

Committee Name:
Senate Committee –
Judiciary, Corrections and Privacy
(SC–JCP)

Appointments

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Committee Hearings

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Record of Committee Proceedings

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Chairman Zien,
 The following is a letter crafted to the Massachusetts Supreme
 Judicial Court Justices in response to their Goodridge decision.
 I would like to submit it to you and the committee for consid-
 eration before the public hearing scheduled on Monday March 1, 2004
 regarding SJR63.

Thank you!

January, 2004

Honorable Chief Justice Margaret H. Marshall; Honorable Justice John M. Greaney; Honorable Justice Roderick L. Ireland; Honorable Justice
 Judith A. Cowan

Supreme Judicial Court, One Beacon Street, 3rd Floor, Boston, MA 02108

Dear Honorable Justices:

In your landmark *Goodridge* decision, calling for the legalization of same-sex marriage, you state that there is no "constitutionally adequate
 reason for denying civil marriage to same-sex couples."

In Justice Greaney's concurring argument, he quotes Part the First, Article I of the Declaration of the Rights of the Massachusetts Constitution,
 with its determinative appeal to "unalienable rights," and as enumerated specifically in terms of life, liberty, property and thus, the power to
 pursue happiness.

But, there is a constitutional question: Does same-sex marriage as a new "civil right" undermine the prior and defining "unalienable
 rights"?

The Massachusetts Constitution (1780) follows the genius of the prior Declaration of Independence of these United States (1776). The
 Declaration gives us the interpretive words upon which the nation was founded: "We hold these Truths to be self-evident, that all Men are created
 equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty, and the Pursuit of Happiness --
 That to secure these Rights, Governments are instituted among Men, deriving their just Powers from the Consent of the Governed." This
 language is rooted in the prior appeal to "the Laws of Nature and of Nature's God." In the Declaration of the Rights of the Massachusetts
 Constitution, Article II appeals to the "Supreme Being, the great Creator and Preserver of the universe," and to "God" in the context of religious
 liberty.

In the Fifth Amendment to the U.S. Constitution (ratified in 1791) and in the Fourteenth (ratified in 1868), constitutional law assumes the
 philosophic appeal of the Declaration, and then states that no person, in either federal or state jurisdictions, shall be deprived of "life, liberty, or
 property, without due process of law."

On this basis, we wish to make four observations:

1. In the United States, the civil rights which we all enjoy are rooted in "the Laws of Nature and of Nature's God," in the unalienable rights to life,
 liberty, property and the pursuit of happiness.
2. The unique source for unalienable rights is the Creator, the God of the Bible.
3. The Creator defines true marriage as one man and one woman in mutual fidelity. The health of society and well-being of children are rooted in
 this foundation. Thus, the Source for unalienable rights also gives us the true definition of marriage.
4. In human history, no society rooted in the approval of homosexuality has ever produced unalienable rights for the larger social order.
 Unalienable rights are those rights which are above the power for human government to define or redefine, to give or take away. They are simply
 to be acknowledged, they have only one historical source, the same Source which defines marriage as between man and woman, and the same to
 which our founders explicitly appealed.

We celebrate these unalienable rights for all people equally, as people, regardless of how much their sexual identities or religious beliefs may
 differ from our own. We are grateful that the 55 signers of the Declaration, 34 of them Protestant, overwhelmingly orthodox with some heterodox
 sentiments as well, and one Roman Catholic, did not impose their creeds on the nation. Rather they appealed to the Creator (to whom King
 George III could not flee accountability), at a level prior to and deeper than any religious dogma or denomination.

They appealed only to the God of the Bible, not to any pagan deity such as a Marduk, Baal, Brahma, Ra, Zeus, Jupiter or Thor; nor did they
 appeal to the amorphous god of Deism, who by definition is unconcerned with human events; nor did they appeal to any secular concept. The
 mention of God in Article II of the Declaration of the Rights of the Massachusetts Constitution references the same God of the Bible.

The *Goodridge* Court defined same-sex marriage as a civil right, yet such a "right" cannot be rooted in the unalienable rights given by
 the Creator. Thus, honorable justices, we see a quandary: In order to defend your decision, you must eviscerate the Creator and
 unalienable rights from the foundation of both the nation and the commonwealth.

Thus, we pose four questions:

1. Are civil rights being redefined?
2. If so, why?
3. If so, what is the new basis for these rights?
4. What are the consequences?

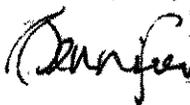
If these questions cannot be answered with clarity and historical precedence, we believe a legitimate argument for same-sex marriage has not
 been advanced.

Article V of the Declaration of the Rights of the Massachusetts Constitution states: "All power residing originally in the people, and being
 derived from them, the several magistrates and officers of the government, vested with authority, whether legislative, executive, or judicial, are
 their substitutes and agents, and are at all times accountable to them."

"At all times." Thus, we the people call you to account, not only here in Massachusetts, but nationwide, given the national agenda of the same-
 sex marriage movement, the "Consent of the Governed" clause of the Declaration, and in view of the "Full Faith and Credit" clause of Article IV
 of the United States Constitution. Article VII of the Declaration of the Rights of the Massachusetts Constitution not only states that "Government
 is instituted for the common good," and not for the "private interest" of any person; but it also states that "the people alone have an incontestable,
 unalienable, and inalienable right to institute government; and to reform, alter, or totally change the same, when their protection, safety,
 prosperity and happiness require it." We the people exercise our unalienable right to protect our unalienable rights which same-sex
 marriage will undermine by legally eviscerating the Creator as the Source for these rights.

Thus, we look forward to your response.

Sincerely,



Jennifer Joyce
 202 W. Jefferson
 Burlington, WI 53105

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 www.UnalienableRightsCampaign.com

to their officers and men and to be very vigilant in inspecting the behavior of all such as are under them, and to discountenance and suppress all dissolute, immoral, and disorderly practices, and also such as are contrary to the rules of discipline and obedience, and to correct those who are guilty of the same. ²

Noah Webster--a soldier during the Revolution and the author of the first American dictionary --defined the terms "dissolute" and "immoral" used by Congress:

Dissolute: Loose in behavior and morals; given to vice and dissipation; wanton; lewd; debauched; not under the restraints of law; as a dissolute man: dissolute company.

Immoral: Inconsistent with moral rectitude; contrary to the moral or Divine law. . . . Every action is immoral which contravenes any Divine precept or which is contrary to the duties which men owe to each other. ³

An American Dictionary of the English Language 1849

This meaning of the word "moral" versus "immoral" was understood through American society; the practice of sodomy was clearly adverse to and "contravene[d] Divine precept." The order to "suppress all dissolute, immoral and disorderly practices . . . contrary to the rules of discipline and obedience was extended throughout all branches of the American military, both the Army and the Navy. ⁴

acts passed at the first session of the 5th congress of the United States of America 1797 pp 456-457

It can be safely said that the attitude of the Founders on the subject of homosexuality was precisely that given by William Blackstone in his Commentaries on the Laws--the basis of legal jurisprudence in America and heartily endorsed by numbers of significant Founders. ⁵ In addressing sodomy (homosexuality), he found the subject so reprehensible that he was ashamed even to discuss it. Nonetheless, he noted:

What has been here observed . . . [the fact that the punishment fit the crime] ought to be the more clear in proportion as the crime is the more detestable, may be applied to another offence of a still deeper malignity; the infamous crime against nature committed either with man or beast. A crime which ought to be strictly and impartially proved and then as strictly and impartially punished. . . . I will not act so disagreeable part to my readers as well as myself as to dwell any longer upon a subject the very mention of which is a disgrace to human nature [sodomy]. It will be more eligible to imitate in this respect the delicacy of our English law which treats it in its very indictments as a crime not fit to be named; "peccatum illud horribile, inter christianos non nominandum" (that horrible crime not to be named among Christians). A taciturnity observed likewise by the edict of Constantius and Constans: "ubi scelus est id, quod non proficit scire, jubemus insurgere leges, armari jura gladio ultore, ut exquisitis poenis subdantur infames, qui sunt, vel qui futuri sunt, rei" (where that crime is found, which is unfit even to know, we command the law to arise armed with an avenging sword that the infamous men who are, or shall in future be guilty of it, may undergo the most severe punishments). ⁶

Sir William Blackstones Commentaries on the laws of England. Vol. IV pp 215-16 ~~1763~~ 1769

Because of the nature of the crime, the penalties for the act of sodomy were

The writings of Thomas

Jefferson Vol I pp 226-27
1794

often severe. For example, Thomas Jefferson indicated that in his home state Virginia, "dismemberment" of the offensive organ was the penalty for sodom. In fact, Jefferson himself authored a bill penalizing sodomy by castration.⁸ T laws of the other states showed similar or even more severe penalties:

Laws of the State of New York ...
since the Revolution Vol I p 336
1798

That the detestable and abominable vice of buggery [sodomy] . . . shall be from henceforth adjudged felony . . . and that every person being thereof convicted by verdict, confession, or outlawry [unlawful flight to avoid prosecution], shall be hanged by the neck until he or she shall be dead.⁹ NEW YORK

the public statute laws of the State
of Connecticut Book I p 295
1808

That if any man shall lie with mankind as he lieth with womankind, both of them have committed abomination; they both shall be put to death.¹⁰ CONNECTICUT

A Digest of the laws of the State of
Georgia p 350 1822

Sodomy . . . shall be punished by imprisonment at hard labour in the penitentiary during the natural life or lives of the person or persons convicted of th[is] detestable crime.¹¹ GEORGIA

Laws of the State of Maine
p 58 1822

That if any man shall commit the crime against nature with a man or male child . . . every such offender, being duly convicted thereof in the Supreme Judicial Court, shall be punished by solitary imprisonment for such term not exceeding one year and by confinement afterwards to hard labor for such term not exceeding ten years.¹² MAINE

Laws of the Commonwealth of
Pennsylvania Vol I p 113
1800

That if any person or persons shall commit sodomy . . . he or they so offending or committing any of the said crimes within this province, their counsellors, aiders, comforters, and abettors, being convicted thereof as above said, shall suffer as felons.¹³ [And] shall forfeit to the Commonwealth all and singular the lands and tenements, goods and chattels, whereof he or she was seized or possessed at the time . . . at the discretion of the court passing the sentence, not exceeding ten years, in the public gaol or house of correction of the county or city in which the offence shall have been committed and be kept at such labor.¹⁴ PENNSYLVANIA

An Abridgment of the Laws of
Pennsylvania p 279
1801

[T]he detestable and abominable vice of buggery [sodomy] . . . be from henceforth adjudged felony . . . and that the offenders being hereof convicted by verdict, confession, or outlawry [unlawful flight to avoid prosecution], shall suffer such pains of death and losses and penalties of their goods.¹⁵ SOUTH CAROLINA

Alphabetical Digest of the public
statute laws of South Carolina
Vol I p 99 1814

Statutes of the State of
Vermont p 74
1791

That if any man lieth with mankind as he lieth with a woman, they both shall suffer death.¹⁶ VERMONT

Based on the statutes, legal commentaries, and the writings of prominent military leaders, it is clear that any idea of homosexuals serving in the militia was considered with repugnance; this is incontrovertible, with no room for differing interpretations.¹⁷ The thought of lifting this proscription is a modern phenomenon, and would have brought disbelief, disdain, and condemnation from those who established our Armed Forces.

Why Should the Military Be Concerned With a Person's Morality?

Concern for the character and morality of military personnel has a strong historical basis. Our Founding Fathers recognized the importance of pure mo in our free society, and that philosophy extended to our military.

Before considering the importance of morality to the military, first consider some general statements on the importance of morality by those responsible originally creating the rules that have stirred so much controversy of late in debate over homosexuals in the military. John Adams (the founder of the Na on October 13, 1798, while serving as President of the United States and Commander-in-Chief, told the military:

We have no government armed with power capable of contending with human passions unbridled by morality and religion. . . . Our Constitution was made only for a moral and religious people. It is wholly inadequate to the government of any other. ¹⁸

Adams similarly explained:

Statesmen, my dear sir, may plan and speculate for liberty, but it is religion and morality alone which can establish the principles upon which freedom can securely stand. The only foundation of a free constitution is pure virtue. ¹⁹

George Washington, the nation's first Commander-in-Chief, summarized the same truth in his "Farewell Address." Significantly, this address was also partially authored by John Jay (the author of America's first military disciplin manual) and Alexander Hamilton (a General during the Revolution). These tl military leaders emphasized the necessity of moral behavior, declaring:

Of all the dispositions and habits which leads to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and to cherish them. A volume could not trace all their connections with private and public felicity [happiness]. Let it simply be asked, "Where is the security for property, for reputation for life, if the sense of religious obligations desert . . . ?" And let us with caution indulge the supposition that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that national morality can prevail in exclusion of religious principle. 'Tis substantially true that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it [free government] can look with indifference upon attempts to shake the foundation of the fabric? ²⁰

Since moral behavior was necessary for society in general, it was even more necessary for military personnel in whose hands rested the security, and thu the future, of the nation. The importance of good morals in the military can I

seen in the following three selections from Washington's general orders:

It is required and expected that exact discipline be observed and due subordination prevail thro' the whole Army, as a failure in these most essential points must necessarily produce extreme hazard, disorder, and confusions; and end in shameful disappointment and disgrace. The General most earnestly requires and expects a due observance of those articles of war established for the government of the Army which forbid profane cursing, swearing, and drunkenness; And in like manner requires and expects of all officers and soldiers not engaged on actual duty a punctual attendance on Divine service to implore the blessings of Heaven upon the means used for our safety and defence. ²¹

His Excellency [George Washington] wishes [it] to be considered that an Army without order, regularity, and discipline is no better than a commissioned mob; Let us therefore . . . endeavor by all the skill and discipline in our power, to acquire that knowledge and conduct which is necessary in war--our men are brave and good; men who with pleasure it is observed are addicted to fewer vices than are commonly found in Armies; but it is subordination and discipline (the life and soul of an Army) which next under Providence, is to make us formidable to our enemies, honorable in ourselves, and respected in the world. ²²

Purity of morals being the only sure foundation of public happiness in any country and highly conducive to order, subordination, and success in an Army, it will be well worthy the emulation of officers of every rank and class to encourage it both by the influence of example and the penalties of authority. It is painful to see many shameful instances of riot and licentiousness. . . . A regard to decency should conspire with a sense of morality to banish a vice productive of neither advantage or pleasure. ²³

Consequently, moral improprieties were met with severe punishment in the American military-- as illustrated by the opening example in this paper.

Why Should Homosexuality Concern a Society?

Public discussions concerning homosexuality are a purely recent phenomenon was long considered too morally abhorrent and reprehensible to openly discuss. Consider, for example, the legal works of James Wilson, a signer both of the Declaration and the Constitution and appointed by President Washington as original Justice on the U. S. Supreme Court. Wilson was responsible for laying much of the foundation of American Jurisprudence and was co-author of America's first legal commentaries on the Constitution. Even though state law books of the day addressed sodomy, when Wilson came to it in his legal writings, he was too disgusted with it even to mention it. He thus declared:

The crime not to be named [sodomy], I pass in a total silence. ²⁴

America's first law book, authored by founding jurist Zephaniah Swift, communicated the popular view concerning sodomy:

Zephania Swift

This crime, tho repugnant to every sentiment of decency and delicacy, is very prevalent in corrupt and debauched countries where the low pleasures of sensuality and luxury have depraved the mind and degraded the appetite below the brutal creation. Our modest ancestors, it seems by the diction of the law, had no idea that a man would commit this crime [anal intercourse with either sex]. . . . [H]ere, by force of common law, [it is] punished with death. . . . [because of] the disgust and horror with which we treat of this abominable crime. ²⁵

John David Michaelis, author of an 1814 four-volume legal work, outlined why homosexuality must be more strenuously addressed and much less tolerated than virtually any other moral vice in society:

If we reflect on the dreadful consequences of sodomy to a state, and on the extent to which this abominable vice may be secretly carried on and spread, we cannot, on the principles of sound policy, consider the punishment as too severe. For if it once begins to prevail, not only will boys be easily corrupted by adults, but also by other boys; nor will it ever cease; more especially as it must thus soon lose all its shameful and infamy and become fashionable and the national taste; and then . . . national weakness, for which all remedies are ineffectual, most inevitably follow; not perhaps in the very first generation, but certainly in the course of the third or fourth. . . . To these evils may be added yet another, viz. that the constitutions of those men who submit to this degradation are, if not always, yet very often, totally destroyed, though in a different way from what is the result of whoredom.

Whoever, therefore, wishes to ruin a nation, has only to get this vice introduced; for it is extremely difficult to extirpate it where it has once taken root because it can be propagated with much more secrecy . . . and when we perceive that it has once got a footing in any country, however powerful and flourishing, we may venture as politicians to predict that the foundation of its future decline is laid and that after some hundred years it will no longer be the same . . . powerful country it is at present. ²⁶

In view of the arguments listed by historical and legal sources, there is substantial merit for maintaining the ban on homosexuals in the military. ²⁷ Founders instituted this ban with a clear understanding of the damaging effect of this behavior on the military. This ban has remained official policy for over 200 years and one would be hard-pressed to perceive the need for altering a policy which has contributed to making America the world's foremost military power.

Endnotes

1. George Washington, *The Writings of George Washington*, John C. Fitzpatrick editor (Washington: U. S. Government Printing Office, 1934), Vol. XI, pp. 83-84, from General Orders at Valley Forge on March 14, 1778. (Return)
2. *Journals of the American Congress* (Washington: Way and Gideon, 1823),



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Issues: Printed Report - Michael Swift - "Gay Revolutionary" Essay

Previous Page: Introduction

"Gay Revolutionary"

Michael Swift: "Gay Revolutionary"

from Gay Community News, Feb. 15-21, 1987 Reprinted in the Congressional Record, Page E 3081

This essay is an outré, madness, a tragic, cruel fantasy, an eruption of inner rage, on how the oppressed desperately dream of being the oppressor.

We shall sodomize your sons, emblems of your feeble masculinity, of your shallow dreams and vulgar lies. We shall seduce them in your schools, in your dormitories, in your gymnasiums, in your locker rooms, in your sports arenas, in your seminaries, in your youth groups, in your movie theater bathrooms, in your army bunkhouses, in your truck stops, in your all male clubs, in your houses of Congress. wherever men are with men together. Your sons shall become our minions and do our bidding. They will be recast in our image. They will come to crave and adore us.

Women, you cry for freedom. You say you are no longer satisfied with men; they make you unhappy. We, connoisseurs of the masculine face, the masculine physique, shall take your men from you then. We will amuse them; we will instruct them; we will embrace them when they weep. Women, you say you wish to live with each other instead of with men. Then go and be with each other. We shall give your men pleasures they have never known because we are foremost men too, and only one man knows how to truly please another man; only one man can understand the depth and feeling, the mind and body of another man.

The family unit--spawning ground of lies, betrayals, mediocrity, hypocrisy and violence--will be abolished. The family unit, which only dampens imagination and curbs free will, must be eliminated. Perfect boys will be conceived and grown in the genetic laboratory. They will be bonded together in communal setting, under the control and instruction of homosexual savants.

All churches who condemn us will be closed. Our only gods are handsome young men. We adhere to a cult of beauty, moral and esthetic. All that is ugly and vulgar and banal will be annihilated. Since we are alienated from middle-class heterosexual conventions, we are free to live our lives according to the dictates of the pure imagination. For us too much is not enough.

The exquisite society to emerge will be governed by an elite comprised of gay poets. One of the major requirements for a position of power in the new society of homoeroticism will be indulgence in the Greek passion. Any man contaminated with heterosexual lust will be automatically barred from a position of influence. All males who insist on remaining stupidly heterosexual will be tried in homosexual courts of justice and will become invisible men.

"We shall rewrite history, history filled and debased with your heterosexual lies and distortions. We shall portray the homosexuality of the great leaders and thinkers who have shaped the world. We will demonstrate that homosexuality and intelligence and imagination are inextricably linked, and that homosexuality is a requirement for true nobility, true beauty in a man.

"We shall be victorious because we are fueled with the ferocious bitterness of the oppressed who have been forced to play seemingly bit parts in your dumb, heterosexual shows throughout the ages. We too are capable of firing guns and manning the barricades of the ultimate revolution.

Tremble, hetero swine, when we appear before you without our masks.

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Contact VCY America at: vcy@vcyamerica.org

10/6Z/7

Instead, legislation shall be passed which engenders love between men.

All homosexuals must stand together as brothers; we must be united artistically, philosophically, socially, politically and financially. We will triumph only when we present a common face to the vicious heterosexual enemy.

If you dare to cry faggot, fairy, queer, at us, we will stab you in your cowardly hearts and defile your dead, puny bodies.

We shall write poems of the love between men; we shall stage plays in which man openly caresses man; we shall make films about the love between heroic men which will replace the cheap, superficial, sentimental, insipid, juvenile, heterosexual infatuations presently dominating your cinema screens. We shall sculpt statues of beautiful young men, of bold athletes which will be placed in your parks, your squares, your plazas. The museums of the world will be filled only with paintings of graceful, naked lads.

Our writers and artists will make love between men fashionable and de rigueur, and we will succeed because we are adept at setting styles. We will eliminate heterosexual liaisons through usage of the devices of wit and ridicule, devices which we are skilled in employing.

We will unmask the powerful homosexuals who masquerade as heterosexuals. You will be shocked and frightened when you find that your presidents and their sons, your industrialists, your senators, your mayors, your generals, your athletes, your film stars, your television personalities, your civic leaders, your priests are not the safe, familiar, bourgeois, heterosexual figures you assumed them to be. We are everywhere; we have infiltrated your ranks. Be careful when you speak of homosexuals because we are always among you; we may be sitting across the desk from you; we may be sleeping in the same bed with you.

There will be no compromises. We are not middle-class weaklings. Highly intelligent, we are the natural aristocrats of the human race, and steely-minded aristocrats never settle for less. Those who oppose us will be exiled.

We shall raise vast private armies, as Mishima did, to defeat you. We shall conquer the world because warriors inspired by and banded together by homosexual love and honor are invincible as were the ancient Greek soldiers.

MICHAEL S. D'AMATO
ALDERMAN, 3RD DISTRICT



CITY HALL
MILWAUKEE, WISCONSIN

February 29, 2004

CHAIR:
JUDICIARY & LEGISLATION COMMITTEE
ZONING CODE TASK FORCE

VICE CHAIR:
INFORMATION POLICY COMMITTEE

MEMBER:
FINANCE & PERSONNEL COMMITTEE
MILWAUKEE PUBLIC LIBRARY BOARD
MILWAUKEE COUNTY FEDERATED
LIBRARY SYSTEM BOARD
HISTORIC PRESERVATION COMMISSION

Members of the Senate Committee on Judiciary, Corrections, and Privacy,

I am writing to urge you to vote against SJR 63. Amending our State's Constitution should be limited to issues critical to the well-being of our state and carried out only after extensive and thoughtful deliberation. SJR 63 lacks both justification of need and evidence of careful consideration. Marriage is already defined in this state and the resolution goes beyond its stated intent. As a result, passage of the resolution threatens to invoke new harms in an attempt to address a problem that does not exist.

Specifically, passage of SJR 63 may put existing domestic partner benefit programs at risk. The program in the City of Milwaukee has been very successful and is an important tool for maintaining the quality and diversity necessary to meet the needs of our citizens. While we are aware of the Legislative Council interpretation that (under their assumptions) such programs should not be found unconstitutional, in other states where similar amendments have passed, litigation quickly ensued. Imposing thousands of dollars in legal costs on local governments is irresponsible, especially in challenging economic times that call for improved relationships between state and local governments.

Furthermore, the same memo from Legislative Council also points out that "there is no legal precedent for interpreting much of the proposed language (of AJR 66) and, at this point, no legislative history or other evidence of legislative intent. Further, the language has not received widespread public and legal scrutiny." Thus it is possible that there are other consequences that have yet to be raised and which it will be too late to reverse if you choose to make this language a permanent part of our constitution.

Again I ask you to vote against SJR63.

Sincerely,

Michael D'Amato
Alderman, City of Milwaukee



REPUBLICAN PARTY OF WISCONSIN

SOUTH SHORE REPUBLICAN CLUB

Cudahy - South Milwaukee - Oak Creek

Milwaukee County

8540 S. PENNSYLVANIA AVE., OAK CREEK, WI 53154 • (414) 762-8946



STR 63

SOUTH SHORE REPUBLICAN CLUB in caucus February 9, 2004
YEAR 2004 RESOLUTIONS **FINAL**

2004-4. TRADITIONAL STANDARDS

WHEREAS the Wisconsin Legislature has legalized cohabitation, fornication, sodomy, and other forms of sexual perversion, and

WHEREAS such practices have contributed more than any other to the spread of AIDS and other sexually transmitted diseases, and

WHEREAS the Wisconsin Legislature has, under the guise of prohibiting discrimination, restricted our right of self-defense against such diseases, and

WHEREAS heterosexual marriage is the only kind of marriage that promotes social stability, is the best social structure for raising children, and is the only union to be recognized for benefits, and

WHEREAS proposed domestic partnerships are the avenue to obtain benefits traditionally ascribed to marriage, NOW, THEREFORE, BE IT RESOLVED, by the South Shore Republican Club in caucus assembled, That our prior wholesome laws proscribing cohabitation, fornication, sodomy, and other forms of sexual perversion be revived, and

BE IT FURTHER RESOLVED, That no special protection or privilege be granted to homosexuals on the basis of sexual orientation, and

BE IT FURTHER RESOLVED, That no recognition of any kind whatsoever be granted to purported homosexual "marriages", and

BE IT FURTHER RESOLVED, That traditional Judeo-Christian moral values and standards of conduct be promoted as the best defense against AIDS and other sexually transmitted diseases, and

BE IT FURTHER RESOLVED, That we support Federal and State "Defense of Marriage" amendments that define marriage as the union of between one man and one woman, and not to include the legitimization of domestic partnerships, and

BE IT FURTHER RESOLVED, That no HIV-infected foreigner be permitted to immigrate into the United States, or be granted political asylum on account of HIV status.

A. Dugan, Chairman 3/1/2004

From: Sen.Carpenter
Sent: Friday, February 27, 2004 4:29 PM
To: Sen.Zien; Hogan, John
Cc: Sen.Carpenter
Subject: 3/1/04 Committee: sub amendment to SJR 63

Senator David Zien, Chair, Committee on Judiciary, Corrections, & Privacy
John Hogan, Committee Clerk

Attached please find a copy of a Substitute Amendment to SJR 63 that Tim Carpenter has drafted. I will send down a hard copy to your office.



0401

Regards,
G. Stuart Ewy
Chief of Staff

Office Of Senator Tim Carpenter
State Capitol Building
Room 126S
PO BOX 7882
Madison, WI 53707-7882

(608) 266-8535

2/27/04

(Hand Delivered)

To: Senator David Zien, Chair, Committee on Judiciary, Corrections, & Privacy
John Hogan, Committee Clerk

From: Senator Tim Carpenter

Yesterday, you noticed SJR 63 for public hearing on 3/1/04.

Enclosed please find a copy of a Substitute Amendment to SJR 63 that Tim Carpenter has had drafted.

WI Capitol Watch

1417 E Main St Watertown WI 53094-4031

Phone 920-261-0297 Cell 608-444-1342

Website www.wicapitolwatch.com Email info@wicapitolwatch.com

March 1, 2004

Thank you Mr. Chairman and members of the Committee for the opportunity to testify in favor of SJR 63.

Marriage is first and foremost a union set forth and established by God in the Word of God. It is of great importance that God established marriage, and thus family and home before He established government or the church. Following this example, Wisconsin state government places great importance on marriage which is clearly shown in chapter 765 to 768 which promotes the stability and best interests of marriage and the family. This is also clearly shown in the legislative intent statement of chapter 944 dealing with crimes against sexual morality. 944.01 clearly states the importance of marriage.

944.01 Intent. The state recognizes that it has a duty to encourage high moral standards. Although the state does not regulate the private sexual activity of consenting adults, the state does not condone or encourage any form of sexual conduct outside the institution of marriage. Marriage is the foundation of family and society. Its stability is basic to morality and civilization, and of vital interest to society and this state.

Because of the importance of marriage, state government has set forth statutes governing the marriage relationship. Statutes prohibit marriage of persons under the age of 18 unless they have written consent by those specified in statute. Marriage cannot be contracted between persons who already have a living husband or wife, nor between persons nearer of kin than 2nd cousins with one exception. First cousins can contract marriage where the female has attained the age of 55 years or where either party, at the time of application for marriage license, submits an affidavit signed by a physician stating that either party is permanently sterile. A marriage may not be contracted if either party has such want of understanding as renders him or her incapable of assenting to marriage. Our state law also makes it unlawful for any person to marry in this state or elsewhere until 6 months after their judgment of divorce is granted. Chapter 765 also describes marriage abroad to circumvent the laws of this state as being void as well as other requirements for marriage to be legal and recognized in this state.

Until recent years, there was not a question about marriage being between one man and one woman as husband and wife, because it was clearly understood and accepted that husband and wife meant, man and woman, male and female. SJR 63 is drafted to clarify and clearly define that marriage is between one man and one woman as husband and wife. This protects the institution, the concept, the union of marriage so that it will remain as has always been recognized by this state and also clarifies that any other definition of marriage will not be valid in Wisconsin.

Having said that, SJR 63 does not prohibit state or local governments or private entities from providing benefits and privileges to anyone they decide is appropriate. SJR 63 clearly declares marriage to continue to be recognized only as a union between one man and one woman as husband and wife as has been recognized in this state for many years.

SJR 63 is not a mean-spirited proposal, designed to discriminate against anyone, but a positive proposal designed to preserve and protect the institution, the concept, the definition of marriage that has been recognized for years in this state and all across the nation. We urge you to act quickly on SJR 63 which will also need to be passed in the next legislative session and then go to a referendum vote giving the people of Wisconsin a vote on this issue. Allow the people to vote to preserve and protect marriage as a union between one man and one woman as husband and wife.

Thank You,
Marvin Munyon
Founder and President

Promoting Public Policy that Protects the Traditional Family

My name Rodney Laudenslager. I live in Watertown with my wife Susan and our 4 children. We have been married for 23 years. I didn't marry Sue so she would have health insurance. I didn't marry her to lower our income taxes. I didn't marry her because it was cheaper. And we didn't get married to make a political statement. We married because it is God's plan for a man and a woman who are drawn together in love and commitment to establish a family.

God's plan for marriage is clearly given in the Bible. It has been followed by billions of people for thousands of years. I think that's a good track record that it works.

Genesis 2:24 - Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.

True marriage is between one man and one woman. True marriage involves a meshing together of two lives into one. One in heart, one in mind, one in purpose and one in flesh. This oneness between a man and woman is illustrated in our children.

Sue and I have 4 wonderful children. They share our genes; they have similar physical characteristics to my wife and I, similarities in personalities, and talents. They are a picture of that one flesh relationship between my wife and I.

As I look back over the past 23 years, I realize that primarily, the purpose of my life has been to raise my children. Everything I do as a father and husband is for my wife and children. My energies, my talents and my assets have been for their benefit. My greatest joy in this life has been my children. Not my job, not my house not my bank account, not my investments, not my vacations, not my friends, but my children, my wife, my family.

Gay couples cannot have children. They have no picture of that one flesh relationship.

True marriage establishes a family.

I believe every child has the right to be raised by both a mother and a father. I believe this is the foundation of the family and the family is the foundation of society. Present day society continues to tear down that foundation.

We must protect this foundation.

We must amend the constitution to define marriage to be between one man and one woman.

We must preserve true marriage and make allowance for no other.

I end with the words of Jesus, "Have you not read, that he which made them at the beginning made them male and female, And said, for this cause shall a man leave father and mother, and shall cleave to his wife; and they two shall be one flesh? Wherefore they are no more two, but one flesh. What therefore God has joined together, let no man put asunder." Matt.19:4,5,6

Rodney Laudenslager - representing myself as a citizen of WI
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TESTIMONY OF JULAINE K. APPLING
EXECUTIVE DIRECTOR, THE FAMILY RESEARCH INSTITUTE OF WISCONSIN
SENATE JOINT RESOLUTION 63 - "DEFENSE OF MARRIAGE CONSTITUTIONAL AMENDMENT"
PUBLIC HEARING OF THE SENATE COMMITTEE
ON JUDICIARY, CORRECTIONS AND PRIVACY
MONDAY, MARCH 1, 2004

Thank you, Chairman Zien and other committee members, for the opportunity to speak to you today on this very important issue.

I am Julaine Appling, executive director of the statewide Family Research Institute of Wisconsin, on whose behalf I am presenting this testimony. The Family Research Institute of Wisconsin fully endorses and supports Senate Joint Resolution 63, Wisconsin's Defense of Marriage Constitutional Amendment. We and those we represent and speak for around the state, are once again grateful for the leadership of Senator Fitzgerald on this vital legislation.

First of all, we are here to talk about strengthening and protecting a foundational social institution—marriage—not some fuzzy notion of “love and commitment.” While love and commitment are certainly part of marriage, they do not define the essence of this institution. That defining characteristic is the joining of the sexes, the bringing together of male and female, man and woman for the betterment of society because one-man/one-woman marriage results, according to the preponderance of the social science research, in people who are, on average, happier, healthier and wealthier than their counterparts in other relationships. Marriage also establishes the “gold standard” for the rearing of children, the future of our society.

While this proposal is positive and does not target any particular subset of the population, the media and opponents in general have characterized it as “anti-homosexual.” In truth, the resolution clearly and positively states what marriage is in Wisconsin, not what it is not. SJR 63 is an effort to keep Wisconsin from having to endure what Massachusetts has been facing since this past November—having a court tell us what we marriage will be in our state.

Amending the state constitution to protect the social institution of marriage is right and proper in a day when courts are giving us judicial legislation and county clerks and mayors are becoming laws unto themselves with what appears to be judicial sanction.

Many opponents of this resolution contend that marriage is their “right.” Marriage is not a right—it is a privilege that is extended to people who meet the basic legal criteria—being the right age, not being close kin and choosing a spouse of the opposite sex. We all have the same right under this law.

Some claim the proposed resolution is discriminatory and therefore a “civil rights” issue. It isn't.

People involved in homosexuality meet none of the characteristics of minority groups. They are not suffering economically as a group. Statistics show homosexuals earn more per capita than the average American. They are not politically powerless. To the contrary, they are one of the most powerful and well-funded lobbying groups and political groups in the country. And, they do not have an immutable characteristic, such as race or ethnicity.

This is not about equal or civil rights. It's about special rights for a special-interest group, and the government should not allow this small but vocal group to redefine the essence of an institution that predates human government over the will of the majority.

You will hear today that 75% of the people of Wisconsin think you should be doing something other than considering this amendment. Bear in mind that that poll was commissioned by Action Wisconsin, the leading opponents of SJR 63. I offer to you, instead, a December 2003 Badger Poll conducted by the UW-Madison Survey Center, with *The Capital Times* and *The Milwaukee Journal Sentinel* as media sponsors, hardly pro-family, conservative entities. This survey released in late December found that 64% of Wisconsin adults support amending the state constitution to define marriage as being only between one man and one woman. This solid majority held regardless of demographic characteristic, including age, gender, political party, and religious preference. The people of Wisconsin took note of what happened in Massachusetts and realized the necessity of protecting one-man/one-woman marriage in our state. I believe those numbers will continue to increase in the wake of the anarchy we've witnessed in San Francisco, New Mexico and New York.

If marriage in Wisconsin is opened up to include any relationship other than one man and one woman, I ask you to consider what would be the logical stopping point from there? What is to prevent any other sub-group of our culture that is denied marriage to begin asking for their so-called "equal rights"? If we allow any combination other than one man and one woman to marry, we may as well allow anyone to marry whomever he or she chooses. Perhaps single people should be allowed to marry themselves, as a woman did last summer in one of the Scandinavian countries that also allows marriage to be between people of the same sex. Based on the arguments opponents of this bill are using, aren't single people being discriminated against because they can't get the benefits that married people do? The absurdity of all this would be humorous if it weren't so terribly real.

Opponents of SJR 63 say jobs and health care are far more important than defining marriage in Wisconsin. However, failing to protect one-man/one-woman marriage and giving legal recognition to the homosexual lifestyle, validates and gives government sanction to sexual activity that has repeatedly been proven to be unhealthy and a threat to the public health at large.

A minimum of 76% percent of the currently more than 5000 AIDS cases in Wisconsin, according to the Winter 2003, Wisconsin AIDS/HIV Update, published by the Division of Public Health, Department of Health and Family Services, are related to homosexual activity. The government should be in any way encouraging this deadly practice by giving it legal status and thereby spending even more of the taxpayers' money on this public health epidemic.

When the Surgeon General determined in the early 1960s smoking was a public health hazard, the government required warnings on all cigarette packages. Later the government banned cigarette ads. Now, we have smoke-free zones and buildings because we know second-hand smoke is also harmful—to innocent people. Smokers will not win their “discrimination” argument because too many people are affected. Consider too that the diseases caused by smoking are not contagious. If the government considers non-contagious diseases to be health threats and takes action to prevent them, certainly it should not be giving any legal sanction to an activity that creates a contagious public health risk.

Given how courts have been ruling lately, it is only prudent that Wisconsin join the 38 other states in safeguarding the social institution of marriage. The constitutional amendment takes the issue directly to the people of this state through their elected representatives. The Family Research Institute of Wisconsin urges you to vote in support of SJR 63 and let the citizens of this state have their say on the matter.

Thank you for your time.

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CORRECTED TESTIMONY OF JULAINE K. APPLING
EXECUTIVE DIRECTOR, THE FAMILY RESEARCH INSTITUTE OF WISCONSIN
SENATE JOINT RESOLUTION 63 - "DEFENSE OF MARRIAGE CONSTITUTIONAL AMENDMENT"
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Thank you for your time.

Janice Kosinski
March 1, 2004

A Case for Marriage by Someone Who's Unmarried

Before I speak about three myths that are being perpetrated regarding the issue at hand, I would like to thank you all for the opportunity to present my personal thoughts here in this forum. Having grown up on a Wisconsin farm, I take a very logical approach to life. You will probably hear persons giving moral and religious backing to SJR 63. This is fine and I would be in favor of these reasons of support. However, I have not heard many people work on wading through the truth and fiction of what this resolution means. My presentation today is an attempt to attack just three myths I see being propagated about SJR 63 and provide some truth to be considered as you work on this issue.

Myth #1: People who support SJR 63 (and AJR 66) belong to a small minority of persons from certain religious or political stand points.

There are many people talking about these resolutions as had supported the defense of marriage bills of AB-475 and SB-233 recently. There is so much support for having marriage be defined as being one man and one woman that I have heard of no one in my area favoring same sex unions or homosexual marriage. In fact, even persons who are in same gender relationships expressed no interest in being married.

This being the case, everyone in the 62nd Assembly District whom I have talked to or I have heard speaking about this issue is very displeased with our representative's lack of support of the assembly version of this resolution and the earlier bill. There has been no one who praised our representative's stance. Furthermore, the people feel like they aren't even being listened to let alone well represented by this gentleman.

On the other hand, I represent numerous people who are proud of our Senator Cathy Stepp of the 21st Senate District and her position. Not only has Senator Stepp thought that defending marriage with SB-233 and SJR 63 were worthy of her time and to vote for SB-233 on behalf of her constituents, but she was and is in the forefront of affixing her name as a sponsor of these pieces of legislation. On behalf of the rich numbers of married and unmarried persons of a wide range of religious and political persuasions in the 21st Senate District, I say thank you Senator Stepp for your efforts to honor marriage as being between one man and one woman.

Keeping marriage as it has been that of being between one man and one woman is something that is special across religious, political, and cultural lines. Millions if not billions of people worldwide wait for the special day on which they may participate and celebrate marriage with outstanding ceremonies. Not only does the couple rejoice, but the whole community as well.

Personally, I have had the privilege of seeing the strength of communities based on the basic unit of a male husband and one female wife, not only here in various U.S. states, but in several countries abroad. From houses made of dung and sticks to bamboo homes on stilts to homes

with aluminum siding, inside dwell the building blocks of their societies - the foundational unit of a male husband and a female wife.

By passing legislation protecting the traditional definition of marriage between one man and one woman, not only would Wisconsin be in line with the majority of our past and present world, but also we would join the ranks of 38 U.S. states that have already passed similar legislation. These states include all of our nearby neighbors of Illinois, Iowa, Minnesota, Michigan and Indiana. To not pass SJR 63 (and AJR 66) creates complications and confusion for and with our neighbors with regard to this issue.

Not only that, but President Clinton signed a federal defense of marriage act as a result of it passing in both the U.S. House and U.S. Senate. There were many legislators and constituents involved at the time who took a stand to define and defend marriage.

I bring up all these people and instances to say that it is truly a myth that only those people who would be in support of SJR 63 (and AJR 66) comprise a small minority and belong to certain political or religious branches. In actuality, an overwhelming majority of people too numerous to count define marriage as this resolution in question does.

Myth #2: SJR 63 (and AJR 66) is divisive and therefore is appalling and not worthy to be supported let alone pursued.

First, divisiveness does not always have to be looked at in a negative light. As I look at the role of laws, I see that they are very useful. They are not meant to be burdensome, but if I could summarize their purposes in two very helpful ways, I would say that laws serve to protect and provide. For example, we have laws about not shoplifting. The law divides between those who shop lift and those who do not. If you follow the law, you are protected from any consequences of breaking it. Stores and customers are provided with the best shopping environment possible when people do not shop lift. People feel safe and prices are kept reasonable. The economy even thrives.

As a different type of example, think about laws that regulate teaching credentials in Wisconsin schools. A law may state that the teachers must be certified by the state of Wisconsin. Is the law divisive? Yes, but it is not a bad thing. It divides between those teachers with proper credentials and those without. What if the prospective teacher has great enjoyment in teaching and has even dreamed of teaching since he or she was a little child, but is not certified by the state? That person would not be eligible to meet the standard. What if the person loved children a great deal and had even taught children in other settings, but wasn't certified? That person would still not be eligible to teach. The law may divide between those who can and those who cannot, but it is not an appalling thing. It attempts to provide our children with the best learning environment possible. In addition, it protects the children from someone who would actually hinder the children's ability to effectively learn all that they need.

Defining marriage in a very clear fashion is extremely similar. It describes and divides between who can be married and who cannot. We already have laws that aid us in this such as a person cannot marry a certain number of months after a divorce. In addition, a person cannot marry a relative closer than a second cousin, etc. It is not to be selfish or heartless that we have such laws, but to preserve what the standard of marriage is.

Laws try to provide the best possible environment for us to live together in, not just as individuals, but also collectively and globally.

Someone may think that defending marriage and dividing between what marriages are and what they are not is too difficult, that it is not worth the effort. To fear a little bit of strife is in my opinion an anemic attitude. If Brett Favre and the Green Bay Packers would have focused on their losses early last fall and thought it too hard to try for a chance to go to the Super Bowl, we would have never seen them win the N.F.C. Championship.

As I mentioned previously, all of the U.S. states that border us have laws that defend and define marriage as being between one man and one woman. Thirty-eight states have done so. Surely, we in Wisconsin with our "Forward" motto can muster up enough fortitude to do the same.

For those who have been seeking to see Wisconsin become the 39th state and in line with our neighbors, I say to you, I know that it has been disappointing at times, exhausting and you have faced unexpected obstacles. However, now is not the time to give up. Multitudes of people around the country are looking at Wisconsin and figuratively "lining the sidelines of this marathon you're running" and saying, "To do nothing is to allow evil to triumph. Be strong and take heart. We are praying for you that you will not grow weary of doing good."

SJR 63 (and AJR 66) is not divisive in a negative sense. It is a positive resolution in many ways and therefore is deserving of whole-hearted support.

Myth #3: People like me who support SJR 63 (and AJR 66) hate homosexuals.

My heart goes out to persons struggling with homosexuality. You have experienced pain and loneliness. You may have even been abused as a child. I care, and there are countless others who care about you. There is even a wonderful organization called Exodus International that is there for you.

Personally, I have had good conversations with homosexuals as far back as over ten years ago. More recently, my former work as a social worker of psychiatric patients for 4-1/2 years brought me in daily contact with homosexual residents. I spoke with them and tried to serve them in my position as with any other resident. In some ways, I took time to reach out and listen to their concerns even more so because I knew they felt a special loneliness. Although the residents themselves may not have even known it, some of my fellow employees even called them names because of their homosexual tendencies. I took a challenging role by striving to encourage professionalism and care to these residents among my fellow staff.

For those who strive to advance the cause of persons in alternative sexual lifestyles, I would like to suggest that they spend time at the bedsides of persons near death from AIDS. The pride and glamour fades fast as diseases and death bring grief not only to the infected person, but to family and friends as well. I do not take pleasure in saying that I have looked into the eyes of an AIDS patient so near death that she looked dead already. Her eyes were sunken in and her mouth, unable to utter a sound, was open and full of thrush (mucous like thick spider webs). My friends and I provided her family medications to give her, but the AIDS and its complications shortly overtook her anyway. I have given candy to children seemingly unaware of the seriousness of

their mother's condition. The woman lay inside a dark and dank room in her house dying of AIDS as well. A simple sponge bath, deodorant and a clean T-shirt were enough to bring a smile to her face and eyes while most of the family simply ignored her and tried to gamble and drink their cares away. Sadly, this precious woman passed away soon after my friends and I visited.

I have chosen to share with you these above personal experiences to illustrate that supporting SJR 63 (and AJR 66) does not mean that a person is choosing to not care about homosexuals or others who are not married. Defense of marriage is not mutually exclusive of love for others.

With the cost of health care "through the roof", I understand how people would want to obtain coverage through a loved one's insurance. Someone may want to even pretend to be a spouse to obtain coverage. Personally, I have had times of not having health insurance and it has been rough. A year ago in February, I lost my social work job and therefore my insurance coverage when I was blamed for causing the investigation into then Governor-elect Doyle's representatives' two "bingo for votes" parties. For over a year, I have been working part-time and self-employed do to the difficult employment market here in Racine. As a result, I am without comprehensive health insurance coverage. People talk about being in committed relationships. My family and I have gone through so much during my lifetime. With "blood being thicker than water," it would be hard to find truer loyalty. All this to say, that regardless of my or another person's desire for insurance coverage or any other benefits to be provided through means other than a spouse of the opposite sex, I would rather not have marriage extend beyond one man and one woman.

By the way, in my work as a volunteer hospital chaplain, I can tell you that hospital policy and Wisconsin law do not exclude a homosexual partner from visiting his or her friend in the hospital. Senator John Kerry and several others have been falsely claiming that same sex partners do not have visitation rights. This is not true. Marriage is not a condition for visitation. The wishes of the patient and the health condition of the visitor are the primary concerns about who visits in the hospital. For the exact details, you may study Wisconsin Statute 146.95.

In conclusion, I would like to say that my New Webster's Dictionary of the English Language that I have used for many years with a copyright of 1975 defines marriage as "The social institution by which a man and woman are legally united and establish a new family unit." How I hope that this definition as proposed in SJR 63 (and AJR 66) will continue to be valued in Wisconsin for many years to come, if not for my grandchildren, for all of you listening to me today.

Thank you for your respect and for your thoughtful consideration in this matter.

Sincerely in support of SJR 63 (and AJR 66),

Janice

Janice Kosinski P.O. Box 081817 Racine, WI 53408-1817



WISCONSIN CATHOLIC CONFERENCE

TESTIMONY ON SJR 63

(Definition of Marriage)

Presented by John Huebscher, Executive Director

March 1, 2004

Thank you Mr. Chairman. I am John Huebscher, Executive Director of the Wisconsin Catholic Conference testifying on behalf of Wisconsin's Roman Catholic Bishops.

We do not believe current law can be interpreted to permit "same sex" marriage. We also recognize that judicial precedent holds likewise. Yet many believed this was the case in Massachusetts as recently as last year. Accordingly, we believe amending the constitution is the prudent thing to do in light of the current legal climate.

We support this joint resolution because of what the Catholic Conference stands for -- not whom we stand against. The institution of marriage has an irreplaceable role in our society, indeed in any society. Marriage is essential to the continuation of the human race, to the total development of the human person, and to the dignity, stability, peace and prosperity of the family and of society.

It is also true that no child enters the world absent a union between irreplaceable parts of a father and a mother. When the father and the mother give of themselves to conceive a child, and accept that child for its own sake, they affirm that life and all people are sacred in their own right. When both are present to a child, when both give daily witness of their commitment, of their need for each other as man and woman, they model for their children a commitment and mutuality that other relationships cannot replicate. This is why many religions teach -- and why social policies encourage -- that procreation must occur in the context of a marriage relationship.

In the words of one editorial, "marriage at its best, tutors us as no other experience can in the given nature of human life and the acceptance of responsibilities we have not willed or chosen."

Marriage is unique. And it is fitting and proper for society to confer special recognition and benefits upon those who enter into the marriage relationship.

It is true that not every marriage between a man and a woman will be permanent, or be blessed with children. It is also true that other relationships and commitments can be loving, mutual and even permanent.

OVER

However, this does not alter the fact that the union of one man to one woman gives a singularly powerful witness to the interdependence between generations and to the complementarity of the sexes. This witness is not and cannot be duplicated in other relationships. No other commitment signifies so powerfully this mutual reliance of men and women in private and public life. This mutuality warrants the special recognition our laws confer upon it.

It is worth noting here that people did not begin to marry to access state-sponsored incentives. Rather, the state created the incentives because the community understood that, for the reasons just stated, marriage is an intrinsic social good.

Affirming these truths about marriage does not impose religious dogma on a pluralistic society. Many faiths hold that marriage is sacred. Societies that are openly religious and those that are avowedly secular treat marriage with reverence.

Nor does affirming marriage as currently understood reflect hatred. Laws prohibiting polygamy do not convey hatred for those who want more than one spouse. Rather they affirm a preference for marriage as an exclusive commitment between a man and a woman. SJR 63 does no more than that.

Neither does affirming the uniqueness of traditional marriage imply a judgment or condemnation of persons with a homosexual orientation. As Cardinal Hume has stated, "the orientation of a homosexual person is not a moral failing. An inclination is not a sin."

The psychological genesis of homosexuality remains largely unexplained. But our inability to explain sexual orientation does not deprive homosexual persons of their claim on our respect as persons or of our acceptance as citizens, co-workers, and neighbors. Nor does it relieve society of its responsibility to stand with them in opposition to bigotry, personal attacks and other abuse.

As society refines its understanding as to why persons are homosexual in orientation, it may also fashion laws to protect their rights in matters of common interest and their personal goods. But such laws must not serve to redefine marriage.

Neither the state nor the church created marriage. But each has a right and duty under what Jefferson called "the laws of nature and of nature's God," to affirm its unique contribution to society across time and culture. In the current legal climate it is prudent to do so via a constitutional amendment.

Hogan, John

From: Marcott, Susan
Sent: Wednesday, March 03, 2004 8:32 AM
To: Hogan, John
Subject: FW: Text of testimony 3/1/04 Judiciary Committee Hearing

-----Original Message-----

From: Robert Senne [mailto:rlsenne@hotmail.com]
Sent: Tuesday, March 02, 2004 2:02 PM
To: Sen.Zien@legis.state.wi.us
Subject: Text of testimony 3/1/04 Judiciary Committee Hearing

Dear Senator:

I gave the original copy of this to a senate page for duplication and distribution. Since I have no way of knowing if this was carried out, I submitting this copy:

I believe the amendment of our states constitution is a positive step, because it clarifies the meaning of marriage. This clarification is needed in a culture that doesn't seem to know what the meaning of "is" is, and insures that the meaning of marriage doesn't change due to reinterpretation of the words presently used to describe it. It keeps the issue of marriage in the hands of citizens, and those they have elected, and out of the hands of activist judges.

Many believe, as I do, that marriage was instituted by the Creator when He created male and female, and told them to "be fruitful and multiply". Again, He said, "for this cause shall a man leave his father and mother, and cleave unto his wife, and they shall become one flesh. Even those who do not share this Biblical perspective are forced to admit that a man and a woman are necessary for procreation and nurture. This bipolar gender unit allows each child to develop their gender identity from the same sex parent, while learning to relate to the opposite sex from the other parent. Even when procreation doesn't occur, a man and woman are uniquely designed to become one flesh, even as two pieces of jigsaw puzzle fit together perfectly, and join perfectly with the whole.

Homosexuals and heterosexuals do not walk parallel paths, they walk in opposite paths. Heterosexuals have kids, homosexuals have AIDS. Heterosexuals breed new life, homosexuals breed death. The Guttmacher Institute states that homosexual men make up about 2.5% of the population. The Centers for Disease Control states this population has more than 50% of the AIDS cases, besides a high incidence of other STDs. It is important to protect marriage from the inclusion of these partners and their practices; otherwise, the state is endangering the public health, welfare, and safety, when it should be protecting it. It is not a "civil rights" issue, it is a public health issue. We would not include heart disease and cancer in the definition of health. Let's not include same sex partners in the definition of marriage. A headline in the December 26, 2003 "Washington Blade" reads: "Polygamy advocates buoyed by gay court wins". That should make it clear

where we are headed with efforts to redefine marriage to include "gays". We also need to keep our children safe. There is a relationship between homosexuality and pedophilia. The "North American Man Boy Love Association"(NAMBLA) has a parade unit in most large "gay pride" parades. In 1994, the Economic and Social Council of the United Nations revoked the consultative status of the International Lesbian and Gay Association because of their links to NAMBLA. The short life span of homosexuals and their high suicide rate, make it clear that "gay" is not good. If people are born "gay", then, it is a birth defect that should be healed. We do surgery on babies born with a cleft lip, so why not do reparative work on those born with a sexual dysfunction? The ultimate solution is for those who believe they were "born that way" to be "born again". This was the message at a "Love Won Out" conference I attended a number of years ago presented by "Focus on the Family". Several former homosexuals, male and female, testified how they were transformed through the power of God.

Marriage needs to be strengthened, and protecting the original concept is important. We should move forward with this amendment without delay. We should also consider the damage done to marriage by "no fault" divorce, and repeal it. If marriages are in trouble, lets fix them instead of ending them. Let's get rid of the stomach ache instead of getting rid of the stomach. We should outlaw abortion, except to save the life of the mother. Laws punishing adultery should be enforced. Cohabitation should be discouraged. Our young people should be taught sexual abstinence as the best way to avoid unwanted pregnancy and sexually transmitted diseases. .It is my hope that Wisconsin will someday consider doing these things as well.

In the meantime, there are things that everyone can do. We need to rediscover the meaning of commitment. Practice it in your marriage. Let your children see it. Commitment is the glue that holds marriage together , no matter what goes wrong. My wife and I have been married 46 1/2 years. We lost our first child at birth. The experience ends 80% of marriages, but ours survived because of commitment. We need to practice and teach sexual abstinence before marriage. Premarital sex is a divorce risk. Abstinence before marriage helps preserve it. I speak from experience.. Let's keep our own marriages together, help our sons and daughters keep their marriages together. Keep traditional marriage intact. It is the building block of society.

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Eagle Forum of Wisconsin

**5229 NORTH 107th STREET
MILWAUKEE, WISCONSIN 53225-3123**

Joan Tatarsky, Chairman

Telephone: (414) 466-5431

Senator Dave Zien, Chairman, and Members of the Committee, thank you for scheduling this public meeting.

Eagle Forum of Wisconsin fully supports the Defense of Marriage Amendment to the Wisconsin Constitution.

SJR 63 will clarify the definition of marriage in Wisconsin, protect traditional marriage, and stop the systematic destruction of the age-old institution of marriage as we have known it. The ruling by four un-elected members of the Massachusetts Supreme court has put this institution in jeopardy and forces our State Legislature to take this action.

A telling quote in a recent Eagle forum Report indicates where the homosexual agenda is taking us. Phyllis Schlafly relates that the New York Times is exulting that, "the United States is becoming a post-marital society, creating new forms of semi-marriages, blurring the lines between marriage and cohabitation, and imitating European types of "Marriage Lite" (Why We Must Protect Marriage, Phyllis Schlafly, December 10.2003)

Mrs. Schlafly also stated, "After Canada legalized same-sex marriages, there was no big rush to the altar with only 1.4% of the 34,200 homosexuals applying for the license."

Why? The editor of FAB, a popular gay magazine in Toronto, explained, "I'd be for marriage if I thought gay people would challenge and change the institution and not buy into the traditional meaning of 'till death do us part and monogamy forever'".

There you have it! Achieve it--Change it--Destroy it!

With a relatively good (even adequate) lawyer, homosexuals can have any thing they say they are denied (except the legitimacy of marriage).

The claim being made today is that equal rights are being denied homosexuals. What does equal rights mean.

Equal

1. Having the same capability, quantity, effect, measure or value as another
2. Having the requisite qualities for a task or a situation

Right

1. What is right, or just, lawful, morally good, proper, correct, etc.
"With firmness in the right as God gives us to see the right." Abraham Lincoln 2
2. A just and fair claim to anything whatever; power, privilege, etc. That belongs to a person by law, nature, tradition...

In another dictionary words like the following are used: what is good, proper or just *right conduct*; in conformity to some fact reason or principle...straight... moral

Does same sex union belong to a person by law? That is what this debate is about. Currently and historically? NO! Does same sex union belong to a person by nature? That is do we find this the normal course of nature? NO! Does same sex union belong to a person by tradition? That is do we find this the normal course of history? NO!

Marriage between man and woman, has always been God's law first and foremost but also secular law and the practice of ALL civilizations throughout history.

Marriage between man and woman predates the United States, Protestantism, Catholicism, and the Baptist faith. It predates the Lord Jesus Christ's crucifixion and resurrection from the dead. It predates the law God gave to the Jews. It predates Babylonian and Egyptian cultures.

Ancient Babylonia's king Hammurabi codified marriage as a contract between a man and a woman. It is interesting to note what one historian has said, "Nothing was sacred...about marriage in Babylonia. It seems to have been a secular agreement rather than a religious or moral commitment." This is natural history.

Why do ALL civilizations of world history give testimony to the fact that marriage was recognized as being between man and woman? There is a common cause. The Creator, which endows us with certain unalienable Rights, decreed; "he which made them at the beginning made them *male and female*, For this cause shall a *man* leave father and mother, and shall cleave to his *wife*: and they twain shall be one flesh."

Nature certainly does not promote the homosexual agenda in regards to marriage. No homosexual couple can in and of themselves reproduce. This is the ability, privilege and command given by God only to those who are male and female, husband and wife.

That marriage is currently defined in Wisconsin as between one man and one woman is beyond a shadow of a doubt. I was assured this by Senator Erpenbach and Representative Travis. Governor Doyle, who is certainly not friendly to this issue, assured many through an e-mail that "The Wisconsin Supreme Court has said clearly that marriage between a husband and a wife means nothing other than marriage between one man and one woman."

Neither law, history, nor nature speak of the right to same sex marriage. Do homosexuals have equal rights to do what is right by law, nature and history? YES! This is not about equal rights. What those opposed to current law and this constitutional amendment are trying to obtain by derailing this amendment is not equal rights but "unequal wrongs." Special rights to do that which is not right and obtain legal status to do that which is not right.

Mike Mayhak
Waunakee, WI



First Baptist Church of Madison's Northside

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→ ^{JUST AS TWO PIECES FIT PERFECTLY TOGETHER WITH THE LOCK.}
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OPTIONAL

In the meantime, there are things that everyone can do. We need to rediscover the meaning of commitment. Practice it in your marriage. Let your children see it. Commitment is the glue that holds marriage together, no matter what goes wrong. My wife and I have been married 46 1/2 years. We lost our first child at birth. The experience ends 80% of marriages, but ours survived because of commitment. We need to practice and teach sexual abstinence before marriage. Premarital sex is a divorce risk. Abstinence before marriage helps preserve it. I speak from experience.. Let's keep our own marriages together, help our sons and daughters keep their marriages together. Keep traditional marriage intact. It is the building block of society.

Robert L. Semme
Route 1, Box 10
BUTTERWORTH, WI 54514

Chairman Zien and members of the committee –

I am Pastor Eugene Eslinger with Christian Fellowship Ministries of Green Bay. I have been in the ministry for over 50 years, and I have majored in visiting with inmates in state prisons every week for the past three years. In my visits, it has become quite evident that the majority of the inmates did not grow up in a healthy home environment.

Rather the most usual situations were in dysfunctional conditions: some, from single parent homes – never having known a father; others, from homes in emotional strain, broken by divorce; and a significant number are from homes with several brothers or sisters fathered by different men – but no father living in the home. Some of those of my acquaintance have had as many as five or six of the same family in prison, including one of the parents. According to many accounts from these inmates, they grew up with little discipline, insufficient personal care, and very minimal standards of morals.

As a result of these substandard homes, we have an overflowing prison system with cost to taxpayers in excess of \$500,000,000 annually. These pathetic home conditions also create additional massive costs to our law enforcement, to our social service agencies, and to our court system.

I submit to you that the lack of a firm standard of marriage – defined as between one man and one woman – will further deteriorate the environments of homes in Wisconsin – stressing our economy even further. In the situation of same-sex marriages, children present in homes of such situations will commonly accept the adults as normal role models for their own lives. Their minds and their psychology will be subject to considerable confusion in regard to that which is clearly natural, and should be plainly evident, for relationships between the man and the woman in our Lord's creation. From personal experience, I can perceive only the potential of greater deterioration of prevailing home conditions – and society stuck with the financial burden – if we re-define what a marriage is.

I have ministered in dozens of dysfunctional homes, and I have tended to the emotional needs of children from those homes in over 20 years of leadership in Christian schools. It is my strong conviction that the greatest potential for a measure of happiness and security for these children is to be found in homes that are guided by values clearly found in the Bible.

Gentlemen, I therefore urge your strong support for SJR 63, encouraging you to hold the line for the traditional family unit – and otherwise preventing the potential for additional financial burdens for taxpayers for more prisons and greater expenditures for remedial social services.

I thank you for your attention.

H. Eugene Eslinger

Mr. Chairman and members of the Committee, thank you for allowing me to speak on this issue.

I had the privilege of attending the hearing on AJR 66 a couple of weeks ago. Many spoke on both sides of this issue and it was obvious that many were quite passionate in their beliefs, either for or against the amendment. I did notice that a number of children were present during those hearings, some with a heterosexual parent, some with a homosexual parent. It is the issue of the children that I want to address today.

Basic biology lets us know that every child is the product of 2 people, a man and a woman. If a lesbian has her child with her today, that child is the product of a man and a woman. If a gay man has his child with him today, that child is the product of a man and a woman. In fact, every person in this room today, whether homosexual or heterosexual, is the product of one man and one woman. There is no getting around this fact.

For a pair of homosexual women to raise a child as if they were married ignores the fact that a man was involved in the process of creating that child, and also denies that child the influence of a father in his or her life. For a pair of homosexual men to raise a child as if they were married denies the fact that a woman was involved in the process of creating that child, and also denies that child the influence of a mother in his or her life. As loving and as caring as a homosexual parent can be, the child is still deprived of the influences of either a father or a mother.

It is my privilege to have my father here today. It would be ludicrous of me to go to him and tell him that his male influence on my life could just as easily and as fully have been fulfilled by a lesbian woman. I could not go to my mother and tell her that her female influence on my life would have been the same as if she were replaced with a gay man while I was growing up.

Studies show that children that grow up with a married mother and father experience lower rates of many social problems, such as premarital childbearing, illicit drug use, arrest, health, emotional or behavioral problems, poverty, and school failure or expulsion. For those of you that are homosexual and have children, chances are that you have condemned your children to greater risks of these social problems. Also, studies indicate that the lifespan of the homosexual male is anywhere from 8 to 20 years less than for all men. A homosexual male raising a child is more likely to leave that child parentless due to his decreased lifespan.

As a heterosexual, I find the thought of any kind of a sexual relation with a member of the same sex to be totally repulsive. If the same is true for the homosexual, where the thought of any kind of sexual relation with a member of the opposite sex is totally repulsive, and if all mankind were to somehow be transformed overnight to be homosexual, no more children would be born and the entirety of mankind would disappear from the face of the earth in one generation.

The attempt of this constitutional amendment is to strengthen marriages, a union of one man and one woman. This will provide the best environment for the children of those marriages, and that is beneficial to all of society.

I would ask the members of the committee to vote to pass this constitutional amendment for the sake of the children and for the good of our society. Thank you again for allowing me to speak.

Rex Munyon
209 N Church St
Watertown WI, 53094

My name Rodney Laudenslager. I live in Watertown with my wife Susan and our 4 children. We have been married for 23 years. I didn't marry Sue so she would have health insurance. I didn't marry her to lower our income taxes. I didn't marry her because it was cheaper. And we didn't get married to make a political statement. We married because it is God's plan for a man and a woman who are drawn together in love and commitment to establish a family.

God's plan for marriage is clearly given in the Bible. It has been followed by billions of people for thousands of years. I think that's a good track record that it works.

Genesis 2:24 – Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.

True marriage is between one man and one woman. True marriage involves a meshing together of two lives into one. One in heart, one in mind, one in purpose and one in flesh. This oneness between a man and woman is illustrated in our children.

Sue and I have 4 wonderful children. They share our genes; they have similar physical characteristics to my wife and I, similarities in personalities, and talents. They are a picture of that one flesh relationship between my wife and I.

As I look back over the past 23 years, I realize that primarily, the purpose of my life has been to raise my children. Everything I do as a father and husband is for my wife and children. My energies, my talents and my assets have been for their benefit. My greatest joy in this life has been my children. Not my job, not my house not my bank account, not my investments, not my vacations, not my friends, but my children, my wife, my family.

Gay couples cannot have children. They have no picture of that one flesh relationship.

True marriage establishes a family.

I believe every child has the right to be raised by both a mother and a father. I believe this is the foundation of the family and the family is the foundation of society. Present day society continues to tear down that foundation.

We must protect this foundation.

We must amend the constitution to define marriage to be between one man and one woman.

We must preserve true marriage and make allowance for no other.

I end with the words of Jesus, "Have you not read, that he which made them at the beginning made them male and female, And said, for this cause shall a man leave father and mother, and shall cleave to his wife; and they two shall be one flesh? Wherefore they are no more two, but one flesh. What therefore God has joined together, let no man put asunder." Matt.19:4,5,6

Rodney Laudenslager - representing myself as a citizen of WI
509 Cole St.
Watertown, WI 53094

THE TRUTH ON TRIAL

Should boundaries be kept around the institution of marriage, or should they be removed? This is the essence of the issue before you. If you choose to remove boundaries on marriage, you will be putting the traditional definition of marriage on trial, and you will also be putting Truth on trial. Truth is not a something, It is a Somebody: Jesus Christ, who is God. Truth Himself chose to come into this world inside a traditional Jewish marriage between one man, St. Joseph, and one woman, St. Mary. You will therefore be putting Truth, Jesus, on trial again...Here and now.

At the first trial of Jesus, Pontius Pilate asked the mob and the religious leaders to choose, just as you are here being asked to choose. "Jesus Barabbas or Jesus called the Messiah?" said Pilate. The question of Pilate had all the air of democracy and free elections, just as the air of democracy and freedom hangs heavy in this room today. But Pilate's question was only a cheap facsimile of a fair choice. Ponder his question. Consider first the people to whom the question was addressed, then the question itself. The people themselves were not inclined to put Our Lord to death. Mt. 27:20 "But meanwhile the chief priests and the elders persuaded the crowd to ask for the release of Barabbas!" People can be misled by false leaders; the very ones who shout "Hosanna" on Sunday can shout "Crucify" on Friday.

What happened on that Good Friday morning was that through propagandists the people became the masses. When democracy loses its moral sense, it can vote itself right out of democracy. When Pilate asked "Who would you like me to release to you?" (Mt. 27:17), he was holding a fair and democratic election. He was assuming that a vote means the right to choose between innocence and guilt, goodness and evil, right and wrong.

In answer to Pilate's question the masses thundered back "Barabbas!"

Pilate could hardly believe his ears. Barabbas could hardly believe his ears. Was he to be a free man? For the first time, he became aware that he might carry on his revolt. He turned his swollen burning face toward the Nazarene. He meant to measure his rival from head to foot, but his glance no longer dared to rise. There was something about the eyes of this Nazarene which read his soul, as if the Nazarene was really sorry for him because he was free.

We all know the result of Jesus' first trial; He was beaten, whipped, spat upon, insulted and finally He was crucified, while Barabbas, the true insurrectionist and murderer, was set free. Traditional Marriage has been through its own trial in the last century.

the legalization of artificial contraception, no-fault divorce and surgical abortion on demand have just been a prelude to this last insult--the demand, driven by the "chief priests and elders" of our time, to legalize homosexual so-called marriage. Their nefarious propaganda machine has got the mob roaring "Give us same-sex marriage" and "crucify the Church", just like the mob roared "Give us Barabbas!" and "Crucify Him!" two thousand years ago.

You get a second chance, here and now, to decide whether to right a wrong done to an innocent man, or to let the guilty run free. TRUTH HIMSELF IS ON TRIAL. Make no mistake. How you judge today will be the measure He will use to judge you. I suggest you judge wisely.

Mark Kimble
Rep. PRO LIFE WI

**Testimony Against SJR 63,
Wisconsin State Senate Judiciary Committee, March 1, 2004
Patrick Flaherty, Director
LGBT Center Advocates, 315 W. Court Street, Milwaukee WI 53212**

Thank you for the opportunity to speak against the proposed constitutional amendment to ban gay and lesbian couples from the legal protections of domestic partnerships, civil unions, and marriage. My name is Patrick Flaherty, representing LGBT Center Advocates, a Milwaukee equal rights organization.

Through a project called Equality Knocks, Center Advocates seeks to reach fair-minded voters through one-on-one conversations, either going door-to-door, talking to voters outside polling places, or by telephone. No matter whether we are talking to voters on Milwaukee's south side, Mequon or other Republican Northshore suburbs, Sheboygan, or elsewhere, we find Wisconsin voters to be strongly opposed to this constitutional amendment and generally thoughtful about seeking a legal framework that is fair to all families, including gay and lesbian families.

Much has been said on either side about the marriage ban contained in SJR 63. However, this proposed constitutional amendment goes far beyond expelling gay couples from our constitution and the institution of marriage. I choose to focus my remarks on SJR 63's dangerously overlooked ban on civil unions and domestic partnerships.

As SJR puts it, "A legal status identical or substantially similar to that of marriage for unmarried individuals shall not be valid or recognized in this state."

This phrase prohibits both our courts -- which in Wisconsin are comprised of justices elected by the people -- and our democratically-elected Legislature from enacting the political compromise of civil unions or domestic partnerships that most Wisconsinites support according to our work and some polls. While the amendment supporters would have you believe that their ban is done in the name of democracy, such a proposal would have banned California's historic domestic partnership law that takes effect in January 1, 2005. The California law was not in response to some judicial fiat, but was accomplished through the regular give-and-take of the democratic legislative process.

A more immediate threat in Wisconsin is faced by local communities that have established domestic partner registries for their citizens or domestic partner benefit programs for their public employees. While Rep. Mark Gundrum promises that existing local initiatives won't be affected, he wants us to rely on his assurances rather than the overly-vague wording of the amendment. As the Legislative Council's own Legal Services Chief has written, just what is "substantially similar" to marriage will "likely need to be determined by the courts."

When other states have passed similar civil union and marriage bans, activists from the religious right have filed expensive lawsuits against local domestic partner programs. For example, the Thomas More Law Center has filed a legal challenge to the Ann Arbor