

With all of this litigation pending, there is little doubt that the Constitution will be amended. The only question is whether it will be amended by Congress working the will of the people or by judicial fiat. Will activist judges override the clear intention of the American people or will the people amend the Constitution to preserve marriage as it has always been understood?

In Massachusetts, the people have never had a say. The State's supreme judicial court demanded the State sanction same-sex marriage. A majority of the court substituted their personal policy preferences for that of the people, and the consequences of that activism spread far beyond same-sex marriage itself.

I wish to read from a letter from Governor Romney sent to me as we opened the debate on this issue. In it he warns us that Massachusetts is only just beginning to experience the full implication of their court's decision. He writes:

Although the full impact of same-sex marriage may not be measured for decades or generations, we are beginning to see the effects of the new legal logic in Massachusetts just 2 years before our State's social experiment.

In the letter, Governor Romney relates the following account:

In our schools, children are being taught that there is no difference between the same-sex marriage and traditional marriage.

Recently, parents of a second grader in one public school complained when they were not notified that their son's teacher would read a fairy tale about same-sex marriage to the class.

The parents asked for the opportunity to opt their child out of hearing such stories. In response, the school superintendent insisted on "teaching children about the world they live in, and in Massachusetts same-sex marriage is legal."

Now second graders are being indoctrinated to accept a radical redefinition of marriage against their parents' wishes. That is the reality today in Massachusetts.

It doesn't stop there. Already religious organizations in Massachusetts are feeling the pressure to conform their views as well. In March, the Catholic Charities of Boston discontinued their work placing foster children in adoptive homes. Why? Because they concluded the new same-sex marriage law would require them to place children—require them—to place children in same-sex homes. Clearly, this is an irreconcilable conflict.

So while we have advocates denying that same-sex marriage poses any conflict with religious expression or with traditional views, we are already seeing in Massachusetts that simply is not the case. We don't know yet the range and the extent of the religious liberty conflicts that would arise from the imposition of same-sex marriage laws, but we do know the implications are serious, that religious expression will be challenged, and that it is a matter of deep public concern. That is why we

seek action in the Senate on this important issue.

As I have said before, it is only a matter of time before the Constitution will be amended. The only question is by whom. Is it going to be a small group of activist judges or by the people through a democratic process? I believe the people should make that decision.

We talked about the specific wording of the marriage protection amendment. Nothing in the amendment intrudes on individual privacy. Nothing stops States from passing civil union laws or curtails benefits that legislatures establish for same-sex couples.

It simply protects the States from having civil unions imposed on them from activist courts. It protects the legislative process by letting people speak and vote. It ensures that their voices are heard and their votes are respected.

My own views on marriage are clear. I believe that marriage is the union between a man and a woman for the purpose of creating and nurturing a family. We know that children do best in a home with a mom and a dad. Common sense and overwhelming research tell us so. Marriage between one man and one woman does a better job protecting our children—better than any other arrangement humankind has devised. I believe it is our duty to support this fundamental institution.

Now we will vote on proceeding on the marriage protection amendment. We will vote on whether we believe traditional marriage is worthy of protection, and we will vote on whether the courts or the people will decide its fate.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The bill clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 435, S.J. Res. 1, a joint resolution proposing an amendment to the Constitution of the United States relating to marriage.

Bill Frist, Wayne Allard, Jim Bunning, Conrad Burns, Richard Burr, Tom Coburn, Jon Kyl, Craig Thomas, George Allen, Judd Gregg, Johnny Isakson, David Vitter, John Thune, Mike Crapo, Jeff Sessions, John Ensign, Rick Santorum.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that the debate on the motion to proceed to S.J. Res. 1, an amendment to the Constitution of the United States related to marriage, shall be brought to a close?

The yeas and nays are mandatory under the rule. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Nebraska (Mr. HAGEL).

Mr. DURBIN. I announce that the Senator from Connecticut (Mr. DODD) and the Senator from West Virginia (Mr. ROCKEFELLER) are necessarily absent.

The yeas and nays resulted—yeas 49, nays 48, as follows:

[Rollcall Vote No. 163 Leg.]

YEAS—49

Alexander	DeMint	McConnell
Allard	DeWine	Murkowski
Allen	Dole	Nelson (NE)
Bennett	Domenici	Roberts
Bond	Ensign	Santorum
Brownback	Enzi	Sessions
Bunning	Frist	Shelby
Burns	Graham	Smith
Burr	Grassley	Stevens
Byrd	Hatch	Talent
Chambliss	Hutchison	Thomas
Coburn	Inhofe	Thune
Cochran	Isakson	Vitter
Coleman	Kyl	Voinovich
Cornyn	Lott	Warner
Craig	Lugar	
Crapo	Martinez	

NAYS—48

Akaka	Feinstein	Menendez
Baucus	Gregg	Mikulski
Bayh	Harkin	Murray
Biden	Inouye	Nelson (FL)
Bingaman	Jeffords	Obama
Boxer	Johnson	Pryor
Cantwell	Kennedy	Reed
Carper	Kerry	Reid
Chafee	Kohl	Salazar
Clinton	Landrieu	Sarbanes
Collins	Lautenberg	Schumer
Conrad	Leahy	Snowe
Dayton	Levin	Specter
Dorgan	Lieberman	Stabenow
Durbin	Lincoln	Sununu
Feingold	McCain	Wyden

NOT VOTING—3

Dodd	Hagel	Rockefeller
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The PRESIDING OFFICER (Mr. VITTER). On this vote, the yeas are 49, the nays are 48. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until 12 noon.

Thereupon, the Senate, at 10:33 a.m., took a recess, and the Senate, preceded by the Secretary of the Senate, Emily Reynolds, and the Sergeant at Arms, William H. Pickle, proceeded to the Hall of the House of Representatives to hear the address by Her Excellency Dr. Vaira Vike-Freiberga, President of the Republic of Latvia.

(The address delivered to the joint session of the two Houses of Congress is printed in the Proceedings of the House of Representatives in today's RECORD.)

Whereupon, at 12 noon, the Senate reassembled when called to order by the Presiding Officer (Ms. MURKOWSKI).

DEATH TAX REPEAL PERMANENCY ACT OF 2005—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the hour of 12 p.m.