

## **Does Missouri Need a Constitutional “Same-Sex” Marriage Amendment?**

It didn't take a rocket scientist to see that the day when same-sex marriages would be a hot political issue was near at hand after the U.S. Supreme Court's far-reaching decision last summer in *Lawrence v. Texas*. Though the case itself dealt with the constitutionality of a Texas sodomy law, the Court's reasoning in the case effectively opened a “Pandora's Box” of cultural and social issues that only the common sense of the American people can ever hope to counteract.

In the case, the Court does legal gymnastics to try to support its decision that each State must allow essentially any activity that is private, consensual and among adults. As Justice Scalia points out in a dissenting opinion, while the Court half-heartedly tries to limit its decision so as to not provide a legal rationale for same-sex marriage, the attempt falls short since the Court clearly invites redefining of what a marriage is in its opinion.

The decision in *Lawrence* is indicative of the larger cultural struggle going on in the nation as to what will become of marriage, including what will become of marriage in Missouri. Already we see states such as Massachusetts, Vermont and California experimenting with marriage and remaking it as they see fit. Since the U.S. Constitution mandates that all States give “full faith and credit” to the acts of their sister States it is not inconceivable that in the near future a same-sex couple from a State like Vermont could move here and demand that Missouri recognize their union.

There is, however, an exception to the “full faith and credit” clause. If the policy of State A contradicts the “public policy” of State B, State B will not be required to recognize State A's law. This is one reason to pass the amendment defining marriage as between only a man and a woman.

The second reason to pass the amendment is to make sure that state court judges are absolutely clear on what Missouri law allows. We do not want to see a repeat of the judicial activism in *Lawrence*. If the people of Missouri do not enact into the constitution a clear definition of marriage, a court may simply create their own. While Missouri does have a statute defining marriage as being between a man and a woman, the definition needs to be added to the Missouri Constitution. This is a significant move since state courts are bound to look to the Missouri Constitution when determining the fundamental rights of Missourians. Passing this amendment will not guarantee that traditional marriage is protected but it is a step in the right direction. The legislature has entrusted this momentous decision to the people. On August 3<sup>rd</sup> we'll hear their decision.