

Remarks of President Bush on the Marriage Protection Amendment

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Center for American Progress

June 5, 2006

*A- Rhetoric
D Accuracy
Next time please do a
better job of checking your
facts.*

Thank you all. Please be seated.

Good afternoon and welcome to the White House. It is a pleasure to be with so many fine community leaders, scholars, family organizations, religious leaders, Republicans, Democrats, independents. Thank you all for coming.

You come from many backgrounds and faith traditions, yet united in this common belief: Marriage is the most fundamental institution of civilization and it should not be redefined by activist judges.

FACT: Marriage is not being redefined by “activist judges.” As a new Cato Report by Professor Dale Carpenter notes, “The ‘threat’ from courts is more imagined than real.” Only one state has adopted same-sex marriage as a result of a court decision; 45 states have barred same-sex marriage by various means. The question isn’t whether “activist judges” should redefine marriage, but whether the states should have the opportunity to settle this matter in their own fashion, without federal interference.

You are here because you strongly support a constitutional amendment that defines marriage as the union of a man and a woman. And I am proud to stand with you.

FACT: Clearly this is not a representative group. Recent polling shows that the country is closely divided over whether to support a constitutional amendment against same-sex marriage. In fact, a June 4th ABC News poll found that only 42% of the public supports such an amendment.

This week, the Senate begins debate on the Marriage Protection Amendment. And I call on the Congress to pass this amendment, send it to the states for ratification, so we can take this issue out of the hands of overreaching judges and put it back where it belongs: in the hands of the American people.

FACT: A constitutional amendment would not put power back “in the hands of the American people”; it would all but permanently remove the issue from the democratic process by preventing states from allowing same-sex marriage if they choose to do so. As conservative scholar Bruce Fein states, “[The Federal Marriage Amendment] precludes legislative bodies from recognizing same-sex unions irrespective of majority sentiments.”

The union of a man and woman in marriage is the most enduring and important human institution.

FACT: This is certainly true. But it is not an argument for denying gay and lesbian Americans the opportunity to participate in that institution.

For ages, in every culture, human beings have understood that marriage is critical to the well-being of families. And because families pass along values and shape character, marriage is also critical to the health of society.

Our policy should aim to strengthen families, not undermine them.

FACT: There is no reason to believe—nor has any evidence been produced—that allowing people to marry who cannot now do so would “undermine” or have any other discernable effect on the families of those who

are currently permitted to marry. On the other hand, denying gay men and lesbians the ability to marry does undermine their families.

And changing the definition of marriage would undermine the family structure.

FACT: There is no reason to believe—nor has any evidence been produced—that allowing gay men and lesbians to marry would have any effect on the “family structure.” There have been no reputable studies showing that the legalization of same-sex marriage has any adverse effect on family integrity, child welfare or societal well-being.

America is a free society which limits the role of government in the lives of our citizens. In this country, people are free to choose how they live their lives.

FACT: People should be free to choose how they live their lives, including choosing whom they wish to marry. As Vice President Dick Cheney said in opposing a federal constitutional amendment to ban same-sex marriage, “freedom means freedom for everybody.”

In our free society, decisions about as fundamental a social institution as marriage should be made by the people.

FACT: Absolutely. But the amendment would prevent this from happening. The decision should be made by the people of each state through the normal democratic process.

The American people have spoken clearly on this issue through their elected representatives and at the ballot box.

FACT: They have indeed. Eighteen states have enacted their own constitutional amendments banning same-sex marriage, and additional states are considering them. So why do we need a federal amendment? As Senator John McCain said, “[the proposed federal amendment] usurps from the states a fundamental authority they have always possessed and imposes a federal remedy for a problem that most states do not believe confronts them.”

In 1996, Congress approved the Defense of Marriage Act by large bipartisan majorities in both the House and the Senate, and President Clinton signed it into law.

FACT: That’s why the Marriage Protection Amendment is superfluous. Former representative Bob Barr, the author of the Defense of Marriage Act, strongly opposes the amendment as unnecessary and an affront to federalism.

And since then, 19 states have held referendums to amend their state constitutions to protect the traditional definition of marriage.

In every case, the amendments were approved by decisive majorities, with an average of 71 percent.

FACT: The enactment of these amendments demonstrates how unnecessary it is for opponents of same-sex marriage to tamper with the federal Constitution.

Today, 45 of the 50 states have either a state constitutional amendment or a statute defining marriage as the union of a man and a woman.

These amendments and laws express a broad consensus in our country for protecting the institution of marriage. The people have spoken.

FACT: These amendments and laws indicate that a majority of the people oppose same-sex marriage, not that they favor a federal constitutional amendment banning same-sex marriage. Indeed, on that question

the public is evenly divided. Moreover, majority opposition to same-sex marriage continues to shrink. Before we convert the wishes of a transitory majority into a permanent amendment to our Constitution, we should be sure that the proposed change will stand the test of time.

Unfortunately, this consensus is being undermined by activist judges and local officials who have struck down state laws protecting marriage and made an aggressive attempt to redefine marriage.

Since 2004, state courts in Washington and California and Maryland and New York have ruled against marriage laws. Last year a federal judge in Nebraska overturned a state constitutional amendment banning same-sex marriage, an amendment that was approved by 70 percent of the population.

FACT: The cases in Washington, California, Maryland and New York are all lower court decisions. The Nebraska case, *Citizens for Equal Protection v. Bruning*, is the only case in which a state marriage amendment has been overturned, and that case is under appeal. The court invalidated the amendment because it was drafted so broadly that it would have prohibited every type of same-sex relationship, not just same-sex marriage.

And at this moment, nine states face lawsuits challenging the marriage laws they have on the books.

FACT: Not one of these states has been forced to recognize same-sex marriage. Why enact a constitutional amendment to address a problem that does not exist?

Some argue that defining marriage should be left to the states. The fact is, state legislatures are trying to address this issue.

FACT: State legislatures are not simply trying to address the issue, they are succeeding. Forty five states have banned same-sex marriage, two have created civil unions, four states and the District of Columbia have created some form of domestic partnership laws, and the California legislature has passed legislation allowing for same-sex marriage, although it was vetoed by the governor.

But across the country, they are being thwarted by activist judges who are overturning the express will of their people. And these court decisions could have an impact on our whole nation.

The Defense of Marriage Act declares that no state is required to accept another state's definition of marriage. If that act is overturned by the courts, then marriage recognized in one city or state may have to be recognized as marriages everywhere else.

FACT: There is no reason to think that the Defense of Marriage Act will be overturned, and there are no cases in which challenges to the law have been upheld. In fact, the only two courts that have considered challenges to DOMA have upheld it.

That would mean that every state would have to recognize marriage as redefined by judges in, say, Massachusetts or local officials in San Francisco, no matter what their own state laws or their state constitutions say.

FACT: It is inconceivable that the current Supreme Court would invalidate the Defense of Marriage Act. But even if this were to occur, the duty to give "Full Faith and Credit" to marriages contracted in another state is subject to a "public policy" exception that has always permitted states to refuse to recognize such marriages. The exception would certainly permit states to continue to refuse to recognize same-sex marriages if they choose to do so.

This national question requires a national solution.

FACT: Marriage has never been a "national question." It has always been governed by state law, and should remain so.

And on an issue of such profound importance, that solution should come not from the courts but from the people of the United States.

FACT: The solution should come from the people through the normal democratic process. It should not be set in stone by a transient majority.

An amendment to the Constitution is necessary because activist courts have left our nation with no other choice.

FACT: The Marriage Protection Amendment is a solution in search of a problem. Only one state has adopted same-sex marriage as a result of a court decision. Since other states do not have to recognize such marriages, this is hardly an emergency requiring the extraordinary remedy of an amendment to the U.S. Constitution.

When judges insist on imposing their arbitrary will on the people, the only alternative left to the people is an amendment to the Constitution: the only law a court cannot overturn.

FACT: An amendment to the Constitution should always be a last resort. There is certainly no need for one here. While one lower federal court has called into question the validity of a state constitutional amendment in Nebraska, that decision is being appealed. Meanwhile, state constitutional amendments all over the country appear to be on firm ground.

The constitutional amendment that the Senate will consider this week would fully protect marriage from being redefined.

It will leave state legislatures free to make their own choices in defining legal arrangements other than marriage.

FACT: The Defense of Marriage Act allows states to create their own definition of marriage. The Marriage Protection Amendment would change this by imposing a uniform definition on the states. The language of the amendment is unclear as to whether the amendment would permit the state legislatures to make their own choices in defining legal arrangements other than marriage.

A constitutional amendment is the most democratic process by which our country can resolve this issue.

FACT: The most democratic process by which our country can resolve this issue is the normal one in which the people of individual states can debate and consider their own solutions.

In their wisdom, our founders set a high bar for amending the Constitution: An amendment must be approved by two-thirds of the House and the Senate and then ratified by three-fourths of the 50 state legislatures.

This process guarantees that every state legislature and every community in our nation will have a voice and a say in deciding this issue.

FACT: Since the consent of only three-fourths of the states is required, the amendment could become law over the objections of some of the most populous states in our nation, including California, New York and Illinois. States that have chosen to extend the right to marry to their gay and lesbian citizens could have their decision negated, and marriage defined for their citizens, by the residents of other states.

A constitutional amendment would not take this issue away from the states, as some have argued. It would take the issue away from the courts, and put it directly before the American people.

FACT: A constitutional amendment would override state decisions, whether they are made by courts, legislatures, or popular referenda, and it would be virtually impossible to reconsider.

As this debate goes forward, every American deserves to be treated with tolerance and respect and dignity.

FACT: No American is treated with respect and dignity by this amendment, which not only demeans gay and lesbian citizens but shows contempt for the ability of the people to rightly decide this issue for themselves through the democratic process.

On an issue of this great significance, opinions are strong and emotions run deep. And all of us have a duty to conduct this discussion with civility and decency toward one another.

FACT: Civility and decency are not served by a discriminatory constitutional amendment introduced as a political ploy in an election year. As First Lady Laura Bush said, "I don't think it should be used as a campaign tool, obviously."

All people deserve to have their voices heard, and a constitutional amendment will ensure that they are heard.

FACT: A constitutional amendment will silence the voices of millions of Americans today and those of generations to come.

I appreciate you taking an interest in this fundamental issue. It's an important issue for our country to debate and to resolve. And the best way to resolve this issue is through a constitutional amendment, which I strongly support.

God bless.