section would essentially provide that for purposes of federal laws and regulations, the term "marriage" includes only unions between one man and one woman and that the term "spouse" refers only to a person of the opposite sex who is a husband or a wife.

The Department of Justice believes that H.R. 3396 would be sustained as constitutional, and that there are no legal issues raised by H.R. 3396 that necessitate an appearance by a representative of the Department.

Sincerely,

Andrew Fois
Assistant Attorney General

cc: The Honorable Charles T. Canady
The Honorable John Conyers, Jr.
The Honorable Barney Frank

STATE OF COLORADO

EXECUTIVE CHAMBERS

136 State Capitol
Denver, Colorado 80203-1792
Phone (303) 865-2471



March 25, 1996

Roy Romer
Governor

The Honorable Colorado House
of Representatives
Sixtieth General Assembly
Second Regular Session
Denver, CO 80202

Ladies and Gentlemen:

I am returning to you House Bill 96-1291, "Concerning the Invalidity of Marriages Between Persons of the Same Sex", which I vetoed today at 12:41 P.M. This letter sets forth my reasoning for vetoing this bill.

I want the people of Colorado to clearly understand that my veto does not mean that same sex marriages will be legal in Colorado. It does not mean that a church or anyone else will be forced to perform or recognize same sex marriages. Colorado law is very clear that marriage is reserved for the union of a man and a woman. That is our policy. I support it. It does not change by my action today.

The expressed motive for this bill is to preserve the definition of marriage in Colorado from the actions of Hawaii, which may some day extend marriage to include persons of the same sex. This issue may arise because, under the Full Faith and Credit Clause of the U.S. Constitution, states honor and recognize certain actions of other states, marriage being one of the most obvious examples.

However, HB 1291 does not adequately resolve this issue. In fact it raises, but does not properly address, other important constitutional issues, including the possibility of discrimination against gays and lesbians.

Three principles underlie my action today:

First, I believe that marriage in Colorado should be reserved for the union of a man and woman. That is our current law and I think it should remain our law. There is a long standing, historic, cultural, religious and civil tradition for the institution of marriage. We should continue that tradition, preserving the institution of marriage for the union of a man and a woman.

Second, I believe that decisions on this subject should be made by Coloradans and not by people in other states. We should not permit our law to be altered by the action of

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another state. We should take whatever appropriate steps may be necessary to protect our policy.

Third, I believe that those members of our society who join in a long-term, committed relationship with a person of the same sex should be acknowledged as fellow human beings and fellow citizens. I believe, for example, that they should have access to each other in a hospital room when one partner is dying. We need a discussion on how our law should evolve to give stability and protection to their relationship in situations like this.

I believe these principles are shared by most Coloradans. What are we to do when we look across the church congregation, our service clubs, or our workplace and see a gay or lesbian person, a human being who wants to live his or her life in the most responsible and caring way possible, and commits to sharing life with a person of the same sex? What are we to say as a society about that relationship? Do we condemn them? Shouldn't they be able to live their lives to the fullest, in a responsible and caring way?

These are the questions I am putting on the table. They don't readily lead to simple or bumper sticker solutions, but life is not always simple, and complex problems are rarely solved by bumper sticker slogans.

It is one thing to believe -- as I do -- that marriage is for the union of a man and woman. It is quite another to believe that committed same sex relationships do not exist and should not be recognized by society. We cannot prohibit or ban these relationships, and we shouldn't use our law to attempt to do so.

Let's find out how we can live together with our differences, rather than divide over the issue of sexual orientation.

I'm making this simple appeal to the Legislature and the people of Colorado. Let's come to terms with this issue, as elected officials, as friends, as neighbors, as members of a community, as members of a church, as Coloradans.

There is a right way to proceed, and a wrong way. There is a unifying way, and a divisive way. There is a thoughtful way, and a simplistic way.

I believe HB 1291 fails on all these counts.

HB 1291 does not adequately do the job. I know some support this bill because they believe it deals with the constitutional issues raised by the courts in Hawaii. Some support it because they view it as a re-affirmation of our traditional structure of

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marriage. But let's be honest: some support this bill because it is a way to single out and condemn the lifestyle of gay and lesbian people.

Regardless of motivation, the bill I have before me now is simplistic and divisive. It is simplistic because it ignores important legal and constitutional questions and addresses only one part of the issue. It is divisive because it singles out a group of Coloradans for condemnation, equating their relationships with incest and bigamy. That is hurtful, and it is counter to Colorado's rich tradition of tolerance and freedom.

We can be pro-family, without being unfair to gay and lesbian people.

We can re-affirm our commitment to marriage between a man and a woman without condemning those who have different relationships.

The proponents of this bill say they want to ensure that same sex marriages from Hawaii or some other state are not recognized in Colorado under the Full Faith and Credit Clause of the U.S. Constitution. But the way the bill is drafted is to ban same sex marriages in the "prohibited marriages" section of our marriage statute, alongside bigamy and incest. This is mean-spirited and unnecessary. We do not need to forbid or "ban" same sex relationships to protect ourselves under the Full Faith and Credit Clause. Moreover, structuring legislation this way may invite lawsuits against Colorado based on discrimination and the Equal Protection Clause.

In fact, I am not entirely convinced we need any new statutory language. Colorado law already clearly states that marriage is between a man and a woman. But if some believe we need to reaffirm and strengthen our current law to make it absolutely clear that marriage is between a man and a woman, we can do just that. To preserve our law as it is, the Full Faith and Credit Clause only requires us to indicate that our "strong public policy" is that marriage is between a man and a woman. To strengthen that posture, we may want to specify that conflicting out-of-state marriages will not be recognized as against this public policy.

I would sign legislation that does two things: (1) States that "It is the strong public policy of Colorado that marriage shall only be between a man and a woman. It is the policy of Colorado only to recognize marriages from other states that are between a man and a woman." This will give us more than enough protection against a Full Faith and Credit challenge from Hawaii or any other state. And it does so with language that is constructive and not discriminatory.

(2) The second change I would require before I sign legislation is language based on an amendment introduced by State Senator Dottie Wham, which would provide a commission to review and evaluate the legal and policy issues involved in recognizing same-sex relationships. This commission, which would be composed of members

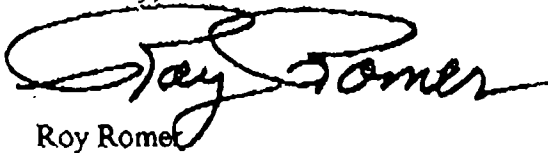
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appointed by the Legislature and myself, would report back to Colorado on its findings by a date certain. I am open to working with the Legislature on when such a report would be issued.

Why do I think a commission is important? Because this is a serious issue, and it requires a thoughtful and thorough debate. We have not yet had such a debate. We must come together as a community to have a rational discussion about these issues and attempt to find some common ground upon which we can agree.

Send me a bill with the two changes I've outlined and I will sign it. The approach I have outlined will strengthen our legal posture against challenges under the Full Faith and Credit clause and other constitutional challenges. Most important of all, it will allow us to act on reason and not out of fear. That is in the best tradition of Colorado and our people. It is an approach that will unite, and not divide us.

Sincerely,



Roy Romo
Governor

Defense Of the American Family Act

(A) Congress finds that:

(1) The American family is the foundation of American society;

(2) Federal and state government policies should encourage the well being, financial security, and health of the American family;

(3) It has been the longstanding role of the federal government, and it should continue to be the role of the federal government, to protect the integrity of the American family by:

- raising the minimum wage;
- promoting Family and Medical Leave;
- protecting Medicare and Medicaid;
- providing support for education;
- [WHATEVER ELSE IS IN OUR FAMILY AGENDA]
- this allows us to focus on the budget

(4) It has been the longstanding role of state government, and it should continue to be the role of state government, consistent with the Constitution, to use state law, including laws related to marriage, to support and defend the American family.



GEORGETOWN UNIVERSITY LAW CENTER

Chai R. Feldblum
Associate Professor of Law

The “Defense of Marriage Act” does not advance the values inherent in marriage. The Act does undermine our country’s values of federalism.

Let’s Talk About Marriage:

- The values embodied in marriage are *good, moral values* -- the values of caring, commitment and love. Government plays an appropriate role in regulating and supporting, through state laws, this institution of marriage.
- The *federal government* plays *no role* in establishing the institution of marriage. This is how it should be. Marriage, and other domestic relations issues, are areas traditionally determined by the *States*.

Let’s Talk About Federalism:

- The federal government, under our Constitutional structure, has a very *defined role* in this country. Indeed, the current Supreme Court keeps Congress very conscious of *adhering* to that *appropriate, defined role*.
- The *United States* of America is held together by some important principles:
 - * The federal government will *not* tread unnecessarily on state sovereignty (read -- the Tenth Amendment); and
 - * The official acts and proceedings of each state *will* be recognized by sister States (read -- Full Faith and Credit clause).

Let’s Talk About The “Defense of Marriage Act”:

- The so-called “Defense of Marriage Act” does *nothing* to further the important, moral values of marriage. Nowhere in its text does it ever *prohibit* people of the same sex from marrying. It purports to advance moral views -- but actually ignores the morality of two people coming together in an act of love and commitment.
- But the “Defense of Marriage Act” *does* do a great deal of *harm* to the *federalism principles* on which our country is based. The bill expands the power of Congress,

in a radical and breathtaking manner, to *unilaterally*, without a Constitutional amendment, determine for states *which* of their official acts or proceedings will *no longer* be guaranteed recognition by other states.

The *Constitution* says *each state is guaranteed this right of recognition*. But *Congress* has now *usurped* for itself the role of *final arbiter* of such recognitions.

- Are the states ready to let *Congress* decide that certain types of *probate* decisions will no longer be granted recognition? Are the states ready to let *Congress* decide that remarriage for a *second* or *third* time, or a *childless* marriage, will no longer be recognized? Are the states ready to let *Congress* decide that a state custody order will no longer be recognized?

The *Constitution* says that in these *United* States of America, each state is *guaranteed* that right of recognition. But the "Defense of Marriage Act" says -- *Congress knows better*. The power to decide is the power to control.

Let's Be Real:

- Many people today do not support the right of people of the same sex to marry. That's a wrong position as a basic *moral* matter. The *moral* position is to validate the effort of two people to commit themselves to each other in a caring, loving, and responsible manner. That's why marriage is a good thing -- for *everybody*.

But one can be strongly against the right of two people of the same sex to marry -- and *still* be *strongly* against the so-called "Defense of Marriage Act." That's because the bill represents a *radical* attack on our most cherished principles of *federalism*.

Don't let Congress pull a Marbury v. Madison. Don't let them, in the guise of giving States more rights, *undermine* the *guarantees* to the States inherent in the Full Faith and Credit Clause. And don't let them, in the guise of States' rights, insert the federal government, for the first time, into the definition of marriage.

Text in BOLD is taken from previously released language, such as letters or speeches.

1. *In 1992, you said to gay people "I have a vision and you are part of it." What is that vision in 1996 and how do gays and lesbians figure into it?*

I do have a clear vision, and all Americans figure into it. As President, I have sought to **promote inclusion and heighten public awareness in order to send a powerful message of equality and acceptance to people everywhere. Increased opportunity makes citizens more productive, building stronger communities and a stronger nation. I believe that we must continue to help people rise as far as their talents and determination can take them -- regardless of their sexual orientation -- in order to make the most out of our great diversity.** (letter).

2. *You have been praised by gays and lesbians as the most "pro-gay" president in history. Yet there is also a profound sense of disappointment in the gay community because the expectations you set in 1992 were so high. What do you say to those gay voters who invested so much emotionally to your candidacy but who have felt let down?*

We all had high expectations, and we've truly accomplished a lot during my Administration. We've also learned a lot about what we can do -- and how to get it done. **Although some of my early efforts may not have been as effective as I had hoped, my Administration has taken more steps than any previous in welcoming the gay and lesbian communities to the table.** (CG) I'm proud of my record, but it's a record to grow on, not to sit on.

I remain dedicated to ending discrimination and to protecting the civil rights of every citizen in our society. I am proud that my Administration has more openly gay and lesbian individuals serving in appointed positions than in any previous Administration, and their impact, both in expertise and in efforts to advocate for the concerns of gay men and lesbians, is significant. We have increased AIDS funding, research, and educational outreach. I am the first President ever to endorse a gay and lesbian civil rights bill, the Employment Non-Discrimination Act. We have also opened the door for qualified gays and lesbians to receive top security clearances. I pledge to you that I will continue striving for greater education and compassion, working not simply to tolerate our differences, but to celebrate them. (POTUS message)

3. *What is your own personal comfort level with homosexuality? Is it one of tolerance or acceptance or something else?*

I believe all Americans, gay or straight, should be judged on their merits, not on their orientation. I strive to do this in my personal life. It was one of the most fundamental lessons that my mother taught me from a very early age -- to make decisions about people based on who they are not what they are.

In Arkansas, I worked relentlessly to empower people who historically have been discriminated against based on race, class, gender, disability, or sexual orientation. I

remain committed to achieving that goal. (POTUS letter 5-18-93)

Having grown up in a segregated society, I have always felt strongly that everyone who is willing to work hard and play by the rules should be allowed to participate in American life. My belief is that we don't have a person to waste. We should try to protect the rights of all our citizens to live up to the fullest of their capacities.

4. *What gay or lesbian person has had the biggest impact on your life and why?*

This is hard to answer because I know so many outstanding gays and lesbians, many of whom I brought into my Administration. Bruce Lehman, Roberta Achtenberg and Bob Hattoy, to name just a few, have all made valuable contributions. I've had a long friendship with David Mixner, whose advice has meant a great deal to me over the years. In 1978 I was Governor of Arkansas and I hired Dr. Mike Rankin to be the state's mental health director, and he has become a good friend of mine. Today he serves as an outstanding member of my advisory council on HIV/AIDS.

5. *As a strong Baptist, do you have problems reconciling your religion's views on homosexuality with your personal beliefs?*

I have been blessed by having people of strong faith in my life and this faith is a major sustaining force and motivation. It is through my religious beliefs that I have learned compassion, tolerance and inclusion. Through prayer and Bible study I have learned that God's love is extended to all people.

6. *Jimmy Carter recently denounced how some religious and political leaders have embraced strong anti-gay views. And he said it must be made clear "that a platform of 'I hate gay men and women' is not a way to become president of the United States." Do you agree with Carter and do you intend to do anything to counter what he calls "obnoxious attitudes?"*

Yes, I do agree with President Carter. Those who promote discrimination on the basis of sexual orientation or any other grounds are gravely mistaken about the values that make our nation strong. (POTUS letter) I will continue to move my Administration in the direction of compassion, acceptance and understanding.

The recent attempts by extremists in Congress to expel HIV positive servicemembers regardless of their ability to serve, was a good example of what President Carter is talking about. I'm very proud of the coalition my Administration built in our successful repeal effort. This provision was unconstitutional, served no military or public health policy and was just plain wrong. Once people understood this we were able to have it repealed.

7. *Perhaps your biggest accomplishment in the area of gay rights has been with changes in the federal workplace. Federal departments have written non-discrimination policies. Gays and lesbians are no longer denied security clearances. What do you feel is the long-term impact of these changes?*

These changes are important because they represent another step forward in making sure that all Americans can contribute and that everyone has a seat at the table. It's particularly important to fully open up the civil service, for the impact of these people on our government and its work will outlast any President.

8. *People still debate what happened with the gays in the military issue. Given a second term, would you revisit this topic? Is there a chance you might issue the executive order you promised in 1992?*

Few issues in recent times have spurred the kind of debate that has occurred since I pledged to change our nation's policy toward homosexuals in the military. I know that this is a sensitive and emotional issue for many people.

This is still a topic of great concern to many people. At this point these issues are being actively litigated in the federal courts. And at this point it is probably best to let those cases run their course.

9. *If you had the chance to start over, only this time knowing the extent of the opposition to opening the military's doors to gays and lesbians, how would you approach the issue? What lessons did you learn from the fight?*

It's fair to say that I have thought a lot about this and that there are some things I think I should have done differently. I know believe that we needed to build a broader consensus on this important issue before moving forward. Sometimes change comes best when it is achieved through incremental steps.

10. *Do you believe gays and lesbians face the same kind of obstacles that other minority groups have confronted?*

No two groups, just as no two people, face the same obstacles. Although some are quite similar, the gay and lesbian communities are themselves diverse and encompass members of all minority communities. We all want liberty and freedom. We want the embrace of family and community. We want to make the most of our own lives. (AA speech). That is why I've always said that our great diversity is a source of strength to unite -- not divide -- our country.

11. *You have endorsed the Employment Non-Discrimination Act. Why do you feel this legislation is appropriate and necessary. Given a second term, will you actively push the Congress to pass it?*

I don't think it's right for employers to discriminate based on sexual orientation. Men and women in 42 states may now be fired from their jobs solely because of their sexual orientation, even when it has no bearing on their job performance. Those who face this kind of job discrimination have no legal recourse, in either our state or federal courts. This is wrong.

The Employment Non-Discrimination Act, for which I announced my support last fall, is designed to protect the rights of all Americans to participate in the job market without fear of unfair discrimination. (Kennedy letter 10/19/95) I support it.

12. Why do you oppose same-sex marriage? Is there a chance you could reconsider?

The institutions of traditional marriage and family face tremendous pressures in today's society, and I think we must do everything we can to support and strengthen these institutions. I am aware that many communities and institutions are considering whether certain basic benefits can be provided outside the context of traditional marriage. The challenge in addressing these issues is to remain sensitive to the traditional values of our communities while preserving the fundamental right to live free from unjustified discrimination. In our country's history we have, for good reason, looked first to state and local governments, as well as private sector, to consider issues like these involving community values and matters of conscience. I believe that these issues continue to be best resolved at this level of civil discourse.

13. What about the slate of proposed laws to limit marriage between a man and a woman? Should Congress establish a national standard for marriage?

As I have already stated, I am opposed to same sex marriage. I think these issues are best decided at the state level. If Congress decides otherwise, I will have to give it serious thought.

14. Are there steps, such as changing the tax code or immigration laws or creating domestic partnership benefits for federal workers, that you believed the federal government should take to help gay couples?

It is important that we all remember that for the most part, real and lasting social change occurs through incremental steps built upon consensus and by lengthy public discussion. We as a people are still struggling with these issues. Thus again, I think we have to look first at state and local governments as well as the private sector for guidance. And again I hope that these matters can be discussed at a level of discourse that will be civil and productive.

15. An increasing number of gays and lesbians are having children, either biologically or through adoption. Is this trend acceptable to you? Is there anything government should do to encourage or discourage gay child rearing?

The most important thing, as far as I can tell, is that children find themselves in loving, caring, and nourishing environments. So long as state officials and adoption agencies determine that the best interests of the child are being served, there is no reason for the federal government to intervene.

16. Some parents object to teaching anything positive about homosexuality in the public schools. At the same time, some troubled teens kill themselves because of confusion over their sexuality. How far should the nation's schools go in discussing homosexuality?

Our nation's educators have made great strides in how to deal with issues which affect our children in these rapidly changing times. Decisions about what is said and what is taught must be left to teachers, local school districts, parents, and students.

I am deeply troubled by the numbers of teen suicides, especially among gay and lesbian youth and of the rise in violence among all youth. Secretary Shalala's conference on gay and lesbian teen suicide brought this discussion to a national level and my administration is continuing to work to find solutions to these complex problems. I recently met with a large number of people from throughout the country to discuss the issues of drug use and violence among teenagers. These discussions are very important and will continue.

17. You spoke out against the slate of anti-gay initiatives that were popular in past elections yet your administration decided to sit out of the Supreme Court fight on the issue. How can you justify speaking out in one instance and then staying silent later?

I've never stayed silent on this issue. I have continually stated my belief that those who would legalize discrimination on the basis of sexual orientation or any other grounds are gravely mistaken about the values that make our nation strong. The essential right to equality must not be denied by a ballot initiative or otherwise. (POTUS letter)

23. Any final thoughts?

There are, without question, real differences in the life experience and backgrounds of people who make up America, but there is also a rich fabric of shared experience -- of common problems, common hopes and fears, common ground. It is a matter of the utmost importance for our nation that all citizens expand that common ground, focusing more on what unites us than on what divides us. Just as important, our public discourse must help guide us down the path toward greater unity. (POTUS letter) I want to lead a nation that is coming together, not coming apart.

ANTI SAME-SEX MARRIAGE BILLS INTRODUCED IN CONGRESS

By DAVID W. DUNLAP

5/9/96

WASHINGTON - State-by-state skirmishes over prospective marriage rights for lesbians and gay men escalated into a national battle Wednesday with the introduction in Congress of bills that would deny federal recognition of same-sex marriages if they were ever legalized.

The bills, introduced by Sen. Don Nickles, R-Okla., and Rep. Bob Barr, R-Ga., would also absolve states of the obligation to recognize same-sex marriages performed in other states.

That gets to the heart of conservatives' concern that if Hawaii sanctions same-sex marriage in the next few years - which is considered a possibility because of a pending court case there - gay couples from around the nation will fly to the islands to be wed legally and then return to their home states to claim the benefits of civil marriage.

"If some state wishes to recognize same-sex marriage, they can do so," Nickles said Wednesday before introducing the measure, known as the Defense of Marriage Act. But he said the bill would insure that "the 49 other states don't have to and the federal government does not have to."

Barr emphasized that the bill "does not outlaw same-sex marriage." But by withholding federal tax, welfare, pension, health, immigration and survivors' benefits, the bill would deny gay couples many of the civil advantages of marriage.

Critics of the legislation, including the American Civil Liberties Union, said Congress could not simply skirt Article 4 of the Constitution, which says that "full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state."

One opponent, Rep. Patricia Schroeder, D-Colo., said: "You can't amend the Constitution with a statute. Everybody knows that. This is just stirring the political waters and seeing what hate you can unleash."

But Barr said that Article 4 allowed Congress to prescribe "the effect" of the "full faith and credit" clause and that the article had never been interpreted as forcing one state to violate its own public policy in accommodating the laws of another. "Clearly, Congress has the jurisdiction to do what we're doing," he said.

Barr said he expected that the bill would move "very quickly" through the Judiciary Committee to the House floor for a vote. He said he anticipated strong bipartisan support, noting that the bill had two Democratic co-sponsors, Rep. Ike Skelton and Rep. Harold L. Volkmer, both of Missouri.

President Clinton is "against same-sex marriage," his senior adviser, George Stephanopoulos, said Wednesday, but he could not say whether Clinton would sign the bill, since he has not seen it.

Even Mrs. Schroeder conceded that the bill's chances were "probably very good - it's right before an election." But Daniel Zingale of the Human

Rights Campaign, a national lesbian and gay political group, said he was "cautiously optimistic" that members of Congress would stand up against "this kind of gay bashing," even if they opposed same-sex marriage.

For several months, conservative lawmakers around the nation have been introducing bills to foreclose recognition of same-sex marriages. Alaska, Arizona, Georgia, Idaho, Kansas, Oklahoma, South Dakota and Utah have passed such measures, according to the Lambda Legal Defense and Education Fund, a lesbian and gay organization. Legislation has been defeated, withdrawn or vetoed in 15 states and is pending in eight others.

In New York, state Sen. Serphin R. Maltese, R-Queens, introduced a bill on April 17 stating that "a marriage is absolutely void if contracted by two persons of the same sex, regardless of whether such marriage is recognized or solemnized in another jurisdiction." A companion bill in the Assembly was sponsored by Anthony S. Seminerio, R-Queens.

In a memorandum, Maltese said: "Heterosexual relationships traditionally have worked best for the raising of healthy children. In this sense, homosexual relationships are unnatural unions in our society."

But Assemblywoman Deborah J. Glick, a Manhattan Democrat who is a lesbian, said: "We're entitled to the same access to civic institutions. We have not seen Senator Maltese or Assemblyman Seminerio put forth a bill exempting gay men and lesbians in the state of New York from paying income taxes.

"Some people have been led to believe that their own marriage is somehow threatened if other people are allowed to marry," Ms. Glick said. "It's as if there's some finite pool of commitment and love in this world."



HUMAN
RIGHTS
CAMPAIGN

Memorandum

Date: May 8, 1996
To: Friends in Congress
From: Daniel Zingale, Political Director
Nancy Buermeyer, Senior Policy Advocate

Subject: Introduction of HR 3396, the "Defense of Marriage Act"

As you may be aware, the issue of gay marriage has been debated in state legislatures all across the country during the past few months. Yesterday, freshman Rep. Bob Barr (R-GA) brought that debate to Congress with the introduction of HR 3396, the so-called "Defense of Marriage Act." Attached is a packet of information that is designed to help you respond to any constituent or press inquiries you may receive on this issue.

You can honor the marriage between a man and a woman without resorting to gratuitous gay-bashing.

Background:

Marriage between two individuals of the same sex is not currently legal anywhere in the United States. The Hawaii courts are currently considering whether the state of Hawaii will extend equal marriage rights to same sex couples, but a final decision is not due for about 2 years. The opposition will claim that a decision is imminent, however the court action scheduled for this September is a lower court trial. The Hawaii Supreme Court will probably not consider this issue until 1997, with a final decision coming as late as 1998. Thirty-three state legislatures have considered this issue. Seventeen of those states decided against moving forward with legislation.

Lesbian, gay and fair-minded Americans need you to stand firmly against this bullying tactic.

Religious political extremists are getting their promised payback on divisive social agenda issues they were promised after helping Newt Gingrich become Speaker of the House in 1994. This legislation is nothing more than a coordinated election year attempt to attack gay men and lesbians.

Proponents of HR 3396 will mischaracterize gay marriage as somehow an attack on heterosexual marriage and traditional family structure, or that allowing equal marriage rights opens the door to absurd pairings or multi-person unions.

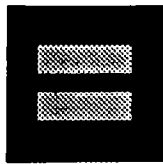
If you have any questions, or need additional information, please don't hesitate to call.

Oppose HR 3396.
Urge your colleagues to do the same.

WORKING FOR LESBIAN AND GAY EQUAL RIGHTS.

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News

FOR IMMEDIATE RELEASE
Wednesday, May 8, 1996

REPORT EXPOSES EXTREMISTS' ORCHESTRATION OF ANTI-GAY MARRIAGE LEGISLATION

'An Election-Year Strategy to Score Points Against Gay Men and Lesbians,' HRC Says

WASHINGTON -- Religious political extremists have orchestrated the introduction of anti-gay marriage bills in at least 33 state legislatures and the U.S. Congress in an election-year strategy to score political points against gay men and lesbians, according to the Human Rights Campaign.

HRC, the largest national lesbian and gay political organization, issued a report today on gay marriage to coincide with the unveiling of the first federal bill to ban same-sex marriage. That measure is being sponsored by Reps. Bob Barr, R-Ga., and Steve Largent, R-Okla.

"This is a calculated national assault on the lives of lesbian and gay people," HRC Executive Director Elizabeth Birch said at a news conference today. "Religious political extremists are using this issue as an election year baseball bat to bash gay Americans and score political points. These elected leaders are supposed to be focusing on the business of the country. Don't they have anything better to do than fixate on divisive social issues?"

Daniel Zingale, HRC's political director, noted that the bills are unnecessary and may be unconstitutional.

"All these bills are being positioned as pre-emptive strikes against the possibility that

the state of Hawaii may soon legalize same-sex marriage," Zingale said. "However, Hawaii is unlikely to approve same-sex marriage for at least two years, so these states are legislating against a non-existent institution. Plus, they may violate the 'full faith and credit clause' of the U.S. Constitution."

HRC released copies of its report, "Wedded to Intolerance," which exposes the false and defamatory rhetoric being used by religious political organizations as they spread these bills from statehouse to statehouse, and attempt to inject this issue into the presidential campaign. To date, eight states have passed laws that would ban marriage between people of the same sex. They are: Alaska, Arizona, Georgia, Idaho, Kansas, Oklahoma, South Dakota and Utah. Anti-gay marriage legislation remains pending in eight states, and measures were defeated, withdrawn or killed in 17 states.

Among the report's key findings is that the overall anti-gay marriage strategy was hatched at a meeting in January of religious political extremists. That meeting included many of the same religious political leaders who were involved in crafting and introducing anti-gay ballot initiatives.

"Since most of the discriminatory ballot

initiatives failed, these extremists went hunting for a new way to scapegoat gay men and lesbians," Birch said. "This is just a new manifestation of the same hateful tactics they have used in the past."

Also, Jay Sekulow, an attorney affiliated with Pat Robertson's Christian Coalition, has admitted in several public forums that his mission this year is to see anti-gay marriage bills introduced in all 50 state legislatures, according to the report.

Finally, HRC found that coordinated messages have emerged in the nationwide campaign to pass laws restricting marriage.

A primary tactic is to mischaracterize gay marriage as an attack on heterosexuals and on traditional marriage and family.

A secondary message is to claim that legalizing gay marriage opens the door to absurd pairings or multi-person unions.

A third line of argument tries to link gay marriage to the spread of HIV and AIDS and plays upon the unfounded stereotype that gay people are incapable of long-term relationships.

The Human Rights Campaign is the largest national lesbian and gay political organization, with members throughout the country. It effectively lobbies Congress, provides campaign support and educates the public to ensure that lesbian and gay Americans can be open, honest and safe at home, at work and in the community.

The New York Times

THE NEW YORK TIMES **EDITORIALS/LETTERS** SUNDAY, APRIL 7, 1996 10

The Freedom to Marry

Chances are that Americans will look back 30 years from now and wonder what all the fuss was about. At the moment, however, the question of opening the institution of marriage to homosexuals is the subject of an emotional national debate taking place at family dinner tables, state legislatures and in the press.

A "marriage protection" rally in Des Moines on the eve of the Iowa Republican caucuses drew predictable support from Patrick Buchanan in person, but also written support from the party's presumptive nominee, Senator Bob Dole. Opponents of same-sex marriages invoke religious tradition and family values. Allowing same-sex couples to marry, they assert, would somehow diminish the meaning of marriage for heterosexuals. These arguments, uncomfortably similar to those raised in resistance to repealing miscegenation laws a few decades ago, cannot obscure the entrenched anti-gay bigotry underlying much of the public dialogue. Nor can it disguise the fundamental unfairness of government denying a whole class of citizens the important benefits that flow from civil marriages.

What brings the issue to the fore is the likelihood that a court case in Hawaii will soon lead to that state's legal recognition of same-sex marriages. In 1993, Hawaii's top court ruled — not unreasonably — that the state's refusal to marry same-sex couples violated Hawaii's constitutional guarantee of equal protection. Unlike its Federal counterpart, Hawaii's Constitution explicitly prohibits discrimination based on sex. The state now has the burden of showing in a trial court proceeding that it has a "compelling interest" in perpetuating the state ban on same-sex unions — an appropriately high hurdle that experts predict the state will be unable to meet.

Indeed, if the state has a "compelling interest" here, it is to foster stable, long-term relationships and to clarify important legal and economic issues. Allowing marriage by same-sex couples would surely do that on matters of joint property, inheritance, insurance coverage and other important household business. Contrary to rhetoric on the other side, this is the real family values issue.

Unhappy with the direction of the court ruling, the Hawaiian Legislature passed a new law asserting that marriage is "intended for the propagation of the human race by man-woman units." But that rationale collapses under the reality that many heterosexual couples are infertile, choose not to have children or simply marry past childbearing age. On the other hand, many gay and lesbian couples do end up raising children. In other contexts, the U.S. Supreme Court has said that civil marriage rights do not flow from procreation but from the commitment and choice of couples.

Meanwhile, opponents led by religious fundamentalists have mounted a pre-emptive campaign aimed at getting other states to enact laws to prevent recognition of same-sex marriages performed in Hawaii. Last week, Georgia became the fourth state to enact such a law. Though similar measures have failed in 12 states, battles still rage in 15 others. This could create an absurd, demeaning and unconstitutional situation where marriages lawful in one state would suddenly be void when a couple crossed state lines. The backlash against same-sex marriages is driven by social intolerance, but it also poses an ominous challenge to the nation's Federal system of laws, and the basic requirement in the U.S. Constitution that states give "full faith and credit" to the legal actions taken by other states.

The New York Times

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NEW YORK, FRIDAY, MAY 3, 1996

\$1 beyond the greater New York metropolitan area

Gay Marriage as a Basic Human Right

To the Editor:

Like the Hawaii Legislature, William Safire is having a hard time articulating a "compelling state interest" for opposing same-sex marriage (column, April 29). His main argument against it seems to be that gay marriage makes him feel uncomfortable — a terrible reason to deny a class of people a basic human right.

He makes a common yet spurious leap of logic when he argues that extending marriage to same-sex couples would somehow weaken the traditional family. If heterosexual marriage is the preferred "family" unit for raising children and building stable lives, doesn't it stand to reason that allowing gay couples to marry would enhance families, traditional or otherwise, with or without children?

Mr. Safire also repeats the hoary myth that gay people cannot be trusted to raise children because we will somehow "influence the sexual orientation of the child." Surely he knows that gay parents have no more ability to make their children gay than straight parents have to make theirs straight.

Mr. Safire is correct when he says gay men and lesbians want more than "toleration." But the next step is not necessarily active approval. What we really want is equal protection under the law and to be judged for who we are as individuals.

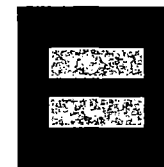
The high-pitched rhetoric in the debate over gay marriage is clear proof that we have yet to reach those goals.

ELIZABETH BIRCH
Exec. Dir., Human Rights Campaign
Washington, April 29, 1996

A GUIDE FOR ORGANIZERS, CANDIDATES
AND PUBLIC SPEAKERS

*A Basic Human
Right:*

*Talking About
Gay Marriage*



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HUMAN
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OPPOSE THE "DEFENSE OF MARRIAGE ACT"

H.R. 3396 and S. 1740 were introduced this week by Representative Bob Barr (R-GA) and Senator Don Nickles (R-OK), respectively. "The Defense of Marriage Act" (DOMA) is touted as protecting marriage and assuring states do not have to comply with the "full faith and credit" clause of the Constitution, which ensures that states honor each others contracts, such as divorces.

This legislation is nothing more than an election-year ploy and is unnecessary and mean-spirited. It is politically calculated to divide the country, promote more congressional extremism and scapegoat one group of Americans. This legislation should not move forward.

■ **Congress Should Not Interfere:** The federal government recognizes marriages performed by all 50 states. There is no "federal marriage license," nor should there be. Other similar laws, such as divorce and adoption laws, are under the authority of the respective states, not the federal government.

■ **The Legislation is Premature:** Same-sex marriage is not legal in any state. Hawaii is unlikely to decide the issue of same-sex marriage for at least two years, so this legislation attacks a non-existent issue. The only reason to deal with this now is to make it an election-year controversy.

■ **Many States Realize this is a Non-Issue:** Of the thirty-four states that have dealt with same-sex marriage, seventeen have chosen not go forward with legislation.

■ **Congress Should Attend to the Real Business of the Country:** Congress should address the current, critical and real issues facing America, such as the budget deficit and the minimum wage.

■ **"DOMA" is Unconstitutional:** States are bound, by the "full faith and credit" clause of the Constitution, to honor other states' contracts, including marriage. The Constitution would override "DOMA" if it were enacted into law.

■ **"DOMA" Creates an Unworkable Situation:** If Hawaii eventually allows same-sex marriage, people legally married in Hawaii would not be considered married by the federal government. This would create a complicated and unworkable patchwork of state and federal benefits that a married couple might or might not be eligible for, such as tax and Social Security benefits. Furthermore, a married couple who traveled or moved might or might not be married depending on the state they are in at a particular moment. As one country, as the United States, our citizens must have more clarity about their marital status.

■ **Attacking One Group of American Citizens is Wrong:** No matter what one's position is on same-sex marriage, one can honor marriage between a man and woman without resorting to gratuitous gay-bashing. This legislation does nothing to "defend" marriage, it simply attacks lesbian and gay Americans.

OPPOSE H.R. 3396 AND S. 1740

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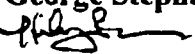
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HILARY B. ROSEN

President
Chief Operating Officer

May 10, 1996

To: Leon Panetta, George Stephanopolus and Jack Quinn
Fr: Hilary Rosen 
Re: Gay Marriage Legislation

Goal: To keep this legislation from coming to the President's desk. It is election year politics designed to put the President on the defensive. Don't rush to get on the bandwagon. Hold your fire. See what develops.

If you indicate early that the President will sign this Bill if it comes to his desk, then you guarantee swift passage through Congress. If he signs the Bill, much is at risk in terms of an energized electoral base from gay people and their families. Let's try and work together to avoid this "Sophie's Choice".

Strategy and Message: 1. There is a debate going on right now in the Republican party with Republicans attacking Republicans on just these sorts of tolerance issues. The Sunday talk shows will focus on the Republicans problems. The turmoil is helping the President because he is about bringing people together and they are distracted. They are fighting each other. Why create a situation where the focus shifts to the President?

2. Use as many parliamentary delays as possible to make Bob Dole look as though he is wasting the Congress' time on an issue that is not really facing the American people today in the courts or the legislatures.

3. Make it clear that since Dole has no issues against the President on the economy which are sticking, he is desperately flailing about looking for attack issues.

4. With this measure, Dole is pushing the Republicans towards a repeat of the 92 convention where they looked mean-spirited and not focused on the issues affecting the country.

5. You must not legitimize Dole's behavior on this with a swift Presidential endorsement of the legislation and therefore take away the opportunity to make him look bad.

6. Compare this to other issues where the President agrees with the policy goals but doesn't approve of the Republican strategy.

Proposed Position for President: "I do not believe in gay marriage. I understand that there are some legislative proposals in Congress and in some States dealing with this issue and we are studying them."

RECORDING INDUSTRY ASSOCIATION OF AMERICA

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SUMMARY AND ANALYSIS
DEFENSE OF MARRIAGE ACT
AS INTRODUCED ON MAY 7, 1996
BY

REPS. BOB BARR (GA), STEVE LARGENT (OK), JIM SENSENBRENNER (WI), SUE
MYRICK (NC), ED BRYANT (TN), BILL EMERSON (MO), HAROLD VOLKMER (MO),
IKE SKELTON (MO)

The Defense of Marriage Act (DOMA) does two things. First, it provides that no State shall be required to give effect to a law of any other State with respect to a same-sex "marriage." Second, it defines the words "marriage" and "spouse" for purposes of Federal law.

The first substantive section of the bill is an exercise of Congress' power under the "Effect" clause of Article IV, section 1 of the Constitution (the Full Faith and Credit Clause) to allow each State (or other political jurisdiction) to decide for itself whether it wants to grant legal status to same-sex "marriage." This provision is necessary in light of the possibility of Hawaii giving sanction to same-sex "marriage" under its state law, as interpreted by its state courts, and other states being placed in the position of having to give "full faith and credit" to Hawaii's interpretation of what constitutes "marriage." Although so-called "conflicts of law" principles do not necessarily compel such a result, approximately 30 states of the union are sufficiently alarmed by such a prospect to have initiated legislative efforts to defend themselves against any compulsion to acknowledge same-sex "marriage."

This is a problem most properly resolved by invoking Congress' authority under the Constitution to declare what "effect" one State's acts, records, and judicial proceedings shall have in another State. Congress has invoked this authority recently on two other occasions: in the Parental Kidnaping Prevention Act of 1980, which required each State to enforce child custody determinations made by the home State if made consistently with the provisions of the Act; and in the Full Faith and Credit for Child Support Order Act of 1994, which required each State to enforce child support orders made by the child's State if made consistently with the provisions of the Act.

The second substantive section of the bill amends the U. S. Code to make explicit what has been understood under federal law for over 200 years: that a marriage is the legal union of a man and a woman as husband and wife, and a spouse is a husband or wife of the opposite sex. The DOMA definition of marriage is derived most immediately from a Washington state case from 1974, Singer v. Hara, which is included in the 1990 edition of Black's Law Dictionary. More than a century ago, the U. S. Supreme Court spoke of the "union for life of one man and one woman in the holy estate of matrimony." Murphy v. Ramsey, 114 U.S. 15, 45 (1885).

DOMA is not meant to affect the definition of "spouse" (which under the Social Security law, for example, runs to dozens of lines). It ensures that whatever definition of "spouse" may be used in Federal law, the word refers only to a person of the opposite sex.

Become An Original Co-Sponsor Of: **The Defense of Marriage Act**

Purpose: The Defense of Marriage Act defines marriage for federal purposes as a legal union between one man and one woman. The bill also protects States from being compelled to honor another States's law or judicial proceeding that recognizes marriage between persons of the same sex.

Background: The Hawaii circuit court is set to hear the case of *Boehr v. Miike* in August. The case involves homosexual plaintiffs who petitioned Hawaii State court for a marriage license. After the case was dismissed in State court, the plaintiffs appealed to the Hawaii Supreme Court, which ruled that, while there is no fundamental right to homosexual marriage in Hawaii, a marriage law that limits the right to marry to heterosexuals is discriminatory, and can only be justified if the state shows a "compelling government interest." The supreme court ordered the case to be tried in Hawaii circuit court. The "strict scrutiny" standard places the burden of proof on the State and is a very difficult standard to meet. Legal experts expect the case to be decided in favor of the plaintiffs. If plaintiffs prevail, homosexual marriage would become legal in Hawaii.

In anticipation of a decision in *Boehr*, many State Legislatures are working on legislation to preclude homosexual marriages. However, Article IV, section 1 of the U.S. Constitution provides that States must honor the acts, records or judicial proceedings of other states. This section, commonly referred to as the *full faith and credit* clause, could allow Hawaii's legalization of homosexual marriage to be valid in all fifty states.

Congressional Action: The Defense of Marriage Act has two significant components. First, it clarifies that for federal purposes, a marriage is a legal union between one man and one woman. Thus, issues such as federal immigration, federal employee or health benefits, or federal withholding for income tax purposes, would not be affected by Hawaii's decision. Second, it protects States from being compelled to honor another State's law or judicial proceeding that recognizes marriage between persons of the same sex.

The Defense of Marriage Act

(May 7, 1996)

The Defense of Marriage Act (DOMA) is short, and it does just two things:

- It provides that no State *shall be required* to give effect to a law of any other State with respect to a same-sex “marriage”.
- It defines the words “marriage” and “spouse” for purposes of Federal law.

Section 1 of the bill gives its title, the “Defense of Marriage Act”.

Section 2 allows each State (or other political jurisdiction) to *decide for itself* with respect to same-sex “marriage”. Section 2 of the bill will add a new section to Title 28, United States Code, as follows:

“Sec. 1738C. Certain acts, records, and proceedings and the effect thereof

“No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.”

This section of the bill is an exercise of Congress’ powers under the “Effect” clause of Article IV, section 1 of the Constitution, which reads, “Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, *and the Effect thereof.*” [Emphasis added.]

Precedents. Congress has legislated before with respect to full faith and credit. The general provisions, 28 U.S.C. §§1738 & 1739, go back to the earliest days of the Republic. Act of May 26, 1790, 1 Statutes at Large, chap. XI. More recently, Congress has reinvigorated its powers under Article IV of the Constitution by enacting—

- the Parental Kidnaping Prevention Act of 1980, Public Law 96-611, 94 Stat. 3569, codified at 28 U.S.C. §1738A (each State required to enforce child custody determinations made by home State if made consistently with the provisions of the Act);
- the Full Faith and Credit for Child Support Orders Act [of 1994], Pub. L. 103-383, 108 Stat. 4064, codified at 28 U.S.C. §1738B (each State required to enforce child support orders made by the child’s State if made consistently with the provisions of the Act); and

- the Safe Homes for Women Act of 1994, Pub. L. 103-322, title IV, §40221(a), 108 Stat. 1930, codified at 18 U.S.C. §2265 (full faith and credit to be given to protective orders issued against a spouse or intimate partner with respect to domestic violence).

Section 3 contains definitions. It will amend Chapter 1 of Title 1 of the United States Code by adding the following new section:

“§7. Definition of ‘marriage’ and ‘spouse’

“In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word ‘marriage’ means only a legal union between one man and one woman as husband and wife, and the word ‘spouse’ refers only to a person of the opposite sex who is a husband or a wife.”

Section 3 merely restates the current understanding. The text reaffirms what Congress and the executive agencies have meant for 200 years when using the words “marriage” and “spouse” — a marriage is the legal union of a man and a woman as husband and wife, and a spouse is a husband or wife of the opposite sex.

Most of section 3 borrows directly from the current United States Code. The introductory phrases are taken from sections 1 and 6 of Title 1, and the definition of spouse is taken from paragraph 31 of section 101, Title 31. The current Code does not contain a definition of marriage, presumably because Americans have known what it means. Therefore, the definition of marriage in DOMA is derived most immediately from a Washington State case, *Singer v. Hara*, 522 P.2d 1187, 1191-92 (Wash. App. 1974), and this definition has now found its way into *Black's Law Dictionary* (6th ed. 1990). There are many similar definitions, both in the dictionaries and in the cases. For example, more than a century ago the U.S. Supreme Court spoke of the “union for life of one man and one woman in the holy estate of matrimony.” *Murphy v. Ramsey*, 114 U.S. 15, 45 (1885).

Note that “marriage” is *defined*, but the word “spouse” is not *defined* but *refers to*. This distinction is used because the word “spouse” is *defined* at several places in the Code to include substantive meaning (e.g., Title II of the Social Security Act, 42 U.S.C. §§416(a), (b), & (f), contains a definition of “spouse” that runs to dozens of lines), and DOMA is not meant to affect such substantive *definitions*. DOMA is meant to ensure that whatever substantive definition of “spouse” may be used in Federal law, the word *refers only to* a person of the opposite sex.

[Prepared by the Office of Senator Don Nickles]

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NEWS FROM U.S. REPRESENTATIVE BOB BARR

FOR IMMEDIATE RELEASE:
WEDNESDAY, MAY 8, 1996

CONTACT: CARTER CORNICK
202-225-2931

**BARR INTRODUCES DEFENSE OF MARRIAGE ACT,
EXPECTS QUICK JUDICIARY COMMITTEE ACTION**

At a news conference today, U.S. Representative Bob Barr (GA-7) announced he has introduced the Defense of Marriage Act (DOMA) that reserves to the states the power to decide whether they will recognize "same-sex marriages." It also defines marriage, for federal law purposes only, as "a legal union between one man and one woman..." The bill has bipartisan support and is jointly sponsored by Congressmen Steve Largent (OK-1), Jim Sensenbrenner (WI-9), Sue Myrick (NC-9), Bill Emerson (MO-8), Ed Bryant (TN-7), Harold Volkmer (MO-9), and Ike Skelton (MO-4).

"We expect this summer that Hawaii's courts will validate same-sex 'marriage' in Hawaii," stated Barr. "Once that happens, other states, including Georgia, may be required to give legal standing to such 'marriages' under the so-called full faith and credit clause of the Constitution. Frankly, I and others don't think that any state should be forced to accept same-sex 'marriage' just because the courts of Hawaii may require Hawaiians to do so."

Barr also emphasized the limited scope of his legislation. "The bill does not outlaw anything. It simply says that Georgia and all other states of the union cannot have a judicial decision with which they disagree forced on them. The truth is, poll after poll shows that the overwhelming majority of Americans, including the people of Hawaii, are opposed to legal recognition of same-sex 'marriage.'"

Barr noted that the legislation also defines marriage, for federal purposes, as the legal union of a man and a woman, "Marriage, as we have traditionally understood it means a legal union of one man and one woman, and the bill simply states it."

Barr is a member of the House Judiciary Committee which has jurisdiction over the bill. He said he expects quick action by the Committee with Subcommittee hearings on the bill possible as early as next week. Additionally, rapid floor action is also likely, given the time pressures the situation in Hawaii presents.

-- 30 --

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U. S. S E N A T O R
DON NICKLES
O K L A H O M A

FOR IMMEDIATE RELEASE

CONTACT: ERNIE SCHULTZ OR GAYLE OSTERBERG
202/224-5754

May 8, 1996

NICKLES SPONSORS BILL DEFENDING MARRIAGE

WASHINGTON--Oklahoma Senator Don Nickles announced today he will introduce legislation which defines the words "marriage" and "spouse" for purposes of federal law and allows each state to decide for itself with respect to so-called same-sex "marriages."

Nickles made the announcement at a news conference in Washington at which introduction of the Defense of Marriage Act was announced with House sponsors Rep. Steve Largent (R-OK) and Rep. Bob Barr (R-GA).

"This bill does two simple things," Nickles said. "First, the bill says marriage for federal purposes is the legal union between one man and one woman, and a spouse is a husband or wife of the opposite sex. Second, it allows each state to decide for itself about same-sex 'marriages' without other states' laws interfering.

"Most Americans will have a hard time understanding how our country has come to the point where such simple terms as 'marriage' and 'spouse' need to be defined in federal law. But under challenge from courts, lawsuits and an erosion of values, we find ourselves at the point today that this legislation is needed.

"This bill merely reaffirms what Americans have meant for more than 200 years when using the words 'marriage' and 'spouse. This common sense legislation is important and timely because of actions currently underway at the state level to legalize marriages between persons of the same sex, which could have significant implications for other states and the federal government. This has extraordinary significance because the definition of the words 'marriage' and 'spouse' determine how hundreds of rules and regulations dealing with income taxes, immigration, and federal employee or health benefits are administered."

"This effort hardly seems to be news as it reaffirms current practice and policy. But surely somehow, somewhere, given today's climate, it will be. I believe the fact that it will be news -- that some may even consider this legislation controversial -- should make the average American stop and take stock of where we are as a country and where we want to go."

NEWS FROM . . .

CONGRESSMAN **JIM SENSENBRENNER** WISCONSIN - NINTH DISTRICT



2332 Rayburn Building
Washington, D.C. 20515-4909
(202) 225-5101

Outside the Milwaukee Metro calling area,
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120 Bishops Way, Suite 154
Brookfield, Wisconsin 53005-6294
(414) 784-1111

May 8, 1996
FOR IMMEDIATE RELEASE

Contact: Jeff Lungren
202-225-5101

SENSENBRENNER COSPONSORS BILL TO PROTECT STATES FROM SAME-SEX MARRIAGE RULING

(Washington, D.C.) -- Congressman JIM SENSENBRENNER (R-Menomonee Falls), an original cosponsor of the "Defense of Marriage Act," spoke today at a news conference introducing the bill, which liberates states from being required to recognize same-sex marriages licensed by other states. The bill is in reaction to a Hawaiian Supreme Court ruling that denying a marriage license to a same-sex couple violates the Hawaii State Constitution.

"This is an issue of states' rights. Individual states should remain able, free from constitutional compulsion, to determine whether they will legally recognize same-sex marriages. I don't think the State of Wisconsin should be forced to legally recognize same-sex marriages because a Hawaii State Court believes it violates the Hawaii State Constitution," stated Rep. Sensenbrenner.

The "Defense of Marriage Act" utilizes Congress's power to define the scope of the U.S. Constitution's Full Faith and Credit Clause by declaring individual states are not forced to recognize same-sex marriages from other states. Under the Full Faith and Credit Clause, states are generally required to grant binding legal status to other states' public records and judgments. Thus, a same-sex marriage recognized by Hawaii may have to be honored by all other states.

Without this bill, a federal court could force Wisconsin to recognize Hawaiian same-sex marriages and give marriage and spousal benefits to the couple as well.

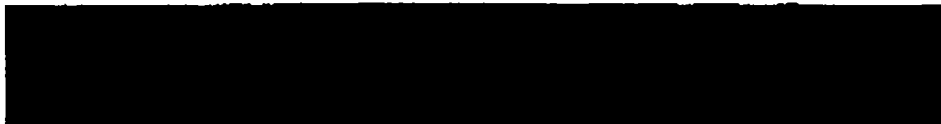
Furthermore, the federal government also could be forced to extend marriage and spousal benefits to same-sex couples. Although the word "marriage" appears hundreds of times in federal law, "marriage" is not defined. This bill, however, would define "marriage" for the purposes of federal law as a "legal union between one man and one woman as husband and wife," as Congress initially intended.

"If Wisconsin wants to change the traditional definition of marriage accepted for thousands of years, let the people and lawmakers of Wisconsin decide - not a judge in Hawaii," Rep. Sensenbrenner said.

...a withhold sanction of same-sex unions

.../ntr/nation/050896/nation13_18997.html

RETURN TO STATEIDE: NORMAL | LOW-GRAPHICS



Congressional bills withhold sanction of same-sex unions

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WASHINGTON (May 8, 1996 8:41 p.m. EDT) — State-by-state skirmishes over prospective marriage rights for lesbians and gay men escalated into a national battle Wednesday with the introduction in Congress of bills that would deny federal recognition of same-sex marriages if they were ever legalized.

The bills, introduced by Sen. Don Nickles, R-Okla., and Rep. Bob Barr, R-Ga., would also absolve states of the obligation to recognize same-sex marriages performed in other states.

That gets to the heart of conservatives' concern that if Hawaii sanctions same-sex marriage in the next few years -- which is considered a possibility because of a pending court case there -- gay couples from around the nation will fly to the islands to be wed legally and then return to their home states to claim the benefits of civil marriage.

"If some state wishes to recognize same-sex marriage, they can do so," Nickles said Wednesday before introducing the measure, known as the Defense of Marriage Act. But he said the bill would insure that "the 49 other states don't have to and the federal government does not have to."

Barr emphasized that the bill "does not outlaw same-sex marriage." But by withholding federal tax, welfare, pension, health, immigration and survivors' benefits, the bill would deny gay couples many of the civil advantages of marriage.

Critics of the legislation, including the American Civil Liberties Union, said Congress could not simply skirt Article 4 of the Constitution, which says that "full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state."

One opponent, Rep. Patricia Schroeder, D-Colo., said: "You can't amend the Constitution with a statute. Everybody knows that. This is just stirring the political waters and seeing what hate you can unleash."

But Barr said that Article 4 allowed Congress to prescribe "the effect" of the "full faith and credit" clause and that the article had never been interpreted as forcing one state to violate its own public policy in accommodating the laws of another. "Clearly, Congress has the jurisdiction to do what we're doing," he said.

Barr said he expected that the bill would move "very quickly" through the Judiciary Committee to the House floor for a vote. He said he anticipated strong bipartisan support, noting that the bill had two Democratic co-sponsors, Rep. Ike Skelton and Rep. Harold L. Volkmer, both of Missouri.

President Clinton is against same-sex marriage, his senior adviser, George Stephanopoulos, said Wednesday, but he could not say whether Clinton would sign the bill, since he has not seen it.

Even Mrs. Schroeder conceded that the bill's chances were "probably very good — it's right before an election." But Daniel Zingale of the Human Rights Campaign, a national lesbian and gay political group, said he was "cautiously optimistic" that members of Congress would stand up against "this kind of gay bashing," even if they opposed same-sex marriage.

For several months, conservative lawmakers around the nation have been introducing bills to foreclose recognition of same-sex marriages. Alaska, Arizona, Georgia, Idaho, Kansas, Oklahoma, South Dakota and Utah have passed such measures, according to the Lambda Legal Defense and Education Fund, a lesbian and gay organization. Legislation has been defeated, withdrawn or vetoed in 15 states and is pending in eight others.

...s withhold sanction of same-sex unions

.../ntn/nation/050886/nation13_16997.html

In New York, state Sen. Serphin R. Maltese, R-Queens, introduced a bill on April 17 stating that "a marriage is absolutely void if contracted by two persons of the same sex, regardless of whether such marriage is recognized or solemnized in another jurisdiction." A companion bill in the Assembly was sponsored by Anthony S. Seminerio, R-Queens.

In a memorandum, Maltese said: "Heterosexual relationships traditionally have worked best for the raising of healthy children. In this sense, homosexual relationships are unnatural unions in our society."

But Assemblywoman Deborah J. Glick, a Manhattan Democrat who is a lesbian, said: "We're entitled to the same access to civic institutions. We have not seen Senator Maltese or Assemblyman Seminerio put forth a bill exempting gay men and lesbians in the state of New York from paying income taxes.

"Some people have been led to believe that their own marriage is somehow threatened if other people are allowed to marry," Ms. Glick said. "It's as if there's some finite pool of commitment and love in this world."

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Do you have some feedback for the Nando Times staff?

The legislation recently introduced in Congress would for the first time in our nation's history insert the federal government into matters which have traditionally been left to the states to regulate. As a former governor, the President has serious reservations whenever Congress attempts to legislate in quintessential state issues. The bill also raises serious constitutional issues by attempting to legislate a particular interpretation of the full faith and credit clause of the United States Constitution -- a matter best left to the courts.

While the President has said repeatedly and consistently that he is personally opposed to same sex marriage, this issue is being discussed in many state legislatures and at the local level -- as he believes it should be. Congress has more important things to do than to be in the business of granting marriage licenses.

The institutions of traditional marriage and family face tremendous pressures in today's society. The president believes that we must do everything we can to support these institutions, but this particular legislation does not seem to advance that goal.

MEMORANDUM TO GEORGE

cc: Steve Newirth
Jeremy Ben-Ami

FROM: MARSHA
DATE: MAY 9, 1996

More thoughts: I believe that our strongest counter is around states rights. For 200 years the federal government has stayed out of this issue and left it up to individual states to define. Historically there is no need for a federal role on state driven issues unless it is to inspire the states to action. All states already have legislation dealing with marriage and many are adopting same sex legislation. There is no reason for the federal government to act. It can be said that as a former governor, the President has great respect for the right of individual states to define their issues and this issue falls clearly within their prerogative. In the 60's this same argument was proposed around interracial marriages. Some states passed laws others did not. The Congress stayed out and eventually all the regressive laws were thrown out.

Senators Kennedy and Wyden are going to come out in support of same sex marriage. Senator Wyden already did this on numerous occasions during his campaign. Kennedy's argument will be that Church law and State law are separate. One does not have to honor the other so no priest or minister has to marry someone if they don't believe in it. But he will also say that the same benefits should be available to all citizens and that is why he supports marriage.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

08-May-1996 01:06pm

TO: Philattey

FROM: Hrccomm

SUBJECT: Anti-Gay Marriage Bill Introduced In Congress - Act Now

NEWS from the
Human Rights Campaign

1101 14th Street NW
Washington, DC 20005
email: communications@hrcusa.org
WWW: <http://www.hrcusa.org>

FOR IMMEDIATE RELEASE
Wednesday, May 8, 1996

REPORT EXPOSES EXTREMISTS' ORCHESTRATION OF
ANTI-GAY MARRIAGE LEGISLATION

An Election-Year Strategy to Score Points Against
Gay Men and Lesbians,' HRC Says

ACT NOW - Send an instant message to your Members of Congress
through HRC's Online Action Center
<http://www.hrcusa.org>

WASHINGTON -- Religious political extremists have orchestrated the introduction of anti-gay marriage bills in at least 33 state legislatures and the U.S. Congress in an election-year strategy to score political points against gay men and lesbians, according to the Human Rights Campaign.

HRC, the largest national lesbian and gay political organization, issued a report today on gay marriage to coincide with the unveiling of the first federal bill to ban same-sex marriage. That measure is being sponsored by Reps. Bob Barr, R-Ga., and Steve Largent, R-Ok.

"This is a calculated national assault on the lives of lesbian and gay people," HRC Executive Director Elizabeth Birch said at a news conference today. "Religious political extremists are using this issue as an election year baseball bat to bash gay Americans and score political points. These elected leaders are supposed to be focusing on the business of the country. Don't

they have anything better to do than fixate on divisive social issues?"

Daniel Zingale, HRC's political director, noted that the bills are unnecessary and may be unconstitutional.

"All these bills are being positioned as pre-emptive strikes against the possibility that the state of Hawaii may soon legalize same-sex marriage," Zingale said. "However, Hawaii is unlikely to approve same-sex marriage for at least two years, so these states are legislating against a non-existent institution. Plus, they may violate the 'full faith and credit clause' of the U.S. Constitution."

HRC released copies of its report, "Wedded to Intolerance," which exposes the false and defamatory rhetoric being used by religious political organizations as they spread these bills from statehouse to statehouse, and attempt to inject this issue into the presidential campaign. To date, eight states have passed laws that would ban marriage between people of the same sex. They are: Alaska, Arizona, Georgia, Idaho, Kansas, Oklahoma, South Dakota and Utah. Anti-gay marriage legislation remains pending in eight states, and measures were defeated, withdrawn or killed in 17 states.

Among the report's key findings is that the overall anti-gay marriage strategy was hatched at a meeting in January of religious political extremists. That meeting included many of the same religious political leaders who were involved in crafting and introducing anti-gay ballot initiatives.

"Since most of the discriminatory ballot initiatives failed, these extremists went hunting for a new way to scapegoat gay men and lesbians," Birch said. "This is just a new manifestation of the same hateful tactics they have used in the past."

Also, Jay Sekulow, an attorney affiliated with Pat Robertson's Christian Coalition, has admitted in several public forums that his mission this year is to see anti-gay marriage bills introduced in all 50 state legislatures, according to the report.

Finally, HRC found that coordinated messages have emerged in the nationwide campaign to pass laws restricting marriage.

A primary tactic is to mischaracterize gay marriage as an attack on heterosexuals and on traditional marriage and family.

A secondary message is to claim that legalizing gay marriage opens the door to absurd pairings or multi-person unions.

A third line of argument tries to link gay marriage to the spread of HIV and AIDS and plays upon the unfounded stereotype that gay people are incapable of long-term relationships.

The Human Rights Campaign is the largest national lesbian and gay political organization, with members throughout the country. It effectively lobbies Congress, provides campaign support and educates the public to ensure that lesbian and gay Americans can be open, honest and safe at home, at work and in

the community.

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

08-May-1996 01:18pm

TO: Philattey

FROM: Hrccomm

SUBJECT: Anti-Gay Marriage Bill - HRC Talking Points and Sample Messag

Issue Talking Points from the
Human Rights Campaign

1101 14th Street NW
Washington, DC 20005
email: communications@hrcusa.org
WWW: <http://www.hrcusa.org>

THE DEFENSE OF MARRIAGE ACT

Religious political extremists have orchestrated the introduction of anti-gay marriage bills in at least 33 states and the U.S. Congress in an election-year strategy to score political points through gratuitous gay-bashing. DOMA, the "Defense of Marriage Act" is now before the U.S. Congress, defining marriage in federal law as a "legal union between one man and one woman," and also attempts to give states the authority to reject the legality of same-sex marriages performed in any other state.

Marriage between two individuals of the same sex is not currently legal anywhere in the United States. The Hawaii courts are currently considering whether the state of Hawaii will extend equal marriage rights to same sex couples, but a final decision is not due for about 2 years. The opposition will claim that a decision is imminent, however the court action scheduled for this September is a lower court trial. The Hawaii Supreme Court will probably not consider this issue until 1997, with a final decision coming as late as 1998. Thirty-three legislatures have considered this issue.

Seventeen of those states decided against moving forward with legislation.

DOMA is another example of the general, pervasive discrimination gay men and lesbians face in society. Not only can we not marry each other anywhere in this country, we can be fired from our jobs simply for being lesbian or gay.

No federal law protects people from discrimination on the basis of sexual orientation.

DOMA is premature and purely political: it counteracts a Hawaii decision that is still years away.

Congress has bigger, more important problems that it should be concerned with. Attempting to legislate social issues is mean-spirited and inappropriate.

The so-called "Defense of Marriage Act" is nothing more than gratuitous gay-bashing. It does not provide any positive defensive measures for marriage or the family.

MESSAGE:

It is clear that the Defense of Marriage Act is an election year strategy attacking lesbian and gay Americans in order to bolster support for Congressional extremists that lacks a pro-active, positive agenda. Write or call your member of Congress and urge them to strongly oppose, refuse to co-sponsor and remove their sponsorship if they already have sponsored H.R. 3396, the "Defense of Marriage Act," - introduced by Representatives Bob Barr (R-GA) and Steve Largent (R-OK).

SAMPLE LETTER

Dear Representative or Senator,

I am writing to urge you to strongly oppose H.R. 3396, the so-called "Defense of Marriage Act," introduced by Representatives Bob Barr(R-GA) and Steve Largent(R-OK). This legislation is nothing more than a coordinated election year strategy by religious political extremists to score political points on the backs of gay men and lesbians.

Same sex marriage is not legal anywhere in the United States. A court case in the state of Hawaii is currently looking at the issue, but a final decision is not expected for about 2 years. This kind of premature legislation is nothing more than an attempt to divide the country by beating up on gay men and lesbians. Congress should be attending to the business of the country, not attacking American citizens.

Marriage is a basic human right. The decision of whom to marry is a deeply personal one that should not be interfered with by the federal government. Despite the rhetoric of the religious political extremists, one can honor the relationship between a man and woman without attacking lesbian and gay people or their relationships.

I again urge you to oppose this unnecessary and divisive legislation. I look forward to hearing your views on this matter.

Sincerely,



Lambda Legal Defense and Education Fund, Inc. **NEWS RELEASE**

National Office • 666 Broadway, Suite 1200 • New York, NY 10012-2317 • (212) 995-8585 • fax (212) 995-2306

FOR IMMEDIATE RELEASE

Wednesday, May 8, 1996

Press Contact: Evan Wolfson
(212) 995-8986

STATEMENT OF EVAN WOLFSON

Director of the Marriage Project Lambda Legal Defense & Education Fund

**Regarding the Federal Bill Introduced Today to Bar Recognition of Future Lawful Marriages
of Same-Sex Couples**

(NEW YORK, May 8, 1996) — Acting at the request of religious-political extremist groups, Rep. Bob Barr (R-GA) and other House Republicans today introduced, H.R. 3396, a bill that would insert the federal government for the first time in our country's history into decisions about marriage; an area traditionally left to the states and to individual couples.

In all fifty states lesbian and gay couples are currently denied the fundamental freedom to marry. Though we are litigating in Hawaii for the basic right to share in the responsibilities and commitment of civil marriage, our case is still at least two years away from making its way through the courts, beginning with a lower-court trial later this year.

Unsatisfied with current barriers against gay people getting married, the bill's sponsors seek to codify unprecedented federal-level blanket discrimination against lesbian and gay couples. At the same time, their bill, ironically entitled "the Defense of Marriage Act," would rewrite a federal law first adopted in 1789, in order to permit states to single out lawfully-married gay couples for uncertainty and discrimination against their marriages as they move from state to state.

This anti-gay attack, pushed by religious-political extremist groups like the Traditional Values Coalition, is a throwback to ugly, not so long-ago chapters of American history. Fair-minded Americans can remember how less than thirty years ago, interracial couples were arrested for marrying the "wrong" person in the "wrong" state, and how people had to "go to Reno" to get a civil divorce.

If successful, those sponsoring this attack-bill would once again make America a house divided, in which couples who were lawfully married in one state literally would not know from day to day, state to state, whether they are married or not.

Most Americans understand that this is one country, and if you are married, you are married. Couples should not have to wonder whether they are legally married or not, or if their marriage will be respected by another state or agency, as they live their lives and protect their families. All lawfully married couples should be entitled to equal respect throughout the country, even if others do not like the race, religion, sex, or sexual orientation of the partners. Couples, their children, employers, creditors, and others should not have to deal with the legal and practical nightmare this election-year "wedge" bill would create.

-more-

Lambda Legal Defense and Education Fund is a national organization committed to achieving full recognition of the civil rights of lesbians, gay men and people with HIV/AIDS through impact litigation, education and public policy work. Headquartered in New York, and with offices in Los Angeles and Chicago, Lambda has regional and national expertise in all aspects of sexual orientation and HIV-related law and policy.

People from Hawaii to Maine have just begun thinking about how the denial of civil marriage harms real-life gay couples. H.R. 3396 is an election-year attempt to poison the discussion beginning in this country about equal marriage rights for all Americans, a discussion that the radical-right groups behind the bill do not want people to have.

Marriage should not be a "special right for heterosexuals only," as the bill's sponsors suggest. But whatever one's stand on ending discrimination against gay and lesbian couples, public discussion should continue in every state, without congressional interference.

(Lambda Legal Defense & Education Fund is co-counsel on the Hawaii marriage case, and, through its Marriage Project, promotes and coordinates efforts nationwide to win and keep the equal freedom to marry for gay people).

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AMERICAN CIVIL LIBERTIES UNION
<http://www.aclu.org>

News from the ACLU...

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ACLU Says Anti-Gay Marriage Bill is an
Unprecedented Intrusion on State Issue

FOR IMMEDIATE RELEASE
Wednesday, May 8, 1996

WASHINGTON -- The American Civil Liberties Union questioned a bill introduced today that would ban marriages between lesbian and gay couples, saying that Congress is inappropriately intruding on a state issue.

"This is an issue that should be left for the states to decide," said Alexander Robinson, a legislative representative in the ACLU's Nation Washington Office responsible for lesbian and gay issues. "Congress has never been involved in granting marriage licenses. So why are some members of Congress getting involved now?"

The legislation by Rep. Bob Barr (R-Ga.) seeks to deny recognition of future marriages between same-sex couples by defining marriage in federal law as a "legal union between one man and one woman." The bill would also grant states the authority to reject the legality of same-sex marriages performed in any other state.

The latter provision "raises serious constitutional concerns under the Full Faith and Credit Clause," said Marc E. Elovitz, staff attorney with the ACLU's Lesbian and Gay Rights Project. The clause guarantees that the rights of people in one state, including marriage rights, should be honored by the other states.

The Hawaii Supreme Court ruled in May 1993 that the denial of marriage licenses to three lesbian and gay couples may be discriminatory under the state's Constitution guaranteeing equal rights. The Justices sent the case back to the lower court, saying that denying

marriage rights to same-sex couples can be justified only if the state can prove a "compelling government interest."

The case will go to trial in August later this year and a final decision from the Hawaii Supreme Court is not expected until 1997.

The bill, entitled the "Defense of Marriage Act," was drafted with the help of radical conservative groups and is being co-sponsored by Rep. Steve Largent (R-Okla.) and Rep. F. James Sensenbrenner (R-Wis.).

"It is ironic that this bill, which involves the Congress in quintessential state issues, should be introduced at a time when some are calling for less, rather than more, federal involvement in state affairs," said Robinson.

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Contact: Denny Lee, (212) 944-9800 ext. 424

May. 9. 1996, 1:13PM, LAMBDA LEGAL DFNS 212-995-2306, No. 5588 P. 5/18
Subject: Points and Sample Message
Date: 96-05-08 13:19:02 EDT
From: Hrccomm
To: Philatthey
BCC: EW LLDEF

Issue Talking Points from the
Human Rights Campaign

1101 14th Street NW
Washington, DC 20005
email: communications@hrcusa.org
WWW: <http://www.hrcusa.org>

THE DEFENSE OF MARRIAGE ACT

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Marriage between two individuals of the same sex is not currently legal anywhere in the United States. The Hawaii courts are currently considering whether the state of Hawaii will extend equal marriage rights to same sex couples, but a final decision is not due for about 2 years. The opposition will claim that a decision is imminent, however the court action scheduled for this September is a lower court trial. The Hawaii Supreme Court will probably not consider this issue until 1997, with a final decision coming as late as 1998. Thirty-three legislatures have considered this issue. Seventeen of those states decided against moving forward with legislation.

DOMA is another example of the general, pervasive discrimination gay men and lesbians face in society. Not only can we not marry each other anywhere in this country, we can be fired from our jobs simply for being lesbian or gay. No federal law protects people from discrimination on the basis of sexual orientation.

DOMA is premature and purely political: it counteracts a Hawaii decision that is still years away.

Congress has bigger, more important problems that it should be concerned with. Attempting to legislate social issues is mean-spirited and inappropriate.

The so-called "Defense of Marriage Act" is nothing more than gratuitous gay-bashing. It does not provide any positive defensive measures for marriage or the family.

MESSAGE:

It is clear that the Defense of Marriage Act is an election year strategy attacking lesbian and gay Americans in order to bolster support for Congressional extremists that lacks a pro-active, positive agenda. Write or call your member of Congress and urge them to strongly oppose, refuse to co-sponsor and remove their sponsorship if they already have sponsored H.R. 3396, the "Defense of Marriage Act," - introduced by Representatives Bob Barr (R-GA) and Steve Largent (R-OK).

SAMPLE LETTER

Dear Representative or Senator,

I am writing to urge you to strongly oppose H.R. 3396, the so-called "Defense of Marriage Act," introduced by Representatives Bob Barr(R-GA) and Steve Largent(R-OK). This legislation is nothing more than a coordinated election year strategy by religious political extremists to score political points on the backs of gay men and lesbians.

Same sex marriage is not legal anywhere in the United States. A court case in the state of Hawaii is currently looking at the issue, but a final decision is not expected for about 2 years. This kind of premature legislation is nothing more than an attempt to divide the country by beating up on gay men and lesbians. Congress should be attending to the business of the country, not attacking American citizens.

Marriage is a basic human right. The decision of whom to marry is a deeply

May. 9. 1996 1:14PM LAMBDA LEGAL DFNS 212-995-2306 No. 5588 P. 7/18
per shot by the federal government.
Despite the rhetoric of the religious political extremists, one can honor the
relationship between a man and woman without attacking lesbian and gay people
or their relationships.

I again urge you to oppose this unnecessary and divisive legislation. I look
forward to hearing your views on this matter.

Sincerely,

Subject: Release
Date: 96-05-08 09:45:45 EDT
From: Nancy.buermeyer@mail.hrcusa.org (Nancy Buermeyer)
To: EWLLDEF@aol.com

Evan,

Here is the press release we are issuing. The bill was introduced last night by Bob Barr (R-GA). It is H.R. 3396 and has 7 original cosponsors: Largent (R-OK), Sensenbrenner (R-WI), Myrick (R-NC), Volkmer (D-MO), Skelton (D-MO), Byrant (R-TN), and Emerson (R-MO). Please post to the rest of the Coalition.

Thnaks, Nancy

HRC Press Release:

FOR IMMEDIATE RELEASE
Wednesday, May 8, 1996

REPORT EXPOSES EXTREMISTS' ORCHESTRATION OF ANTI-GAY MARRIAGE
LEGISLATION

'An Election-Year Strategy to Score Points Against Gay Men and
Lesbians,' HRC Says

WASHINGTON -- Religious political extremists have orchestrated the introduction of anti-gay marriage bills in at least 33 state legislatures and the U.S. Congress in an election-year strategy to score political points against gay men and lesbians, according to the Human Rights Campaign.

HRC, the largest national lesbian and gay political organization, issued a report today on gay marriage to coincide with the unveiling of the first federal bill to ban same-sex marriage. That measure is being sponsored by Reps. Bob Barr, R-Ga., and Steve Largent, R-Okla.

"This is a calculated national assault on the lives of lesbian and gay people," HRC Executive Director Elizabeth Birch said at a news conference today. "Religious political extremists are using this issue as an election year baseball bat to bash gay Americans and score political points. These elected leaders are supposed to be focusing on

Daniel Zingale, HRC's political director, noted that the bills are unnecessary and may be unconstitutional.

"All these bills are being positioned as pre-emptive strikes against the possibility that the state of Hawaii may soon legalize same-sex marriage," Zingale said. "However, Hawaii is unlikely to approve same-sex marriage for at least two years, so these states are legislating against a non-existent institution. Plus, they may violate the 'full faith and credit clause' of the U.S. Constitution."

HRC released copies of its report, "Wedded to Intolerance," which exposes the false and defamatory rhetoric being used by religious political organizations as they spread these bills from statehouse to statehouse, and attempt to inject this issue into the presidential campaign. To date, eight states have passed laws that would ban marriage between people of the same sex. They are: Alaska, Arizona, Georgia, Idaho, Kansas, Oklahoma, South Dakota and Utah. Anti-gay marriage legislation remains pending in eight states, and measures were defeated, withdrawn or killed in 17 states.

Among the report's key findings is that the overall anti-gay marriage strategy was hatched at a meeting in January of religious political extremists. That meeting included many of the same religious political leaders who were involved in crafting and introducing anti-gay ballot initiatives.

"Since most of the discriminatory ballot initiatives failed, these extremists went hunting for a new way to scapegoat gay men and lesbians," Birch said. "This is just a new manifestation of the same hateful tactics they have used in the past."

Also, Jay Sekulow, an attorney affiliated with Pat Robertson's Christian Coalition, has admitted in several public forums that his mission this year is to see anti-gay marriage bills introduced in all 50 state legislatures, according to the report.

Finally, HRC found that coordinated messages have emerged in the nationwide campaign to pass laws restricting marriage.

A primary tactic is to mischaracterize gay marriage as an attack on heterosexuals and on traditional marriage and family.

A secondary message is to claim that legalizing gay marriage opens the door to absurd pairings or multi-person unions.

A third line of argument tries to link gay marriage to the spread of HIV and AIDS and plays upon the unfounded stereotype that gay people are incapable of long-term relationships.

The Human Rights Campaign is the largest national lesbian and gay

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effectively lobbies Congress, provides campaign support and educates
the public to ensure that lesbian and gay Americans can be open,
honest and safe at home, at work and in the community.

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For Immediate Release
May 8, 1996

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NEEDLESS ANTI-MARRIAGE LEGISLATION THREATENS GOP'S MAJORITY IN FALL

(WASHINGTON, D.C.) Federal legislation seeking to both bar recognition of same-sex marriages and allow states to ignore same-sex marriages performed in other states, introduced in Congress today, will needlessly hurt the GOP majority in Congress.

"There is nothing Democrats would like more than to tag the Republicans in the 104th Congress as extreme," said Richard Tafel, executive director of Log Cabin Republicans. "The fact is that President Clinton has already come out against marriage for gay couples. No state recognizes gay marriages. And the Republicans have yet to deliver on the central promises in the Contract with America. Introducing this gratuitous anti-marriage legislation will only help to ensure that the extreme, gay-bashing image of the party will stick."

"This issue is still being discussed at the local and state levels. It is the height of hypocrisy to call for the devolution of power to the states, and then propose this type of federal legislation," Tafel added. "If such a bill passes, it will once again pit states against the federal government, something Republicans have said they were trying to get away from."

"The Republican leadership should get these members under control. The American people want balanced budgets, less government and reduced taxes. Republicans should be fulfilling promises to the American people instead of putting out fires started by the far right, whether by Rep. Bob Dornan (R-CA) or Rep. Sam Barr (R-GA). The real losers here will be Republican moderates in close races who will have extremist, gay-bashing image hung around their necks in the election," Tafel said.

Log Cabin Republicans the nation's largest gay and lesbian Republican organization with 54 chapters in 30 states and more than 10,000 members. Log Cabin seeks to educate Republicans on issues of importance to gay and lesbian Americans.

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federal law attempting to regulate such relationships would be constitutionally infirm. If the Tenth Amendment reserved any power to the states, it must be the power to legislate the rules applicable to marriage, separation and divorce, community property and succession.

The court in Neustein v. Orbach, 130 F.R.D. 12, 14 (E.D.N.Y. 1990), agreed, commenting that "[i]t was long ago decided that domestic relations 'belonged' to the States pursuant to their retained police powers as recognized by the 10th Amendment to the United States Constitution." See also In re Knabe, 8 B.R. 53, 56 (Bankr. S.D. Ind. 1980) (Tenth Amendment reserved power to govern domestic relations to the states).

The Salisbury court's bold assertion of state jurisdiction over marriage is, therefore, probably accurate. Not only do the above cases give the states power to regulate marriage, but many courts, including the U.S. Supreme Court, have continued to aver to the absence of a federal law of domestic relations.⁴ An understanding that marriage lies under state control is likely by now sufficiently entrenched that its dislodgment by Congress would be logistically impossible.

B. Subject To

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[DISCUSSION DRAFT]

MAY 2, 1996

104TH CONGRESS
2D SESSION

H. R. 3396

IN THE HOUSE OF REPRESENTATIVES

Mr. BARR of Georgia (for himself, Mr. LAMBERT, Mr. BROWDER, and
) introduced the following bill; which was referred to the Committee
on _____

A BILL

To define and protect the institution of marriage.

- 1 *As enacted by the Senate and House of Representa-*
- 2 *tives of the United States of America in Congress assembled,*
- 3 **SECTION 1. SHORT TITLE.**
- 4 This Act may be cited as the "Defense of Marriage
- 5 Act".

May 2, 1996 (2:05 p.m.)

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1 **SEC. 2. DEFINITION OF MARRIAGE.**

2 (a) **IN GENERAL.**—Chapter 1 of title 1, United
3 States Code, is amended by adding at the end the follow-
4 ing:

5 **"§ 7. Definition of 'marriage' and 'spouse'**

6 "In determining the meaning of any Act of Congress,
7 or of any ruling, regulation, or interpretation of the var-
8 ious administrative bureaus and agencies of the United
9 States, the word 'marriage' means only a legal union be-
10 tween one man and one woman as husband and wife, and
11 the word 'spouse' refers only to a person of the opposite
12 sex who is a husband or a wife."

13 (b) **CLERICAL AMENDMENT.**—The table of sections
14 at the beginning of chapter 1 of title 1, United States
15 Code, is amended by inserting after the item relating to
16 section 8 the following new item:

"7. Definition of 'marriage' and 'spouse'."

17 **SEC. 2. POWERS RESERVED TO THE STATES.**

18 (a) **IN GENERAL.**—Chapter 115 of title 28, United
19 States Code, is amended by adding after section 1738B
20 the following:

21 **"§ 1738C. Certain acts, records, and proceedings and**
22 **the effect thereof**

23 "No State, territory, or possession of the United
24 States, or Indian tribe, shall be required to give effect to
25 any public act, record, or [judicial proceeding] of any other

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1 State, territory, possession, or tribe respecting a relation-
2 ship between persons of the same sex that is treated as
3 a marriage under the laws of such other State, territory,
4 possession, or tribe, or a right or claim arising from such
5 relationship."]

6 (b) CLERICAL AMENDMENT.—The table of sections
7 at the beginning of chapter 115 of title 28, United States
8 Code, is amended by inserting after the item relating to
9 section 1788B the following new item:

"1788C. Certain acts, records, and proceedings and the effect thereof."

May 9, 1996 (10:00 p.m.)

Become An Original Co-Sponsor Of:

The Defense of Marriage Act

Purpose: The Defense of Marriage Act defines marriage for federal purposes as a legal union between one man and one woman. The bill also protects States from being compelled to honor another States's law or judicial proceeding that recognizes marriage between persons of the same sex.

Background: The Hawaii circuit court is set to hear the case of *Boehr v. Arlt* in August. The case involves homosexual plaintiffs who petitioned Hawaii State court for a marriage license. After the case was dismissed in State court, the plaintiffs appealed to the Hawaii Supreme Court, which ruled that, while there is no fundamental right to homosexual marriage in Hawaii, a marriage law that limits the right to marry to heterosexuals is discriminatory, and can only be justified if the state shows a "compelling government interest." The supreme court ordered the case to be tried in Hawaii circuit court. The "strict scrutiny" standard places the burden of proof on the State and is a very difficult standard to meet. Legal experts expect the case to be decided in favor of the plaintiffs. If plaintiffs prevail, homosexual marriage would become legal in Hawaii.

In anticipation of a decision in *Boehr*, many State Legislatures are working on legislation to preclude homosexual marriages. However, Article IV, section 1 of the U.S. Constitution provides that States must honor the acts, records or judicial proceedings of other states. This section, commonly referred to as the *full faith and credit* clause, could allow Hawaii's legalization of homosexual marriage to be valid in all fifty states.

Congressional Action: The Defense of Marriage Act has two significant components. First, it clarifies that for federal purposes, a marriage is a legal union between one man and one woman. Thus, issues such as federal immigration, federal employee or health benefits, or federal withholding for income tax purposes, would not be effected by Hawaii's decision. Second, it protects States from being compelled to honor another State's law or judicial proceeding that recognizes marriage between persons of the same sex.

The Defense of Marriage Act Is Necessary Now

(May 7, 1996)

The Defense of Marriage Act (DOMA) is a modest proposal. In large measure, it merely restates current law. Some may ask, therefore, if it is necessary. The correct answer is . . . it's essential, and it's essential now. A couple of examples will illustrate why:

Same-Sex "Marriages" in Hawaii. Prompted by a decision of its State Supreme Court, *Baehr v. Lewin*, 852 P.2d 44, *reconsideration granted in part*, 875 P.2d 225 (Haw. 1993), the people of Hawaii are in the process of deciding if their State is going to sanction the legal union of persons of the same sex. After Hawaii's high court acted, the legislature amended Hawaii's law to make it unmistakably clear that marriage is available only between a man and a woman, Act of June 22, 1994 (Act 217, §3), amending Hawaii Revised Statutes §572-1, but the issue still thrives in the courts, and a lower court may hand down a decision later this year.

If Hawaii sanctions same-sex "marriage", the implications will be felt far beyond Hawaii. Because Article IV of the U.S. Constitution requires every State to give "full faith and credit" to the "public Acts, Records, and judicial Proceedings" of each State, the other 49 States will be faced with recognizing Hawaii's same-sex "marriages" even though no State now sanctions such relationships. The Federal Government will have similar concerns because it extends benefits and privileges to persons who are married, and generally it uses a State's definition of marriage.

DOMA. The Defense of Marriage Act does not affect the Hawaii situation. It does not tell Hawaii what it must do, and it does not tell the other 49 States what they must do. If Hawaii or another State decides to sanction same-sex "marriage", DOMA will not stand in the way.

The Defense of Marriage Act does two things: First, it allows each State to decide for itself what legal effect it will give to another State's same-sex "marriages". This initiative is based on Congress' power under Article IV, section 1 of the Constitution to say what "effect" one State's acts, records, and judicial proceedings shall have in another State. Second, DOMA defines the words "marriage" and "spouse" for purposes of Federal law. Since the word "marriage" appears in more than 800 sections of Federal statutes and regulations, and since the word "spouse" appears more than 3,100 times, a redefinition of "marriage" or "spouse" could have enormous implication for Federal law.

The following examples illustrating DOMA's importance are from Federal law, but similar situations can be found in every State.

Veterans' Benefits. In the 1970s, Richard Baker, a male, demanded increased veterans' educational benefits because he claimed James McConnell, another male, as his dependent spouse. When the Veterans Administration turned him down, he sued, and the outcome turned on a Federal statute (38 U.S.C. §103(c)) that made eligibility for the benefits

contingent on his State's definition of "spouse" and "marriage". The Federal courts rejected the claim for added benefits, *McConnell v. Nooner*, 547 F.2d 54 (8th Cir. 1976), because the Minnesota supreme court had already determined that marriage (which it defined as "the state of union between persons of the opposite sex") was not available to persons of the same sex. *Baker v. Nelson*, 191 N.W.2d 185 (Minn. 1971), *dismissed for want of a substantial federal question*, 409 U.S. 810 (1972).

If Hawaii changes its law, a *Baker v. Nelson*-type case based on Hawaiian law will create genuine risks to the Federal Government's consistent policy. The Defense of Marriage Act anticipates future demands such as that made in the veterans' benefits case, and it reasserts that the words "marriage" and "spouse" will continue to mean what they have traditionally meant.

Family and Medical Leave Act. The Family and Medical Leave Act of 1993 (FMLA), Pub. L. 103-3, 107 Stat. 6, requires that employees be given unpaid leave to care for a "spouse" who is ill.

Shortly before passage of the Act in the Senate, Senator Nickles attached an amendment defining "spouse" as "a husband or wife, as the case may be." That amendment proved essential when the regulations were written.

When the Secretary of Labor published his proposed regulations, he noted that a "considerable number of comments" were received urging that the definition of "spouse" "be broadened to include domestic partners in committed relationships, including same-sex relationships." However, the Nickles amendment precluded him from adopting an expansive definition of "spouse". The Secretary then quoted the Senator's remarks on the floor:

"* * * This is the same definition [of 'spouse'] that appears in Title 10 of the United States Code (10 U.S.C. 101). Under this amendment, an employer would be required to give an eligible female employee unpaid leave to care for her husband and an eligible male employee unpaid leave to care for his wife. No employer would be required to grant an eligible employee unpaid leave to care for an unmarried domestic partner. This simple definition will spare us a great deal of costly and unnecessary litigation. Without this amendment, the bill would invite lawsuits by workers who unsuccessfully seek leave on the basis of the illness of their unmarried adult companions."

"Accordingly," continued the Secretary, *"given this legislative history, the recommendations that the definition of 'spouse' be broadened cannot be adopted."* 60 Federal Register 2180, 2191-92 (Jan. 6, 1995) (emphasis added).

The Family and Medical Leave Act is an excellent example of how a little anticipation in the Legislative Branch can prevent a far-reaching, even revolutionary, change in American law.

[Prepared by the Office of Senator Don Nickles]