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CONNECTICUT
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THE CLERK:

Turning to calendar page 30, matter previously marked second order of the day, Calendar Number 464, File Number 680, substitute for Senate Bill 899, An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same-Sex Couples, favorable report by the Committee on Judiciary. Clerk is in possession of an amendment.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I move acceptance of the Joint Committee's favorable report and passage of the bill.

THE CHAIR:

On acceptance and passage, sir, would you like to remark further?

SENATOR MCDONALD:

I would, Mr. President. Mr. President, in preparing for this bill today, it occurred to me that it was four years ago this week that Governor Rell signed historic legislation in the state of Connecticut dealing with the rights of same-sex couples in our state. And think it was, perhaps for

me at least, one of the most proud moments of my tenure in this chamber, that that legislation was passed in both the Senate and the House on strong bipartisan votes. And during that debate in 2005, I stood before you and said that the civil union legislation was extraordinarily important, but it was not everything, that work was left to be done.

Members of the chamber, today, we do that work. Our work today is to codify the rights of all couples in the state of Connecticut to enter into civil marriage and we do so fully cognizant of our constitutional responsibilities. The Connecticut Supreme Court has made it completely clear that the right to civil marriage cannot be denied by this State to any two individuals who are committed to each other, regardless of their gender.

Mr. President, under this legislation we intend to codify the Kerrigan decision and to restore to those couples who are of the same gender the rights that for too long have been denied to them. And in this legislation we would recognize not only same-sex marriages that are performed in this state, but also those that are performed in foreign jurisdictions and people who move here with those marriages to our

state.

Mr. President, when we passed that legislation we were the first state to pass civil unions in the United States without compulsion of a court order. And that continued a long line of leadership in the state of Connecticut with respect to civil rights and same-sex couples and homosexual individuals. We were, in fact, the first state to add sexual orientation to our hate crimes statutes. We were the third state to prohibit discrimination on the basis of sexual orientation. We were the first state to allow same-sex couples to adopt children in this state without a court order. And as I said, we were the first to adopt civil unions without a court order.

And now we expect to become the first state to codify the right to civil marriage for same-sex couples after a court decision. And I certainly hope that when we do that today, we do it on a strong bipartisan vote, as we did with civil unions in 2005. This bill is important for many reasons, some of which are legal, many of which are symbolic. But all of which, in my opinion at least, lift us up as a state, not only for gay and lesbian individuals and couples, but for all of us in the state of Connecticut; where

we can lift our heads and proudly say, we do not discriminate in our state. This legislation also, importantly, provides a mechanism by which those individuals who have entered into civil unions would be allowed to have those civil unions recognized as marriages in our state.

Mr. President, before I procéed any further, I just have to comment I just have to comment that we are here because of a lot of hard work by people in this chamber. And to each and every one of you, I thank you for your help.

But we are also here today because of a tremendous coalition of individuals who have fought long and hard, with pride and dignity and with respect for other people's opinions. And it is a coalition that spans the breadth of our state, and we should be proud of that too. Because we saw people come together in faith and in charity to embrace everything that is good about our state. And though it was a coalition of many groups and the result of thousands of individuals, I would be remiss indeed, if I did not acknowledge Love Makes a Family; one of the most decent groups that has ever been my privilege to work with.

Mr. President, this legislation does a lot, as I indicated. Perhaps -- we talked a moment ago about the codification of the Kerrigan decision, but it also removes from our statutes unconstitutional references to the Defense of Marriage Act, if you will. It also removes extraordinarily demeaning and disrespectful language that pertains to gay and lesbian individuals in our state. In fact, it is that language that the Kerrigan court decision found was indicative of the historical bias and discrimination that has been suffered by same-sex individuals in our state.

Mr. President, under this legislation while we are codifying the right for any two individuals to get married, we make it abundantly clear that no member of the clergy nor no church would be compelled to participate in a marriage ceremony which is in conflict with deeply held religious beliefs or the beliefs or the tenets of that religion. But because there have been concerns expressed, some of which, in my opinion, have been overstated substantially, we wanted to make it completely clear that the State of Connecticut fully embraces not only the rights of same-sex couples to marry, but we fully embrace the rights and protections afforded by the First Amendment

of the United States Constitution and the Connecticut Constitution to the free exercise of religion. I have not met one person in this Legislature who is in any way interested in infringing on deeply held religious beliefs. And because some have questioned the resolve of some legislators to protect those religious liberties, Mr. President, it is my privilege to offer an amendment to this bill. LCO Number 5932, I asked that it be called and I be granted leave to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5932, which will be designated Senate Amendment Schedule A, is offered by Senator McDonald of the 27th District, et al.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I move adoption of the amendment.

THE CHAIR:

Please proceed, sir.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, this

amendment is, I hope, exactly what the people of Connecticut needed to hear from us. And I am thrilled to report to this chamber that this amendment is brought to you today by a strong bipartisan effort within this chamber. We have 19 members of my party and six members of the minority party as cosponsors of this legislation. And what it does is very simple, but profoundly important. It largely confirms what we already know, that in this state the rights of individuals to exercise their religion is protected under law.

And under this proposal, Mr. President, it would specifically allow that any religious organization that has deeply held religious beliefs which prevent them from participating or providing facilities or goods associated with the solemnization or celebration of a marriage, cannot be compelled to do so. And no one has ever suggested that they should be.

Additionally, Mr. President, under this proposal it is important to note that no individual gets to pick and choose what constitutional rights they will accept or not accept. I think that's extraordinarily important.

We have heard some in this debate outside of this

chamber suggest that people can decide whether they agree with the supreme court's decision or not, and give it force and effect if they wish, or deny the rights of the Constitution if they wish. That is not right, it's not legal, it's not constitutional, and it is not proper. And Mr. President, I believe that this amendment does strike a fair balance between the rights of individuals who have deeply held religious beliefs and the rights of same-sex couples to enter into civil marriage. And I strongly urge adoption of the amendment by the circle.

THE CHAIR:

Thank you, Senator McDonald.

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. I rise in support of the amendment and by way of background, would like to acknowledge that in large part we are here as a direct result of the actions of the folks that filed suit in the Kerrigan matter. It was not that long ago that eight same-sex couples, I believe in the year 2004, went to the Town Clerk in the Town of Madison and attempted to obtain the appropriate paperwork to apply for a marriage license and it was

so denied. And then shortly thereafter, on August 24th in the year 2004 they filed suit in Connecticut State Superior Court, alleging in part that their equal protection, that their equal rights here in the state of Connecticut were abrogated by that denial.

Now to move forward, that lawsuit changed a little bit along the way because in the year 2005, the State of Connecticut through its legislature, right here, passed the civil union legislation. And that lawsuit moved through the court system and was changed to reflect the fact that this legislature did indeed pass civil union legislation. The arguments there were narrowed, but yet still espoused the notion that they as same-sex couples were not afforded the equal protection of the laws here in the state of Connecticut. That even though we, as a legislature, voted for civil unions and wrapped around that nomenclature all of the fundamental rights and responsibilities afforded to married couples in the state of Connecticut, that indeed, because they could not call themselves married, that that in and of itself was a violation of their constitutional rights.

And I think it's important to note at the outset that they did not predicate their arguments on the

federal Constitution, which under many decisions of our Connecticut Supreme Court is perceived and is noted as affording individuals in Connecticut minimal rights. But there's certainly nothing in our constitution or in our common law that would indicate that we couldn't have more expansive rights than are recognized in the United States Constitution.

When the matter was heard by the lower court, the judge therein indicated that the Connecticut Legislature, to its great credit -- to it's great credit had recognized this evolution in our society and had attempted as best it could to make things equal, while still recognizing that here in the state of Connecticut there were widely disparate beliefs held very passionately by various members of our society. That there were those that felt that extraordinarily strongly that marriage, having a fundamental basis in ancient history as the relation between one man and one woman, that that had sanctity that could not -- could not and should not be shared by individuals that were same-sex couples. That was one strongly held set of beliefs by folks in our great state. And at the same time, society is moving in a direction where recognition of same-sex rights was

proceeding apace and in this humble legislator's view, at a rate not seen by any other areas that had been the subject of either litigation or civil rights activities. Many of the changes that were analogized to the rights or to the fighting for the rights of same-sex individuals in our previous history had taken decades, if not centuries to change.

So in many ways this argument has been quickly moving, and at the same time we must acknowledge that folks for a variety of reasons feel strongly and passionately about this issue, no matter what political party they have, no matter what political persuasion. And to a great extent, much of this debate has centered people's fervently held religious beliefs and that cannot be minimized at any step along the way. Because fundamentally, both in our federal Constitution as well as in our state constitution, freedom of religion is one of the major underpinnings of our state and our nation.

It's one of those great pedestals that we are rightfully proud of. For those folks who are Native Americans, they've been here throughout their history, but for folks from throughout the four corners of the globe, and in particular the early Colonial settlers,

they indeed came to this country for religious freedom. And we can go back to ancient times, prior to the time when Connecticut was indeed a state, prior to 1776 when we declared our independence from Britain, we can go back prior to those days and still see that line where folks rightfully wanted the freedom to practice their religion as they saw fit without government interference.

So the underlying -- the Superior Court in recognizing the efforts of our Legislature in 2005, made an initial determination that before getting into a more detailed analysis in Kerrigan, that the plaintiffs, the eight same-sex couples, cannot prove harm or sufficient damages such that that case could move forward. And absent palpable damages or proven damages, there was no need to get to the next level of analysis. That decision was then appealed, and that appeal was taken up by our Connecticut State Supreme Court. Arguments were made and a decision was rendered just this last fall.

And while I may not necessarily agree with all of the underlying rationale as to why our State Supreme Court felt it necessary to come forward with that decision at this point in time, I also want to

acknowledge that in reading, and in particular Justice Palmer's decision, I felt it in many, many ways quite eloquent. And in that initial part of Justice Palmer's decision it was clearly delineated and laid out as to why the underlying Superior Court decision was mistaken in determining that there was proven damage, even though the State of Connecticut through our Legislature had passed civil unions.

And that part of the decision indicated that people that had followed the course where they where would wish to enter into same-sex union, whether they were lesbians or gay, that there was a history, an unfortunate history in our nation and to a lesser extent in our state, where there were pernicious -- is the word -- and invidious -- is the word -- used in the decision, negative attacks on individuals that were homosexual. And it was written out in our State Supreme Court decision that quite often -- it said, "negative ramifications, ostracism, abusive language, treatment," and then somewhat ominously Justice Palmer wrote, "or worse." Or worse. And sometimes, sometimes there were physical, mental, and other assaults on individuals that openly in our society wished to pursue a same-sex lifestyle.

And so basing much of the initial decision on the fact that there was this undeniable history, the court then went on to look at other touchstones to determine, well, is there something important in the term "marriage" that is not found in the term "civil union"? Such that given this history, this pernicious and invidious history, is there something special such that the grounds could be made, the argument could be one, that there was indeed damage here.

And the court, and in my view, almost poetically indicated that, with the term "marriage," that it had a transcendent quality that everybody recognizes based upon its history and based upon its hundreds and hundreds of years of being held up and lauded and looked up to. And that that notion had been recognized in a variety of cases in the United States Supreme Court, as other decisions were made that touched upon some of these issues regarding sexuality and an individual's to equal protection under our laws -- Loving versus Virgina, or Griswold versus Connecticut.

And thus at the outset, the court made a determination that as much as our Legislature should be lauded for going down the course of carving out

civil unions, as a rational and reasonable response to juxtapose against the notion of marriage, that had historically been embraced by our nation and our state, that at the end of the day when one took the totality of those circumstances, that indeed by not allowing a woman to marry a woman or a man to marry a man, that that carried with it an element of disrespect that formed the basis to at least then continue the analysis as to whether there was a case made for a lack of equal protection under the laws.

And so at the outset, I want to acknowledge that I feel that as much as I would have wanted to see this Legislature make its own decision, that I believe that the State of Connecticut Supreme Court in that majority decision carved out firm grounds for the notion that under our Connecticut Constitution there was at least the predicate, the necessary predicate that there was a harm. And as much as we strove to have something in statute, civil unions, that nonetheless by not calling it marriage, as much as we attached to it every other right that a married couple has, that it was still lacking something fundamental.

And then the court went on, determined how its analysis would proceed, would sexual orientation be a

suspect class? My recollection is that the court determined that similar to gender, it was a quasi-suspect class, and therefore would afford it intermediate scrutiny as opposed to strict scrutiny. And without belaboring the point, because it is a very lengthy decision, they determined that at the end of the day -- at the end of the day those eight couples had made out a case for the fact that denying them the ability to get married in the state of Connecticut was a violation of their equal protection and due process rights. And therefore, the State of Connecticut could not statutorily or legally, as a government entity, deny them the right to marriage.

What this amendment does, and I stand in strong support of it, is also acknowledge that there is another constitutional side to the coin. And that is -- is that we have this other long-standing set of rights. And that is people's religious liberties and those institutions that they have formed -- that liberty which attaches there too, such that if in their testaments and groundwork and books and scriptures and teachings and all the fundamental beliefs that form that religious institution, if what the Supreme Court in Connecticut ruled in Kerrigan

bumps up against that, that we are about, by moving forward with this amendment, balancing those important constitutional rights and the areas to which they fall.

And this is not science -- I remember when I took constitutional law in law school, they brought out a word I had never heard before, "penumbra." Penumbra had to do with if there was an item, then how far would the shadow from that item fall and if the something would fall within the shadow or outside shadow? And so when we deal with a living, breathing document, as the Kerrigan decision noted our Connecticut State Constitution is -- and it has to be a living, breathing document that moves forward as society moves forward -- or some people might not feel that it's forward moving -- as we go forward with that, our analysis naturally falls to the fact that we have to balance these differing and sometimes competing constitutional rights. And sometimes people are happy with a decision that lands on one side, and sometimes other groups are happy with a decision that lands on the other side, but quite often it is very difficult to make everybody happy with the decision we come down to.

I understand where Senator McDonald is coming from with the underlying bill, I still am going to have a great deal of problems in supporting that bill because of the great antipathy that has been expressed to me through hundreds of e-mails and dozens of phone calls by my constituents. And that should surprise no one in this circle, my district tends to be extraordinarily conservative when it comes to religious matters and it is my job to balance that and to try be as much a reflection of the overall majority wishes of my constituents as possible.

That is not to say that one is right or one is necessarily wrong. When we're balancing constitutional rights here in Connecticut, which a part of New England, which is one of the more tolerant parts of our nation, it is always a difficult proposition. And while I completely acknowledge the fact we have had a terrible history when it comes to treating individuals that are either homosexual, lesbian, or gay, and that we are moving forward with that; and that the religious upbringing that I've had has taught me that one of the most fundamental important things that any religion can teach us is tolerance, treat one as you would wish to be treated

yourself and try to be understanding, to live in harmony with one another.

At the same time, I believe that this amendment sets out a good ground, such that those that are concerned with their religious freedoms can have some small measure of comfort in the fact that we acknowledge those constitutional rights, we're sensitive to those rights. And indeed, we feel that we have spent an enormous amount of time crafting constitutional rights that will fundamentally still protect those institutions and afford them the rights while still acknowledging the landmark decision in Kerrigan versus the Commissioner of Public Health.

And for that reason, Mr. President, I support this amendment. Thank you, sir.

THE CHAIR:

Thank you, Senator Kissel.

Will you remark further?

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. If I may, I have some questions for Senator McDonald.

THE CHAIR:

Senator McDonald.

SENATOR CALIGIURI:

Thank you, Mr. President. Through you, with respect to Section 501, and just for purposes of making sure I understand and for clarifying the record, in light of Section 501, would a religious organization, association, or society be required to recognize the validity of a same-sex marriage?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, no. The -- well there is nothing in this -- let me restate that, there is nothing in this amendment that addresses recognition of a marriage one way or the other, same sex or otherwise. The amendment deals with the solemnization or celebration of a marriage, not with the recognition of a marriage.

And I should point out for members who may not know, the language of this amendment closely tracks the language that was adopted recently by the State of Vermont in its adoption of a marriage statute that is nondiscriminatory.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. So to be clear and at the risk of putting too fine a point on this -- and I do have a few more questions for Senator McDonald -- to the extent that Section 501 is designed to protect freedom of religion and freedom of conscience, it does not protect it insofar as the recognition of the validity of same-sex marriages concerned. Is that correct?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, the supreme court has indicated that the right to marriage is a constitutional right, and this amendment simply deals with religious organizations in the solemnization of a marriage or celebration of a marriage. But would not allow a religious organization to selectively choose whether to recognize a marriage, whether it be two individuals of the same sex, Christian and Jew, they just don't get to select which marriages they deem appropriate or not under state law.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. So therefore, a religious institution, organization, association, or society could be required, in fact, to recognize the validity of a same-sex marriage notwithstanding the fact that it would violate their freedom of religion right. Is that correct? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well I hesitate to give too broad a answer to the question, I suppose it would depend on the facts and circumstances. But in general the constitution mandates that we allow same-sex marriage in this state and that it be afforded equal rights with any other marriage in this state, if that assists Senator Caligiuri.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

I understand the Senator's reluctance to give a definitive yes or no answer, but that's what this Senator, at least, would appreciate the most. But I'm not sure that's forthcoming.

So let me move to an area -- a second area where I have questions. Section 503 purports to protect a religious institution that provides adoption, foster care, or social services, with one exception, and the exception is for religious organizations that would receive state or federal funds. In other words, as I read this, the protection under 503 does not apply to religious organization that receives state or federal funds. And so my question to Senator McDonald is, is that the receipt of state or federal funds generally by that organization, regardless of the nature of those funds and what they're used for? Or is that only the receipt of funds as it would relate specifically to adoption, foster care, or social service-related programs?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I'm certain I fully appreciate the questions. So let me answer it, and if I don't, I'm sure Senator Caligiuri will rephrase whatever I didn't answer. The concern that had been raised and we seek to address in this amendment is a situation where a religious organization is providing

these services now, and would feel that potentially they would be threatened or potentially exposed to requirements under this legislation that currently exist. And the amendment was intended to make it clear that any such organization and the services they provide now would be treated in the future as they are now.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. I appreciate the answer. Let me try it a different way, if I might. I'm trying to figure out whether the exception swallows the rule, by which I mean -- I'll give you an example. If you have an institution that's providing both adoption and social services, and the organization receives federal or funds with respect to the social services that it provides, would that institution still be protected by Section 503 or would they fall under the exemption?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well, let me first

profess some ignorance on the nuances of how these programs are administered, so please take my answer, Senator Caligiuri, with a caveat that I'm not fully up to speed on how these programs are interrelated. It does seem to me that potentially foster care is a form of a social service, and so I guess the question would turn on whether or not the governmental funds were being used for one or the other or a blend of the two or how they would be interconnected. But the goal here was not to change any aspect of the current operations of these entities as long as they're not using governmental funds in the discrimination against individuals currently.

THE CHAIR:

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. I think the concern that I have as a practical matter is trying to get my hands around how substantial a gap is created by the exemption for the receipt of state or federal funds. And my concern would be that if this Section 503 is read down the line as meaning that if an organization receives state or federal funds for any purpose, that therefore it is not protected the first part of

Section 503. Then I think that given the likelihood that these organizations, providing adoptive or foster care services for example, are receiving federal funds would have the effect of essentially gutting the protection that Section 503 purports to offer to these organizations; and I say this not with any disrespect, I don't know that I've gotten a definitive answer on that from Senator McDonald. And that remains therefore a substantial concern that I have about whether in fact we're actually giving people the protection that it would appear we are under Section 503, and as I'm sure some folks will claim we are under Section 503.

If I may just by way of comment, Mr. President --

THE CHAIR:

Please proceed.

SENATOR CALIGIURI:

-- on the amendment.

Thank you. And I thank Senator McDonald for answering my questions.

I think the amendment improves the underlying bill in important ways, but I would just point out that it remains highly imperfect. I believe leaves a lot to be desired in two areas that I've tried to

point out; number one is, I do think we have a problem with the exception swallowing the rule in Section 503. And I do believe it is a very substantial problem that there is no clear explicit protection for religious organizations with respect to the -- they're being forced to recognize the validity of a same-sex marriage, even if doing so would violate their freedom of religion and freedom of conscience. I think it was very clear from the colloquy with Senator McDonald that that is not protection that is explicitly afforded by the Section 501 language, and I think that is a substantial weakness of the amendment. I thank you, Mr. President.

THE CHAIR:

Thank you, Senator Caligiuri.

Will you remark further on Senate Amendment A?

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. Good afternoon. Thank you. If I may, through you, Mr. President, just a couple of questions to the proponent of the amendment.

THE CHAIR:

Senator McDonald.

Please proceed, sir.

SENATOR RORABACK:

Thank you, Mr. President. I, like Senator Caligiuri, am just trying to get a more complete understanding of the import of Section 503 of the amendment, lines 33 through 36. Because the language does lend itself to some confusion, and for purposes of legislative intent I want to make it clear. My reading of the language -- I want to make sure that my reading of the language comports with Senator McDonald's reading of the language.

So through you, Mr. President, to Senator McDonald. Rather than -- if there's an agency, and let's say for purposes of this illustration Catholic Family Charities, which is in the business of providing adoption services. And if they do not use any state or federal funds in connection with the provision of adoption services, I read this amendment as allowing them to discriminate on the basis of the religious beliefs of the organization. Through you, Mr. President, to Senator McDonald, does he have a similar reading of this amendment?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you, Mr. President, again, I don't profess that I fully understand all of the operations of Catholic Family Charities. But under your hypothetical, if the entity is currently not receiving any governmental funds for the adoption and it's got nothing to do with social services where governmental funds were being received, and that wouldn't change under this legislation from current practices. If that's helpful...

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

That is helpful. And what would also be helpful, Mr. President, is to know that prospectively if this bill becomes law and Catholic Family Charities remains in the business of providing adoption services, and if they provide those services without the benefit of state or federal money, that they will be able to discriminate in the provision of those services on the basis of their sincerely held religious beliefs. Through you, Mr. President, to Senator McDonald.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you, my reading of it would be that as long as no governmental funds were associated with that function and they chose for whatever reason to discriminate against any married couple, they would have that ability to do so.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, Mr. President. And that's helpful. So it's conceivable that Catholic Family Charities might have a soup kitchen which receives a grant from the Department of Social Services. And if they do receive a grant from the Department of Social Services, I believe this language would require them to serve anyone who came to the soup kitchen under the same terms and conditions without any discrimination; no discrimination would be permitted if they were using state or federal funds to run a soup kitchen. Does Senator McDonald share that reading of this language?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you, yes. The

goal here is to ensure that no governmental funds are used in the furtherance of discrimination. If a fully private organization is operating independently of governmental funds and chooses to discriminate, that is something that's protected under the freedom of association. But when governmental funds are injected into the process, it changes the dynamic. But under Senator Roraback's question, I think the answer is yes.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you, sir. What I'm trying to get at is it's conceivable that a single organization would be performing many different functions. And some of the functions that they would perform they would do exclusively with private money, other functions that they perform they might perform with the benefit of public money. And all I want to make clear is that under the language of this amendment, an organization, as long as it's using private money to fulfill a particular function, will be protected with its sincerely held religious beliefs if it chooses to discriminate. Notwithstanding that it might use

public funds for another component of its work, in which area by virtue of its receiving public funds, it would not be permitted to discriminate. That's an awfully long question, but that's the notion I'm trying to capture with my line of questioning to Senator McDonald, through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you, and again, I indicated, I believe earlier, to Senator Caligiuri, it's hard to answer this type of question in the abstract, because it would depend on making sure that all of the proper bookkeeping and controls were in place to make sure that the governmental funds were isolated in some way from the private charitable funds. Under Senator Roraback's hypothetical, I suspect it would be best if they actually had a separate corporate entity to do the social services as opposed to the adoptions, so that the funds would not be intermingled in any way, so that there wouldn't be any gray area. But presuming that they could prove that the funds were actually solely associated with adoptions were from charitable sources, and the social

service sources included governmental funds -- assuming they were completely segregated and can be proven to be such, I believe that Senator Roraback is correct.

THE CHAIR:

Senator Roraback.

SENATOR RORABACK:

Thank you. I appreciate Senator McDonald's answers to those questions, they give me comfort that what's intended by this bill will be accomplished by this bill. And I do think that the admonition about making sure that public dollars are not co-mingled with those private functions where a sincerely held religious belief will result in discrimination will wisely be heeded. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Roraback.

Will you remark? Will you remark further?

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Mr. President, very briefly, I rise in support of this amendment. I think it is crucial that we protect the rights of religious organizations and individuals and I believe this

amendment goes a long way towards achieving that goal, while preserving the implementation of Kerrigan in the underlying bill.

Mr. President, I'd also for a recorded vote on the amendment when we vote on it. Thank you, Mr. President.

THE CHAIR:

A roll call vote will be taken, sir.

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I have some questions for the proponent of the bill, through you, to Senator McDonald, please.

THE CHAIR:

Senator McDonald.

Please proceed, sir.

SENATOR MCLACHLAN:

Thank you, Mr. President. Through you, Senator McDonald, Section 503 -- carrying further on the last discussion about selective discrimination. I guess I'm a little concerned that there's an inference that any church would selectively discriminate. But for clarification, I believe we're referring to Catholic Charities and as I understand Catholic Charities'

business model across the country, they have multiple programs that they offer, and there may very well be partial funding in selective programs that come through state or federal government funding opportunities. So to specifically target something nearby that -- and they work sort of like state government does, let us say that Catholic Charities' social services department has a contract with the Department of Social Services for selective services in an office, but somewhere else in that office they're offering other services that are not government-funded, but it's the same umbrella organization. How do they handle that situation?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Well, through you, Mr. President, I guess the quick would be good accounting. But perhaps the more thorough answer is it would be their responsibility to make sure that controls were in place to make -- to guarantee that governmental funds were being used for social services that did not discriminate against anybody regardless of marital status. And if they wanted to reserve the right to discriminate against

somebody, they should take proper safeguards to make sure that their accounting and books were in proper order, so when they would be questioned by the Department of Social Services or whatever other funding agency was involved it could demonstrate that the governmental funds were not being intermingled for the noncovered services.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you. And through you, Mr. President, to Senator McDonald, I would really like to somehow get our discussion off of this selective discrimination statement, I don't think that's appropriate. I think really what we ought to try to focus on is how can this amendment be helpful in protecting those organizations who are concerned about providing services as they have done -- for in some cases hundreds of years -- so I hope that we'll not talk about selective discrimination, I find that problematic.

Back to a "what if scenario," and I know that "what if scenarios" in this circle can be somewhat challenging. Senator Caligiuri asked a question about

sort of a "what if scenario" -- and in the Catholic Charities business model, going back to that again -- they may have multiple programs and some of those programs may, in fact, be government-funded, but most, in fact, may not be. And if there is a program offered through an agency where there is no direct funding to the agency, but one of the clients comes to the agency with government funds, how would that be treated? Through you, Mr. President, to Senator McDonald.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I'm certain I didn't understand or appreciate the question. If Senator McLachlan could rephrase it?

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you. Through you, Mr. President, for clarification, social service agencies often do not have direct funding from governments, but their clients bring with them the availability of benefits. How is it treated if a client comes to an agency and

brings with them their benefits for payment of services? Is that considered to be government funding? It is not direct funding, it is coming through a client. How is that treated? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I'm not -- apparently not as well-versed as Senator McLachlan is in the interactions of Catholic Charities with its clients, so I don't know that I can authoritatively answer the question. But under this language it, in my opinion at least, it would require that the religious organization receive the money directly from the state or federal funds.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you.

And thank you for that answer.

And through you, Mr. President, do you see an opportunity for any agency that is going to be exempted under Section 503, that in part of their

business model they have any revenue stream that comes from state or federal government that would qualify under Section 503? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

And through you, Mr. President, again, I apologize to Senator McLachlan, I -- the import of the question is lost on me. If he might rephrase it?

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Through you, to Senator McDonald, I understand the challenge of the type of question, but if you have -- my concern is -- and I don't work for Catholic Charities, so I can't say that I, you know, that I'm their accountant, I understand the process. But I do understand government accounting, and government accounting is programmatic and contractual. And in many cases government funding is provided by a government agency to a nonprofit agency and that is a direct link of revenue flows. What is not a direct link of revenue flows between government and a nonprofit agency is

when a individual who is subject to benefits of government brings somewhat portable benefits with them to a provider. And my question is how is relationship treated in the exemption purported to be provided in Section 503? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you, again, this language is intended to deal with situations where the religious organization is receiving directly state or federal funds to a particular service of that religious organization, whether it's segregated out or distinct, I guess would be a factual matter. But the language is directed specifically at direct funding, not what I would characterize by the question as "indirect funding."

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you. And through you, Mr. President, thank you Senator McDonald for that clarification. I wonder if you might share -- you mentioned that this amendment fairly closely mirrors or is a very similar

to legislation passed in Vermont; and I wonder if you could briefly summarize what is the difference between the legislation in Vermont and what you're proposing in this amendment here? Thank you, through you.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, as I indicated earlier, this was a collaboration with members of the minority party, and perhaps some of them who had an interest in the actual language be able to clarify or expand on my comments. But with respect to the language of the amendment, it tracks the language of the Vermont statute in substantial regard with respect to the ability of a religious organization, society, or association to not provide their facilities or goods or accommodations or advantages to a couple in the solemnization of a marriage or celebration, if the marriage or celebration is in conflict with the religious beliefs of that organization. Again, that language very closely mirrors the language that was included in the Vermont legislation, as is the -- as does the language in rough measure with respect to the insurance portion amendment dealing with fraternal

benefit societies.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you to Senator McDonald, do you believe that the language proposed is discriminatory in any way? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, you know, well certainly it would be far from my responsibilities as a legislator to opine on the constitutionality of legislation. But I believe that the amendment before us strikes a balance between the deeply held religious beliefs religious organizations in the solemnization of a marriage, with the state's rights, or mandate, I should say, to provide for civil marriage to any two individuals who seek to get married. And since there are many other ways under which a couple could have a marriage solemnized or celebrated, it seems to me at least, that there viable alternatives that would allow for accommodation of both interests in this amendment.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you, Mr. President, to Senator McDonald, I thank you for those answers and I think I only have one more for now, if I may. And that really reaches out to the tax status of agencies, organizations, religious organizations; is it your understanding that this amendment protects a religious organization in that organization's tax status? In that there is not a way for government to penalize any organization solely and strictly because they are considered by this government in the state and/or federal government to be a nonprofit organization.

THE CHAIR:

Senator --

SENATOR MCLACHLAN:

As -- well let me clarify one more step. That there was a case elsewhere in the country where a question arose, specifically in New Jersey, where the tax status was called into question and the tax exemption for property was revoked by the state because of actions of that organization. Do you feel

that this will avoid any situation of that nature?

Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I don't know how to quite answer that question from Senator McLachlan without knowing an extraordinary amount of detail in what he's referring. I would suppose it would depend on a whole host of things, I can tell you that this legislation or this amendment does not mention tax status at all, doesn't deal with tax status at all, and to my knowledge, it's not intended to deal with tax status of any individual. If there was a specific targeting of an entity, I'm not certain how they would be treated differently under a tax law or not. It doesn't seem to make any sense to me, I'm not exactly certain what Senator McLachlan is referencing or the concern whether it took place in another state or not would have any viability under the laws of the State of Connecticut.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you to Senator McDonald, the language I read, quote, Any refusal to provide services, accommodations, advantages, facilities, goods, or privileges in accordance with this section shall not create any civil claim or cause of action or result -- and this is my point -- any state action to penalize or withhold benefits from such religious organization, association, or society or nonprofit institution, et cetera. That's what I'm zeroing in on, do you believe that that protects a religious organization, et cetera? In that they're nonprofit property exemption, for instance, cannot be called into question based upon their activities protected under this amendment. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you, as long as they were in conformity with the other provisions of the amendment and did not exceed the provisions of the amendment, they would not be, in my opinion, not be subject to any penalty or adverse action by the state.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I applaud members of this circle for working diligently over the last many days, and frankly, weeks and months at this point. And I thank Senator McDonald for his answers.

THE CHAIR:

Thank you, Senator McLachlan.

Will you remark further on Senate Amendment A? Will you remark further?

Senator Looney.

SENATOR LOONEY:

Thank you. Thank you, Mr. President. Speaking in support of the amendment, I believe that this amendment, Mr. President, does the kind of delicate and judicious balancing that is often necessary between competing and valid constitutional claims. And it recognizes the balancing of the rights of religious organizations, and also recognizes the -- in terms of the bill and the amendment, recognizing that our State Supreme Court has made a finding the Kerrigan case: The constitutional right of equality in marriage.

So this amendment, I think, does what good legislation does, is to try to create language that reflects that balancing act. And this is similar to the situation, as we know, that many federal courts have been called upon to deal with the competing claims of those who would protest at Planned Parenthood clinics and those sought access to the clinics; there have been buffer zones established to respect the free speech rights of the protesters who would try to admonish people going into the clinics against doing so, and yet recognizing the right of those to have access.

So in many cases we have conflicting constitutional claims and many of these times -- both of these are equally compelling, and what we have to do is to try to find a way to balance those interests and move forward. And recognizing a constitutional reality when it exists and as it has been defined by our supreme court in the Kerrigan case, so I believe this amendment does that. And it reflects a respect for a profoundly held, good faith religious belief of a religious organization, and at the same time it carves out, I think what is appropriate, as a constitutionally-narrow exception to the requirements

of the underlying bill.

There are many circumstances, Mr. President, that we know of when you have a situation where a religious belief may be in conflict with a civil reality; for instance, a circumstance in many religious groups -- the Roman Catholic Church solemnized between Catholics do not recognize the validity of a civil divorce. They recognize that it is, in fact, a civil divorce and they recognize the reality of that as a civil fact, but within the Church, people who seek to dissolve their union would have to pursue the annulment process. So we have many circumstances where a civil reality is recognized, but is not theologically accepted. And in many cases we have to move forward and try to balance, as I said, competing and equally valid constitutional claims. I believe that this amendment does that, and I think that's why it has the broad base of bipartisan support that's reflected in its sponsorship. And I urge adoption of the amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Looney.

Will you remark? Will you remark further on Senate Amendment A? Will you remark further?

If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

An immediate roll call has been ordered in the Senate, will all Senators please return to the chamber. An immediate roll call has been ordered in the Senate, will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your tally. The machine will be locked, the Clerk will call a tally.

THE CLERK:

The motion is on adoption of Senate Amendment Schedule A. Total number voting, 35; those voting yea, 33; those voting nay, 2; those absent/not voting, 1.

THE CHAIR:

Senate Amendment A passes.

Will you remark further on Senate Bill 899 as amended by Senate A?

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. The Clerk has in his

possession LCO 5938. I ask for it to be called and I be allowed to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5938, which will be designated Senate Amendment Schedule B, it is offered by Senator Witkos of the 8th District.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. As we have heard the conversations around the circle regarding the bill that is before us and how it is a civil process of marriage between same-sex couples, and I think there is no one that would argue with the fact that what happens between two consenting adults can stay between two consenting adults. But I think that there is some concern from folks around the state, evidenced by the plethora of phone calls and e-mails not only that I received, but I'm sure many of you have over the past 48 hours. And one of the concerns and the topic of those e-mails was the fact that certain topics would be discussed in our local schools, and parents had

felt that they would not have a say in the curriculum that would be taught to their youngsters as they attend the schools. And so this amendment moves to offer protections in that fashion. And I move adoption, Mr. President.

THE CHAIR:

The motion is on adoption of Amendment B.

Will you remark further?

SENATOR WITKOS:

Thank you, Mr. President. Ladies and gentlemen of the circle, what this amendment does -- it basically states that if marriage or human sexuality is a topic of discussion during a classroom or an event in the school, that the school must notify parents. And parents have the right to provide an opt-out provision for their son or daughter without a penalty being assessed to that student. And I would ask for a roll call vote when the amendment is voted upon, Mr. President.

THE CHAIR:

Thank you, sir.

A roll call vote will be ordered.

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. Mr. President, through you, some questions to the proponent of the amendment.

THE CHAIR:

Senator Witkos.

SENATOR DEBICELLA:

Through you, Mr. President to Senator Witkos, in reading this bill, this pertains to the teaching of any type of marriage and human sexuality, not simply gay marriage, is that correct? Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Through you, Mr. President, that is correct. There is no differentiation between heterosexual marriage or a homosexual, same-sex marriage. Through you, Mr. President.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President. And also, through you, Mr. President, can Senator Witkos describe how this might be similar or different to existing law that may be on the books. Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. Through you, Mr. President, on the current statutes there is a provision which allows parents to have their children removed from a family life educational program. And this just expands the family life educational program to include marriage, through you, Mr. President.

THE CHAIR:

Senator Debicella.

SENATOR DEBICELLA:

Thank you, Mr. President.

And I thank Senator Witkos for the answers to those questions.

Mr. President, I rise in support of this amendment. This seems like good, commonsense policy, not just in the context of the debate that we're currently having, but in general to allow very sensitive topics like marriage and human sexuality to have parental notification. And to make sure that the parents have a right to pull those children out of that classroom if they believe so appropriate.

But as Senator Witkos says, this expands beyond

the current law to ensure that we're very explicit that the teaching of marriage or sexuality is included in a broader array of classes than what is currently under law. And I think we would all agree as a policy that parental rights are a key constitutional right, as much as we have rights for religious organizations as in the amendment we just discussed.

So I thank Senator Witkos for bringing forward what I think is a very commonsense amendment, and encourage its adoption.

THE CHAIR:

Thank you, sir.

Will you remark?

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. I rise a few questions to the proponent of the amendment.

THE CHAIR:

Senator Witkos.

SENATOR KISSEL:

Through you, Mr. President, a question to the proponent of the amendment. And speaking of the economy, one of the concerns that I always have is clearly I'm hearing from my communities, my boards of

education, that they don't want any unfunded state mandates. And I'm inquiring as to whether there's any fiscal impact on municipalities regarding the required notice, and if there is a fiscal note attached to this amendment? Through you, Mr. President.

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you, Mr. President. Through you, there is no financial impact to the municipalities. In fact, there's language in the bill that states that the boards of ed -- the local boards of education, can use the manner currently in place when they notify parents as to the construction -- the curriculum or instruction provided to the students. Whether it be on a web site, through a curriculum night at the school, or whatever means that the local board of ed has currently adopted and is part of their policy. Through you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator Kissel.

SENATOR KISSEL:

Thank you very much, Mr. President. That

concludes my question my questions, but I would also like to associate myself with the remarks of Senator Witkos and Senator Debicella. I think this is a commonsense amendment, I understand that we have other parts of our Connecticut state statutes that afford parents, moms and dads that are concerned about especially the sex education component, and hygiene and all of that stuff component of their child's education that already we have in statute.

And I didn't really know this until in the last few days, that we already have in statute an ability for that parent to withdraw their student, their young boy or girl from that class without any penalty or negative ramifications. This amendment builds upon that, really makes it very straightforward and clear, and just expands upon that fundamental right that every mom and dad or parent or guardian has in the state of Connecticut.

And when we're dealing with this particular issue, where parents' sensitivities are heightened, and perhaps their feel very fervently and strongly regarding their religious beliefs, whether they're Catholic or Muslim or some form of Protestant or Jewish or any of the other varieties of religions we

have and respect here in the state of Connecticut, if for whatever reason -- or it may not even be predicated on religion, it could be simply that that parent or guardian wants to be able to teach their son or daughter or that young person those things in the familiarity of their own home, just for a certain comfort level so they know how that first impression is being given. We do that already, this is a small step in a direction of being sensitive to a concern that is expressed by parents guardians throughout my district, I know that for sure. And so we want to let them know, A, we're listening, and B, this is something that has already been available out there, but we're going to make sure that it's clearly available for this, so that they have that comfort level.

Should this bill actually move forward, I think this will be a welcome amendment. Thank you, President.

THE CHAIR:

Thanks, Senator Kissel.

Senator Gaffey.

SENATOR GAFFEY:

Thank you, Mr. President. Mr. President and

members of the circle, I rise opposition to the amendment. With all due respect to Senator Witkos, the existing statutes under Chapter 164 already allow a parent to exempt their child from family life program curriculum that may be offered in the public school system, a written notification to the local or regional school board is sufficient for the child to be exempt from such a program, and that's in 10-16(e). In 10-16(c) it defines the family life education program and curriculums to include family planning, human sexuality, parenting, emotional, physical, and psychological hygienic, economic, and social aspects of family life -- so it runs the gamut in that definition. And specifically in 10-16(e), I repeat, it does allow for parents to provide written notice to exempt their children from those courses. So with that said, Mr. President, I believe the statutes currently under Chapter 164 cover the concern that has been brought out here today by virtue of the amendment by Senator Witkos. And I would urge members to vote in opposition to the amendment. Thank you, sir.

THE CHAIR:

Thank you, Senator Gaffey.

Will you remark further on Senate Amendment B?

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I, too, rise in favor of this amendment, and for a couple of reasons actually. I am a parent, I have two young children, my son is five and my daughter is two and a half. My five year old will be entering school this coming fall, and I think it is important that we have parental involvement. And I want to know about the curriculum that my child is entering in school, and I think this goes a long way and I thank Senator Witkos for proposing it.

The other reason that I believe -- is because in talking to teachers throughout the state, most recently I went to a meeting in my district with a number of teachers, and one of the big concerns they have is parental involvement. And I think this strikes a chord with that, this actually gives the parent an opportunity to be involved with that curriculum, and gives them an opportunity to have a say in that curriculum and be allowed to take their child out of this curriculum if they feel so. So I appreciate that very much and I appreciate the amendment and will be voting in favor. Thank you, Mr.

President.

THE CHAIR:

Thank you, Senator Kane.

Senator Frantz.

SENATOR FRANTZ:

Thank you, Mr. President. Through you, Mr. President, a couple of quick questions for Senator Witkos, the proponent of the amendment.

THE CHAIR:

Senator Witkos.

SENATOR FRANTZ:

Thank you. I think it's a great idea, I will be voting in favor of this amendment. What I do what to make sure of is that this is an implementable and a rock solid requirement on the part of the schools to notify the parents of the subject matter or least the nature of the course that will be taught.

First question for you, Senator Witkos, is does it apply to the entire course or did you have in mind looking at just a particular small section of the course that parents might feel uncomfortable with?

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. Through you, Mr. President, and I'm glad you asked that question, Senator Frantz, because I wanted to go back to a comment that was made by Senator Gaffey regarding how it's already in our current statute.

Our current statute is explicit to "family life programs," and this amendment that's being offered goes beyond the current law, and it talks to all areas of instruction, not just the family life program. Because not every class, not every school has to offer a family life program, that's not a required curriculum. There are health programs, through the local boards of education, which is a requirement, and this bill -- or amendment would reach to those health curriculum programs that may talk about human sexuality or marriage that is not contained within the family life program; so it's comprehensive. Through you, Mr. President.

THE CHAIR:

Thanks.

Senator Frantz.

SENATOR FRANTZ:

Thank you. And to elaborate on it a little bit further with another question, how detailed would you

want these notices to be as they go out to the parents?

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. Through you, Mr. President, the detail is up to the local board of education. The bill is silent on that, all it states is that they must be notified if either of those two topics are coming up during instruction. Through you, Mr. President.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you. Through you, Mr. President, last question for you. What kind of notification or what would the conduit for the notification to take place are you suggesting? Is it a written notice, is it e-mail, is it bulletproof?

THE CHAIR:

Senator Witkos.

SENATOR WITKOS:

Thank you. It's the current practice that the local board of education has in place already for

notification to parents. So it's not anything above and beyond that, it's something that has been tried and true, and that's how they communicate with their parents regarding whatever curriculum that they're discussing in the school.

THE CHAIR:

Senator Frantz.

SENATOR FRANTZ:

Thank you very much for those answers. It's a great amendment, I'll be voting for it.

Thank you, Mr. President.

THE CHAIR:

Thanks, sir.

Will you remark? Will you remark further on Senate Amendment B?

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I rise in opposition to the amendment and would like to associate myself with the comments of the Senate Chairman of the Education Committee.

And as he already articulated, all of this is really already covered in state statutes. And specifically under 10-16(c), the family life

curriculum deals with family planning, human sexuality -- which specifically referenced in this amendment -- also deals with parenting, and the emotional, physical, psychological hygienic, economic, and social aspects of family life. With all due respect to the proponent of the amendment, Mr. President, I believe that marriage intimately tied into all of those things that are already enumerated in our statutes and through which a parent has a absolute and unfettered right to remove a child from that curriculum.

So I believe it is completely duplicative of existing law and I oppose the amendment. And I ask that when the vote be taken, it be taken by roll call.

THE CHAIR:

Thanks, Senator McDonald. I had already ordered a roll call vote.

Will you remark further on Senate Amendment B?

Senator Witkos, are you standing to speak? Yes?

SENATOR WITKOS:

Yes. Thank you, Mr. President, for the second time.

THE CHAIR:

Yes.

SENATOR WITKOS:

I just wanted to reiterate since we're quoting statutes -- and those that are speaking in opposition to the proposed amendment refer to Section 10-16(c), but I'll also refer Section 10-16(d), which states, Nothing in Section 10-16(c) includes or shall be construed to require any local or regional board of education to develop or institute such family life education programs. Therefore, the local boards of education don't necessarily have to have a family life program. However this amendment goes, as I reiterated earlier, to those subject matters wherein these topics may be discussed, that the parents have to know about it and they have the right to remove their child, if they so desire. Thank you, Mr. President.

THE CHAIR:

Thanks, Senator Witkos.

Will you remark further on Senate Amendment B? Will you remark further?

If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

Immediate roll call has been ordered in the Senate, will all Senators please return to the chamber. Immediate roll call has been ordered in the

Senate, will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be closed, the Clerk will call the tally.

THE CLERK:

The motion is adoption of Senate Amendment Schedule B. Total number voting, 35; those voting yea, 13; those voting nay, 22; those absent/not voting, 1.

THE CHAIR:

The amendment fails.

Will you remark further on Senate Bill 899 as amended by Senate A?

Senator Fasano, proposing a motion here.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, I heard the discussion between both Senator Caligiuri and Senator McDonald, and Senator Roraback and Senator McDonald with respect to Subsection 503, that talks about monies coming either from the state or federal government. And I think that the import of the question was whether or not if the money went for one

program, whether or not there could be some discrimination with respect to that program as opposed to all the programs. And although I think it was clear in the conversation that if state or federal money went to Program A, Program A could not be discriminatory, however Program B could be.

So Mr. President, with that -- in order to clarify what I believe to be some ambiguous language, I would ask the Clerk to call LCO Number 5943. And I would move the amendment and request permission to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5943, which will be designated Senate Amendment Schedule C, it is offered by Senator Fasano of the 34th District, et al.

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, what that amendment seeks to do is change and add as a last sentence of the current bill in front of us, and state after the word "federal funds" for that specific

program or purpose. So it identifies that the monies for that particular program or purpose, if they're state and federal funds, or federal funds, there can be no discriminatory issue there. However, if it's not for that particular fund or that particular purpose, then there can be.

Mr. President, the reason why I bring this amendment is obviously through the conversation -- and there's this delicate issue that's addressed in this bill with respect the foster and adoption issues; and I just want to be clear years to come from now, perhaps when someone can look at this legislative history that we did in this chamber -- that I appreciate from my colleagues. But more importantly, we have in the statute itself, should this bill pass, the exact meaning of what we mean and remove some of the ambiguity. So with that, Mr. President, I look for support from the circle. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I guess

it's my turn to ask, hopefully, a clarifying question, through you, to Senator Fasano.

THE CHAIR:

Senator Fasano.

SENATOR MCDONALD:

Senator Fasano, under this amendment, as I articulated in my prior comments, would the religious organization still be required to specifically delineate where their money was coming from for a particular program and how it was associated to that particular program or purpose?

THE CHAIR:

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Through you, Mr. President, absolutely. They would have to be segregated funds, absolutely.

THE CHAIR:

Thank you.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you, given that fact, I think it achieves what we achieved in our dialogue earlier and I would consider the amendment to

be a friendly one, and I appreciate Senator Fasano's offering of it. Thank you, Mr. President.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I stand in support of this amendment, I think I'll agree with Senator McDonald that Senator Fasano has really addressed the issue of concern that we can now channel funds and delineate where there may be concerns and questions as it relates to government funds going to a nonprofit agency. Thank you.

THE CHAIR:

Thank you, sir.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I, too, rise in favor of the amendment. Partly -- and actually because the reason I voted against the original amendment was because of this ambiguity that we had here. And I think this clarifies that, and that will make it stronger for me and I will support this amendment. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Kane.

Will you remark further on Senate Amendment C? Will you remark further?

Senator Fasano.

SENATOR FASANO:

Mr. President, I ask for a roll call vote.

THE CHAIR:

A roll call vote will be ordered, sir.

Any further discussion on Senate Amendment C?

If not, Mr. Clerk, please call for a roll call vote. The machine will be open.

THE CLERK:

A roll call has been ordered in the Senate, will all Senators please return to the chamber. A roll call has been ordered in the Senate, will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, please check your vote. The machine will be closed, the Clerk will call the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule C. Total number voting, 35; those voting yea, 34; those voting nay, 1; those absent/not voting,

1.

THE CHAIR:

Amendment C passes.

Will you remark further on Senate Bill 899 as amended by Senate A and C?

Senator McLachlan.

SENATOR MCLACHLAN:

Mr. President, I'd like to rise to -- for the purpose to call an amendment.

THE CHAIR:

Please proceed, sir.

SENATOR MCLACHLAN:

Mr. President, I'd like to call LCO Number 5913. And I move the amendment and wish to summarize.

THE CHAIR:

Mr. Clerk.

THE CLERK:

LCO 5913, which will Senate Amendment Schedule D, it is offered by Senator McLachlan of the 24th District.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. The purpose of this

amendment is for clarification of tax status, as it relates to organizations. And we had a very lengthy discussion about Section 7 of the underlying bill during the Judiciary Committee deliberations. And the underlying bill had an amendment of Section 7, that amendment, at the time, called into question federal tax code. And Section B -- Section 7, Subsection B, refers to 26 U.S. Code 3121, and that means that a religious organization or a nonprofit organization is to be essentially a 501(c)(3) status that has official federal recognition as a nonprofit organization.

And I would like to delete the language specifically that which mentions the Federal Code 26 U.S.C. 3121. And the reason for that is that there are a number of religious organizations, fraternal organizations, that do not have official, federal recognition as a nonprofit. And yet they carry on, they business as a nonprofit, they are active in charitable activities as a nonprofit; in some cases, I understand, they have very old sales tax exemptions in the state of Connecticut that go back many years, but may not have the official, federal recognition as a nonprofit organization. And yet we would commonly refer to them as a nonprofit organization in

Connecticut.

So I'll pass as some examples, it can be a little complicated, but I am a member of the Ancient Order of Hibernians, which is affiliated with the Catholic Church. And they have a parent organization which is a national organization, but the local Ancient Order of Hibernians does not in and of itself have a 501(c)(3) -- it's not a corporation as we would know it to be in nonprofit status. There are a number of other fraternal organizations, the Knights of Columbus for instance. Whereby the Knights of Columbus parent organization, known as the Knights of Columbus Supreme Council, is in fact a nonprofit organization, one aspect of that organization. And yet the local Knights of Columbus Council does not have its own certification as a 501(c)(3).

Now I discovered this, unfortunately, the hard way where -- by a local Knights of Columbus Council owned property, sold the property, and was subject to a very dramatic tax liability for this property because they didn't catch the fact that the organization that owned the property, the council organization, was not tax exempt. And so we have some cases that we can refer back to that clearly show

there are times when an organization, a fraternal organization, in some cases in the state of Connecticut even a church that has just been recently organized may not have this federal designation as nonprofit status.

So the nonprofit organization would have to spend a good deal of money to get the certification from the federal government; it often takes a period of time, sometimes six months to well over a year to get that certification. And so having recognized that we have identified these situations, we don't want to eliminate, clearly a religious organization, from Section 7, Subsection B the underlying bill, when it's clear to us that there are many religious organizations that don't have this status.

And so I ask my colleagues here in the circle to support this somewhat technical amendment, I hope it will be considered a friendly amendment. Thank you, Mr. President.

THE CHAIR:

Thanks, Senator McLachlan.

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, I rise

in opposition to the amendment. As Senator McLachlan noted, the language seeks to strike in this amendment was the subject of extensive debate in the Judiciary Committee. And I thought it was a very helpful debate in the Judiciary Committee and I was very grateful, frankly, when Representative O'Neill offered this language that is now sought to be struck. But I thought his amendment was a spot-on amendment that allowed for churches and qualified church-controlled organizations, as defined under the federal tax code, to come within the scope of this legislation. And it was a very healthy debate and I was encouraged that all members of the Judiciary Committee, including Senator McLachlan, voted for that amendment to insert this language into the bill.

So having done that work, I hope you will not undo that work here. And I should also mention that what we adopted as Senate Amendment A deals with many of the same related issues. So I consider the language offered in this amendment to be unnecessary and frankly, I think it would further confuse a very difficult subject within the law and within tax treatment of the law. So I oppose the amendment and I ask that when the vote be taken, it be taken by roll

call.

THE CHAIR:

Thank you, sir.

A roll call vote will be ordered.

Will you remark further on Senate Amendment D?

If not --

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Again, for clarification, I do recall that we had quite a lengthy debate in Judiciary. But I would like to bring to Senator McDonald's attention that we have since discovered that this does create a challenge for commonly acknowledged religious organizations.

And we believe -- I believe, that this simple amendment by eliminating the federal tax code from the description of a "church-controlled organization," really does give us the leeway that we're going to need from -- primarily fraternal organizations. And that even though Amendment A was universally acceptable, this Section 7, Subsection B, may unfortunately override the good work that you have accomplished with Amendment A and call into question fraternal organizations who do not have an existing

501(c)(3) status. And so I, again, urge this circle to seriously this relatively modest change that is very important to nonprofit organizations in the state of Connecticut. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator McLachlan.

Senator Fasano.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, I rise support of this amendment. Mr. President, I do so because I believe what it is is really a technical change in order to achieve the purpose for which the bill is presented. This change is because some organizations have not gone through the process of the IRS code and qualified, and that's the definition here. And therefore, Mr. President, in order to really comply with the spirit of the bill, I think the amendment helps to capture those who did not go the IRS route and get the qualification, but yet are a religious institution or organization. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Fasano.

Will you remark? Will you remark further on

Senate Amendment D?

If not, Mr. Clerk, please call for a roll call vote. The machine will be opened.

THE CLERK:

A roll call has been ordered in the Senate, will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate, will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted? If all Senators have voted, the machine will be locked. The Clerk will call the tally.

THE CLERK:

Motion is on adoption of Senate Amendment Schedule D. Total number voting 35; those voting yea, 11; those voting nay, 24; those absent/not voting, 1.

THE CHAIR:

Amendment D fails.

Will you remark further on Senate Bill 899 as amended by A and C?

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. Through you, I do have a question for the proponent of the bill.

THE CHAIR:

I believe that's Senator McDonald.

SENATOR KANE:

Thank you, Mr. President. Through you to Senator McDonald, can you clarify for me Section 2 of the bill, which talks about the relationship between our state and other states, through you.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you to Senator Kane, Section 2 is intended to state a public policy of this state that any two individuals entered into marriage in this state should be recognized as valid in any other state to the extent we can provide extraterritorial effect to our contracts that are provided under state law. The goal is to make sure that any two individuals who have entered into a marriage contract in this state would be provided the same rights, benefits, and responsibilities in any other jurisdiction if they happen to be traveling to such another jurisdiction -- might end up in a hospital, need medical attention. And that state might not, in this instance, have same-sex marriage

but might have civil unions, so they would be afforded as many protections and benefits in that foreign jurisdiction as possible.

THE CHAIR:

Thank you, Senator McDonald.

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. One more question, so you mentioned traveling, if they end up in a hospital or what have you, but what if -- so that doesn't mean if a person moves to another that they state has to recognize a law that we passed here in Connecticut? We're not imposing our law on another state, is that correct? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you, the bill would -- does address the issue of residing in another state. We do not have the authority to impose our law on another state, however there is a doctrine of the law that another state can look to the state of origin for the purposes and intentions of a statute in interpreting and applying that own state's domestic

law.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. So through you, if a couple is married here in our state and then moves to, let's say Florida -- I don't know -- and they don't have that very same law, we're saying that they should have the same protections under our law if they then move into another state? Is that what you're saying? I'm still not clear. Thank you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Mr. President, through you, the bill is intended to provide guidance to a foreign jurisdiction about what the scope and responsibility of a marriage contract is in our state. And to the extent that state's foreign law -- I should say, to the extent that state's domestic law would accept a policy statement from a foreign jurisdiction, in this case Connecticut, we would have provided that to them. Clearly they ultimately would have to reconcile that state's law with our law, and that is

something lawyers know well as the "conflict of laws" -- there's an entire course on it in law school because these types of problems arise frequently.

THE CHAIR:

Senator Kane.

SENATOR KANE:

Thank you, Mr. President. I guess, through the Senator's answers, we are providing guidance to other states on laws that they may not yet have made or constructed themselves. And I've been -- and obviously Senator McDonald, you know far more about the law than I do, but it just seems a bit precarious to me that we'd be providing guidance to other states in regards to what laws they may or may not have on their books. So I just -- I appreciate the Senator for his answers, but I'm still a little concerned about that particular item. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Kane.

Will you remark further?

Senator Caligiuri.

SENATOR CALIGIURI:

Thank you, Mr. President. I rise in opposition to the underlying bill. And very briefly, I disagreed

with the majorities decision, the Kerrigan case, but that's water under the bridge. And I understand the need to codify the impact of Kerrigan, but I believe that we have to do it in a way that maximizes the protection of freedom of conscience and freedom of religion for religious institutions and associated organizations that disagree, as a matter of conscience, with the majority's opinion in the Kerrigan case.

And although the underlying bill as amended takes important steps forward in terms of protecting that freedom of religion and freedom of conscience, I do not think it goes nearly far enough in doing so. A prime example, although not the only example, is the colloquy that Senator McDonald and I had about whether the amendment that was adopted, Senate A, would protect a religious institution from being required to recognize the validity of a same-sex marriage. And the answer, in effect, was no. That is so fundamental to the freedom of religion and the freedom conscience of many religious organizations and institutions, that I believe that makes this bill fatally flawed.

Notwithstanding the fact that I understand that it is a best practice, and in fact, a necessity for us

to codify Kerrigan whether we agreed or disagreed with the outcome of that court case. And for that reason, principally, the lack of adequate religious freedom and conscience protection, I intend to vote against the underlying bill. Thank you, Mr. President.

THE CHAIR:

Thanks, Senator Caligiuri.

Will you remark further? Will you remark further on Senate Bill as amended by AC?

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. Through you, Mr. President, to the proponent of the bill for the purpose of questions.

THE CHAIR:

Senator McDonald.

Please proceed, sir.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you to Senator McDonald, I wonder if you could clarify some more issues of the underlying bill and what your perception is about what this means. If a religious college offers special housing for married students, can they be sued under housing discrimination laws for

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offering that housing to opposite-sex couples but not for same-sex married couples?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, that question is an interesting one and an important one, but it's far beyond the scope of the legislation that's before us today. This legislation does not in anyway address the public accommodations laws that have been in place and the nondiscrimination laws that have dealt with sexual orientation and marital status for many years now. So that question would depend on whether or not the school fell within the scope of our nondiscrimination language for housing under existing CHRO law.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you. Through you, Mr. President, thank you, Senator McDonald. Now that raises a very important point, and that is that does Senate Bill 899 mean that this Legislature should very rapidly revisit 1991 discrimination laws that currently are on the

books in the state of Connecticut? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

No.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

And for such a very simple answer, I appreciate that. But why is it that you say "no," when there is a perception that same-sex marriage coming by judicial order has very dramatically changed in some people's perception the nature of anti-discrimination in the state of Connecticut?

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, the Kerrigan decision addressed something completely different from the question posed by Senator McLachlan. The question posed by Senator McLachlan is a policy question that has been addressed by the Legislature, and frankly, with respect to sexual orientation issues, has been

resolved for about 18 years now. To my knowledge there's no clearly identifiable problem that anybody has articulated to me.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you. And through you, Mr. President, thank you, Senator McDonald. So for clarification, you believe that the adoption of Senate Bill 899 and codification of the Kerrigan decision does not essentially obligate the Legislature to address and seriously revisit discrimination laws in the state of Connecticut? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, that's not what I said. I indicated that this legislation codifies the nondiscrimination mandate by the Connecticut Supreme Court, the question raised by Senator McLachlan dealt with an entirely different issue that has not been litigated, that has not been identified as a problem. And though I think we would be more than willing to look at something if we had a clearly articulated

problem, I haven't seen one yet and that's the basis of my answer to the Senator.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you to Senator McDonald, when we had another lengthy discussion in the Judiciary Committee about Section 17 of Senate Bill 899 and specifically 46a-81r, and the presence of that in Senate Bill 899 and in fact Section 17 as we see it today strikes for 46a-81r. I wonder if you might, please, summarize why that is the case, given our discussion in the Judiciary Committee where I believe your comment to me was something along the lines that that was a law on the books that meant nothing and would mean nothing if we remove it. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, to Senator McLachlan, striking the language -- in 46a-81r has multiple reasons for doing so; not the least of which is that it is, in my opinion at least, it is highly demeaning

and disrespectful for individuals who are homosexual or bisexual and demeans their status in our state, demeans their position in our society.

And significantly, for purposes of this legislation, I would be remiss if I didn't bring to the attention of the chamber the Supreme Court's opinion on that language. And specifically in the Kerrigan case, the court quoted the language that Senator McLachlan has now referenced and says in that decision that, The mere existence of that language represents a kind of state-sponsored disapproval of same-sex relationships and consequently serves to undermine the legitimacy of homosexual and to perpetuate feelings of personal inferiority and inadequacy among gay persons and to diminish the effect of the laws barring discrimination against gay persons. Indeed the purposeful description of homosexuality as a "lifestyle not condoned by the state" stigmatizes gay persons and equates their identity with conduct that is disfavored by the state.

I fully subscribe to that language of the supreme court, I find the language that is being removed to be highly offensive to individuals who may not be in the majority of citizens in our state. And in my reading

of Kerrigan at least, the court has indicated that it is state-approved disapproval and that is why it is being eliminated in this bill.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And I appreciate Senator McDonald's answer on that -- respectfully I disagree, I guess, in substance. But I might say, I guess if we're going to quote opinions I'll turn to Justice Gordon, who obviously was not part of the majority in his opinion. But his quote -- and what he wrote was, I read 46a-81r as what it says. The state is neutral, not hostile toward homosexuality. In other words, the inclusion of this section makes clear that although the Gay Rights Act was intended to remedy past discrimination against gay persons, it was not intended to favor the group over any other.

Indeed, the remarks of Representative Richard Tulisano in explaining 46a-81r on the floor of the House of Representatives in 1991 are consistent with that view. He indicated that, quote, in this political document there is no intent here to say that by passing and expressing our desire to protect people

it is necessarily to mean to say we affirmatively vote for that particular lifestyle. And as a political document, that is left there to tell people that is something for each individual to make up for themselves, but the state is not going to be doing it in that particular area, unquote. Representative Tulisano also explained that this language was inserted to rebut, quote, false pieces of literature that had suggested to the contrary. And that, quote, the act deals with stopping acts against people, to protect people from others, to make sure people aren't held back from their rights as individuals, as humans that they should be entitled to not to grant particular rights, unquote.

But I guess my point is that we are removing from Connecticut General Statute some language that some believe is removing protections to conscientious objector or something of that nature, an individual of that nature. And the proposal that I made in the Judiciary Committee, which I am leaving on the table today, not offering today, was to keep this language in state statute but just remove Subsection 4, which related to same-sex marriage. And so my question to you is, do you see any regard where individuals are

losing rights by the removal of this language in Connecticut General Statutes? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I would characterize the removal of this language as enhancing the dignity of gay and lesbian individuals in our state and to no longer relegate those individuals to the margins of our society, but to embrace them as full and equal citizens in our state.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. I appreciate Senator McDonald's comments. I certainly believe in equality, I don't question the need in this country, in this state that we have equal protection, but I'm just trying to get to the basis of what was the reason for the language? And specifically if it was so important then, why is it no longer important when a lot of the language does not specifically talk about same-sex marriage? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I thank Senator McLachlan for the question. I certainly don't know that I could answer the what was the intention of the General Assembly in 1991, I didn't have the privilege of serving in this General Assembly at that time. What I can say to you on good conjecture is that it was probably the adequate sentiment of the General Assembly at that time.

But, you know, Mr. President, something profound has happened in our state since 1991, and we have come to know in our state that we can accept individuals who might not be like us and not be threatened by those individuals, not needing to put others down so we can be big. And I think Mr. President, the world and particularly this state, has changed substantially since 1991 -- I would suggest that even since 2005 when we passed the civil union legislation, our state has changed.

We thought in 2005 that passing civil unions was absolutely landmark -- and I remember the Hartford Courant wrote an editorial the next day saying you

could almost feel the earth move after we passed that legislation. And yet just a couple of years later our supreme court said, that is not enough. Opinion, perceptions, public acceptance, public understanding and appreciation, have evolved extraordinarily fast and it has been a wonderful process to observe. So that rapid evolution of public opinion, Mr. President, has been profound, perhaps shocking to some of us in this circle, but the public, I would suggest, is way ahead of some people are elected to represent those members of the public.

So to answer your question, Senator McLachlan, I believe that the statement in the legislation that was advanced in 1991 may have represented the opinion of the General Assembly at that time. In my opinion, it doesn't anymore.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And thank you, Senator McDonald for your observation of the difference of the General Assembly from 1991 to 2009. But I would like to clarify, if I may please, the statement that -- the response that I've had that Section 17, that repeals

Section 46a-81r, is basically irrelevant assuming that Subsection 4 remains -- or is repealed. So 46a-81r, assuming that Kerrigan removes Subsection 4, if the presence of that language has no purpose now, as you had talked about in the Judiciary Committee, could you please clarify that statement that it no purpose now and it has no purpose -- and makes no difference when it's removed. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Thank you, Mr. President. Through you, in my opinion the language does not advance any right, it does not represent anything more than a statement of purpose in 1991. It, in my opinion, is of no purpose anymore and beyond not having a positive purpose, its continued existence in our statutes has a demeaning effect. And I believe, in my opinion -- that I believe that the Kerrigan decision also reflects that the continued existence of that language in our statutes is harmful to the individuals to whom it is addressed, and should no longer have continued viability in our statutes and should be happily expunged from our statutes.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you, to the proponent of the bill, thank you, Senator, we -- I understand your heartfelt joy that this bill has come to where it is. I hear your observation of the whole process over many years, I don't dispute that that is a victory for a number of residents of the state of Connecticut. However, with all due respect, there are a number of residents of the state that are not happy with this decision. And so I'd like to ask you, what is your observation of this process as it relates to a conscientious objector? And as an individual there are federal statutes for conscientious objectors, there are protections in federal statutes for conscientious objectors. Through you, Mr. President, to Senator McDonald, what do you believe this General Assembly should do to provide protections for conscientious objectors as an individual? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I can only answer that question by saying that, in my opinion, nobody is harmed when our Constitution is upheld. And though individuals may disagree with the Connecticut Supreme Court's decision, it is in fact the constitutional interpretation that is controlling, it is our obligation as citizens to adhere to that decision. And in my opinion, it our obligation to implement legislation giving effect to that decision. In my opinion, since it was asked for, I do not believe anybody in the state is harmed when we uphold our Constitution.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you, Mr. President, to Senator McDonald, so for clarification, federal law allows for protections to conscientious objectors in the health care field as it relates to health care procedures like abortion. And so point is, is there in your mind any time that you believe that a similar scenario may be made available in conscientious objector protections to an individual as it relates to same-sex marriage in the state of

Connecticut? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I don't know of any other area of the law whereas somebody has a right to use the term used by Senator McLachlan to conscientiously object to a constitutional mandate. I don't know of anybody who says I have a conscientious objection to one man, one vote, I want two. I don't know of anybody who has a right to say that the income tax applies to everybody but me. That's not what we do in this country, we are a country and a state of laws. We don't cherry-pick constitutional rights that we like and dislike, we live by all of them that apply to all of us.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And I think we should all live by the laws of this land, I agree with that wholeheartedly. However, it is common fact that the United States Supreme Court, through Roe versus Wade, gave a decision to order abortion in the United States

of America. The Connecticut Supreme Court gave a decision to order same-sex marriage in the state of Connecticut, and that's the parallel I'm trying to draw with you. Is there any similarity with health care professionals' conscientious objector protection as it relates to abortion? Is there any similar type of anticipated protection as it relates to same-sex marriage? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, none that makes any sense to me.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

So I guess you're suggesting that some type of litigation would have to occur to facilitate such a thing? As I understand that's ultimately what happened in the United States Supreme Court when such conscientious objectors were protected post Roe v. Wade. Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, well, if I could take off my "legislator hat" for a moment and put on my "lawyer hat" -- I guess these are the types of issues that make lawyers happy, because there certainly are always opportunities for people to seek redress in the courts for any perceived legal harm. And there's nothing in this legislation that would prevent anybody from advocating and advancing their rights or perceived rights to final adjudication in the court system.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President. And through you to Senator McDonald, I guess that that sort of goes to my point. That the concern that I have, that many residents have brought to my attention; me not being a lawyer, lawyers have brought to my attention; that Senate Bill 899 as we see it now, even with amendments that appear to show some degree of protections, is frankly, a litigators goldmine. That we have a great opportunity in this Legislature to very finely craft the codification of Kerrigan and very fine craft

serious protections that will avoid litigation, and I fear that we're leaving that opportunity on the table.

So for clarification of another item, if I may, in the construction of Senate Bill 899, when Section 7 was discussed in the Judiciary Committee and we had several amendments and a fairly lengthy discussion, you duly noted that Representative O'Neill came up with a responsible amendment that appeared to, as I recall, had universal acceptance and unanimously was passed -- I voted for it too. Do you believe in light of information that I brought to your attention today, that we now are right out of the gate creating a tax challenge to the very organizations, religious organizations in this state that are doing good charitable work in this state? Do you believe that it's acceptable that we leave that open question unanswered as we move this bill forward? Through you, Mr. President.

THE CHAIR:

Senator McDonald.

SENATOR MCDONALD:

Through you, Mr. President, I believe to the greatest extent possible given the Kerrigan decision and competing interests, we are trying to protect

their rights as well as protecting the rights of the individuals within the scope of the court's decision.

THE CHAIR:

Senator McLachlan.

SENATOR MCLACHLAN:

Thank you, Mr. President.

Thank you, Senator McDonald, for your answers. And thank you for all your hard work on this, because I know that you've lived with this for a long time, you've obviously given it your heart and soul, and we just disagree. And that's what the process is here in the General Assembly, I don't think it's any secret that I disagree very strongly with the Kerrigan decision.

I frankly, am discouraged, quite discouraged that any court would legislate from the bench. And I have some friends who are judges and I know it's coming, but there's nothing to me -- and now as a Legislator, to have courts legislate from the bench. And I think this was a case where the General Assembly had demonstrated in 2005, that they constructed the civil union bill, and it appeared very clear to many people that a constructive conversation about where we are today was already underway. And yet the Kerrigan

court felt that they needed to pluck the issue out and make their own decisions, and I don't think that's good.

I don't think it's good for our democracy, I don't believe it was good for those who are being protected by this decision, I don't believe it was good. And the reason why I don't think it was good is that the Kerrigan decision is so flawed in that it does not clarify the protections that are necessary that we try to address today.

And there are so many unanswered questions, that now we're going to be in court for years trying to fix Senate Bill 899 and the statutes that are being developed as a result of it. And so the point is that legislating from the bench like that without giving us the real answer is not constructive, I believe it's destructive.

And so that's my loud message across the street, that I just honestly hope and frankly, I honestly pray -- and someone accused me I can't confuse church and state -- well, I'll tell you that I pray all the time, I sat here for the last three hours saying prayers hoping that deliberation was going to go right. And I hope and pray that we're not going to

have another Kerrigan on our hands where we're scrambling to fix the problem.

Now the reality is that there are many people who are being affected by this who didn't ask for it. And I believe that we must revisit again and again the specific detail of our discrimination laws to be assured that we're not going to have litigation as it relates to the Kerrigan decision, but more importantly, that the conscientious objector of the state of Connecticut does have some protections and that's an important, very important point. That there are many people who are friends, neighbors, enjoy spending time with people who are gay, myself included, who just respectfully disagree with the fact of marriage. And I still believe that marriage, in my faith and in my understanding is between a man and a woman, but the court says otherwise.

So if we have a number of people in this state that feel that way, then they should be acknowledged. And this Legislature has the opportunity, if not today, then hopefully very soon, to very carefully construct the protections that are necessary for those who are in a same-sex marriage and those who are not and don't acknowledge it personally.

The health care professional in the United States of America can respectfully decline to perform an abortion and that is allowed under federal law. Now I'm not a lawyer, I can't quote all the details, and that's the conscientious objector clause in the health care field. And so why aren't seriously considering the conscientious objector clause to this scenario? I ask for this General Assembly to consider this very carefully.

I will not support the underlying bill, but I do hope and pray that we will continue the discussion so that this important legislation becomes more palatable to all and avoids the nightmare of litigation for many years to come. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Will you remark further?

Senator DeFronzo.

SENATOR DEFRONZO:

Thank you, Mr. President. President, first I want to thank Senator McDonald and Senator McKinney, Senator Roraback, Senator Williams, and others in this chamber who stepped up and demonstrated extraordinary leadership in the last several days in putting

together an amendment that I think was needed in part -- and addresses the issues of religious freedom and protections that have been the subject of the debate for the last five or six hours now.

And to you, Senator McDonald, I especially extend appreciation. This is a difficult topic, difficult issue to deal with and to amend this very important piece of legislation.

I do want to make a comment though about the references to conscience here. I have lived as a conscientious objector my entire adult life, having objected to the war in Vietnam. And it is appalling to me, quite honestly, Mr. President, to hear the description of the use of conscience. Conscience is not something that gives you license to pick and choose what you like, it's not license to discriminate at will, it's not a permit to determine what selective treatment will be extended today and what will be withheld. Conscience is something that you use in rare occasions when you're confronted with a moral challenge, and it's something that we don't typically extend to institutions, it's something that is recognized as an individual right. It's embedded in the values of our Constitution, it's something that is

rarely exercised. There are protections, but there also comes with those protections responsibilities and sometimes penalties.

When I was a young man waiting for the draft board to decide on my fate for four months in the summer of 1970, the alternative to having that granted would be two years in federal jail -- federal prison, not a outcome my wife or I would have preferred, it was a difficult time for both of us. Fortunately the draft board ruled in our favor, I did two years of alternative service to the draft. These are weighty subjects, and I believe firmly that conscience should rule a lot more of decisions and what we do. And I think I agree with Senator McLachlan in some ways that conscience is an important part of this debate, but it's not the kind of conscientious activity that should be frivolously thrown around. It is something that should be heartfelt, something that's fundamentally important to all of us -- to us as an individual I should say, and only rarely should something like that be practiced and implemented in our personal lives.

So I do think the amendment that we put on this bill today with the input from leaders on both sides

of the aisle, goes a long way in addressing and extending those protections to individuals and institutions that we would like to see on a monumental change in social policies we've witnessed in this court decision. And again, I want to express my gratitude to Senator McDonald and others in this chamber for their leadership, it's a difficult process of change, but it's an important one. And I am very proud to be able to support this bill as amended. Thank you, Mr. President.

THE CHAIR:

Thanks, Senator DeFronzo.

Will you remark? Will you remark further on Senate Bill 899 as amended by A and C?

Senator Fonfara.

SENATOR FONFARA:

Thank you, Mr. President. Good evening. Mr. President, I rise in support of the conforming legislation. I recognize that the decision of the supreme court in October of 2008 is a difficult one for some in this state. I also recognize that the vote here tonight is in many ways anticlimactic, especially when we consider what the atmosphere would have been here this evening had this vote been to, in

fact, rewrite Connecticut law rather than codify the decision of the supreme court.

Mr. President, in the course of this session, I along with all of my colleagues here in this circle will cast hundreds of votes, and over the course of my career thousands of votes, but I am most proud of the one that I will cast here shortly to codify the decision of the supreme court. To cast my vote to join -- to give individuals who wish to take on the rights and responsibilities that marriage in this state currently affords the majority of couples. And to no longer legally sanction second class status upon those who -- for many, is one of the most important life decisions any of us will ever make. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Senator Meyer.

SENATOR MEYER:

Thank you, Mr. President. I speak as much to my constituents on this emerging day as I do to my colleagues here in the chamber. The amount of correspondence each that each of us gotten has been enormous. Indeed, in my five years in the State

Senate, I'm not sure I've heard from as many people on any other issue as I've heard on this. And unfortunately some of it that I've heard has been based upon misleading information.

I want to describe what we're doing today in the most clear terms I can. A decision came down some months from our highest court in the Kerrigan case, and what we did was we decided to codify that decision. Now was that a good decision? Did we have to codify the decision? Yes, we did. Because the existing law before codification says that -- refers to a bride and a groom, it refers to a man and a woman, it says that the policy of Connecticut is to have only marriage between a man and a woman, and the high court of Connecticut reversed that policy based on constitutional principles.

It said in effect that we were in providing for marriage between a man and a woman, we were breaching the Constitution of the United States and the Constitution of Connecticut, in the equal protection of the laws. That people of the same sex were being denied the equal protection of the laws as those of us who are married to women or women who are married to men.

And so what this bill did was really our responsibility to put into law what the court decided. And we knew and we know today that we don't decide, we the General Assembly don't decide the Constitution. The ultimate and last arbiter on the Constitution is the highest court in Connecticut, the Connecticut Supreme Court. And when it spoke on the Kerrigan decision, it set down the constitutional principle concerning marriage. And so we in our "codification," as it's called, mechanically codify that.

Now today we've done something else. We've heard our constituents concerning the question of religious liberty, we really believe in the First Amendment. We know that the people -- the colonists who founded this country came here for reasons of religious freedom, and so what we did in the amendment that we passed today was that we provided that notwithstanding anything else in the laws in the state of Connecticut, that a religious organization, a religious association, or a religious society or any nonprofit institution or organization operated by one of those things shall not be required to provide services, accommodations, advantages, facilities, goods, or privileges to an individual if it relates to the

solemnization of a marriage or a celebration of a marriage which is in violation of that person's religious beliefs.

We gave honor to the first amendment, we gave honor to the strength of religion, and in the bill in chief we did that again, in a different way. We looked specifically in Section 7 at the clergy and at churches and at church-related organizations, and we provided that no clergy person, no church, or no church-related organization would be required under the law of the state of Connecticut to participate in a marriage which was against that clergy, that church, or that church organization's beliefs -- religious beliefs. Again, we gave honor to the religious beliefs, religious convictions. In some ways as I listened to Senator McLachlan I felt that was our statement of conscientious objection. That gave support to those who had a conscientious objection based upon their religious convictions.

So I do hope -- I know that the circle understands this bill, we've been living with it for some time. But I hope that the simplicity of this bill as it relates to codifying what the high court directed -- and we sought further to honor our

religious convictions -- I hope that my constituents, as well as my colleagues in the circle, will put it in that full perspective as we carry out this very significant step today. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator.

Will you remark? Will you remark further on Senate Bill 899 as amended by AC?

Senator Fasano, would you like to speak?

SENATOR FASANO:

Yes, Mr. President.

THE CHAIR:

Please proceed.

SENATOR FASANO:

Thank you, Mr. President. Mr. President, there's no question in my mind that I believe in the principles that the supreme court announced when it stated that over the years those with sexual preferences which have not been termed "traditional" have had discrimination, and I understand the point for which the supreme court then went on to expound upon it's decision. However, Mr. President, the issue I take with the supreme court's decision is the fact that the court, to me, in my view, took a slap at this

Legislature. It stated that we didn't do our job, that we failed to protect those rights and we were slow and unreactive.

Mr. President, I'm proud of this circle, each and every one of you in this circle. And over the years, as Senator McDonald indicated, this circle dealt with these difficult issues, came up with anti-discriminatory language, came up with civil unions. And I think there isn't anybody in this circle who doesn't believe that this issue would have came about -- gay marriage would have came in front of this circle in a short period of time. The dissent points that out in that decision, and I applaud the dissent for doing so.

That is a legislative function, and we do our job and we've done our job. And I, frankly, take it as a personal front that the supreme court stated that didn't do our job. We were the first ones without a court order to pass civil unions, we stood up for gay rights. And then you say we didn't do our job? Not right. It's not right. We take our functions serious, we do it with great debate; we don't just jump to something that hits us, we have to think about it, we got to put it out to the public, and have

debate.

So I have a serious issue with the supreme court decision in the way they characterize or rationalize their decision. That all being said and put aside, in front of us is the codification of their decision and what we believe to be the public policy to the state of Connecticut. Certainly we could reject the bill in front of us and tell the supreme court, we'll do it when we want to, and it did speed up the time frame. But when I read the bill as amended, I support this bill wholeheartedly.

I believe that this bill makes sense. And unlike the supreme court, this circle worked together. It worked out its differences, it worked out the problems, not only that we had in each of our districts with the religious organizations, but with advocates on both sides.

And this circle, when it got information that was wrong, I know each of us reached out to our constituents to correct the wrong information by people trying to sabotage what we would be doing in this building. I know I, for one, reached out to every person who called me and contacted me, either in favor or against the bill, either by way of a phone

call or e-mail, and explained my position of what I was going to do based upon what happened today in this room. And also corrected the misinformation that they were told, that if I were told that information, I would be against the bill, if that information were true. But it was wrong, had no fact to support it, pure fabrication and played on fears.

And our job as a legislature is to look at that, look at the facts that are presented to us and then do what's good for the state of Connecticut -- and I believe this circle is going to do that here tonight.

So Mr. President, I am going to support this bill as amended for the variety of reasons for which I said, and as we all know in this building the best legislation comes by compromise and talking. And I want to thank everybody, those in the gallery as well as those around this circle who did just that this afternoon, who pulled together and said, let's do what's right for the state, let's put this issue behind us, and let's move forward as one state. Thank you, Mr. President.

THE CHAIR:

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President. Mr. President, speaking in support of the bill as amended, I believe that this bill as amended does, in fact, reflect the work of the General Assembly at its best and this State Senate at its best. With the key amendment, Amendment A, adopted in a bipartisan way; Amendment C, regarded as a friendly amendment and adopted, the bill has been refined in a way that reflects the best traditions of this State Senate.

And seconding the comments of Senator Fasano, we had to overcome some problems that were created outside of this chamber. There was misrepresentation of the content of the bill, I think there was an effort in some quarters to polarize the issue in a way that was damaging, and we have overcome that, I believe.

And will overcome that if we have a resounding vote in favor of this bill this evening, which accomplishes three objectives, Mr. President: Does in fact codify the decision Kerrigan and is necessary to do so to have our statutes reflect that supreme court decision where constitutional principle has been annunciated and defined in that decision; secondly, the bill as amended removed some outdated and

anachronistic language that really did need to be removed; and third, it provides for a balanced protection and accommodation of the rights of religious conscience. And that is what we have accomplished, I believe, both in the underlying bill and also in Amendments A and C that were adopted this evening.

So I think we can take great pride in the work that we have done here this afternoon and this evening in responding to the best of our own traditions and what the people of the state expect of us. Thank you, Mr. President.

THE CHAIR:

Thank you, sir.

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President. Mr. President, I rise in support of the bill as amended -- and I will try to be brief in my comments. First, let me agree wholeheartedly with the distinguished Majority Leader that the bill that we have before and the process by which that bill came to be and was amended is an example and a demonstration of the Connecticut State Senate and our General Assembly working together to

try to solve what are very difficult and emotional issues. At any time you involve a government and religion we get into some very difficult issues and tread on ground that many of us don't want to tread.

And I think the product before us is a good one, and it is one that I believe moves our state forward. I also would agree with comments made, I believe, by Senator Fasano and others that at the end of the day it probably would have been better for the state of Connecticut had the decision on whether or not to recognize same-sex marriage was made by this Legislature, and not by a court. I do believe that the court was exercising its proper role in interpreting our Constitution, but what I think in terms of acceptance of the public that that debate would have been better, had it been in this circle and in the House of Representatives downstairs.

Having said that, the court's ruling in Kerrigan is the law of the state of Connecticut, and whether decision was 4 to 3 or 7 to nothing, it is of no moment. It is the law, it is something that we need to respect and understand, and move on as a society. And I believe one of our obligations and roles here was to clean up language in our statutes that was

inconsistent with the ruling in Kerrigan, and to show the people of the state of Connecticut that it is the law of the land and we are moving forward.

These clearly are very difficult issues, but I guess when we get into times like this, sometimes we often refer to personal issues. But regardless of your feelings on same-sex marriage, regardless of your deeply held religious beliefs -- which we would ask no one to give up and surrender -- our state of Connecticut does recognize same-sex unions, and it is time that as a people that we understand that and that we move forward with that. And that all of us try to learn as a society that we need to be -- without giving up our religious beliefs and convictions -- but that we be understand and accepting so that we can all move forward and be a better society. I think at the end of the day we all will do that here in the state of Connecticut. I think as a legislature we've helped play a role in that process, and I think that process that we've engaged in has been a good one and has been good for the state of Connecticut. So I rise in support of this bill as amended, and urge my colleagues to similarly support it. Thank you.

THE CHAIR:

Thanks, Senator McKinney.

Will you remark?

Senator Williams.

SENATOR WILLIAMS:

Thank you, Mr. President. I rise to support this legislation. This legislation affirms the constitutional rights of same-sex couples. I feel privileged to live in this state and to live in this country.

We have a democracy that is dynamic, it changes and progresses with time. During the American Revolution when Thomas Jefferson wrote the Declaration of Independence he said, "All men are created equal." But we know that at that time in our history he wasn't talking about African Americans or minorities, they were not equal; or Native Americans, they were not equal; or half the population, women, they were not equal. But in this country we strive to create a more perfect union, that should make us proud. We can look back throughout our history and what we have done, and sometimes it takes time -- is to create a more perfect union by recognizing the rights of our citizens and the people who live in this country.

So today when we say, all men are created equal,

we also mean women, we also mean minorities, we also mean Native Americans. And in some cases that has come through legislation, in some cases it's come through court decisions. We can be proud of what we've done in Connecticut, some of the discussion here earlier reminded me of some history in Connecticut. In 1833, this Legislature passed a law on the petition of many citizens, some of whom were doctors and lawyers and teachers and ministers, and that law discriminated against blacks and their ability to get an education in the state of Connecticut. At the time, that's what the people thought was right. Fortunately it only took five years in the state of Connecticut for the legislature to reverse course, repeal that law, and some of the folks who sponsored it stood up and essentially apologized. As a matter of fact, Senator Phillip Pearl, State Senator Phillip Pearl who was from Hampton, who was one of the original sponsors of the so-called "Black Law," in 1838, was one of the principal drivers toward the repeal of that law. He said he was wrong and that he could weep tears of blood for the discrimination that resulted from that law.

We changed, we progressed, that is our history as

a state, that's our state as a country. So what we do today is to codify the constitutional rights recognized by the supreme court for same-sex couples. We can be proud of that step forward.

Martin Luther King once said, "The arc of the universe is long, but it bends toward justice." What we do today is to take a step away from discrimination and take a step toward tolerance and justice. Thank you, Mr. President.

THE CHAIR:

Thank you, Senator Williams.

Will you remark further?

If not, Mr. Clerk, please call for a roll call vote.

THE CLERK:

Immediate roll call has been ordered in the Senate, will all Senators please return to the chamber. Immediate roll call has been ordered in the Senate, will all Senators please return to the chamber.

THE CHAIR:

Have all Senators voted?

If all Senators have voted, please check your vote. The machine will be closed, the Clerk will call

the tally.

THE CLERK:

Motion is on passage of Senate Bill 899 as amended by Senate Amendment Schedules A and C. Total number voting 35; those voting yea, 28; those vote nay, 7; those absent/not voting, 1.

THE CHAIR:

The bill as amended passes.

Senator Looney.

SENATOR LOONEY:

Mr. President, I would move for suspension for immediate transmittal of Senate 899 to the House of Representatives.

THE CHAIR:

Motion is on suspension, seeing no objection, so ordered, sir.

Senator Looney.

SENATOR LOONEY:

Yes. Thank you, Mr. President. Mr. President, I believe the Clerk is in possession of Senate Amendment -- excuse me, Senate Agenda Number 3 for today's session.

THE CHAIR:

Mr. Clerk.

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CONNECTICUT
GENERAL ASSEMBLY
HOUSE

PROCEEDINGS
2009

VOL.52
PART 7
1947 – 2283

Those voting Nay 8

Those absent and not voting 11

DEPUTY SPEAKER GODFREY:

Bill as amended is passed.

Speaker Donovan in the Chair.

SPEAKER DONOVAN:

Representative Merrill.

REP. MERRILL (54th):

Thank you, Mr. Speaker. I move for the immediate transmittal of the Senate -- to the Senate.

SPEAKER DONOVAN:

Motion is for immediate transmittal. Is there objection? Hearing none, the bill is immediately transmitted.

The House will come back to order.

Representative Merrill.

REP. MERRILL (54th):

Yes, Mr. Speaker. I move for the immediate suspension of our rules to take up item number -- Senate Bill Number 899, and the Clerk is in possession.

SPEAKER DONOVAN:

The question before the chamber is suspension of the rules for immediate consideration of Senate Bill 899. Is there any objection? There's objection. Seeing objection, the motion requires two thirds of the members present and voting. It's not debatable. Staff and guests, please come to the well of the House. Members please take their seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is on -- is voting on the motion to suspend by roll call. Members to the chamber.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted? If all the members voted, please check the roll call machine and make sure your vote has been properly cast. If all members have voted the machine will be locked and the Clerk will please take a tally. Will the Clerk please announce the tally.

REP. COOK (65th):

On the motion to suspend rules.

Total Number Voting 151

Necessary for Passage 95

Those voting Yea 105

Those voting Nay 37

Those absent and not voting 9

SPEAKER DONOVAN:

The rules are suspended for the immediate consideration of Senate Bill 899. Will the Clerk please call Senate Bill 899.

THE CLERK:

Senate Bill 899, AN ACT IMPLEMENTING THE GUARANTEE OF EQUAL PROTECTION UNDER THE CONSTITUTION OF THE STATE FOR SAME SEX COUPLES, favorable report of the joint standing committee on judiciary.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I move acceptance of the joint committee's favorable report and passage of the bill in concurrence with the Senate.

SPEAKER DONOVAN:

The question is on acceptance of the joint committee's favorable report and passage of the bill in concurrence with the Senate. Will you remark, sir?

REP. LAWLOR (99th):

Thank you, Mr. Speaker. The file copy of the

bill essentially conforms our state laws to the decision of the states up in court in the Kerrigan case, which was handed out in October of last year's. Specifically, Mr. Speaker, the bill does a number of things to conform to law with that decision.

I think the single greatest -- well, the only real substantive change in the law that is enacted with the file copy is the elimination of civil unions. As you may recall, Mr. Speaker, the General Assembly, almost four years ago to the day, enacted a statute providing civil unions for same-sex couples and specifying that civil unions would have all of the same rights and obligations and benefits as do parties to a marriage in our state. At the time, marriage was defined as the union between one man and one woman. And civil unions was exactly equal to that, however reserved for same-sex couples.

This bill eliminates the category, or repeals the law providing for civil unions. It does because as it stands today, ironically, straight couples have only one option, that is a marriage, but gay couples have two options, a marriage or a civil union, because the Supreme Court decision did not strike down the civil union statute. I think if the question were put to

the Supreme Court, my sense is that they would find that unconstitutional, that we discriminated in that fashion against straight couples, but this bill eliminates the category of civil unions.

Now the mechanism by which it does that is somewhat complicated because there are people who have obtained civil unions, and that does provide real substantive legal rights and legal obligations. And I don't think we have the authority to unilaterally abrogate those, what in many ways, are legal contracts. So this provides a transition period, so that people who are in a civil union have, basically, three options. They can either A, get a marriage, anytime between now and October 1st of 2010, or B, have their civil union dissolved and the mechanism for dissolution of a civil union is in fact identical to the mechanism for a dissolution of a marriage, in other words a divorce. They could get a divorce, at least they could initiate a divorce, or if they do nothing, on October 1st, 2010, civil unions will be automatically converted by force of law into marriage. When that takes place, couples who have civil unions will not get any new rights or obligations, nor would they lose any rights or obligations. But they would

have had the option of taking steps prior to that according to their wishes.

So that's the only real major substantive change in state law that's provided for in this law. Beyond that, the law makes a variety of what I would characterize as conforming changes based on the Supreme Court decision. It makes it clear that the State of Connecticut will recognize foreign marriages or marriage-like relationships from other states or other countries. I think as we all know, some states have established full marriage equality to date. That list includes Vermont, Massachusetts and Iowa. And a number of nations have full marriage equality for straight couples and gay couples, that's a growing list, but it currently includes Canada, Spain, South Africa, Belgium, the Netherlands -- I think there's a few other countries on the list, I'm not sure what they are.

In addition to that there are some states in other countries, like for example, the state of Buenos Aires in Argentina provides same-sex marriage. Several states in Mexico provide for same-sex marriage. And beyond that, a number of countries provide civil-union-like status. So they have a

marriage status and they have some type of other status and depending on their language, they would -- we have another name for it, but it does provide all of the identical rights and obligations that marriage provides. In addition to that, some states within the United States provide marriage-like status for same-sex couples including New Jersey, New Hampshire. Although the New Hampshire House has passed a marriage equality bill, apparently, that's going to be taken up in the Senate either this week or next. And I believe the Governor in New Hampshire has indicated the likelihood that that bill would be signed if it's passed. So New Hampshire may be converted from civil unions to marriage relatively soon. There's a number of other states including California, Oregon and Washington State which provide domestic partnership law which is very similar to civil unions. So in other words, what this bill says is relationships, regardless of what they're called in other jurisdictions, if they're substantially similar to marriage, when those couples are in the state of Connecticut, that would be recognized as a marriage in the state of Connecticut.

So for example, if there was an accident and

someone was in the emergency room, the spouse would be treated as the spouse here, even though it's not technically marriage in their own jurisdiction, and I think you get the idea.

It is worth noting that Connecticut, although we don't recognize common-law marriages in our state, we do treat, as married couples, persons who have lived in other states, which have common-law marriages. If they relocate to Connecticut, that would be recognized as a marriage here because it was recognized as a marriage where they came from. So basically, this is the traditional law of recognizing foreign marriages that we're just clarifying, that if it's recognized in another place and you come to Connecticut, we'll recognize it as a marriage when you're here.

Conversely, the question is, what would happen if another state had, for example, like New Jersey has civil unions, what would happen if a couple who's married in Connecticut under the current law is in New Jersey for whatever purpose? We're just clarifying for the purpose of decision-makers in that state that we are essentially asking them to treat married couples from Connecticut as married couples in those states. But that is the decision of another state.

From time to time, other states might say unless the home state was clear about this, we're not clear how we should recognize them in our state. So this would make it clear that our wish that married couples from Connecticut would be respected in other jurisdictions, as well.

In addition to that, Mr. Speaker, the bill provides some other relatively technical changes. For one thing, a number of the sections basically clean up the existing law. For example, there are some provisions in the existing law which say that marriage in Connecticut is defined as the union of one man and one woman. Obviously, the Supreme Court decision declared that particular provision to be unconstitutional, and where that appears in the current law, it's eliminated. Also, we've made some conforming changes to the current law. For example, the -- there's some provisions where it refers to the bride and the groom. That's been changed to both persons. It's worth noting that under our marriage license law, it currently states bride, groom, spouse, and it's up to the parties involved to choose how they wish to refer to themselves in the marriage license, and this essentially does the same thing for the

marriage laws.

The incest laws, which prohibit sexual relations between persons who are closely related -- it is -- has a provision which clarifies what is clearly the existing law, but it's restated here in the bill that members of the clergy are not obligated to marry any person who they -- who, as a matter of religious belief they don't feel is entitled to a marriage. That's always been the case in Connecticut. No member of the clergy has ever been required to marry a couple if they felt it wasn't in conformity with the provisions of their religious beliefs. That's being restated here.

This -- there's a clarification in section 13 that the legal rights that accrue to a person who's in a civil union are not being abrogated in any way by this bill. They will continue to have those rights. References to civil unions are deleted elsewhere in the statutes. Section 17 repeals some language that appears in 46B-81R, that is language which was included in the 1991 amendment to the existing antidiscrimination laws.

In 1991 the legislature added sexual orientation to the categories where there cannot be discrimination

in employment or housing, which at that time, applied to race, religion, national origin, ethnicity, gender and several other categories. We added sexual orientation that year. I was a member of the legislature at the time.

And at that time, some five specific provisions were added to the law which seem either obsolete or not needed today. I'll just go through those one at a time, Mr. Speaker. The first provision said that nothing in the 1991 law, the antidiscrimination law, should be interpreted as condoning homosexuality, bisexuality. I think in the light of day of 2009, I think everyone understands how that is extremely demeaning to persons who are gay or lesbian. And I think in explaining this to other people, I think it's important to imagine if something you felt was very much a part of your own identity, your religion, your ethnicity, your race, your gender. Imagine if there was reference in state statute saying that the state doesn't condone that particular thing which is a very important part of your own sense of self. It doesn't serve any particular -- it has no legal significance, this language from 1991, about not condoning homosexuality. It does seem very archaic in light of

present-day reality and public opinion in 2009. So it seems like it would be appropriate to repeal that at this point.

The next provision refers to the fact that nothing in the 1991 law should be interpreted, and again, just nothing in the 1991 law should be interpreted to require the teaching of homosexuality in the schools. It doesn't say that it can't be taught. It just says nothing in 1991 law should be interpreted to require that. That was clearly the understanding in 1991. There has never been a suggestion that the Legislature was insisting that anything specific along those lines be taught in the schools. And it's also very important to note that there's a 1979 law which makes it very clear that anything in the general category of family education, sex education, sexuality education, is purely optional at the option of the local school district. And all parents -- all parents have an absolute right and have had this right for 30 years to withdraw their children from any such course or any particular part of any such course. That's an absolute right that parents have that continues to be on the books. There's nothing in this bill that changes it. There's no

requirement of teaching anything about any form of sexuality and parents will always have the right to withdraw their students from that lesson or a course, consistent with the 1979 law.

The next provision relates to quotas for sexual orientation. It states that nothing in the 1991 law should require quotas for gays and lesbians. No such thing as ever been suggested by the Legislature. The Legislature does provide for affirmative action based on race and gender. We have never debated or considered a bill which would have provided for such affirmative action and it would require an act of the Legislature to do so. The 1991 language simply said that nothing in that law should be interpreted as providing for it. It was never intended and it's very clear what the law of Connecticut is, only the Legislature can provide for affirmative action programs.

Next, there is the specific language that says nothing in 1991 law should require same-sex marriage to be imposed by a court. Obviously, the State Supreme Court has taken that action, ironically, in part because of the language in this '91, 1991 statute. It was identified as one of the examples of

how the Legislature, the State had an official policy disfavoring gay and lesbian relationships and that was part of the basis for the Supreme Court decision, which was an ironic twist, given the intent of the 1991 law. And finally, the 1991 law, the fifth provision said that nothing in that law should be required to -- should be interpreted as creating a special protected classification for gays and lesbians. Actually, the Supreme Court decision establishes such a protected class for people based on sexual orientation and so that has become obsolete based on this decision.

So Mr. Speaker, the only real significant, substantiative change in the law is the elimination of civil unions. This was debated earlier tonight in the State Senate. The State Senate adopted two amendments which I think, in a very sincere and substantive way respond to the concerns that have been voiced by religious groups regarding the protection of religious freedom in Connecticut. I'm going to call those amendments in a moment, Mr. Speaker. I move adoption of the bill and -- but I would like to point out one thing that is very important. And I think we should all keep this in mind as we consider the very

important topic of religious freedom in our state.

In 1993, I was honored to be a member of the House of Representatives. I was honored to be a member of the Judiciary Committee. In fact, at the time, I was the Vice Chair of the Judiciary Committee. The former Chair, my predecessor, Representative Richard Tulisano brought before the House of Representatives, a proposal that was ultimately passed into law. The bill was entitled, an act concerning freedom of religion. The reason for the bill was there had been a recent United States Supreme Court decision which governed -- which established a rule persaunt to the federal constitution about the circumstances under which states, or the federal government could burden, in other words, restrict or restrain the free exercise of religion on the part of religious faiths in our country.

Representative Tulisano felt the threshold set by the U.S. Supreme Court was not high enough, that Connecticut should have a higher threshold anytime the state or local government was trying to burden the free exercise of religion. That law was passed. It is embodied in our statutes, in Section 52-571b. And essentially what that says, it is an absolute bar on

any legal action against any religious group, where the claim is that the religious group is discriminating against any individual based on their -- the religious group's religious views. It sets up a very high threshold for doing so. It basically requires two things, to justify a government, a state government or a local government burdening the free exercise of religion.

First of all it requires a showing that this is in furtherance of a compelling governmental interest and I think, for the lawyers and the chamber, you know this to be the strict scrutiny standard. It's the highest of all standards protecting discrimination. And even if there is a compelling governmental interest, that statute requires that the government find a -- the least restrictive possible means of furthering the governmental interest. So in my opinion and in the opinion of many legal scholars, this is an absolute protection for the free exercise of religion in our state with very few exceptions. And I will give you examples of things that would fall into the exceptional category.

For example, if someone were an inmate in a prison and claimed that their religion required them

served wine during the course of a religious observance and the prison had a policy of no alcohol in a prison, that would be a compelling governmental interest. I think we'd all agree on that. And I think there is a least -- a less restrictive means of providing for that and that and that is the provision of grape juice as an alternative to wine. In addition to that, if someone argued that they had the absolute right to have a meeting every day, every hour of every day with a group of people that was in a prison, I think you can understand how the prison authorities would have the right to restrict that.

An example of something that's not allowed would be, and this actually did happen in Connecticut, there was a, you know, there's a standing sort of role of decorum in courts that hats may not be worn by men inside courthouses. There was a rabbi who wore a yarmulke into a courthouse and was ordered by a judge to remove the yarmulke. The rabbi claimed under the free exercise of religion, the right guaranteed by the United States Constitution and the State Constitution that he didn't -- he wasn't obligated to do so. That would clearly not be a compelling governmental interest, in other words, men don't wear hats in

courthouses. There's no compelling interest there and that would be part of the free exercise of religion. So that law absolutely protects the free exercise of religion in our state and I think it does guarantee that scenarios that we're presented in some of the advertisements that, I think, we're seen in newspapers in recent days; those things could happen in our state.

There was an interest, however, to write this specifically into the bill and with that in mind, the Senate adopted two separate amendments. Mr. Speaker, the Clerk has LCO Number 5932. I'd ask the Clerk to call and I be allowed to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO 5932, which will be designated Senate Amendment A.

THE CLERK:

LCO 5932, Senate A offered by Senator McDonald et al.

SPEAKER DONOVAN:

The Representative seeks leave of the chamber to summarize. Is there any objection? Any objection? Representative Lawlor, you may proceed with summarization.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I presume that all members of the chamber had the opportunity to look at this, so I won't read the entire thing. It consists of three sections. The first section essentially provides -- clarifies, makes perfectly clear the fact that no religious, no religion, no religious organization association or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization association or society is obligated to provide any services or accommodations in connection with the solemnization of a wedding. In other words, the wedding ceremony or the celebration of a wedding, in other words what we would typically refer to as a wedding reception.

In effect, this means that if there's a religious organization which rents out a hall, generally speaking, as a public accommodation, if they chose not to rent it to someone for the purpose of a marriage, based on the fact that that particular marriage violates their religious beliefs. They could not in any way be penalized by a state or local government for refusing to do so.

I believe this is covered under the 1993 law, the Tulisano law, but in case there was any doubt, this specific language would protect that free exercise of religion claim. The section -- the second section says -- makes it clear that the marriage laws of the state shall not affect the ability of a fraternal benefit society to determine the admission of its members. In other words, a religious fraternal society could discriminate based on its religious views in terms of the admission of members. And so this makes it very clear on that, so I think we all are aware of religious societies that have specific rules on who can be admitted, typically limited to members of that faith, et cetera. This makes it clear that they have an absolute right to do so under the First Amendment free exercise clause.

And finally, the third section clarifies that nothing in this bill will affect the manner in which a religious organization may provide for adoption, foster care, or social services if that religious organizations does not receive state or federal funds. Now I point out that the second amendment adopted by the Senate, not this amendment, but the subsequent amendment I intend to call, should this one be

adopted, would solve that particular problem and limit it only to -- that the funding would have to be for the enumerated services, in other words, for adoption, foster care or social services.

So if you have an adoption agency and you don't receive any state or federal money for that adoption service, then you would be exempt from placing adoptions if it would violate your religious views.

So I move adoption, Mr. Speaker, and if I could just comment further on this amendment. And more generally, not just on this amendment, but within the bill, you know, I think the one the thing we can be proud of in our state, over the last ten years that we've been dealing with this general topic, religious freedom, recognition of same-sex couples, every step of the way we have sought to reach out and form a consensus, a bipartisan compromise not just here in the Legislature, but more broadly throughout the state. We've all learned a lot. We've spoken to each other. We've learned about people's personal beliefs, we've learned about the real stories of gay and lesbian couples in our state. And I think every single step along this road has been respectful and has had as its goal true consensus. And I think we

can feel a special pride in our State that we have not descended into the kinds of divisive and partisan fighting that we've seen elsewhere on this issue. We've been careful to take one step at a time and we've been careful each step to respect the views of other people.

There have been hard feelings, certainly, in both directions, but the goal, the legislative outcome goal has always been to respect everyone's views, to ensure that we continue to live in a state that is open and embracing all people, regardless of sexual orientation, religious views, et cetera. So in the discussions that have taken place over the past few days and few hours regarding this particular amendment, I think that has been the hallmark of the views that have been expressed on all sides of this issue. And I just want to thank all the parties who have involved the representatives of the religious organizations, members of the Senate, the House, the Democrats, the Republicans, constituents alike. The suggestions we have heard from many people have been embraced in this amendment and I think the ultimate outcome will be better for it.

So Mr. Speaker, I urge the adoption of the

amendment. And Mr. Speaker, I ask that when the vote be taken, it be taken by roll.

SPEAKER DONOVAN:

Question is on adoption. Remark on it the amendment -- question is on a roll call. All those in favor of a roll call vote, please signify by saying, aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

According to -- the 20 percent was met. When the vote is taken, it will be taken by roll call. Will you remark further on the bill -- remark further on the amendment? Remark further on the amendment? Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. Just a few questions, if I may, to the proponent of the amendment, and I understand that there will be a further amendment dealing with Section 5 of 3.

SPEAKER DONOVAN:

Please proceed.

REP. O'NEILL (69th):

First question, the key ingredient here, it

relates to religious organizations, associations or societies -- one of the things that I have noticed in reviewing our statutes is that we do not have any definition, as far as I can tell, other than in one place where we reference the Federal Internal Revenue Code, and it's, relatively, a minor place where the talk about religious organization occurs in some language. Is there a definition of religious organization contained within this amendment? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. No, there's not.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

And is there a definition in the underlying bill that defines what a religious organization would be? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I don't know that

there's a specific definition anywhere in the General Statutes, however I do know that there are references to religious organizations in many different statutes and I don't think there's really any science to this. I think the beauty of the Federal Constitution, and by extension the State Constitution, is it generally refers to religion. And I think when governments try to define what a religion is and what a religion isn't, I think that's where we're on thin ice because I know in -- if you look in the statutes, you can see some examples of where this creates some problems, defining some group that might consider themselves a religious organization out of the category of religious organization. I think anyone who asserts that, in effect, they are a religious organization is entitled to have that assertion respected and I think if there's ever a challenge, it would be up to a court. And I think the government, if it was trying to enforce some type of restriction on a religious organization would have a very, very difficult argument to make to argue that someone who claims to be a religious organization, in fact, is not such an organization.

So I think it would be dangerous ground to try

and come up with a specific definition. I think if you say you are, you are, unless there's overwhelming evidence to the contrary. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. And really, that was the point that I was trying to get at is the use of the word "religious organization" and it relates also to associations or societies, is to be construed as in the same broad way that word "religious organization" has been construed. And there is another phrase that's used in our statutes in dealing with religious organizations, and that's one that got a lot of attention a few weeks ago, religious corporations, which are not mentioned in here, but I am -- would ask the question as to whether or not religious corporations are intended to be encompassed by the word -- phrase "religious organization." Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. Yes there are and I

believe the distinction is that there are certain -- that there's a tax exempt status that goes along with a lot of religious activities. And for reasons which I would assume are obvious, we can impose an obligation to basically register and apply for that tax exempt status so that there's some formality to having entities detects be tax exempt so they don't simply walk into a store and claim that they're tax exempt and the Clerk has to take their word for it.

So there is some paperwork involved in claiming tax exempt status, but when we're talking about defending against a claim of what -- with the government seeking to affect your free exercise of religion, there's no paperwork that's required for that. I think once you claim your free exercise status or you claim your rights under the free exercise clause, I think the burden shifts to the government to disprove that. And I think the 1993 statute provides a very high hurdle indeed to -- for the government to overcome in that situation. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker, and I would further ask the Chair of the Judiciary Committee if there is any provision in any of the Sections, 501, 503 and 503 of the amendment that the Chair of the Judiciary Committee has any doubt about the constitutionality. Do any of these sections raise any questions as to whether or not they, tonight, appear to be constitutionally sufficient? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. Through you, we've had some discussions about this earlier. I think there are some very interesting law school type legal questions presented, not so much by the bill itself, but by this general area of discussion and I'll give you an example. The First Amendment of the United States Constitution and the, I think, it's Article 3 of the State Constitution, provide protection for free exercise of religion and guarantee that there would not be an establishment of an official state religion. That provides a fair amount of protection.

On the other hand, the recent State Supreme Court

decision says that it's unconstitutional for the government to discriminate against same-sex couples. And of course, that carries with it the constitutional import and it provides a fair amount of protection for same-sex couples, protection from discrimination by the government. So that, so the question is, how far does the First Amendment go and how far does the Kerrigan decision go? Is there some gray area in between those two things? So I think what we're doing now is what we're saying is not -- the government is not restricting -- the government is not specifically discriminating against same-sex couples. The statute we're passing tonight simply states that you, a religious organization, cannot be compelled to hold a marriage ceremony or celebration on its property if it somehow would violate their religious beliefs. And it's important to note we're not just talking about same-sex marriages, we're talking about any marriage that they feel is a violation of their religious beliefs. They're not obligated to have the ceremony or the celebration of that marriage on their property, basically, or provide services to them.

So I guess, there's a second question, is that somehow governmental discrimination against same-sex

couples? I don't think so, necessarily, because it's -- it applies broadly to all couples, all marriages, same-sex, opposite sex marriages. And so I think that probably is not conflicting with the Kerrigan decision. If the amendment were written only to say that religious organizations could discriminate against same-sex couples, then I think you might have a problem with the Kerrigan decision. So that's an interesting dispute there.

There are laws that protect discrimination based on marital status. And arguably, that would protect your ceremony and your celebration. However, I think where, since this would be a subsequent statute being adopted, I think that repeals that very, very narrow part of the protection that you have from discrimination based on your marital status, but keep in mind, only talking about the actual marriage ceremony and the actual reception and only if you're asking a religious organization to provide facilities or services for those two functions. So we're not talking about substantive parties or parties that have nothing to do with the ceremony or the celebration of that ceremony. So -- but I'm sure that there are people who could probably make the argument that

somehow that we're running afoul of some, either the Kerrigan decision or the First Amendment.

It would be a very interesting question, but the more I think about it, I think that consistent with the 1993 statute, since were talking about finding a less restrictive means of avoiding burdening someone's free exercise of religion, in other words, you could rent a different hall theoretically unless, it were impossible to rent a different hall. I think we're probably okay, but there's an argument to be made here. And I doubt anyone would ever take this to the state Supreme Court, they might, and we'll see what happens if they do.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. So if I understood the answer and I understand that asking some -- whether something might be considered unconstitutional or not is, perhaps, an invitation to a more elaborate answer. But on the face of it, or within a language that's before us tonight, would it be fair for me to say that the Chair of the Judiciary Committee does not believe that any of the provisions contained in Senate

Amendment A, in any obvious way, are violative of the state or federal constitution? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. Through you, I think we're okay, yes. I think we're okay because this applies to all marriages, not just same-sex marriages. I think if it was just same-sex marriage, I think we might have a problem with the Kerrigan decision. So I think we're okay. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. An additional question is that because there is some language in the underlying bill, in Section 7, Subsection B, which relates to requiring church controlled organizations, as defined in the U.S. Code, to be required to participate in ceremonies. My question is does the amendment go -- does it already -- does it encompass everything that's contained in Subsection B of Section 7, and then go beyond things that are

contained therein and provide additional protections to a broader array of religious organizations, both in terms of what they are free to do, but also which organizations are covered by the amendment? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. Yes it does, but I think it's worth noting that, I believe, with or without this statutory language, all of these things are protected under the First Amendment of the Constitution, and statutorily under the 1993 law. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker I believe that the amendment is a good effort to address some of the issues that we attempted to deal with in the Judiciary Committee. I think Subsection B of Subsection 7 went some of the way. I think that the amendment goes further, it provides additional protection and explicitly do so. And while I think that the 1993

act, which, I believe I voted for and which does provide a standard that the government has to meet in terms of burdening religion is an important statute, I think that it is, from my prospective, perhaps a bit more of a set of general principles than it is a guarantee that in any given situation, a religious organization is going to be, or individual exercising their religious freedom is going to be free by some sort of effort by the government to impose upon them. And I don't want to diminish the significance of that statute; I think it's very and I think that it's something that we should remember and keep in mind as we are taking action here on legislation of all sorts, even those that are not really explicitly directed at religious organizations, or use the word "religion" in them.

But nevertheless, I believe that the amendment is an important step towards protecting the rights of religious organizations in terms of dealing with the, I think, increasingly complicated world in which we live. And it's not just the outcome of the Kerrigan decision, but I think this language will be applicable to other circumstances, as well, that people will be relying on this language as they move forward, as

organizations have to deal with more and more questions that are going to be put to them in a far more divergent world that we are going to be living in as we go forward. But I would urge adoption of Senate A. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Will you remark further on the amendment? Remark further on the amendment? If not, staff and guests, please come to the well of the House. Members take their seats. The machine will be open.

THE CLERK:

The House of Representatives is voting roll call. Members to the chamber. The House is voting House Amendment Schedule A by roll call. Members to the chamber. Senate Amendment Schedule A by roll call. Members to the chamber.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted? Please check the roll call machine and make sure your vote has been properly cast. If all members have voted, the machine will be locked and the Clerk will please take a tally. Will the Clerk please announce the tally.

THE CLERK:

Senate Amendment Schedule A for Senate Bill 899.

Total Number Voting 143

Necessary for Passage 72

Those voting Yea 143

Those voting Nay 0

Those absent and not voting (Inaudible.)

SPEAKER DONOVAN:

The amendment passes.

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. The Clerk has LCO Number 5943, previously designated Senate Amendment C. I'd ask the Clerk call and I be allowed to summarize.

SPEAKER DONOVAN:

Will the Clerk please call LCO 5943, which will be designated Senate Amendment C?

THE CLERK:

LCO Number 5943, Senate C offered by Senators Fasano and Roraback.

SPEAKER DONOVAN:

The Representative seeks leave of the chamber to summarize the agreement -- summarize the amendment. Is there any objection? Any objection? Hearing none, Representative, you may proceed with summarization.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. This amendment makes a modification in the amendment that was previously adapted. In the third of the three sections in the previous amendment, Senate Amendment A, it refers to whether or not organizations that are religiously affiliated that provide adoption, foster care or social services can, in effect, be free from any type of penalty based on their religious views related to marital stat -- or marital status. The -- however, that would only apply to organizations which provide adoption, foster care or social services if that organization receives state or federal funds for their programs.

This amendment makes that slightly more specific and says that they would, in effect, be allowed to discriminate unless they receive state or federal funds for that specific service. So for example, if in the case of a religiously affiliated organization they received government funding for providing shelter to the homeless, providing reentry programs for the department of corrections, et cetera, and in addition to that, they also have some type of adoption or foster care program. If they don't receive state or

federal funding for the adoption or foster care program, then they would be allowed, in effect, to discriminate pursuant to their religious views. So this, I think, narrows it down and it does deal with some of the situations which were the subject of requests from some of the religious organizations in our state in terms of some type of protection in this law.

Now, Mr. Speaker, this did come up in the context of something that happened in Massachusetts and I would just like to point out so that's it's clear, when it did happen in Massachusetts, those services, those adoption services, which were provided by a religious organization were, in essence, completely funded by the government in Massachusetts. The religious organization was the contractor for the Massachusetts equivalent of our Department of Children and Families. They did provide the full funding for these adoption services. And there, they ran into a problem and ultimately closed down the program.

So if there are adoption services undertaken by religious organizations or religious affiliated organizations in this state and they don't receive any funding for the actual adoption program, state or

federal funding, then they would be free to discriminate pursuant to their religious beliefs. So I think this solves the problem that people were concerned about. I think it does so in a way that's not restrictive to same-sex couples so it's -- doesn't fly in the face of the Kerrigan decision. And I think it, once again, underscores our commitment to religious liberty pursuant to the United States and the Connecticut state constitution. So I urge adoption, Mr. Speaker.

SPEAKER DONOVAN:

Question before the chamber is on adoption of Senate Amendment Schedule C. Remark on the amendment? Remark on the amendment? If not, let me -- Representative O'Neill.

REP. O'NEILL (69th):

Yes, thank you, Mr. Speaker. If I may, a question on the amendment to the proponent, through you.

SPEAKER DONOVAN:

Representative Lawlor.

REP. O'NEILL (69th):

I understand the language that is in the -- what's been added here is language that identifies the

federal funds or state funds being applied for the specific program or purpose and my assumption was that this was related to adoption and foster care, which I think I understand what those two things are. But with respect to social services, the question that I have is, with the -- if this language is added, does this enable a social service, and I'm not sure what social services we're talking about exactly, to be delivered in a fashion that would be -- allow a religious organization to discriminate in some fashion if the funding for the social services were not from state or federal funds?

For example, the thing that pops into my mind is, let's say soup kitchen, is a kind of a social service, I assume, that we might be contemplating here. Would a religious organization be able to run a soup kitchen in some manner that is -- where their distinctions are drawn based on a religious belief, that somehow, they there would be distinguishing, let's say, between heterosexual and homosexual individuals? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. If they receive no state or federal funding, it's basically a private enterprise and if it was being undertaken by religious organization, yes, they could discriminate pursuant to their religious views. I think that's already clearly the case. You know, I think religious -- there's a variety of provisions in the U.S. and State Constitution that would protect the ability of private organizations to discriminate in any fashion they chose fit, consistent with their religious beliefs. So I think the answer to the question is yes. However, if whether it's a soup kitchen or an adoption agency, if they're being funded by state or federal funds, I think there are provisions in state and federal law which prohibit discrimination and providing of services and that, of course, would still apply.

So if that specific -- and, you know, and I did earlier today, sort of, go over with our nonpartisan staff the kinds of contracts that are provided to private organizations for adoption, foster care, social services, just to get a sense of how specific they are, and they are very specific. Some for foster care, some for adoption and obviously, specific social

services like prison reentry, that kind of thing. And they're contract by contract. So if you're not receiving funding by state or federal contract for that specific service, then you're free to discriminate consistent with your religious views.

This is not limited to discrimination against gays and lesbians. This is discrimination generally, but private organizations have, historically had the ability to discriminate as they see fit. Is once they branch out into seeking federal funding or things like that then they run into trouble. So through you, Mr. Speaker, I think the answer to your question is yes.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker, and I think an earlier comment by the proponent was -- or implied that for example, in effect, that section 503 may really be surplusage to some extent that this is already protected activity under existing provisions of our law. So I guess the question that I would ask is, if for example the phrase "social services" were not even in here, would the religious organizations still be entitled to do what this legislation purports to give

them the right to do? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I think they currently do that and, you know, they only run afoul -- I mean, it's -- let's see, there's lots of examples of this. You know, I think one of the -- I'm just recalling from previous debates one of the concerns about accepting public money for, let's say, private religious schools, was that if you take the money, there's strings attached and, you know, accountability strings and other diversity type strings, et cetera. And I think that's one of the reasons why private organizations don't seek grants from state, federal, even local governments because they know with that comes an obligation to conform themselves with the sort of general laws that apply generally to society.

So if, you know, another example that would be some of the other nonreligious organizations which are, in effect, private organizations, which discriminate in various ways. There was a recent -- well, not so recent, but I don't know, ten years ago -- so the United States Supreme Court decided a

case related to the Boy Scouts of America. It said that as long as they are a private organization not seeking public money, they're free to discriminate as they see fit. Whether it's based on race, sexual orientation, whatever. I mean, it's a private organization, they're allowed to discriminate.

So I think that's probably carefully, clearly covered. I think the concern was, and I guess this is a valid concern, that the executive branch might feel necessary to deny funding for any state contract of a group that was discriminating anyway that they felt was contrary to the Kerrigan decision, for example. So in case there was a temptation to deny funding in that respect or to penalize an organization for discriminating, I think this clarifies it. If there was a concern, I think it's probably dealt with under the current law. This makes it crystal clear in the bill itself.

And so, my personal opinion was that's protected activity already, but the additional language makes it perfectly clear that it's protected under the First Amendment and Article 3 of the State Constitution. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative O'Neill.

REP. O'NEILL (69th):

Thank you, Mr. Speaker. So, just so that I'm clear and this really isn't a question, I think then that that while -- and I think that this language is helpful, certainly the phrase "relating to social services" strikes me as something that is something that may be some -- not necessarily -- doesn't necessarily have to be a part of this piece of legislation. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Remark further on the amendment? Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. If I might briefly, just a couple of questions in that same area.

SPEAKER DONOVAN:

Please proceed.

REP. MINER (66th):

Thank you, Mr. Speaker. With regard to the social services and the receipt of state and federal funds, I just guess I want to just be clear. We have on occasion, in the past, appropriated bond funds for capital improvements to religious facilities that

actually do engage in social services. By this language, if a religious organization had taken those funds and it was in the process of doing a larger capital project, where would they stand with regard to this amendment and their obligation under the law as it would be changed through this bill? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I think the language of the amendment is clear, and that is that if a religious organization receives state or federal money for a specific program or a specific purpose, then they can't discriminate generally. So I think in the case of bonding funds that aren't specific to a program or a purpose, I don't think that would be impacted by this provision. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. More often than not, the purpose of the bonding funds are rather specific. And so if the Catholic Church in Waterbury had requested

bond funds to improve a facility used for a homeless shelter, and that homeless shelter was currently under renovation with those bond funds, if this be -- bill became law and said, effective upon passage, would I be correct that that religious institution would be obligated under this language not to discriminate under the circumstances that we thought there might be an exclusion? Through you.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Well, thank you, Mr. Speaker. All the things we're talking about relate only to marriage. So I don't, you know, I don't know how that would be affected -- the homeless shelter. So what we're talking about relates only to religious organizations as their views relate to marriage. So, through you, Mr. Speaker, I'm not sure how a homeless shelter would be impacted by that. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. I'd be glad to try and help the gentleman. For instance if a heterosexual

couple became homeless and presented themselves to a certain church and requested entry for the night, they would be, conceivably, permitted entrance and housing in a single unit. As I read this amendment, if the church in question receives state funds, that church in question would be obligated by receipt of those funds to allow a same-sex couple under marriage to share/occupy that same room. Is that correct? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. Well that's always been the law. I mean that's always been the law, under state laws which are very clear, long-standing, you cannot discriminate against people based on their marital status. So I think that's -- that's come up in the context of nursing homes over the years and stuff like that. That's a very well-established area of the law that you cannot discriminate based on marital status. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Miner.

REP. MINER (66th):

So if it is not accepted under the religious tenets of that church to allow cohabitation, other than through marriage, under current law, that's not permitted. Through you.

SPEAKER DONOVAN:

Representative Lawlor.

REP. BUTLER (72nd):

Thank you, Mr. Speaker, yes, that's always been the case.

SPEAKER DONOVAN:

Representative Miner.

REP. MINER (66th):

Thank you, Mr. Speaker. That answered my question.

SPEAKER DONOVAN:

Would you remark further on the amendment before us? Remark further on the amendment before us? If not, let me try your minds. All those in favor of the amendment, please signify by saying, aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

All those opposed, nay.

The ayes have it. The amendment is adopted.

Would you remark further on the bill as amended? Remark further on the bill as amended? Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker.

Ladies and gentlemen of the chamber, tonight came as a bit of a surprise to some of us. I don't pretend that, certainly, on this side of the aisle we know how the day is going to go with regard to the agenda that we all sort of had a pretty good idea that, well, we'd be out of here by 5 o'clock because there was going to be a basketball game across the way.

And one thing we were all under the belief was we were not going to take up 899 because that was being taken up in the Senate. Surprised, surprise. Here we are. Now that's -- is certainly -- this isn't the first time that happens. Things happen rather rapidly here in the Legislature. And even though the best laid plans get foiled sometimes, we manage to get along.

Here's part of the problem however, from my perspective, and that is not expecting us to take up this bill here in the House and also for us, most all of us not be privy to the, quote, negotiations that

took place in the Senate. The Democratic House caucus and the Republican House caucus were in caucus while the Senate was already taking up this bill. So we're sort of handed this at 9 o'clock at night without having a chance to, sort of, bounce off some of these things to our constituents or even, frankly, have a lengthy debate amongst ourselves, except for here on the floor of the House.

So that's one of the things that's somewhat bothersome. The other thing that's bothersome to me is, I think, sometimes when we go on and on about very technical amendments, we lose sight of the simple fact. And I think Representative Lawlor stated this simple fact up front, regardless of where anyone in this room stands on the issue of whether people of the same sex should marry or not, nothing, I repeat, nothing you can do will change the fact that as we stand here today, same-sex marriage is the law of the State of Connecticut. Same-sex marriage is the law of the State of Connecticut.

We can adjourn right now. We can come back in a week, two weeks, four weeks, do something, do not -- does not change the fact that if two people of the same sex want to get married in the state of

Connecticut, our law based on the Kerrigan decision says they can. So what is this about? I think Representative Lawlor said it quite accurately. The bill we are voting on today is not about allowing same-sex marriage in Connecticut. That's already the law. The bill we're voting on today concerns religious freedom and we've had quite an education by our constituents on the issue of religious freedom. And many of them have let it be known loud and clear, don't mess with our religion. Do not force us to do something that our religious tenets say we should not do. If it is the law of the land, so be it, but do not tell us how to run our religious institutions.

And sometimes that gets a little complicated, because there are some religions that go well beyond just having religious services in a synagogue, chapel, congregation or church. There's some religious organizations that provide much more than that. Some, for instance, own hospitals. Some have halls they rent out for various occasions. Some are involved in, as we've learned, in adoption and foster care and other social services. They feed the hungry, they house the homeless and they do those things because it's in accordance with their religious tenets.

So sometimes, like today, we pass laws that may or may not interfere with those religious tenets. And that's when we hear the loudest from our constituency, that says, wait a minute. If you want to make general rules for Connecticut, go right ahead, but please do not reach into my religion, whatever it might be and force me to do something that I don't believe in, and that's really what the essence of this bill is today. It's not about gay marriage, that's the law. That is the law. It's about religious freedom.

I realize that several attempts were made to accommodate those who have concerns about the original version of this bill's affect on their religious freedom. And I know people worked hard and talked long and hard about it. And representative Lawlor has done a good job in explaining the results of those efforts which are before us and have been adopted by way of Senate A and Senate C. But that's why we're here. Remember, once again, nothing to do with the right of same-sex couples to marry because that's already the law. The issue is religious freedom. And with that regard -- in that regard, I would like to ask a question, if I may, through you, Mr. Speaker to Representative Lawlor.

SPEAKER DONOVAN:

Please proceed, Representative.

REP. CAFERO (142nd):

Thank you. Through you, Mr. Speaker to Representative Lawlor, and I know you've answered some of these questions, I believe, to Representative O'Neill's inquiries and would like to just be a little more specific. And the concern is with regard to social services and let me tell you why. Instead of beating around the bush here, let's tell you why. This amendment says that nothing in the act shall be deemed or construed to affect the manner in which a religious organization may provide adoption, foster care or special services if such religious organizations does not receive state or federal funds for that specific program or purpose. Why was that put in? The Catholic charities is one big umbrella organization and it has certain divisions; one of which deals with adoptions, one of which deals with foster care and one of which deals with social services.

The one that it deals with adoptions receives no state or federal funding so they are exempt from the law and this amendment clarifies that. The division

of Catholic Charities that deals with foster care receives no state or federal funding, and therefore, that division would be exempt from the law and this amendment states that. But here's where it gets a little tricky, the division of Catholic Charities, social services division, has several contracts with the State because they provide several social services to the State and its citizenry or on behalf of the State. Therefore, by definition, they receive state money. Now, most of those services don't fall under anything they need to worry about to be in violation of this bill such as providing for the homeless or feeding the hungry. I think the Catholic charities will be the first to say, someone is hungry, we don't care if your red, yellow, green, gay, straight, we're going to feed you. And if someone is homeless, we don't care if you're red, yellow, green, purple, gay or straight, we're going to give you a place to stay. But there's also other little nuances to the services they provide. For instance, one of them is family services. Catholic charities provides counseling and other advice to people who hope to start a family, to people who are about to get married.

My question, through you, Mr. Speaker to

Representative Lawlor is knowing that that is some of the services that they perform, would the passage of this bill and this amendment put the church in violation of the law if in the course of them providing social services, a same-sex couple came to them for marriage counseling and the counselor said, please forgive me, but it is against my religious tenets to counsel you in a union of two people of the same sex. So therefore, I cannot provide that service to you. Would they be in violation of the law if this bill were to pass? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. Well, a couple things, and I did, sort of, review an extensive list of services that are contracted with with some of these organizations and I could be wrong, but I don't think the state subsidizes marriage counseling, but I could be wrong on that one. But I will say this, if you read the Kerrigan decision carefully, if we are -- the problem is if we're funding organizations to provide services on behalf of the State, the Kerrigan decision says that any discrimination would violate the

Constitution. And so I think that's the, you know, whether or not this -- I mean, this bill is simply trying to clarify what, I think, we all understand to be the law and that is if it's something being undertaken by a religious organization, not on behalf of the State, then the religious organization can have whatever rules it chooses to have, even though some of those rules might be considered the kinds of discrimination that would be illegal if the State undertook them.

The Kerrigan decision, I think, says that you can't discriminate, the government cannot discriminate against same-sex couples. And if it does so, it's violating the Constitution. So my sense is that with or without this statute that type of state subsidized discrimination would violate the Kerrigan decision. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Thank you, Representative Lawlor. I don't know if that's the right answer. I take Representative Lawlor and his knowledge of the Kerrigan decision on his word, but

see, that's where it sort of gets complicated, doesn't it?

You have a religious organization that provides certain services, one of which is counseling and sometimes they could find themselves in situations where, you know, maybe a couple wants to be counseled on abortion or maybe, as I indicated, a same-sex couple wants to be counseled on marriage. And the individual who's providing the counseling is probably, by definition, someone whose religious tenets are opposed to those things, and yet, it seems to be, according to what Representative Lawlor said, they would have to provide that service or they'd be in violation of the law. And you see, that's where whether you allow same-sex marriage or not, it's irrelevant. This is about religious freedom.

I have a second question, if I may, through you Mr. Speaker. It's my understanding that in our current statutes, the State Board of Education was authorized to develop a family life education curriculum guide -- a family life education curriculum guide. It is also my understanding that boards of education, based on that, can develop and offer to their students family life curriculum. It could

include a lot of things.

In light of the Kerrigan decision, as it stands, it might very well be the choice -- the choice of a school system to offer a curriculum on marriage, all kinds of marriage; heterosexual marriage, interracial marriage, and same-sex marriage. It might be, maybe, that a parent might not want their child to be subjected to that curriculum. In our current law, we have an exemption statute that says a parent can exempt out, write a permission slip if you will, saying that their son or daughter, it is their desire that they not participate in that family life educational program. Here's the tricky part though, when we defined a family life educational program, we don't mention marriage. It's not included in the litany of things that is given, a family life.

Now, we were told if you were to now include that in there for purposes of later exempting it, you'd actually, possibly be creating a mandate and God knows, we don't want to do that. So I guess -- and I started off by saying I had a question through you, and I withdraw that, Mr. Speaker. Because, I guess, here's my concern, what I'd like to do is allow a parent or guardian in light of all the goings-on, if

they choose to exempt their child from a public school curriculum with regard to family life that focuses on marriage, any kind of marriage. It should be their choice.

We know about exemptions. Why, just a few hours ago, we passed a bill that let a kid get out of cutting up a frog if they thought it was too icky. we called it, conscientious objection, but in this case, maybe there is a religious exemption that right now, our law doesn't provide for. And in light of our statutorial change to the definition of marriage, that change might go against the religious tenets of certain people. And it is my belief that they should have the right to exempt their child from any public school curriculum that might choose to teach that. And therefore, Mr. Speaker, the Clerk is in possession of LCO Number 5952. May he call and I be allowed to summarize?

SPEAKER DONOVAN:

Will the Clerk please call LCO 5952, which will be designated House Amendment Schedule A.

THE CLERK:

LCO Number 5952, House A. It's offered by Representative Cafero.

SPEAKER DONOVAN:

The Representative seeks leave of the chamber to summarize the amendment. Is there objection to summarization? Hearing none, Representative Cafero, you may proceed with summarization.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Ladies and gentlemen of the chamber, the amendment before you affects Section 10-16E of our current general statutes, which currently says that no student shall be required by any local or regional board of education to participate in any such family life program. And the amendment adds the words "or any program of instruction concerning marriage." Not same-sex marriage, that heterosexual marriage, not any specific kind of marriage, just marriage. And I move its adoption, Mr. Speaker.

SPEAKER DONOVAN:

The question before the chamber is on adoption of House Amendment Schedule A. Will you remark on the amendment?

REP. CAFERO (142nd):

Yes. Once again, Mr. speaker, folks, our law is changing, whether you like it or not. As I indicated

before, since July, marriage has been now newly defined as a union not only between a man and a woman, but also between two people of the same sex. That's a difference. It is certainly within the realm of possibilities that our school system will want to incorporate that change in their curriculum. That is understandable. But it is also equally understandable that to some people, the teaching of that might be in violation of their religious tenets. And this simply says is if a parent or guardian believes that to be the case, they have the option to exclude their student, their child from participating.

It does not discriminate against any particular kind of marriage. It does not say that a school district cannot teach about marriage. It does not affect the underlying law. It simply says that if a school district decides to teach that, a parent has a right to opt their child out of it. Thank you, Mr. Speaker. And Mr. speaker, when the vote is taken, I ask that it be taken by roll.

SPEAKER DONOVAN:

The request is when the vote be taken, it be taken by roll. Let me try your minds. All those in favor of a roll call vote, please signify by saying,

aye.

REPRESENTATIVES:

Aye.

SPEAKER DONOVAN:

The requisite 20 percent is met. When the vote is to taken, it will be taken by roll. Remark further on the amendment? Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I understand the intent of the amendment, but I just want to make an emphatic statement now that there is absolutely no question under the current law that if a school decided to have as part of its curriculum lessons on marriage, under the current law, parents are absolutely 100 percent, no two ways about it, entitled to exercise their option of withdrawing the student from that specific lesson or that course, in General.

There's -- what's not contained in this amendment is the actual statute which it's geared toward which is 10-16C. The amendment modifies section 10-16E, but if you read section 10-16C, which has been part of our statutes since 1979, it actually defines what is, in effect, a family life program. And I think any reasonable person would agree that that would include

any discussion of marriage. The definition includes family-planning, human sexuality, parenting, nutrition and the emotional, physical, psychological, hygienic, economic and social aspects of family life.

So I think any discussion of family life, whether we're talking about marriage or single parents or unmarried parents or living with her grandmother, your grandfather, or no parents involved in the picture or foster parents, all of that is covered under current statute. And I think no reasonable person could argue that a discussion of marriage is not covered under the statutory language that has been in effect, on the books since 1979.

So I agree with Representative Cafero. Parents should have an absolute right to withdraw their students, their children from any lesson or course which is discussing marriage. I think that's covered under current law. I think crystal clear. I don't think there's any question about it. They've had that right since 1979. It's an important right that parents and family should have. And so for those reasons, I think the amendment is unnecessary and I would urge rejection of the amendment, not because it's bad public policy, but because it is currently

our public policy.

SPEAKER DONOVAN:

Thank you, Representative. Representative Rowe.

REP. ROWE (123rd):

Thank you. Good evening, Mr. Speaker. I rise in support, appreciative of what Representative Lawlor says about -- this is current law, but in Massachusetts it was current law that families would be able to opt their children out of these types of family life curriculum. And within months of gay marriage being decreed by their state Supreme Court, the issue came up and a kindergarten family, a family of a kindergartner tried to pull their son out of such a program. And citing similar language to that which, and I'm sorry I don't have it here, to that which Representative Lawlor has pointed out. And the answer essentially -- and there was a court case, but there was also an appeal initially made to the superintendent, but they were told, well, the Supreme Court has spoken on the issue of gay marriage and that trumps the state statute.

So I'm very pleased that we all seem to be in agreement that current state law allows the opt out, but this amendment is the only, I think, and best way

to ensure that families with certain religious values and beliefs are able to opt their children out on an ongoing basis, whether it's next month or next year or beyond. So we all agree that parents ought to have this -- retain this right. The way we can make sure of that is to pass this amendment. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Will you remark further? Representative Hetherington.

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker. I take Representative Lawlor's words as both informed and in good will. And I believe that he does conclude that this right is accorded under the present law. However, we are entering into new territory for our society. In many ways, we are redefining marriage, we are finding requirements in our Constitution we didn't know were there. And I think that in the interest of furthering acceptance and harmony around these new developments, these new definitions, these, to many people, strange, social dynamics is very important to the goodwill and harmony that exists in our society that we offer all the comfort and assurances we can.

If by simply adopting an amendment, which, if Representative Lawlor is correct, is redundant, there's no harm in it. If by doing so we give comfort and assurance to those who may be dismayed and frankly, frightened by the changes in society that they have witnessed and that they are continuing to witness, if by adopting what may be unnecessary language, it makes it easier for people to accept these changes, then I think we should do it. Because ultimately, as we balance rights with respect for long-held and cherished traditions, we should do whatever we can to promote social harmony and to make people more comfortable with the way their society is changing and progressing. So, Mr. Speaker, I do not think we should be reluctant to do this because of an overly formal concern over what the law may now provide, or not provide. We ought to do this because it will give additional comfort to the changes that are going on, and in the end, promote general acceptance and goodwill in our society. So I would urge adoption of this amendment. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Representative

Bacchiochi.

REP. BACCHIOCHI (52nd):

Thank you, Mr. Speaker. Mr. Speaker, I think I'm probably one of a small group here in the chamber who still has young children in the school systems. As I quickly looked around the chamber, I think there's probably only about 25 percent of us who have kids in the elementary school. I'm one of them. I have a fourth-grade son and I also believe that Representative Lawlor is correct that parents would have the right to withdraw their students from a marriage curriculum at this time. But the problem is parents are not and probably will not, without us passing this amendment, be notified that this curriculum is being offered.

My fourth-grader brought home two permission slips for me so far this year. One was on a reproduction class and was in AIDS class. If I didn't know that marriage was being part of the curriculum, I wouldn't know that I had the opportunity to withdraw my student. I firmly believe every parent in this chamber, as well as every parent in our districts would want to know that this curriculum was being added to their child's classroom activities. And I

don't want people to misconstrue my support of this amendment as meaning I would automatically withdraw my child. What I would want is the opportunity to know what's being taught and to talk to my child about what is being taught.

Perhaps what's going on in the school system is actually very negative towards same-sex marriage and I would want the opportunity to have a fair, honest and open discussion with my child. Without passing this amendment, there's no guarantee that we as parents and our constituents as parents would have any notification. Maybe it's true, maybe we would have that right, but if we don't know we have the right, we cannot exercise it.

I'm in very strong support of this amendment and I think as parents and as Legislators who represent parents, this is an important amendment that ought to pass. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. For the second time, I heard Representative Lawlor and -- say that this is

unnecessary, it's already the law. It might well be. I take his word for it, but you see, here's the part of the problem, Representative Lawlor said the law that allows you to exempt your kid from these kind of classes existed since 1979. Don't worry about it. It's all taken care of. Well, the definition of marriage changing to same-sex couples being allowed to marry is just around since July. It's sort of new.

So we really don't know definitively whether or not the exceptions or the statute that allowed you to exempt your child from certain curriculum back in 1979 contemplated what happened in July 2008. Maybe it did. Maybe it didn't, but you know what? What's the harm? What's the harm of being specific? What's the harm with saying, ladies and gentlemen, as we are in this bill, I mean, think about it, one could argue, why do we need this bill? It's redundant because the Kerrigan decision already allows same-sex marriage, because we have an obligation to be clear and definitive to our citizenry and this is a dramatic change.

Remember folks, what are we? The third state in the United States of America whose laws allow same-sex marriage. We've been talking about it for quite

sometime, but let's not assume that everybody is just very conversant in this. And understand we're only the third state -- only three. So, what's the harm? What's the harm of making it crystal clear in our law that, if in fact, a public school develops a curriculum with regard to marriage and you, as a parent, object to that based on your religious tenets, you have the right to exempt your child from that class. That's all this says.

If it's already the law, it'll do no harm, but I think it's time that we update a 1979 statute of exemptions to take into consideration a 2008 Supreme Court decision that dramatically changed the definition of marriage for the state of Connecticut. That's all it does. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Mushinsky.

REP. MUSHINSKY (85th):

Thank you, Mr. Speaker. I rise to oppose the amendment simply because Representative Lawlor is correct. This is on the books. Former Representative Keeley from Bridgeport and myself had worked on family life education and contraceptive education and passed it. And at the time we had the same issue come up;

well, what if our family doesn't believe in contraception? What should we do?

So we worked on the exemption language and it isn't in law. It was worked on again in the 1980s. And how it works is the notice goes home to the parents, yes or no, do you want your child to participate? And you sign the sheet and send it back in. Any of the controversial sexuality issues are sent home on the sheet.

The student -- there's always a few students and families that do take advantage of the opt out. And the student usually writes a paper or does some research on a related topic. And turns in their paper and they qualify for the credits. So this is in place now. Adding this amendment will simply send the bill back to the Senate and it's already current protection for families who wish to use it. So I would say we do not need it. And just tell your constituents to use the opt out provision as we already have in law. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. For the second time. The question was asked, what's the harm in being specific, And there is a harm in being specific, sometimes. You know, what you have in the statute are -- but first of all, let me restate. This is completely covered under current law. There's no question about. The Kerrigan decision doesn't affect this because the Kerrigan decision was about state enactments which clearly disfavor same-sex couples and there's nothing here that favors or disfavors anybody. You can argue if we did this, we might be given the stated reasons for it, disfavoring same-sex couples.

But here's the harm in being specific, you've got a very broad definition in there that's been there for 30 years. Anything to do with a family, no matter how the family is constructed, any type of education about that, the parents have an absolute right to opt out their children from that instruction. Once you start getting specific, then people argue that, well, if the Legislature intended to include, let's say, instruction about single parent families, they would have mentioned that. They only mention marriage so you don't have a right to opt out if it's single-parent. So the advantage of having a very

broad statute and not starting to add specificity to it after that is that you don't run the risk of someone saying, well, if the Legislature had intended to put it there, they would have done it.

They only put marriage, so if they're talking about parents living together without being married, that's not even covered. You don't have the right to exempt your child from that because if the Legislature intended to give you that right, they would have said it. They only said marriage, not unmarried, you know, things like that.

So there are unintended consequences of adding specificity to what starts out as a broad definition. And so I think to be on the safe side, it's clearly, clearly covered under the current law, that any parent who wants to pull their child out from instruction about anything to do with marriage has that absolute right today. If you got specific, you might have unintended consequences. So since everyone seems to acknowledge it's clearly covered under the current law, we might be doing additional harm by adding some -- listing specific things because other things won't be listed that would currently be covered and it's conceivable that someone could argue later on

that the Legislature's failure to add those other things meant that you didn't have the right to pull your children out.

So in order to avoid any unintended consequences, I would urge defeat of the amendment. Clearly, parents have and ought to have the right to withdraw their children from any type of family instruction. They have that right. There's no question about that in the current law.

SPEAKER DONOVAN:

Thank you, Representative. Representative Cafero.

REP. CAFERO (142nd):

Mr. Speaker, I seek leave of the chamber to speak for a third and final time.

SPEAKER DONOVAN:

Is there any objection? Seeing none, Representative, you may proceed.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. I rise for the third time because with all due respect to my esteemed colleague, who I have enormous respect for, the argument he just put forth can be used just the other way because the statute we're referring to 10-16C,

lists the kind of curriculum that you can exempt your child from. It says family planning, human sexuality, parenting, nutrition and the emotional, physical, psychological, hygienic economic and social aspects of family life.

One can argue, they didn't say marriage. They didn't say marriage. They didn't use the word marriage and therefore, kid, you can't get out of the class. If you're going to use the argument that being specific can open up a pandora's box, being vague can do the same thing. And I think it is better to be specific and clear than vague and confusing. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Representative Morris.

REP. MORRIS (140th):

Thank you, Mr. Speaker. One quick question I believe, for the proponent. Or actually, is there anything in statute that requires school districts to notify parents when they're going to be teaching one of these subjects that are -- they can be exempt for?

SPEAKER DONOVAN:

Representative Cafero.

REP. CAFERO (142nd):

Thank you, Mr. Speaker. Representative Morris, through you, Mr. Speaker, I don't know the specific answer to that and that was all the more reason for the amendment.

SPEAKER DONOVAN:

Representative Morris.

REP. MORRIS (140th):

I need you, maybe to help me, with procedure here, Mr. Speaker. I would like to, maybe, through you, or whomever, be able to ask that question of Representative Lawlor if I can.

SPEAKER DONOVAN:

You wish to direct the question to Representative Lawlor.

REP. MORRIS (140th):

Yes, if I can.

SPEAKER DONOVAN:

Representative Lawlor -- Representative Morris, you may direct your question Representative Lawlor. Representative Morris, if you plead your question.

REP. MORRIS (140th):

Is there -- under current statute, is there anything that requires school districts to notify

parents when they will be teaching any of these subjects for which they can exempt their children?

SPEAKER DONOVAN:

Representative Lawlor, will you accept the -- answer the question?

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I do. Through you, I'm not an expert on all the education statutes. I have this actual statute in front of me and there's -- is a very broad definition of the kinds of things you're allowed to exempt your children from. There's no requirement to notify each and every time one of these topics will come up in a school District. I assume that would be considered what we usually call an unfunded mandate, but I don't see a requirement to notify everybody all the time under these particular statutes. It may fall elsewhere in the statutes and I defer to other Legislators who might be more expert in the education statutes.

SPEAKER DONOVAN:

Thank you, Representative. Representative Morris Representative Morris.

REP. MORRIS (140th):

Thank you, then through you, Mr. Speaker, and I'm

not certain whether Representative Lawlor would be the right one to ask this question as well, then how could we be certain that parents could use this exception? What is the functionality or the good of this -- of the existing statute, in fact? I mean, I have to -- remember, we've got -- if we -- there isn't by statute a mechanism whereby parents are even notified so that they can make that exception. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Morris, are you again directing your question to Representative Lawlor?

REP. MORRIS (140th):

Yes.

SPEAKER DONOVAN:

Representative Lawlor. Do you choose to answer, I mean, the question?

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I -- other than what I said earlier, the statute speaks for itself. They have an absolute right to withdraw their child from any discussion on those enumerated topics. So I'm not -- I mean, I teach, but it's a college. I don't know how this works in a elementary or secondary school

level. I assume this kind of discussion happens from time to time in schools and I can only assume that if you required every school district to notify every single parent every single time there's going to be a discussion on any of these enumerated topics, which is a pretty long list, that would be probably considered an unfunded mandate, a significant one, too. It seems like a lot of notifications a lot of times. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Morris.

REP. MORRIS (140th):

I thank the good chairman of the Judiciary Committee for helping out and responding to that. However this raises a large concern in terms of the amendment that is brought forward. Unfortunately, I'm not amend this on the floor right now to make certain that that proviso is there. I hear it being as unfunded mandate, however in terms of religious liberties -- religious liberties, what good is a liberty if I don't even know when it may be infringed upon? I'm concerned about that.

I hear the debate, and respectfully from both Representative Cafero and Representative Lawlor as

whether it's vague, whether it's a specific. However, I think in terms of the parents' ability to know what their child is being taught and having the right to have that exempted. I'm in favor of it being very specific and not vague. Unfortunately I can't do it tonight. I don't have time, but I probably in the future would be looking to move an amendment to make certain that in a way that isn't overly burdensome financially for schools, that parents should be made aware. There should be a mechanism.

So that being said, unless I hear some other things that are said tonight, I'm going to support this amendment, because I think the religious liberties are that important. I think that the way the amendment has been crafted in terms of all marriages, it meets, what I've heard tonight in terms of, not as being specific towards just persons who are gay, and I thank you Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Representative O'Neill.

REP. O'NEILL (69th):

Yes, thank you, Mr. Speaker. And following up, really on Representative -- rather, the Minority

Leader's comments and in response to the Chair of the Judiciary Committee's notion that the amendment somehow would narrow the scope and be too specific. Just a reading of the amendment indicates that this is in addition to the language that's already in the statute, which says that the student may exempt themselves from the family life program or any program of instruction concerning marriage. Now this is on top of, not in place of, the family life program. So I don't see how this could somehow become to specific. There would be the general language that's been there all these years plus this new and somewhat specific, but not terribly specific exemption, that would be available if the subject was marriage, which is, in fact, not mentioned anywhere in the long list of items that the family life program is intended to encompass, that which I think one of the previous speakers went through, but does not include the word "marriage" anywhere in it.

So to include this, I think, may conceivably be duplicative of what's implicit, at least in the mind of the Chair of the Judiciary Committee, but is not explicit. And I've just spent the last 20 minutes or so, while we've been debating this amendment, on the

State Department of Education website trying to find the curriculum guide that is -- we have ordered them to produce by virtue of Section 10-16B. I have not found it. Maybe it's buried somewhere on their website. Maybe it's not on their website. Maybe you have to go there and find a piece of paper or a document and -- on paper that's their curriculum guide for family life. But it's certainly is not very easy to find and if it does deal with the subject of marriage, I have yet to see any evidence of it on the State Department's website.

Perhaps some other members have had more success in locating it or are more familiar with that website. But if it's there, is there's something relating to marriage in the family life curriculum, it's certainly not obvious to anyone who's making an effort to find it through the use of their website. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. This amendment would heighten school districts' awareness of the issue. It

would be very clear that they're to notify the parents, but you know what ladies and gentlemen? We're members of our community, no more, no less. We've been given the responsibility to come here, and make decisions and the actions we have taken tonight with the Senate amendments are pretty weighty. There's no question about that.

Ladies and gentlemen, I think tonight I'll lean a little bit on the side of the parents, the parents of schoolchildren, because of the actions we've taken with the underlying bill. So I'll be supporting this amendment. I'm going to lean a little bit of the parents' side and.

SPEAKER DONOVAN:

Representative Perillo.

REP. PERILLO (113th):

Mr. Speaker, thank you very much. I'd like to follow from a point that Representative Morris made and it has to do with the question that he asked, somewhat rhetorically, how does a parent know? How does a parent know that they are able to have their child opt out of a class that teaches family life, and in this case, teaches about marriage? And the Chair of Judiciary has suggested, and quite clearly and

definitively, that the law, the statutes that we have right now do include marriage, but as the Minority Leader pointed out, that is not stated specifically.

We have a complex bill before us, a technical bill and loaded on top of that are complex amendments, technical amendments. And to get to the question, how does a parent know and how do we let a parent know? If nothing else, the amendment before us today can help to let a parent know, to serve as a message, to serve as a note, a sign, a beacon that says, look, if a curriculum addresses marriage of any kind, your child and you can choose to opt out. That is how, in a very small way here today, we can help send a message and let parents know. We can help inform parents and as Representative Sawyer said, tonight may be a night where we err on the side of parents and act conservatively on the side of parents and their informed consent or dissent; informed. We can inform parents tonight with this amendment and I do urge its adoption. Thank you, Mr. Speaker.

SPEAKER DONOVAN:

Thank you, Representative. Remark further? Remark further on the amendment before us? If not, staff and guests come to the well of the House.

Members take their seats. The machine will be opened.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The houses is voting House Amendment Schedule A by roll call. Members to the chamber.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted? All the members, please check the board and make sure your vote has been properly cast. If all members have voted, the machine will be locked and the Clerk will please take a tally. The Clerk, please announce the tally.

THE CLERK:

On House Amendment Schedule A.

Total Number Voting	143
Necessary for Passage	72
Those voting Yea	50
Those voting Nay	93
Those absent and not voting	8

SPEAKER DONOVAN:

Amendment fails.

Will you vote further on the bill as amended? Will you remark further on the bill as amended?

Remark further on the bill as amended? If not, staff and guests come to the well of the House.

Sorry Representative. All right hold on. Hold on. Sorry Representative Morris, I didn't see you. Representative Morris.

REP. MORRIS (140th):

Thank you, Mr. Speaker.

It's 10 o'clock. Someone just said it's early.

I need to echo some of the comments I heard earlier. And that has to deal with the fact that when I came here today, I was not expecting to have to vote on this bill. I was not expecting to have to vote on 899. I knew, certainly, that within this Legislature that we would contemplate the seriousness of what we're doing today and I'm not talking about codifying Kerrigan. I'm talking about everything that we've heard within the last few weeks from people of faith that have made it very clear that they felt that the way the original bill was crafted was encroaching upon their faith and their religious liberties.

Now certainly, the bill that we have before us now, is amended, is a major improvement to the credit of those who worked upon it. The challenge for me in many ways is as I've heard today that, well, we

address the needs or the concerns of the Catholic Conference, and we may have addressed the concerns of other groups, but I don't believe we've addressed all the concerns. And as a person of faith, as a person who understands the First Amendment, as a person who has advocated for gay rights, I am really troubled this evening, and I've shared it earlier that we have rushed to a judgment to codify the Kerrigan decision in a way that, maybe, some conversations begin this morning, that I think needs more contemplation and more thought.

Freedom of religion, freedom of expression of religion is a fundamental right. Our challenge here is often that, sometimes we as Legislators may look at that right through the lens of our own personal religious experience and not recognize that what that right means is, if I don't believe what you believe religiously, I'm going to advocate for it and I am going to protect it.

Now certainly, we took care of a lot of the things we needed to do with the churches, with facilities and things like that, however, one thing we didn't deal with was marriage conscience protections for individuals, because that's the testy water.

That's the hard water. That's the hard work. So I'm going to try as best as I can, because as I said, I didn't come prepared today to speak. I was working on some things and so, if what I say may seem a little disjointed at times, it's because I'm trying to put something together really quickly.

But understand, and I'm going to try not to be that emotional, because over the last hour or so I've had to hold back tears, the range of emotions I've gone through sitting here this day I cannot begin to tell you. As a person who has tried to protect and make certain that people that are gay can feel comfortable in our society, I need to tell you that today, in 2009, sitting in this legislature, I do not feel comfortable as a person of faith. I don't.

The way we have rushed to do this tonight, I honestly feel like my liberty was not properly considered. I believe the Framers of our Constitution would have required and expect us to give this more due diligence. I didn't get the opportunity to hear the debate, the questions that were raised in the Senate. It would have been valuable for me.

I have to make some decisions today without being able to really take a look at this amendment, which I

got to see for the first time and understand its implications. I'm really troubled by this because I just celebrated my 30th wedding anniversary two days ago -- two days ago. And as a minister of the gospel, I often do marriage counseling, because no marriages are perfect. This isn't about marriage, but I'm talking about religious liberty. And one of the interesting things I get to share with people, and this is why we're having -- I'm having trouble here today, is that maybe not for all faith communities, but certainly in my faith community, the union of a man and a woman is likened to the union of Jesus Christ and his Church. It is that sacred. And for those reasons, people who may believe, as I believe, would have very difficult problems with being involved in any capacity in any way of supporting or promoting a same-sex marriage as a matter of our deeply held religious beliefs.

Well, we have a bill here today that basically says, well, if it's a part of your deeply held religious beliefs, and some people fell, well, we did good, for some individuals who just like me, they may be their belief and they're not a minister, they're not a clergy person, but it's their deeply held

belief, we basically will be passing a bill that says, you know what? You can hold on to that belief and you can discriminate as long as you're not taking state money or anything else. So as long -- you basically cannot become -- in order to participate in the public marketplace, you must deny your faith in order to take state and federal money.

Now, you may not agree with me, but we just got through a holy week not too long ago. And for those of you who are Christians that hear, maybe you'll understand what I'm about to say. For people of faith, during the last week of Jesus Christ's life, his very treasurer sold out for 30 pieces of silver. So we have a bill here that says if you want the money, we'll give you the money, but you've got to sell out your faith. If you want to be a justice of the peace, you can be a justice of the peace, but you have to sell out your faith. If you want to take the money, if you want to be part of the public marketplace, take your religious convictions and put them to the side.

During Jesus Christ's last week, he also had one of his closest disciples, name was Peter, told him he would deny him. And when it got tough, Peter did deny

him. There are many of us as Legislators here tonight, particularly Christian Legislators, and some who may want to call this controversial, if they want to, but for your deeply held religious faith, is there something on the inside that's saying you know what? If I allow this bill to go forward -- it is good. It -- we've got some good things, but if I don't hold out for everything that we are to have as persons of faith, will I actually have denied him? I certainly would feel so.

Me personally, although this bill has done some good things, and I think people from both sides can make it into some really good things. I think it was Representative Cafero that said it earlier, if everyone in this House voted no tonight, same-sex married couples will still be getting married tomorrow. Those who are in a same-sex marriage, you know, they're not being jeopardized, but if you believe like I do, if you believe that, you know what? Maybe those -- for reasons of conscience, for individual conscience and that we have not appropriately addressed those things and it's that important, and that we have rushed to do this so quickly, I would urge you to go ahead with me and vote

no.

Now what would that no vote mean? To the gay community, does it mean that I don't support same-sex marriage? No, because you have same-sex marriage. You have same-sex marriage. It is the law. I didn't abandon you. All I'm saying is, you know what? We just need to work this a little bit more, because quite frankly, I think that's what should have happened. I don't think this is a bill that we should even brought this year. We should have taken time for a year, have experts come in and educate all of us and take a look at all of the different ramifications of this bill and what we're doing. So a no vote doesn't hurt the gay community. A no vote doesn't hurt the religious community whose -- yes, got some protections, but I think it allows all of us to come together and say you know what? This liberty is that important.

Quite frankly, as it deals with this whole thing, and I'm not going to try to really redebate the marriage -- same-sex marriage issue, however I think Connecticut did a good thing. It was a Connecticut solution. The Connecticut solution, really, I think, should have been the national solution. From my

perspective, I think government should get out of the marriage business altogether. What we did voluntarily, when we did civil unions was what should have happened federally. I have no problem if tomorrow someone told me, you know what? As far as government is concerned, you're in a civil union. I'd be fine. All across the country that resolves the issue. I've heard the president of this country said I believe in marriage being between a man and a woman. It's the good solution. Get government out of it, because this is so complex.

I was going to ask Representative Lawlor a bunch of questions, but I won't. Maybe he will comment on his own, because I'm not going to belabor our time by doing that. However, I -- well, I may ask him one or two, I may have to. I am concerned that there are elements of this bill as it stands that may place a faith institution in a position where they can be -- there could be consequences for them in terms of housing discrimination that hasn't been addressed. I am concerned. If in fact, maybe, I need to add, if I can, through you, Mr. Speaker, ask Mr. -- ask Representative Lawlor just one or two questions in that regard, so at least I can clarify something that

even happens within my church. Through you, Mr. Speaker.

THE SPEAKER:

Thank you, Representative Morris. As long as they are to the bill as amended.

REP. MORRIS (140th):

Yeah. They are.

THE SPEAKER:

Representative Lawlor, please prepare yourself. Representative Morris, please proceed.

REP. MORRIS (140th):

The question is, and this is a real -- this is a -- very real. My church has a separate 501(c)(3) corporation, I want to say mission house. It is directly part of our mission. It's connected religiously and it's not funded through any public dollars. It's all private dollars.

The people who live in that mission House don't have to pay. We fund it. We don't take state money or anything else. In fact -- and most of the people -- the fact that people live there is part of our prison ministry, that we take individuals who have come out of halfway houses and they want to live in the community. We provide housing for them, but they

have the understanding this is part of ministry. We do Bible study and things like that with them. It's part of their rehabilitation, the requirements where they attend our services.

In fact, one of the individuals who is in that home right now lived his entire adolescent and adult life as a male prostitute. Now if that gentleman, who's about 52 years old, so he's had his -- lived his life for so long, but he's -- putting his life, saying, you know, this isn't my lifestyle. I -- in fact, he's even said I want to marry a wife. But the question would be if he came back and said you know what? I mean, right now he's telling us I want to marry a wife. I'm looking for a wife. I know someone is looking at me crazy, but this gentleman --

SPEAKER DONOVAN:

Representative Morris, is there a question here?

REP. MORRIS (140th):

This is a question.

SPEAKER DONOVAN:

Please proceed with a question, sir.

REP. MORRIS (140th):

If this gentleman decided, it's like, you know what? I don't want a female wife, I want to marry

another guy, and I want the guy to come live here with me. And we refused him that opportunity for that, his male partner to live with him, could we be sued for housing discrimination?

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I believe you could, under the circumstances as I understood them, as they're outlined, I think the organization would be free to discriminate under those circumstances.

SPEAKER DONOVAN:

Representative Morris.

REP. MORRIS (140th):

Thank you very much. If under our 501(c)(3), we -- and you've got to allow me a moment, because I'm trying not to be redundant with some of the earlier questions, in fact, I'll leave it at that. That's good enough. Thank you, Mr. Speaker for that question for the proponent.

I will conclude my comments for tonight with, again, just reiterating my point that, I think, we can take what has become a -- and originally, a bad bill, has become a better bill and we can make it the best

bill. And for those reasons, I'll be voting no on this underlying bill and I would encourage whatever other members who agree with me that we can make this a better bill. And that individual conscience is something the Framers of our Constitution did intend for us to respect and it might be hard work for us, but we can work it out. We can do it, so at the end of the day, both sides will agree. Thank you, Mr. Speaker.

THE SPEAKER:

Thank you, Representative Morris. Representative Candelora of the 86th, you have the floor sir.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. If I may, I just have one question for the purpose of legislative intent to the proponent of the bill.

THE SPEAKER:

Please proceed, sir.

REP. CANDELORA (86th):

Thank you, sir. Specifically in Senate Amendment C, which became part of the bill, we have this exception here that if a religious organization provides certain services, that the act doesn't affect the manner in which they provide the services. And my

question is what if one of those organizations does receive state or federal funding, how would those institutions be affected? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I think I answered this question earlier, but I'll repeat it. I think under Kerrigan decision the State cannot discriminate against same-sex couples so if it's a private entity acting on behalf of the State, I think that the Kerrigan decision would probably apply under those circumstances. Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker and just through you, Mr. Speaker as a hypothetical, if I believe that State provides transportation services for parochial schools, I'm not sure how that money flows. If a private school is providing in the course of their education social services, if, for instance, my wife taught at a Catholic school where they provided, you know, toiletries and some other family services for

students, if they're receiving transportation funds, whether it be through a local municipality, but they are state dollars, would they be potentially in violation of this act or would be precluded from receiving those state funds? Through you, Mr. Speaker.

THE SPEAKER:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. There's a broad exemption for religious schools under the bill. So they would be exempt. Religious schools are exempt.

THE SPEAKER:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. Just through you, Mr. Speaker, I guess, what if then, for instance, it's a foster care agency then, as a hypothetical? We would necessarily precluding them from receiving state or federal funds under this exception. Am I correct? Through you, Mr. Speaker.

THE SPEAKER:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. No, they would not be precluded from receiving funds.

THE SPEAKER:

Representative Candelora.

REP. CANDELORA (86th):

And I guess, why would that be, in a hypothetical if a foster care agency was receiving state funds, they would be precluded from discriminating against same-sex couples in order to be able to receive the state-funding as I read the exception. Am I correct? Through you, Mr. Speaker.

SPEAKER DONOVAN:

Representative Lawlor.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. Well, the question was about receiving state funds. Under the Kerrigan decision, the state is precluded -- it's considered to be unconstitutional to discriminate against same-sex couples when it comes to marriage. So if it's a private agency acting in the state's stead, if they're, you know, if they're running a state program, then I think this, the decision would apply to them, as well. So they can do whatever they want except discriminate if they're acting on behalf of the State.

THE SPEAKER:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker and I appreciate those answers. And I asked them and I guess it points to an issue that I do have with the way these exemptions are framed because the Kerrigan decision dealt with State action. And what this assumption is doing is actually setting public policy in that, we are saying, as a state today, that foster care agencies, social service providers, adoption agencies that may have a religious component, may be provided by religious organization, will be precluded from state or federal funds. And I don't believe the Kerrigan decision had gone that far and I understand that this exemption was written as a compromise for the purposes of allowing the Catholic Church to provide their adoption services. But I'm concerned that we are now setting a policy of excluding any religious organization from state or federal funding.

It's fairly broadly written. It's not necessarily direct funds that are flown through. There may be a case where these agencies are receiving the funds indirectly. And at the very least, I think

that this exception needs to be fleshed out more. I'm disappointed in the manner in which we are voting on this legislation tonight.

This is an extremely important issue. We've all had hundreds of phone calls from individuals across the state of Connecticut. And I have to say I will be going back to my district a bit embarrassed to tell them that we took up this bill with about 15 minutes of notice and we're trying to craft a piece of legislation to address a Supreme Court decision without any prior opportunity to flesh out the details. Thank you, Mr. Speaker.

THE SPEAKER:

Thank you, sir. Representative Thompson of the 13th, you have the floor, sir.

REP. THOMPSON (13th):

Thank you, Mr. Speaker. Mr. Speaker, I was moved very strongly by Representative Morris' remarks. And it was ironic because as we were walking over here, shortly before we came in here, I said to him I believe that I was going to speak tonight in support of the bill. And I may need some support, and we kept walking. He didn't -- I don't remember what he said, but in any event, I am speaking in support of the bill

as amended. I believe Chairman Lawlor did a magnificent job in explaining the bill and responding to questions and so on.

And it made me think recently, reading a book by former Missouri Senator John Danforth, morals and politics. Prior to becoming a U.S. senator, he was the Attorney General of Missouri, and in that role, he represented the State in a -- one of the more famous cases that involved the issue of abortion and other right issues, which he said in the book, he had appealed to the voters of Missouri on the basis of many of these issues because it's where they were at, but he came to the conclusion, after leaving the Senate and after being the UN ambassador for our country, that we as a country were getting hung up on wedge issues.

And two of those wedge issues was abortion and gay marriage. And he said that he came to the conclusion that the extreme positions on these two issues was dominating our political debate and influenced so many different issues. For example, poverty, children living in poverty; the breakdown in so much of our society and so many different social issues. And he suggested that we ought to get away

from that, get away from those wedge issues and start talking about real issues that affect our communities, our states and our country. And I'm suggesting to you we've got plenty of issues beyond gay rights and abortion and so on.

And I think I made a classic error along those lines when a couple years ago I came in here -- I had been here when we passed the abortion bill. I was pro-life. I was one of those people who, as Mike Lawlor mentioned earlier, who listened to Richard Tulisano on that issue because he was such a champion of human rights. And he said we have to codify Roe V. Wade, and we also have to do what we can to make it as acceptable as possible.

And so he came back to us after negotiations and reported to the committee -- a group, not a committee that we reached an agreement and the agreement included codifying Roe V. Wade, but also included counseling of young people at the time, youngsters, 16 and under. So when we started talking and debating about the age of majority, I thought it fit right in with what our original negotiation was about, that looking at teenagers differently, and perhaps, 18 would be a better age. So I suggested that as

legislation.

And as a result, there was a very strong reaction to it by -- from the pro-choice people, even though I had voted for abortion and so on. And all sorts of reaction to that resulted in the bill being buried. My big mistake was I took the other side for granted. I just thought everybody would find my approach rational and reasonable and we would debate it.

Well, we didn't debate it. And last year we finally got the bill out of committee on an eight to one vote. And again, it didn't go any further. Again, I made the mistake of not sizing up the opposition. And I think that's a mistake we may be making, continuing to make.

So when it went down the tubes this session, I listened to what John Danforth was writing about and I thought about the more important issues that weren't being discussed. For example, health-care, the economy.

THE SPEAKER:

Representative, to the bill as amended, please.

REP. CANDELORA (86th):

Excuse me.

THE SPEAKER:

To the bill as amended, please.

REP. CANDELORA (86th):

I'm getting to it in a roundabout way.

The point I'm trying to make is that I should have respected the other side of a little bit more because I thought I had credentials, having voted for the abortion bill, having voted for Plan B. But then I think we have over 300,000 people in this state without health insurance. And a couple weeks ago, because of the declining economy, I read where that has more than doubled.

And we haven't really discussed health care in this session, or we have obliquely, but it hasn't had the kind of debate we're having tonight. And it should have that debate. And there are other issues in our society that are just as pressing and important and that's centered around poverty and what's happening, jobs being lost and so on. We should really be talking about those things. We should be talking about what our -- where our economy is going in the state and what we can do to stop it. Where our health care situation, we are the richest state in this nation -- state in this -- richest nation in this world, I'm sorry, but we're the third richest state

within the richest nation, okay? And we have pockets of poverty that are not being attended to and they should be attended to. That's a moral issue, just as much as the bill before us is interpreted by many to be a moral issue. Well, that's a moral issue and perhaps it's a greater moral issue than what we're discussing here tonight, okay?

So what I did after this last go round, I met with the other side, representatives of the pro-choice --

THE SPEAKER:

Representative, to the bill as amended, please, or summarize.

REP. CANDELORA (86th):

Okay. Yes, I'm getting to it, Mr. Speaker. I met with them --

THE SPEAKER:

To the bill as amended, please. Thank you.

REP. CANDELORA (86th):

I met with them. We discussed how we might work together. And I'm suggesting this debate tonight has brought us together. We had a unanimous vote here on the amendments and I believe we should have a unanimous vote on the bill as amended. But I believe

beyond that, the issues that were raised by Representative Cafero on notification, that's an issue. We have time to do an E-cert between now and the end of the session to make sure that schools do notify parents about this type of curriculum and we can do other things.

We can work together to do something about the health care situation and this bill is inspiring, at least, it's inspiring me to get up here and talk and get you teed off at me, but that's too bad, in all due respect.

I do hope, Mr. Speaker, that we will sit down with, we will vote on this bill and vote for it and get it out of here and let's get on with some other business which is probably more important to us in the long run than any of these things. And I respectfully suggest that we have a bipartisan approach to not only this issue, but to health care, to the economy and a few other issues that need to be addressed before the beginning of June. Thank you, Mr. Speaker.

So I urge all of my colleagues to vote for this bill. I pledge I will meet with anyone to discuss how we might do something about health care while we're figuring out what we're going to do as a nation with

health care, something we can do right now in this state and make sure that everybody does have health care before we leave this session.

THE SPEAKER:

Thank you for your erudite comments.

Representative Thompson.

Further on the bill as amended? Representative Mushinsky, do you care to remark on the bill as amended?

REP. MUSHINSKY (85th):

Thank you, Mr. Speaker. 42 years ago on June 12, 1967, the U.S. Supreme Court in the case Loving versus Virginia struck down a Virginia statute barring interracial marriage which was illegal in 15 other states, as well. Today in 2009, President Barack Obama, Derek Jeter and Tiger Woods are all children of marriages that were forbidden not long ago in our history. They were forbidden on religious grounds which became law. The Kerrigan decision may turn out to be our Loving versus Virginia case four years from now. Your kids may say, what was all this about?

Our job as Legislators, as I see it, is to protect individual liberties and let our religious institutions protect religious beliefs. The best we

can do as Legislators is to keep those liberties separate. So please support the bill.

THE SPEAKER:

Thank you, Representative Mushinsky. Further on the bill? Representative Lawlor of the 99th, you have the floor, sir.

REP. LAWLOR (99th):

Thank you, Mr. Speaker. I just want to take a moment to say thank you. Sorry. Representative Mushinsky got me all vaklempt. I apologize for that, but I just want to say thank you. This discussion is going on for ten years in our state and I think we've all learned a lot. We've all evolved. We've all listened to different points of view and it started with the discussion about second parent adoption and hearings before the Judiciary Committee went on for a few years and we did the civil union bill, a big bipartisan vote, as was the second parent adoption vote, and I think now we're here.

My sense is, after ten years, this is probably the last time these issues will ever be discussed in the Connecticut State Legislature. And I think it's fair to say, I can speak on behalf of a lot of people that I think are gay and lesbian citizens feel like

they've accomplished full equality. So thank you.

THE SPEAKER:

Thank you, Representative Lawlor. Representative Rowe of the 123rd.

REP. ROWE (123rd):

Thank you. I'll be equally fast and I want to associate myself with some of Representative Morris' remarks. We're very appreciate that Representative Lawlor and Senator McDonald made accommodations for religious organizations, that perhaps, they didn't have to do and still have the votes. So that is appreciated. It's the individuals and the religious faith and sensibilities, maybe, of individuals, that hasn't been protected in the bill as amended. And we know this -- I suspect that this won't be the last time we're dealing with gay marriage related issues. I think were going to be back here with ancillary and collateral issues that arise. And it's kind of funny, though, ironic perhaps.

Representative Lawlor noted that it started with gay adoption and, maybe ten, years ago or so. I actually had this same debate, the gay marriage debate on the floor of the House probably 20 -- a little over 20 years ago. And I was sitting in Representative

Lawlor's Chair for the YMCA Youth & Government and we had a full debate than on gay marriage and it failed. I certainly didn't know that 20 years later we would be codifying it, but I suppose there's some irony there.

I would, while I do again, thank the accommodations that were made, caution us that the individual religious freedom is not protected in the file copy, in the bill as amended and we ought to be very concerned about this and on the lookout. There will be consequences to our failure to adequately provide the protections. Thank you, Mr. Speaker.

THE SPEAKER:

Thank you, Representative Rowe.

Representative Hetherington, do you care to remark on the bill as amended?

REP. HETHERINGTON (125th):

Thank you, Mr. Speaker and I will be very brief. As the point was made a few minutes ago, there certainly are more important things to the daily lives of the citizens of Connecticut that we ought to be moving on. But you know, we can't move on easily if we refuse to allow people to get comfortable with what we're doing. And I don't understand why we have to do

this tonight, why we have to rush to do this before we could discuss it at greater length, before our constituents could even reflect on what we had done. And I'm very disappointed that we were unable to adopt the third amendment, the one that would have made clear that parents had the right to opt out for their children of treatment of marriage in the classroom.

I'm troubled, not only because I thought it would have been important to emphasize that, but I thought it would have given a measure of comfort to people who, otherwise, might have been opposed to this bill and the progress we've made on same-sex marriage. I realize had we adopted the amendment, it would have had to go back to the Senate and some might have found that unacceptable, but I thought that that delay was well worth the -- well worth delay -- a delay if it made this easier to gain broad acceptance. The point is, we can't move on to other things as we should if we insist on doing things in a manner that is hasty and that is resistant of full discussion and full participation and full disclosure to our constituents. I, frankly, was very much prepared to vote for this bill and I was up until the time we voted on the last amendment. And when we rejected the last amendment,

it made me doubt that we were seriously interested in bringing our society into harmony on this issue, that we were more Interested, perhaps, in getting it done and I don't think that serves the interests of the people of Connecticut and it doesn't serve the interests, our interests as a broader society in moving forward in a progressive fashion.

So having rejected that amendment, I'm not sure now how I'm going to vote on this and in the next few minutes, I'll have to consider very carefully how I ultimately cast my vote. Thank you, Mr. Speaker.

SPEAKER 1:

Thank you, Representative Hetherington. Representative Bye the 19th, do you wish to comment on the bill as amended.

REP. BARRY (12th):

Thank you, Mr. Speaker. I rise here in gratitude for the work of Representative Lawlor, and Senator McDonald's, and others who worked on the amendment to this bill to make it more amenable to folks feeling that their religious liberties were protected. But I also rise because I'm grateful that this bill provides the respect and dignity that all marriages in Connecticut deserve and I'm particularly proud, and

will say for myself, that it provides my marriage the respect and dignity that it deserves in this state.

And so I just want to expect -- express my gratitude to those who worked on language that improved the bill and express my gratitude to the chamber. And I hope that you'll support Bill 899. Thank you, Mr. Speaker.

THE SPEAKER:

Thank you, Representative Bye. Further on the bill as amended by Senate A and C? If not, staff and guests -- one more. Two more.

Representative Morris, do you care to comment on the bill as amended, for the second time?

REP. MORRIS (140th):

Thank you, Mr. Speaker, for the last time. Although as you hear the groans of the chamber, it makes me realize all the more reason I need to speak, because apparently what I said the first time really didn't resonate and people didn't get it.

THE SPEAKER: Representative Caruso, for what purpose do you rise.

REP. CARUSO (126th):

(Inaudible.)

THE SPEAKER:

The House will stand at ease.

Chamber at ease.

THE SPEAKER:

The House will come back to order. Representative Caruso, in your response to your point of order, I believe it's when a member would like to speak for the third time on a amendment or issue. Would you like to withdraw your point of order, sir, at this time? Representative Caruso.

REP. CARUSO (126th):

I do apologize to the body and withdraw.

THE SPEAKER:

You're welcome for the clarification. Representative Morris, you had the floor, you still have it, sir.

REP. MORRIS (140th):

Thank you, Mr. Speaker. If you recall, earlier when I spoke and I had a difficult time making the statement that I made, when I shared with you, my colleagues, that as a person of faith I have been discriminated against in regard to my faith and I do feel uncomfortable and quite frankly, as we're having

this discussion tonight and we're talking about religious liberties, I'm made to feel all the comfortable because now, it's five of -- ten of eleven an everyone wants to go home. And I respect your right to want to be home. I want to be home with my wife, as well. But if we really value religious liberties and if Representative Morris wants to get up and fight and talk about religious liberties, and I certainly sat here and took the time to listen to everybody else, I would think that if we in this chamber really value religious liberties, whether you agree or disagree with what I've got to say, I would be given the same degree of respect that I've given to you, my colleagues. It is interesting, if you note, that the Framers, and this is -- I'm dealing with religious liberties in the underlying bill, okay, Mr. Speaker?

When it came to writing the Declaration of Independence, the Framers prayed real hard in considering what they were going to do to separate from Great Britain. They prayed awful hard about what they were about to do.

When 911 happened in this country, the majority of people, because we live in pluralistic society,

prayed real hard. As a country of faith that said, in God we trust, there's a lot of praying going on. I heard earlier someone say we need to be -- we need to take care of the more important business and you're right, we've got some important business, but I would challenge the fact that it is more important to be about that business without making certain that the protections that people want about faith in their God, whomever that God is, is not properly acknowledged and protected.

If we don't do that, we, when we get about the real business we have to do once we vote upon this, we have a multibillion-dollar deficit and if we were to follow the model of the Framers of our Constitution, there would be many of us people of faith that are saying, you know what? You don't have to pray the way I do, you don't have to worship the way I do, but we as a people of faith, we're saying we need to pray. We open our session every day in prayer.

Congress opens its session every day in prayer. Why are we praying, for futility? We do that before we get about the business of making laws. Why? Because, America, although a secular nation, we are yet a God-fearing nation and in the state of

Connecticut, the Constitution State -- the Constitution State -- and we have the strongest constitutional amendment regarding religious liberties than any other state in the country. Then dear colleagues, it's worth if I wanted to stay here till 5:00 o'clock in the morning and talk about this, doing it, I'm not going to. I'm not going to. However, it just goes to my point. I just ask each of you to question yourselves, ask yourselves in the middle of this debate, and particularly for those of you who are Christian -- and by the way, our presidents and congressmen back in those days, some of them almost preached from the floor. Except I'm feeling people get a little bit uncomfortable when I talked about Jesus and the faith, but it was appropriate before. It was appropriate in that context, all right?

And someone is looking and saying it's not appropriate now. If we're talking about religious liberties it is because that's just one of the faiths. There are many faiths. If it was for Muslims and we're talking Allah, I'm there. So I'm protecting all of them. So all I've basically have asked you to do is watch with me one hour, that's all. While we really give this sincere debate, I'm not going to take

that hour. I'm just going to conclude again with saying for those of you that feel that, maybe, we really haven't given this all we can -- we did some good stuff and I'm not going to detract from that. Really, Representative Lawlor and those who worked, they did good work. I'm not taking from that. But there's more to do.

Mr. Speaker, I thank you for allowing me to speak the second time. For those of you, my colleagues, that want to get home quickly, I thank you for bearing with me, but please know that as I stand here and I say this, there are other people of faith that are probably sitting home, right now, they're on CT-N and they're saying, this is that important to us.

Please bare with us. Please take the time. Please take the time to understand and look at it through it our heart and our eyes, as well, and respect us, as well. Thank you.

THE SPEAKER:

Thank you, Representative Morris.

Further on the bill as amended.? Representative Caruso of the 126th, you have the floor, sir.

REP. CARUSO (126th):

Thank you, Mr. Speaker. Mr. Speaker, I chose not

to speak this evening however the references to Judas and to individuals who are of the Christian faith, I would just like to state for the record that after I vote for this bill this evening, I will still be a Christian in the morning, because the God that I worship, the God that I pray to is a loving and tolerant God. Thank you, Mr. Speaker.

THE SPEAKER:

Thank you, Representative Caruso.

Further on the bill as amended by Senate A and Senate C? If not, staff and guests, retire to the well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll call. Members to the chamber. The House is voting by roll call. Members to the chamber, please.

Speaker Donovan in the Chair.

SPEAKER DONOVAN:

Have all the members voted? Have all the members voted? Members, please check the board to make sure your vote has been properly cast. If all members have

voted, the machine will be locked and the Clerk will please take a tally. Clerk, please announce the tally.

THE CLERK:

Senate Bill 899, as amended by Senate amendment Schedules A and C, in concurrence with the Senate.

Total Number Voting	144
Necessary for Passage	73
Those voting Yea	100
Those voting Nay	44
Those absent and not voting	7

SPEAKER DONOVAN:

The bill passes in concurrence with the Senate.

Representative Merrill. Representative Merrill.

REP. MERRILL (54th):

Mr. Speaker, I move for the immediate -- the suspension of our rules for the immediate transmittal of the last action to the Governor.

SPEAKER DONOVAN:

The question is on suspension and immediate transmittal together. Is there any objection? Is there any objections? Hearing none, the bill is transmittal -- is transmitted to the Governor.

Are there any introductions or announcements, or

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If that student were expelled by the school after their picture appeared in the paper, would the student have a cause of action from this legislation?

SEN. LEBEAU: I would hope so, yes. I think it would be a gross injustice if that were to occur.

REP. DILLON: Thank you very much.

SEN. MCDONALD: Is there anything further? If not, thank you very much.

SEN. LEBEAU: Thank you, Mr. Chairman.

SEN. MCDONALD: Is Representative Beth Bye here? She indicated she was in another committee meeting.

UNIDENTIFIED SPEAKER: She's in Public Health.

SEN. MCDONALD: She's in Public Health as well? Senator Edith Prague. Is Senator Prague here? Good morning, Edith.

SEN. PRAGUE: Good morning, Senator McDonald, Senator Kissel and members of the Judiciary Committee. I'm here to support House Bill Number 89, let me put my glasses on so I can see what I'm doing.

I'm here to support House Bill Number 899 An Act Implementing The Guarantee Of Equal Protection Under The Constitution Of The State For Same Sex Couples.

You know, as I look out at each and every one of you, for those of you who have spouses, you know how important it is to have someone to love you and someone for you to love.

There is nothing more important in life than to be able to share your life with somebody you love and somebody who loves you.

Wealth and position are important, but not anywhere near as important as having a partner in life that you can share your life with, somebody you love, and somebody who loves you.

I hope that this Committee will think about that, think about your own situation, and how enriched your life is when you know that you're going home to somebody who loves you.

So I would ask you to give every human being that consideration and I thank you very much for your time. If there are any questions, I would be happy to try and answer them.

I think we have a huge responsibility to a lot of people who live in our state, who are only asking for the same rights as everybody else has.

SEN. MCDONALD: Thank you very much, Senator Prague, and I don't have any questions for you, just a debt of gratitude. You are an amazing lady, Edith. Thank you very much.

Are there any questions for Senator Prague? If not, thank you.

SEN. PRAGUE: Thank you.

SEN. MCDONALD: Richard Blumenthal?

RICHARD BLUMENTHAL: Thank you, Mr. Chairman and members of the Committee. There are a number of bills that I will submit testimony on, but I want to focus on one in particular because I have fought for it going back five years to

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RICHARD BLUMENTHAL: Thank you.

SEN. MCDONALD: I see Representative Bye is here.

REP. BYE: Good afternoon. I want to thank you, Chairman McDonald and Chairman Lawlor and members of the Committee, for giving me the chance to testify before you today.

I don't know if you got my testimony. I'm a preschool teacher at the Picture Book. Two pictures. I'm confident that you can read this testimony in your packet today, and the pictures are meaningful because it's a picture of my marriage day, and a picture of my family, and I'm here today to voice my strong support for Senate Bill Number 899.

But mostly I'm here to thank you, the members of this Committee for your work over the past ten years working to assure that all Connecticut residents have equal rights.

You've worked on issues of job discrimination, adoptions, civil unions and marriage.

I don't know if you all remember, but two years ago I sat before you and explained that civil unions offered a separate class, and what it felt like to be other.

And I sit here today with my marriage license. The Supreme Court passed marriage. This was a marriage performed by Jonathan Harris, so he hangs it on the wall in his office because it was the first marriage license issued to a gay couple in Connecticut this year, this past November.

I don't believe we would have made the progress we've made in Connecticut without the hard work of this Committee, and I'm just so grateful.

Marriage is meaningful, just as these pictures are meaningful. The top picture shows my daughters and son and my wife, Tracy, and my sister Jackie who was the maid of honor, and brother-in-law Matt who was the best man at our wedding.

And when we wanted to turn our civil union into a marriage, we thought, well, we'll just go to town hall on the morning and Tracey wanted to be first, because she's the Town Historian, so we'll just go down ourselves.

Well, when we told our children that we were going to just go down ourselves to do, turn the civil union into a marriage, they were furious, and so this picture is meaningful because I think it signifies what marriage means to our children. We knew it meant a lot to us, but for them to say, no, no, we want to be sure. We want to be sure to be there. So I thought that picture was important.

The other thing I just want to be sure to say again is marriage has meaning. Marriage has meaning to my family, and marriage has meaning in our culture and marriage has meaning in our state and to my family, and my daughters' wanting to be there was a real sign of this.

The other sign was, we thought we'll just go down and get married, but then I had a call from my friend, Linda, that morning, and she said, you know, Beth, if you were going to get married, I didn't want to have to read it on the CNN scroll, and that's a real sign that marriage is a story because marriage has meaning in our culture.

So, I'll stop there. I'm mostly here today to say thank you and to say these provisions in this bill are really important to me and my family, and to others, so thank you.

SEN. MCDONALD: Well, thank you very much. I just have one question. Why wasn't I invited to your wedding?

REP. BYE: I'm sorry, Mr. Chairman. We were trying to be quiet and it was all quiet until the New York Times called, and then it wasn't. But we are grateful to have Jonathan Harris there. We think a sign also, that this hasn't just been a movement of the Supreme Court.

It really has been the work of the Legislature and this Committee to help move this forward in Connecticut.

SEN. MCDONALD: I appreciate that Representative Bye, and I do think it's important that we acknowledge that what we do here actually matters in the lives of real people, even State Representatives.

So congratulations to you and to your wife. Are there questions? I believe Representative Gonzalez had a question, then Senator Gomes.

REP. GONZALEZ: Good morning, Representative, how are you?

REP. BYE: Good morning, Representative Gonzalez.

REP. GONZALEZ: I do have a couple of questions, but first I want to say that as a colleague and as a friend, my first question is, and I think it is not, you know, a secret that we have different opinions.

REP. BYE: Sure.

REP. GONZALEZ: Okay. And as far as I know, you've been here for a couple of years now, two terms, right?

REP. BYE: This is my second term.

REP. GONZALEZ: And we're friends.

REP. BYE: Yes.

REP. GONZALEZ: Okay. But we friends but we disagree on certain issues. You have your opinion. I have mine. Because we have different opinions, do you think that it is okay not being friends or to respect each other because I have a different opinion?

REP. BYE: No. I think people are welcome to different opinions.

REP. GONZALEZ: Okay. And I will say why I'm asking this question.

REP. BYE: Sure.

REP. GONZALEZ: I do respect you a lot and I like you a lot.

REP. BYE: I always worry if all that's set up.

REP. GONZALEZ: And I'm saying that, you know, you're entitled to your life. I don't think that people should criticize you and everybody should respect each other.

But me as a State Representative, if I don't support the gay and lesbian, the marriage between gay and lesbian, they make me feel like I'm a bad person?

REP. BYE: Do I see you as a bad person?

REP. GONZALEZ: Yes.

REP. BYE: Absolutely not. I think you're entitled to your beliefs, and I think that's one of the nice things. I really believe up here we've had respectful discussions and respectful disagreements on this issue and others. That's why we have elected Representatives.

REP. GONZALEZ: Thank you. And we, you know, I will say that we live in a democratic system. We have the right to agree and disagree, but that doesn't mean because we disagree I'm a bad person or I don't like you.

And my other question is, you know, some, not all but some gay and lesbians, they said that if we don't support them, that we are violating their rights. That's a comment out there always.

And I will ask you as a Representative and a friend, do you think that I violate your rights because I don't agree with you?

REP. BYE: No, I don't believe you violate my rights because you don't agree with me. Where we disagree is that I believe I have the right to a marriage, just as you have a right to a marriage. So that's maybe where we disagree.

If you talk about a disagreement, then I assume this is what you're talking about.

REP. GONZALEZ: Yes. So that means that you know you kind of agree with me in a way, not because I don't support, or you know, because I don't support, I'm against it.

I've got gay, I've got lesbian in my family and I love her to death. Yes. And I will never allow anybody to disrespect her or go against her or mistreat her. I will never allow or I will never do something like that to anybody. It doesn't matter. And that's why I'm saying I respect you.

But, people will say that me, I violate the gay and lesbian rights. But my question to you is, what about my rights? What about the other peoples' rights?

You know, if we respect, we have to respect each other, and it's out there, there's a feeling out there that if we don't support, we're violating the gay and lesbian rights, and I don't think that that should. I don't violate anybody's rights.

But also I'm saying, you know, yes, we respect your rights, but you have your rights, you have your opinions. But the thing is that if I would say I violate that gay and lesbian rights, then I would say who is violating my rights?

Who is violating the people's right, the people that have different opinions than the gay and lesbians? I think that we can, you know, work all together, and stop, you know, accusing people, stop going after people, because they don't respect, not that they don't respect, because they don't believe, or they don't have the same opinions.

I think that this world is for everybody, you know, and I think that we have to learn with each other for respecting each other, and not going after people that don't believe or they don't agree. Not only they don't agree with

the gay and lesbians. Do you agree with me, Representative?

REP. BYE: If I can just respond, Representative Gonzalez. I think my basic argument is that I didn't believe that the laws that were on the books of the State of Connecticut protected my rights, and because of that, I've worked to try to make those laws allow me the same rights and opportunities and access to the word marriage in my life.

And so it's the laws that I believe needed to change, not individuals, and so part of our legal system that is the court system, recognized that and I took great, I was joyful, more than joyful because of that. It was a wonderful thing that happened in the State of Connecticut.

I'm sad that there are people in my same situation who live in other states where that's not the law of the land. But I'm here today to say, I'm so glad to live in Connecticut because in Connecticut right now, and forever, I will be allowed the right to marriage.

So I would say I don't disrespect you in any way. I have great respect for your work. I did not agree with the laws that were on the books, and I'm here to sort of express my gratitude to this Committee for recognizing the rights of gay and lesbian couples who wanted to marry or adopt, or who face job discrimination.

I personally face job discrimination around this. So I'm grateful that, that's why I'm here today, to say thank you to the Committee. Even if you voted against it, I get that, and I'm still here to say thank you as a member of the Committee, and I hope you can, you know, accept my joy at having access to that--

REP. GONZALEZ: You have the right.

REP. BYE: --wonderful, cultural thing of marriage.

REP. GONZALEZ: It's your right. It's your right, and I respect that. I think you, you know, that's your right and I respect that. But I really also appreciate that you respect my opinion.

In trying to change the law here, which I don't have a problem, but I think it also goes to the people to know that as a State Representative we both work together. I respect you. You respect me. We don't have no problem, and why the world can't be like that, you know, accepting each other?

REP. BYE: And I would argue that through this process I've learned the different opinions on this and I've received emails and things that weren't always respectful. But the vast, vast majority, vast, vast majority of people who contact me and contact you, I imagine do it in a respectful way, but there always are going to be a few who don't communicate in a respectful way.

So I've learned in life that sometimes you just have to let that go and appreciate that the vast majority of the people have had this dialogue in a way that I think the State of Connecticut can be really proud of.

REP. GONZALEZ: Thank you, Representative.

REP. BYE: Thank you, Representative.

SEN. MCDONALD: Senator Gomes.

SEN. GOMES: Hi, Beth.

REP. BYE: Hi, Senator Gomes. How are you doing?

SEN. GOMES: I wanted to congratulate you and I'm glad that the efforts of this Committee have made you happy. You've been a good friend and a good, a very State Rep up here.

I want to make some comments on what the bill meant to me, or what we were fighting for up here.

Just as Representative Gonzalez had said, some people use this issue to say, if you don't do what I say to do you violate my rights, or you're violating somebody's rights.

I'm Catholic, and you know some of the battles I went through last year on this issue. I believe that everybody has the right to live their lives the way they want to live their life.

And some people are heterosexual. Some people are homosexual. And the thing of it is, whatever you choose to be or that God has made, have you to be in this life, you have a right to your own life.

I don't have the right to sit here and tell you because I am Catholic, and I believe that you should live the way I think that you should live. And I felt like, when I was in the battle last year, that some of the people were using this religious aspect to say, you are wrong because the Bible tells you this.

Different interpretations of the Bible and people have had different interpretations of the Bible to suit themselves. And for you to wave the Bible in my face and tell me, this is what is, and you are wrong, and you should live

this way because I believe in the Bible, and the Bible says you should not do this.

I'm pretty happy in my stands on this issue, and not because of the fact that it's something that glorifies me or something. I think it's something that we all should have been involved in because it was an issue for people to take sides on.

And if you feel like one side feels like they're right, and the other side feels like they're right. Fine. That's fine. Everybody has a right to their beliefs as Representative Gonzalez has just said.

But I think that people have to learn to live together and live separately. If you live together you respect each others issues, you respect each others lives, but don't tell me how to live mine.

And if you want to know why I was involved in that battle, there was a particular reason. Don't tell me how to live my life. I have an idea how to live my life. You have an idea how to live your life, and I feel like everybody in this room should respect that, and that's it. That's all I have to say. And you are a great Rep.

REP. BYE: Thank you, Senator Gomes. It's such a pleasure to serve with you and I appreciate your comments.

SEN. MCDONALD: Are there questions for Representative Bye? If not, thank you very much.

REP. BYE: Thank you, Senator.

REP. MORRIS: --to determine what is insubordinate behavior, what is disrespectful behavior, what is vulgar behavior or vulgarity in speech that they're directing, whether toward other students or staff. Don't we already have that standard?

PATRICE MCCARTHY: I think there might be a way. What I'd want to do is talk to some building administrators about some of those, some of those day-to-day cases that would fall into that category.

REP. MORRIS: Yeah. Okay. And again, if I, unfortunately, I understand this concers that CABE brings and quite frankly, to a large degree I support exactly where you're at, because I get involved in a lot of these cases and I understand what happens with My Space and the indirect, whereas even though I'm asking the question, I can clearly see where you're calling Mrs. Jones is a d-bag and everybody starts calling her a d-bag and before you know it, you've got everybody in town calling her d-bag and they've never met Miss Jones.

And indirectly, indirectly, you know, everyone begins treating Miss Jones in a different way and it can disrupt education and we didn't expect that, and I do find this language tough, because how do you then materially and substantially predict that that would have been the outcome? But thank you very much.

SEN. MCDONALD: Anything further? If not, thank you very much. Next is David Reynolds, followed by Anne Stanback.

SB899

DAVID REYNOLDS: Senator McDonald, members of the Committee, my name is David Reynolds. I'm Legislative Liaison with the Connecticut

Catholic Conference, and I'm here to address you today concerning Senate Bill Number 899.

As you're well aware the Connecticut Catholic Conference has for many years come before this Committee to express its profound opposition to legal recognition of same sex civil unions and marriages in our state.

Despite the October 2008 Connecticut Supreme Court ruling legalizing same sex marriage, the Catholic Church in Connecticut still holds firm to its opposition to these unions.

The State Supreme Court may have provided the advocates of same sex marriage a civil victory, but it did not provide a victory over the hearts and minds of many people in our state who, in obedience to their religious beliefs, will never fully accept the civil institution.

This Committees, in codifying the Kerrigan ruling needs to address this profound conflict between civil law and deeply held religious beliefs of many citizens within our state.

The Catholic Conference encourages this Committee not to view the conflict as one driven by hate, but by sincere and faith driven beliefs held by many people. Even the Supreme Court in the Kerrigan decision recognized this that when they stated that same sex marriage is a subject about which persons of good will reasonably and sincerely disagree.

This Committee should uphold the proud tradition our state has in protecting religious liberties. The state should not force individuals or certain organizations through punitive or coercive action to violate deeply held religious beliefs.

To this end, the Conference is recommending some changes to Section 7 in the proposed legislation, which currently exempts clergy from the necessity to perform same sex marriages.

We feel that section should be expanded and be made more inclusive. It should includes first of all, any person that is authorized in this statute to perform a marriage. This includes justices of the peace.

For example, a Catholic justice of the peace should not be forced to relinquish their office because they will not perform a same sex marriage in direct violation of their faith.

In addition, Section 7 should prohibit any person, such as a wedding photographer or religious affiliate organization or charity, from being coerced to comply or cooperate with the new public policy of the state recognizing same sex marriage, and it should, if it would violate their religious belief and tenets.

A situation has been created by the Kerrigan decision where state policy seriously conflicts with religious beliefs of a large number of citizens within the state. The Catholic Conference asks this Committee to recognize and address this conflict as it moves to consider Senate Bill Number 899. It asks this Committee to respect our state's proud history of protecting religious freedom.

SEN. MCDONALD: Thank you very much, Mr. Reynolds. I appreciate your testimony today. I had a couple of questions with respect to the, I'm scouring Senate Bill Number 899 and I'm actually trying to figure out where in the language of the bill you believe that deeply held religious beliefs are being undermined.

Can you point to the section of the bill where that is?

DAVID REYNOLDS: It's not outlined in the section of the bill, Senator. It's, from looking around what has happened in other states concerning, that allow civil unions, same sex marriages, which are just two right now, but also same sex commitment ceremonies.

There have been situations around the country and even in other countries where because you had a legalized institution such as civil unions where people who do not cooperate, they, an example was recently in 2008 in New Mexico a photographer was asked to take pictures of a commitment ceremony. He said he couldn't do it because it was a violation of his religious beliefs.

The couple took him to the State Commission on Human Rights in Nebraska, I mean New Mexico, and he was eventually fined, I believe it was $6,000 and ordered by the state that he can no longer refuse to do those or he should shut his business down.

There's different stories like that that I could expand on. So that's where the church, as we look at the bill, says this institution now becomes public policy. What happens to people that say, I really can't cooperate in that situation.

In New Jersey, where they do have civil unions, you had a Methodist organization where two lesbian couples wanted to use an area of boardwalk area on the beach that the Methodist organization owned and used and they said we can't do that because that's a cooperation and in a civil union, which our church happens to not, disagrees with.

So in that case, I believe the state did fine them. They removed their tax exempt status, and they were forced to pay $20,000 in back taxes.

So I'm asking here, I guess, for the Committee to be proactive on this issue so that we're not back here a year or two from now listening to stories that may occur within Connecticut, so we could be proactive and secure those liberties.

SEN. MCDONALD: So you're proposing that we--

DAVID REYNOLDS: Add language to it.

SEN. MCDONALD: Okay. Do you have the language?

DAVID REYNOLDS: We have some proposed language that we'd be willing to discuss.

SEN. MCDONALD: Have you shared that with the Committee?

DAVID REYNOLDS: I'd be willing to share it with the Committee.

SEN. MCDONALD: Okay. Well, I mean I do think it's frankly incumbent. If you're going to make those suggestions, it would have been more helpful had we had the language so that we could talk intelligently about it at the public hearing where all of this is going to be addressed. So please leave that language with our Clerk and we'll be happy to make sure it gets distributed and we can debate it in the Committee meeting.

DAVID REYNOLDS: Sure.

SEN. MCDONALD: But I guess what, do you believe that Connecticut's CHRO statute would be interpreted the same as somebody in New Mexico, I think you said?

DAVID REYNOLDS: In New Mexico.

SEN. MCDONALD: What makes you believe that it would be treated the same in Connecticut?

DAVID REYNOLDS: The exact statute? I guess when we look around, we're not, I cannot say if that statute would be the exact same. I don't know what the New Mexico statute or regulations are in New Mexico.

SEN. MCDONALD: Well, but you rolled this out as a--

DAVID REYNOLDS: But it's (inaudible) to the courts, too. I believe the decision in New Jersey was through the court. So I mean it's various legal avenues that can be used for this purpose.

SEN. MCDONALD: Okay, but you rolled it out as something that we need to be concerned about and need to proactively stop, but I don't know how you're landing that into the exact statutes we have in Connecticut or case law that we have in Connecticut.

I understand the rhetorical appeal of reciting anecdotes from other states, but we have a pretty good sense of what the statutes are in Connecticut and what the case law is in Connecticut, so can you ground any of your comments in Connecticut case law or statutes that would substantiate the position you're advocating?

DAVID REYNOLDS: In terms of state, our statutes not at this moment. Again, we're viewing it as a proactive statement.

SEN. MCDONALD: And with respect to the suggestion that we should expand on Section 7 of the bill to any person who, I think it was Section 7, to any person who would have a religious objection to performing a marriage.

You cite to Section 46d-22 of the General Statutes, which outline the individuals who are eligible to solemnize a marriage, a civil marriage. We're not talking about religious marriage, right?

DAVID REYNOLDS: Right.

SEN. MCDONALD: So in that list are included judges. Is it your position that judges of the Superior Court are not obligated to adhere to a decision of the Connecticut Supreme Court?

DAVID REYNOLDS: I think in that case, first of all, it's performing a marriage of primary purpose of the judge in hearing cases. I think there's a difference in a judge coming together to solemnize a marriage than sitting in judgment on a case, or a legal decision placed before him.

So of course, if it was a legal decision placed before him, he would have to, obviously use the Supreme Court precedent in case law. But if it was a couple asking could you marry us and perform a marriage, you know, that's not case law, that he should be, I believe, and Catholic Conference believes able to say, I personally cannot cooperate in that.

I think what we run into is, even with justices of the peace, judges, et cetera, you're

basically saying and implying, I guess, if we don't address this issue, is that if I hold a faith, and I know that faith is contrary to this particular issue before us right here on this bill, then I should exclude myself from being a judge in the State of Connecticut. I should remove myself from being a justice of the peace.

Does the state really want to begin excluding, having people exclude themselves from public positions because of their religious beliefs?

SEN. MCDONALD: Okay. I mean, are you suggesting that a judge can cherry pick what parts of the Constitution they want to uphold in the exercise of their official duties and powers of an official officer of the state?

DAVID REYNOLDS: I think that's a difficult question. I'm saying where does the justice's right as an individual in the state, his personal religious beliefs, how does that interact with state law?

That's why we're asking these questions you're raising, are questions that I think we need further discussion, obviously, and that's why the Conference is raising them because these issues come up. Are we going to be here two years from now trying to discuss this in terms of legislation?

SEN. MCDONALD: Right. But I'm stuck on the judge thing, because a judge is required to leave his or her personal opinions and beliefs at the door before they take on the duties and mantle as a judge.

So if the powers of a judge are conferred by the Constitution and by the State Statutes, are you saying that a judge should allow, in this

particular instance, allow personal beliefs to somehow interfere with the discharge of his or her constitutional and statutory duties?

DAVID REYNOLDS: Well, I don't know if the law, the law doesn't mandate that a judge perform marriages. It allows him to, if he wants to. It doesn't mandate that they have to perform it. So he can if he wants and if it becomes a conflict for him, just say I'm not willing to do marriages. Whereas as a judge he's required to sit on cases and make a ruling. It's part of his job. He's required to do that.

SEN. MCDONALD: And do you think any such decision by a judge to not perform a same sex civil marriage would be in keeping with the decision of the Supreme Court in the Kerrigan case?

DAVID REYNOLDS: I don't believe the Supreme Court actually even addressed the whole issue of religious liberties and conflicts in that case, so I can't say it would or would not.

SEN. MCDONALD: And what, you used the example of the photographer. What in this statute would, I'm sorry, what in this proposed legislation would lead you to believe that a photographer would be compelled to actually take photographs and actually accept the money for that commercial transaction?

SEN. MCDONALD: Well, it may be that he may be brought up on charges of discrimination on sexual orientation statutes, other statutes. Also, I think, you know, that the photographer in New Mexico who was sued probably never crossed his mind that, or people that enacted the civil unions in New Mexico, it probably never, or allowed the commitment ceremony, it never crossed their minds that some time I may be brought to a hearing before a state

commission and ordered to do something against my beliefs and then fined to do it, or shut down my business.

Everything isn't clear in statute. Again, we're trying to look ahead and make sure this is soundly, we have a major conflict with this law, as we state in my testimony, that a significant number of people in the state who religiously will not accept this type of ruling of the court based on their religion.

SEN. MCDONALD: And you know, I think both in the conduct, in the discussions we've had with respect to civil unions and in this legislation with respect to civil marriage, at least from my own perspective, I think we've bent over backwards to not infringe on deeply held religious beliefs. That's why there's language in here saying that clergy can be excluded from that.

But I don't, I don't understand how a, the civil institution of marriage, and the discharge of statutory and constitutionally mandated rights are in any way diminished or compromised by somebody vested with the authority of the state, either as a judge of the superior court, or as a justice of the peace who has taken an oath to uphold the Constitution of the state, how that in any way involves deeply held religious beliefs.

Can you clarify that for me?

DAVID REYNOLDS: Well, I think many of us have different, varying religious beliefs. I mean, even within the Catholic community there's not agreement on how Catholics would react to this situation.

So I think if you look at the justices of the peace, the judges, or at the photographer or any other of these people, there was an innkeeper in Vermont in 2005, there's different situations. We can't predict what their beliefs are.

The underpinning of what has happened, I think in most of the cases that I've read about is that eventually it ended up to be some type of discrimination suit or logic that was used against a type of people that wanted to say, no, I can't cooperate in that. That's cooperation in something that I don't believe in.

And they weren't making judgments. From the articles that I've read or picked upon, there weren't a lot of judgment making. In fact, I believe the photographer, and there was a case I quickly mentioned, in Vermont with an innkeeper, when they said I can't, you know, we don't do that. It was a Catholic innkeeper in Vermont said no, we can't do that, you know, our family doesn't practice that. It was a bed and breakfast so he said, you know, I prefer to not do it.

He gave the people a list of great locations where they would do it, so it wasn't like it was a hateful act on the part of the people. It was just a response so that they're trying to live their life according to where they want to live according to their belief.

And I believe I heard Senator Gomes before speak about, you know, people should have their own freedom, to live according to their beliefs, and that's what we're looking for here.

We're not looking to prohibit somebody, to stop somebody, to make something harder for somebody to enact. We're looking that religion is respected in the law.

SEN. MCDONALD: And I understand that. But you're also saying that people can have differences of opinion, and I certainly agree with that and conscientious objection to public policy decisions that have been made.

I just, I'm trying to figure out where, if we were to accept your argument, where its logical conclusion would lead us. So let me take it to the next step.

Would, if we were to accept your argument, should we also entertain the possibility that justices of the peace who object to inter-racial marriages shouldn't have to perform inter-racial marriages because they think that blacks and whites ought not to be married because it's just objectionable to them? Do you advocate to that?

DAVID REYNOLDS: I think we have to look at that. I would say probably, is their faith unaware of one where that is a historical religious tenet, bona fide tenet within that faith not to participate in inter-racial marriages.

I mean, I don't see that, and maybe as we're discussing here is that I have a proposal. I have some draft language. Maybe it's working out these differences and questions you're asking are in the detail of the language that I drafted up.

The Conferences is saying that your effort, and we appreciate that the efforts to exclude the clergy is greatly appreciated but we just feel

that it doesn't quite go far enough. We're looking for a little, you know.

SEN. MCDONALD: I guess I'm trying to figure out, are you hanging your hat more on the religious component of it, or on the conscience of the individual who is performing the marriage?

DAVID REYNOLDS: There would have to be, to us a direct, (inaudible). At least our vision is that opposition would be, you know, related to a bona fide religious faith.

SEN. MCDONALD: What's a bond fide religious faith?

DAVID REYNOLDS: Oh, I mean, it wouldn't just--

SEN. MCDONALD: What is it?

DAVID REYNOLDS: Catholic faith. In other words there's some history in true faith there. It's going to be person says, that's against my conscience because I hate lesbian or gay people, that type of thing, and that's what I believe. You know, it would have to connect, like Methodist we mentioned, the Methodist in New Jersey. It would have to be along those lines, of course.

SEN. MCDONALD: Okay. I thank you for your time. Representative Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman. Good afternoon, Mr. Reynolds. I just want to follow up because I'm intrigued sort of thinking about this awhile, and I've gotten a lot of feedback on both sides, people trying to come up with situations that might be in a category of unintended consequences and you certainly mentioned a few today, and I was kind of intrigued by this photographer guy down in New Mexico.

From your understanding, he was basically taking a position that him being, taking photographs of two people who as it turns out were gay and were getting a commitment ceremony, him taking the photos was a violation of his religious tenets, or other religious rules, that kind of thing?

DAVID REYNOLDS: Well, there's within a religious faith, there's a level of cooperation.

REP. LAWLOR: Could you tell me about that. Are there rules on that type of thing?

DAVID REYNOLDS: Well, they're, within the Catholic, I can only speak for the Catholic Church, of course, Representative, but within the Catholic Church it's a level of cooperation, and by doing something are you actively participating in that action.

The photographer felt that yes, he was actively participating in that civil union, helping them celebrate that ceremony, so it was along those lines that he said, you know, anybody that goes to a wedding knows that a photographer's very important, an integral part of the celebration.

So he felt that that would be a violation of his belief because he would be an integral part of that celebration.

REP. LAWLOR: Are there actually rules on that, or is it up to him to decide that I think that I'm playing a part and therefore it's against my religious belief or is there within, and you referred to the Roman Catholic Church, and just since you raised it, is there a rule about how far do you have to go to be participating in the event versus just in the room at the same time. I mean, how does this work?

DAVID REYNOLDS: I don't have canon law in front of me.

REP.LAWLOR: No, I got you. But if we're going to write a statute, we've got to figure this out.

DAVID REYNOLDS: The way it works within the church is that, in terms of level of cooperation, and I'm not a canon lawyer, so I won't 100 percent, okay, I can't quote you on a line (inaudible).

But it depends such as you know, level of cooperation. One of the big issues we always deal with the Catholic Church publicly is the prolife, abortion, you know there's a level of cooperation. What's the level of cooperation? Did you actually perform the abortion? And the same thing applies, I believe, within the teaching of the church for same sex marriages.

There is a provision that to cooperate and have a level of cooperation in same sex marriages something Catholics should avoid.

REP. LAWLOR: I got you, and I can understand, let's say the person performing the ceremony. There might be an argument there. Right? I can see that's pretty directly involved.

And then there's another question if they're a state official and we'll get to that in a second.(But I'm just saying, assuming you're not performing the ceremony, I mean, like the wait staff at the reception? I mean, is that something where they can't do that either if the event that's being celebrated is a commitment ceremony.

DAVID REYNOLDS: I'm not sure the wait staff. I'd have to look at well, I guess Canon law again to answer your question.

REP. LAWLOR: In my head, I don't get the (inaudible).

DAVID REYNOLDS: I think they're trying to, well, that photographer--

REP. LAWLOR: The photographer--

DAVID REYNOLDS: I would say the photographer is, the business owner is, you know, the person being asked to cooperate, or the wait staff. The wait staff isn't usually the business, I mean they're hired hands to come in and help.

REP. LAWLOR: But I mean, you're hiring the photographer.

DAVID REYNOLDS: And that would be a discussion between that wait staff person and their manager.

REP. LAWLOR: I got you, but you're still hiring the waiter and the wait staff. You know, I mean you're hiring the photographer. I don't, if ultimately we've got to come up with some language that draws some lines, I'm just wondering how we even try and draw these kinds of lines. I don't get that part.

DAVID REYNOLDS: I admit, and I have to admit this is a very difficult decision, and a lot of discussion probably has to be held around this, but I believe, and the church believes is an issue that needs to be addressed and maybe if we could address it in a way that at least address 80 percent of the problem, you know, 100 percent or come to some agreement on some language, I think, you know.

REP. LAWLOR: Senator McDonald asked you a question about making the comparisons to someone who had

a religious objection to inter-racial marriage for example, and I just want to point out that in preparation for today, I read briefs of the State of Virginia and the amicus brief filed by the State of North Carolina, and they are replete with references to religious doctrines justifying separation of the racist.

In fact the judge, who was the sentencing judge in a criminal case, was emphatic about religious doctrine playing a fundamental role in the adoption of that crime in Virginia, which makes it a crime for a white person to marry a what they referred to as a Negro, or no, a colored person I think they referred to it.

So I mean, this was clearly part of the religious faith community in those states at the time it was fundamental to the adoption of the ban on inter-racial marriage.

So I think there's no question that was all about religion at the time that was adopted. That's clearly what the briefs say. In fact, you might be interested to know it, I was pleasantly surprised to see that one of the amicus briefs on the other side, on the side saying that it wasn't unconstitutional to have inter-racial marriage was actually filed, and it's a very compelling brief, and I think it would be very interesting to read it. It's filed by the National Catholic Conference for Inter-Racial Justice and the National Catholic Social Conference, Social Action Conference, and it looks like about 15 bishops from around the country.

And it's a very compelling argument about why it's important to respect in terms of marriage, the uniqueness of each person's interpretation of marriage and that different faiths have a

different interpretation of it and that the government shouldn't be banning marriage and it's a very, very compelling brief, and I recommend to you.

But do you see how you could have a strong religious justification for objecting to inter-racial marriage? Not that you agree with it, but some people apparently some of the people may.

DAVID REYNOLDS: I have not seen that brief so I can't comment on that.

REP. LAWLOR: And my concern would be, if we allow people to simply discriminate, even though in this case against gay couples, how could we not allow people based on their religious beliefs, to discriminate against people for what religion they're a member of.

I don't want to start naming religions that are not commonplace around here, and I think it would be the subject of strong prejudice in the State of Connecticut but they're completely totally protected under our anti-discrimination laws, as well they should be.

And I can imagine someone saying, I don't believe, my religion tell me I can't perform marriages between you two for whatever reason. I think that should be, I know that is illegal in our state.

DAVID REYNOLDS: It is illegal?

REP. LAWLOR: Yes. It is illegal to discriminate like that. Now, on the question of the justices of the peace, you know. For starters let me say this is very interesting and I totally respect the concerns you're raising

here, and I think it's interesting to talk about them.

But what came to my mind in that discussion was, if, there are some religious faiths that have very strong objections to the war in Iraq, for example, and if you're a member of the military and you're ordered to serve in Iraq and you're ordered to play a combat role over there, do you think there should be a religious protection to say that if you don't want to go to Iraq, if you are a member of the active duty that you don't have to, and there can be no consequences for that?

DAVID REYNOLDS: I believe the federal government, at least they used to, has conscientious objector status, but you have to go through certain steps to prove and validify your statements and your beliefs and that type of thing.

REP. LAWLOR: When they're in a draft. I'm talking about when you volunteer to serve in the military, that's your choice, just like it is a choice to be a justice of the peace. Then you understand that if you're ordered to war, you have to go and as a conscientious objector you're going to end up in prison if you fail to report for duty?

You cannot join the military. That's your option. When we had a draft there was a conscientious objector provision. But I'm talking about people who voluntarily sign up and enlist if they're ordered to participate, and there's a number of proceedings right now of people in that category, so--

DAVID REYNOLDS: In that category, the Catholic Church, in fact Pope John Paul came out and spoke against the war in Iraq, said it was not

a justified war for it to, a justified war theory of the Catholic Church.

But that didn't obligate, that does not mean that Catholics could not go to war in Iraq because it wasn't a teaching of faith.

Something like marriage, same sex marriage, rolls down to a matter of a teaching of faith, a principle of a faith. So that would be a difference between a war in Iraq and--

REP. LAWLOR: And I agree with you, but I raise it because at the outset in terms of the photographer, you were saying it's really sort of an individual call, I mean, if you're a member of a faith, and it's your individual call that I can't be a photographer at a commitment ceremony because of my principles of faith. Right? It's logical.

It's not, you don't have to point to some rule that's published for the faith of your members, I mean, you just simply have to say that because of my faith I can't participate in this, and therefore there can be no consequences to me for my refusal.

Now we're talking about a justice of the peace who could theoretically say I don't feel like I can participate in this because of my faith, and I get the impression you're advocating there should be no consequences at all for that. Right? Is that what you're saying?

DAVID REYNOLDS: That's correct.

REP. LAWLOR: But if you're in the military in the same exact position, you volunteered to be a member of the United States Marine Corps. You're ordered to participate in a combat role in a conflict that you have a religious

objection to, would you say that there should be no consequences to that individual either?

DAVID REYNOLDS: Well, I think the process would have to verify whether that's a legitimate teaching of the faith. I mean, what happens, too, when we talk about religious law, there is the Religious Restoration of Freedom Act within our statutes. It talks about religious burden on people and I think as you look at that, the religious laws and freedom laws are usually left broad, and then when there's a challenge to them or a court case or something, the judge usually verifies whether it's a legitimate religious argument that the person has, whether it's a qualified tenet of the state that this person believes. So it's usually left to the judge.

But what happens when the state enacts laws that say, you know, it sends a message. So if this Committee was to strengthen the religious liberty clauses within Senate Bill Number 899, it would be sending a message that one wants to respect religious liberty, and that it takes religious objection to same sex marriage by possible individual seriously.

But it also, written in the same vein, would leave open that role to the judicial appeal process, where somebody, not necessarily, somebody could say, maybe on a state level or whatever situation that yes, that person discriminated. No, I don't believe it's really a valid religious belief he's holding, or something like that. He's really doing it because he, you know, he's a really homophobic type person or something like that.

So I think, on that pace, because there's the legal system, there's always a judge that will help decide that.

So to try and enumerate and lie every little section of the provision would be difficult. But I think to send a message that this Committee, this Legislature, is still meaning to respect religious diversity within our state on this issue is a significant message to send.

REP. LAWLOR: I think you'd acknowledge drawing these lines is not easy.

DAVID REYNOLDS: No. No. Not easy being a judge.

REP. LAWLOR:O And we could be of help. But I'm pretty sure if you're an active duty soldier and you refuse to report, regardless of what reason you give, you could end up in jail. I'm pretty sure that's the case.

DAVID REYNOLDS: Yeah, I'm not familiar with military.

REP. LAWLOR: And on the judge topic that Senator McDonald raised, I just was talking about, of course, if you're a judge you have the authority to perform a marriage if you choose to.

DAVID REYNOLDS: Right.

REP. LAWLOR: But let me ask you on the other side of the equation. Judges hear divorce cases. Do you think a judge who had religious objections to same sex marriage could refuse to rule in a case involving a dissolution of such a marriage?

DAVID REYNOLDS: I'm not an expert in the court system, but wouldn't the judge have to be assigned to a divorce court hearing? So I mean, that would be part of his job, which he would be required to do.

I'm not a lawyer. I'm not an attorney, and definitely not the operation of the court, so, but he would be required to do that as part of his position, where officiating over a marriage, you know.

You know, if he had a couple come to him that he maybe he personally knew and he thought no way these people should get married, he could say, no, I'm not going to marry you because I don't think you're ready to get married. Go out some place else.

So I mean, it's not a requirement of his job. It's a privilege given to him because of his position.

REP. LAWLOR: All right. Thank you.

SEN. MCDONALD: Senator Kissel.

SEN. KISSEL: Thank you very much, Mr. Chairman. I have this concern that at the end of the day my wife is going to say, why did you even ask any questions?

First of all, Deacon, I'm friends with your family, am I not?

DAVID REYNOLDS: Yes, you are.

SEN. KISSEL: And on this issue I have disagreed strenuously with the Co-Chairs of this Committee up until this point, have I not?

DAVID REYNOLDS: Yes.

SEN. KISSEL: And I would not say that I am the best Catholic in the world, I'm probably one of the worst, but I am a Catholic, the last I looked. I try to go to St. Adalbert's in Enfield and

listen to Father Ed because I think he's one of the best priests I've ever bumped into and he gives the most wonderful homily.

And my son goes to parochial school. I'm proud of him when he gets the Christian Witness Award. But I have got to tell you, that part of your testimony on behalf of the Catholic Church, I have great problems with.

And I thought about it, should I pursue this or not, but the portion regarding Section 7 and the photographer. And I watch O'Reilly and those shows on Fox and I understand that that was a big case out there in the west, and I'm extraordinarily sympathetic to those folks in the room today, and outside in the great State of Connecticut that were not happy with the ultimate conclusions of the Kerrigan case.

Personally, I'm not so sure that the State Supreme Court had to step in. My guess is that this Legislature probably would have resolved it in that direction in a few years in any event, and while the public still would have been unhappy with that decision, it would have been a decision rendered through this legislative process, as opposed to through the courts.

And I think having these decisions ultimately determined by the Justices of the Supreme Court, sometimes leaves people with a bad taste in their mouth.

Nonetheless, let me ask you this line of questioning. At the time, and I grew up, and I'm proud to tell anybody that's willing to listen, I grew up in Windsor. Windsor prides itself as being the first English settlement in the State of Connecticut, and so prior to those folks in the early 17th century settling in

Windsor, there were Native Americans and that was it.

So let's start at the beginning of the state as far as my part of the world. And that was the Congregationalist, and the Congregationalists came over from Britain, settled this state, and basically the state was run under their religious tenets.

Granted, they had a charter from the King, but it was a religious colony fundamentally, and those folks, those first settlers now, we can see them in United Church of Christ, but there's Congregationalists in Connecticut today.

You know, you drive down Route 5, Enfield Street in Enfield and there's that beautiful church, and go into almost any of our towns, 169 municipalities in Connecticut, and you will see a Congregational Church, and there's many folks, probably in this building, maybe even in this room that maybe have had ancestors here all the way to those early founding folks that can trace back their lineage, so there's probably folks that can go way back and say yes, you know, my great, great, great, great, grandfather or grandmother was here when Connecticut was first settled.

During the Reformation, there were huge and bloody wars in Europe between Protestants and Catholics. Huge, huge amounts of blood was spilled. We tend not to think too much about that any more because, and we almost scratch our head historically, and say, how could people want to kill one another over some of these things?

And if you bump into somebody in the hallway, and they say they're a Lutheran, they're a

Methodist, you know, they're Seventh Day Adventists, nobody really thinks too much about that.

But if people really wanted to drill down deep and follow their fundamental tenets of their faith very stridently, they could indeed still find those differences as much as they held them firmly 300 years ago when there were mass executions, if you happened to capture people that were either Catholic or Protestant.

Under what you're suggesting in Section 7, and I understand almost that emotional appeal of a photographer's case, but, within the faith that I'm raising my children, my wife and I have determined to raise our children.

When one, when you're young you have your confirmation. You're confirmed into the Catholic faith. You're not even an adult at that time. And under this scenario, we could go to the local photographer who's a Congregationalist, who, if they go, if that individual felt as strong now as they did 300 years ago, those Protestants just felt that because the Catholics turned to Rome and turned to the tenets that the Pope is infallible, and all of those things and said, Senator Kissel, I appreciate that your son, Nathaniel is being confirmed, but I'm a Congregationalist and I refuse, I refuse to take pictures of the ceremony.

Then I go, and I go to, I don't know, the corner bakery. We want to get a cake for the ceremony, for the ceremony and I tell them it's for my son's confirmation. Senator, I'm a Protestant. I absolutely refuse to countenance what you Roman Catholic, you Roman Catholic that looks up to Rome and the Pope. I'm not

going to sell you a cake because that would be condoning the ceremony.

And then, where does it end? And that's the part that breaks my heart about this testimony, because the Catholic faith that I love is a live and let live kind of thing, and I understand that there's certain tenets and scriptures that one has to observe under the canon law.

And I understand the Catholic faith is just not happy with the Kerrigan decision. And I still am grappling with the notion of how broad we should maybe expand the exception for those that actually have to do the ceremony, although even there I'm struggling with your position that if we as a state grant someone the authority to conduct a civil marriage ceremony, not really just civil, that for whatever reason they can opt out or opt in.

My guess is that the law of the land right now is that people opt out or opt in depending upon scheduling and things like that.

But for us to put our legal infamature on it to say that an individual then can decide which laws they're going to cooperate with and which laws they aren't, I have a real concern with that.

And so, do you see my concern with your, on behalf of the Catholic Conference's testimony that we should somehow statutorily protect individuals who, based upon their own religious beliefs can pick and choose how they are going to cooperate with an individual, and I think this word is, these words are important.

It says the new public policy. That's almost, it's almost language that makes it like it was

the whim of the Legislature as opposed to a very narrowly determined decision of the highest court in our land predicated on a determination based upon the language of our State Constitution. That's the end of the road.

I mean, a good fight, fought to the end, firmly held belief, but in Connecticut the Supreme Court is the highest arbiter of these decisions. They stepped into the forum, they made a determination and now we have to sort of work with that.

And to expand, to sort of diminish that, and then to carve out this exception, which in my, which in my example could be turned right against Catholics as my understanding of the history of the State of Connecticut, you don't have to go back that far, 100 years.

Irish need not apply. The epithets that were used regarding Catholics, not real good, and that was because there were other individuals, settlers here, prior thereto. And I wouldn't even want to get into the Native Americans and how they might be viewing all of this European colonization, and now this great world colonization of New England.

Okay? So I know, and I don't want to gobble up all the time, but what is your response to my concerns that if we allow this kind of expansion regarding your concerns, that it could absolutely be used everywhere we look to deny services and goods to any number of people based upon somebody stating that they have firmly held religious beliefs, and that it could just as well and just as easily, be turned against each and every Catholic in the State of Connecticut to deny them constitutionally what I would believe

protective goods and services from their fellow citizens.

DAVID REYNOLDS: Well, I first of all say I think the language that we're proposing here would only have to deal with same sex marriage, so it wouldn't have to deal with other goods and services within the society. I mean that would have to be taken, you know, covered by other laws such as--

SEN. KISSEL: But Deacon, but Deacon, I don't understand. I understand because it's sort of the issue that's popped up right now. But what I, but you're predicating it on a foundation that is based upon religious belief.

DAVID REYNOLDS: Correct.

SEN. KISSEL: And the Protestants don't like the Catholic belief that we look to Rome, and the confirmation ceremony is just as much of a religious ceremony that acknowledges that, and Protestants would have every bit of a fundamental religious principle base to say, I don't believe in that.

I mean, what I'm saying is, it seems crazy now, but 300 years ago people were being hung and burned to death over those exact questions. And I don't, we're way beyond that.

And so, I understand the feelings of the church that they don't like this decision, but I see huge problems in expanding people's ability to carve out exceptions when we've learned from hundreds of years of that kind of history.

And so, to just say, well, I only have to deal with this, and this is a bigger point that we have to draft laws that apply to everybody under all circumstances, and that's where it

all falls apart for me. And I'm just not happy that the Church came before us, the Church that I respect fundamentally in my heart of hearts and says, broaden this to include, not just photographers, but anybody that might be somehow related to the ceremony.

Because if you follow that to its natural conclusion, that applies to confirmation proceedings, maybe baptism, maybe first communions for Catholics for what is it, religious ceremonies for Jewish people, the Muslim faith, you know, a kid's Bar Mitzvah.

Oh, I'm not going to take a picture of a kid's Bar Mitzvah because that's when they become a man in the Jewish faith and my teachings prohibit acknowledging that religion. That's the problem that I have.

DAVID REYNOLDS: And I think you raise some valid points, valid concerns. I share that. I think that as you deal with this issue, it goes through all our minds. What are the limits? What are the borders that we have to draw around this?

But I think, first of all, our church is concerned because we already have people. You mentioned a cake maker or somebody else. Well, we already have a photographer and an innkeeper, et cetera, who are basically told by the state, because you want to live by your religious beliefs, if you don't follow what we tell you, we're shutting you down.

So there's a direct infringement in these cases on the livelihoods of people, that cake maker, you know, the florist that you mentioned, and these situations we're citing, there's others where the state has actually come out because of the changing viewpoint of our society in

terms of the same sex relationships, have come out and said, if you don't like it, you're in the wrong business. Get out.

So people are being, from our viewpoint, I guess I'm looking at it differently, people are already confronting this where the state is coming along and saying, if you really want to believe your religion? You're either in the wrong state, or you're in the wrong job.

Because we have to remember, there are different things. Like you mentioned the Protestants not liking the Catholics, that whole history, you know, the Congregationalists. A lot of that, and if you look at, theologically, you look at the religious teachings and beliefs in the church, the Catholic Church, those weren't what the Catholic Church would call a sinful act, a grievous act.

Marriage, something like a same sex marriage the Catholic Church would call that and term that an act. So forcing somebody to do something like that would possibly be actually forcing them to really violate true tenets of their faith, whether the relationship, they would do their relationship with God and be harmed.

SEN. KISSEL: I appreciate your statement. There are a ton of people that want to testify. I promised Senator McDonald I wouldn't belabor the point.

I have been with you guys all along. We're at a fork in the road. I have to let go of your hand. I can't go any further down that road if this is the testimony. I just can't. I can't.

You're looking at it strictly from a Catholic point of view, but I'm saying the exact same arguments could be offered from the Protestant point of view and it all falls apart when you take the other side.

And so I appreciate the testimony regarding those that actually perform the marriage. I will examine it and work as far with you on that question, to try to make sure it's as fair as possible.

But regarding an expansion to others that provide goods and services, I just can't go there, and I appreciate the Church's position. Thank you, Mr. Chairman.

SEN. MCDONALD: Thank you, Senator Kissel. I just want to ask you a quick question. Senator Kissel's questions made me think about it.

Isn't it true that it used to be that a Catholic, a long time ago, but that a Catholic couldn't marry anybody other than another Catholic?

DAVID REYNOLDS: It was recommended. I don't believe, that was long before my time.

SEN. MCDONALD: Okay.

DAVID REYNOLDS: My time. And I think, you know, the Jewish people in the Jewish faith prefer their people to marry, you know, they used to be very strict about not marrying out of faith.

My mother-in-law is a Lutheran and my father-in-law is a Catholic. I mean, they went through hellish times when they were married. That was back in the 50s. So it wasn't a teaching of the Church. It was more of a social preference.

SEN. MCDONALD: No, I understand that. But I was, and you mentioned your parents. My parents, my mother was Catholic, my father was Protestant. They were precluded from being married on the altar. They had to be married at the rail.

So my question to you is, if you flipped around your argument, wouldn't it be true that if a member of the clergy is going to perform an interdenominational marriage, that we could basically be saying that they'd have to do it on the same basis for anybody, regardless of their religious beliefs.

DAVID REYNOLDS: I'm not sure.

SEN. MCDONALD: I guess I'm trying to figure out where Senator Kissel is pointing, where the logical conclusion of this is. Clergy are performing a statutory function when they solemnize a civil marriage.

They're at the same time, they're performing a religious function, and frankly, I've never figured out why the Catholic Church allows the sacrament of marriage to be sullied, if you will, to when they perform a civil marriage at the same time.

The priest could tell you to go to city hall and get married at city hall and then come to the church and have a religious marriage performed.

But I guess I'm trying to figure out where is the logical conclusion to Senator Kissel's point of your position where people start to make the determination under any circumstances about what they want to abide by or not under our laws.

DAVID REYNOLDS: I think it just, it comes back again to what is a bona fide religious belief of the person, what's the true belief or is it an act of just, I don't like this person. I hate this person. I disagree with that person, and the law as we're proposing would be written. Of course, they're always open to interpretation. It would be up to a judge to determine that person's objections.

SEN. MCDONALD: Okay--

DAVID REYNOLDS: I mean, also the concern is I think we have yes, we have that person's right to get a service, we have that person's right. But where does, (inaudible) does the person's other member of the party, what is their religious rights come to in terms of the power and authority of the state.

SEN. MCDONALD: And under your conception of this, who is the arbiter of that? Whether it's a bona fide religious belief? The Catholic Church or--

DAVID REYNOLDS: Well, I think right now, I think right now in terms of faith, there's many court cases in this country, it's usually a judge. I mean, it's usually a court, a court of law, to distinguish to, I'm sorry.

SEN. MCDONALD: No, no. I didn't mean to cut you off.

DAVID REYNOLDS: To distinguish whether this is truly a religious belief or whether it's some other motivation behind an individual, you know, refusal to participate.

SEN. MCDONALD: Thank you. Senator Gomes was next.

SEN. GOMES: Good afternoon. I've been listening to all these interpretations of what it takes to be a Catholic. I guess some of us, we get it from our parents and we keep (inaudible) traditionally where you're Catholics.

I got baptized in the Catholic Church, made your first communion, confirmation. I've been a Catholic ever since. Some of the things we did when we were younger as Catholics, ate fish on Fridays and all that is pretty loosely interpreted now, and people have different beliefs of what it takes to be a Catholic, and what it takes to be a Protestant, and so on and so forth. I'd rather believe that what it takes to be a good person is more important.

And I wanted to go back to that thing about the photographer. You talked about the religious beliefs that inhibited these people to do what they did and not take pictures of somebody, and you would say that this belief is something that should be followed?

DAVID REYNOLDS: About, from the photographer?

SEN. GOMES: Yes.

DAVID REYNOLDS: If it was his sincere belief that participation in that activity has somewhere impaired his relationship to his God, then yes, it probably, you know, should not be followed. That's how the Church would view it.

SEN. GOMES: We talk about religious beliefs and religious objections and everything. Do you think that ought to take precedent over my religious beliefs or my religious objections as I sit here as a Senator, should take precedent over the fact that some of these civil rights or some of these civil liberties?

DAVID REYNOLDS: Well, we, you know, religious freedom is probably one of the top religious liberties we have in this country. It's the reason many people came to this country to escape some of the religious oppression in Europe at the time, so, to find a new faith.

SEN. GOMES: And some of the religious beliefs, some of the people suffered under religious beliefs.

DAVID REYNOLDS: Oh (inaudible)

SEN. GOMES: And were deprived of civil rights under religious beliefs. Now I'm asking you, do you think that your religious beliefs, or anybody's religious beliefs should violate the rights or confront the rights of some of these civil rights or some of these civil liberties?

DAVID REYNOLDS: Well, I think we have to look at it not only are you dealing with two sets of rights, religious rights versus some other civil liberties or rights. So first of all, you've got a conflict right there, which one at that point in time is more important?

But I think as we look at this issue, I think, we're not advocating somebody's religion or faith or right is more important than the others. We're advocating respect. That there be respect within the law for those differences, those variations between religious beliefs.

I personally, you know, I stood on a committee concerning healthcare reform in our state, and I sit with Muslims, representing the Muslim community, Jewish community, we all work together. We all find common ground to work on this as we share many common beliefs.

But we also all respect each other's beliefs. I don't think anybody of those ministers that I would work with, would ever think of forcing their beliefs on me, and I wouldn't force my beliefs on them, so it's a matter of respect.

That's our purpose here, to make sure that liberty, that religious liberty, which is valued, is valued in our own state constitution, our U.S. Constitution, that that be shown some respect, that be considered when enacting such laws that come in direct contact, that bring the religious world in direct conflict with the civil world.

I think we're kind of putting on blinders when we say, well, you know, let's not deal with that issue. The clearest example of where you have civil law conflicting with religious law, and it's haunted us for 20, 30 years now plus, is the abortion issue.

I mean, that is civil law versus religious beliefs in law. What we're trying to do is, let's avoid that kind of stuff. Let's be proactive and try to show that sensitivity within statutes, of a respect for those differences in beliefs.

I'm not saying my beliefs are better than your beliefs.

SEN. GOMES: And therefore, it becomes, we get into the realm of interpretations, and even the Catholic Church and other religious beliefs have been relaxed on some manners, in some areas, to accept what you would call somebody's choices, civil choices, such as pro-abortion and anti-abortion and so on and so forth.

And sometimes when people get into the act of interpreting what they call religious beliefs,

they get into their own thing and misinterpret a lot of things.

Last year I got into a conversation with somebody from a Catholic organization, and it got to the point where I said, well, you make it sound like, if I don't agree with you or what you're espousing, that I'm going to go to hell. With a snide look, and a remark, he gave me a remark with a smile on his face and said, well, you said it. Therefore, I had to remember that I was a Senator. Therefore, I didn't extend an invitation for him to make the trip first.

Now, if we'd have been on the street, it would have been different. I'm trying to show you, while we sit here, we make laws and we try to make laws that judges, that the judges that you're talking about, they uphold them and they interpret them.

And when we get to the extent where we make laws that violate other people's civil rights or civil liberties, then we're not doing our job. When that judge doesn't interpret the laws that we made right, he's not doing his job.

DAVID REYNOLDS: Senator, I--

SEN. GOMES: And some of you, when some of you get into your thing and try to interpret things to your beliefs and not respect other people's beliefs or other people's rights, then we have problems there.

DAVID REYNOLDS: I don't think this legislation is trying to impose anybody's religious beliefs on others. Again, I think it's a matter of trying to build respect of those differences into the legislation, and that's at least the way I view

it, the Catholic Conference is viewing it, and we're trying to build respect for those conflicting civil rights, because they're both civil rights that you talk about the right.

Right now it's a civil right in the State of Connecticut to have a same sex marriage, a result of civil right not to have the state impose on your religious belief, and that, as I said, is in our Constitution, it's in our Religions versus Freedom of Restoration Act, within out statutes, so it's a conflict between two civil rights.

For this Committee not to address it, it's going to eventually, I believe come up later on and we're going to say, you know, we can't believe that actually happened. Just like in Vermont with the civil union case with the inn was Catholic and his family with the bed and breakfast, you know, was brought up and had, you know, thousands and thousands and thousands of dollars on legal expense fees because there's no guidance from the state on precedent or what feelings.

So I think that's what we're asking for. We're not looking to impose on somebody's civil rights. We're looking to kind of realize we live in a diversified society and we need to try to meld that together and respect that legislation.

SEN. GOMES: Well, all I hope is, that whoever believes whatever they believe, that we all get to the place where we get to respect everybody's rights. Thank you.

SEN. MCDONALD: Representative Holder-Winfield.

REP. HOLDER-WINFIELD: Good afternoon. I was listening to Representative, Senator Gomes, and

he asked you a question about how you thought what you believed would impact someone sitting here, and I'm not sure that I actually heard an answer to that question.

So, if you could go back at that, and maybe answer again, or maybe answer for the first time the question that Senator Gomes asked you about, whether someone sitting here, sitting on this side, would have to, whether, if I had a religious objection, if that would be in play here.

So if I'm listening to testimony, should I be listening to that testimony as a Christian with already presubscribed notions, or should I be listening to it as a Senator, as a Representative, actually trying to get to understand what the person.

I just want to know what you believe about the question that was asked, because I didn't hear the answer.

DAVID REYNOLDS: I don't remember if he asked that. I'm sorry if I didn't answer that, Senator. I think the question you ask is really what's maybe a little beyond me, at least what my testimony here is, what's the role of a Representative. How does a Representative, an elected official meld his personal beliefs.

REP. HOLDER-WINFIELD: I'm asking. I'm not just, I'm asking that question specific of that, but I think it does relate to what we're talking about here, because you're saying that people wouldn't have to do certain things because of their religious beliefs.

And I'm not talking about inside the Church, which is an institution to which I can go or

choose not to go, but I'm talking about in the public sphere.

DAVID REYNOLDS: I think in a public sphere, a public official, I think any person, not even just a public official, but any person is diverse with who they are. I mean, their education, their religious beliefs, their race, you know, there's so many things that form what a person is, and that has to be considered, as you said, this side, in other words the Committee members can be elected Representatives.

Yes, it's their responsibility to bring all that to the table, that you're there representing not yourself, but basically the people that elected you and the people that elected you know that this is the person you are.

So I think yes, as an elected official, I think you have to bring everything that you are to the table and try to make the difficult decisions that you have to make.

REP. HOLDER-WINFIELD: But the decisions wouldn't be decisions that are made before I get here and listen.

DAVID REYNOLDS: Correct.

REP. HOLDER-WINFIELD: That would probably depend on the issue.

DAVID REYNOLDS: But obviously, I think in the political sphere, to be a good, you know, politician, you have to have open minds and try to meet, you know, we see peace in our democracy because the different sides come together and respect each other's differences,

and I think that's the important role of a politician.

REP. HOLDER-WINFIELD: So the same would hold true of a judge.

DAVID REYNOLDS: Of a judge?

REP. HOLDER-WINFIELD: Yes.

DAVID REYNOLDS: You know, I've not dealt with judges. I'm not an attorney. But I'm sure a judge brings a lot to who he is as a judge, or she is as a judge when they come and sit on the bench. You know, so, and I'm sure that probably does affect their decision.

REP. HOLDER-WINFIELD: I won't continue with what I was going to ask you. Thank you.

SEN. MCDONALD: Thank you. Representative Dillon, then Representative Morris and Senator McLachlan.

REP. DILLON: Thank you very much. Hi. Good afternoon. You've excited a lot of interest in the Committee.

I guess I have a couple of concerns looking just dealing with your testimony in a vacuum and not having any language before us, and that is, some of the people who it seems to me would be covered by that amendment have a competing duty, and not just judges.
And so that's one issue, and to a certain extent that might mean that the courts would end up reconciling it.

I guess the second would be, well, one, that is, this whole issue of you know is rights based and the beginning conscious opt out and I

was here when they re-did it. It was Richard Tulisano.

But it seems to me looking at some of the things on the federal level what's being marketed as conscience is turning into coercion, and that troubles me a lot.

You know, I remember seeing some of the language in the Bush directives that basically you could deny Medicaid dollars to an institution that unless it permitted a particular employee to refuse to do something that they followed, and I think it's problematic in a number of ways.

Number one, the coercive aspect of it.

Number two, I think it's could have the effect of marginalizing Catholics in civil rights. And actually, the bishops may actually like that. In fact, they've been doing it for years, but I'm not sure it's good for the politics.

For example, if you were going to trial, could I insist that a judge recuse himself because he's Catholic? Could I request that someone be bounced off a jury because they're Catholic?

Could I object, you know, I mean, there are consequences to all these little wedge things that we do that are problematic, I think, in terms of the effect that it has on every area of civic life, and for that reason, I think we should be very conservative about thinking through what we can do with all those things.

And I'm not wild about the path that the Church is on with all this gay stuff anyway. I don't understand their obsession, to be honest. I mean, so much of what I've done in my life I

owe, really, to the conscience that I developed from my own safe tradition in the Church, and to discover that this authority is over and over being tested on gay issues is sort of, number one, I don't know where the caritas is, and I was raised in the tradition of service.

But number two, I mean, you know, I want when my kids friends come over, you know, I mean, we look irrelevant to them. I'm like, well, don't you want to go to church. They're like, are you kidding? What's up with that, you know? Because it looks like a bunch of old guys sitting around obsessing about gay people.

It just doesn't, it just doesn't, you know, it doesn't seem relevant. I mean, it certainly mattered when one of our friends came out and then everybody looked at it differently. This is years ago. All of a sudden this abstract thing really mattered.

I really think we should think about competing duties, and that may include public accommodation. That may include the duties that you bring on when you take any kind of an oath. That could also include, I think, a potential abrogation or a marginalization of Catholics in civic life, which as one myself, I think would be a real problem.

God gave me reason. God gave me a conscience, too, and there are times that, I mean, I had a lot of trouble with this reconciliation business with the Holocaust denial a couple of months ago, at the same time that the Church was saying that a gay person was so disordered that they couldn't enter the priesthood.

I mean, that was mind boggling to me, and I mean, it's so stale to get angry at the Church. It was like, oh please, where were you 50 years

ago, you know? But, it's a scandal to me. I mean, we should let it go. Thank you very much.

SEN. MCDONALD: There wasn't any questions there, but you're more than welcome to respond if you'd like.

DAVID REYNOLDS: I would just make one comment, and Pat, some day when you and I can sit down we'll talk about all of that stuff.

But the term of wedge issue, you used that phrase and I'm not here today to build a wedge issue between anybody. I'm here to actually build tolerance and avoid wedge issues.

If you looked at the few cases I've cited, it wasn't the Church that caused the problem. It was other parties that caused the problem. They created a wedge issue instead of allowing mutual respect to occur.

So we're not trying to create any wedges here. We're just trying to come into an environment and create a society with laws that really does, will respect the differences between certain people.

REP. DILLON: Thank you very much, and I thank you Mr. Chairman for my rant. I'm done. Thank you.

SEN. MCDONALD: Thank you. You know, one of the benefits of this process is very different than most states. Everybody has a right to ask questions and you have a right to respond. It takes a lengthy period of time, and so I appreciate your patience while we go through that process.

I would just remind everybody that we have about 44 other people who are signed up to testify, so if you have questions, please frame them as quickly as possible, and then we can hopefully get on to some of the other folks who have been very patient.

But I believe Representative Morris was next, and then Senator McLachlan.

REP. MORRIS: Thank you, Mr. Chairman. Good afternoon, Mr. Deacon Reynolds.

DAVID REYNOLDS: Good afternoon, Representative.

REP. MORRIS: I think it's good we're having this conversation today in terms of religion and it's, you know, it's impact pro or con in regard to the legislation and the whole same sex marriage discussion.

There's an interesting article in today's Hartford Courant. I just want to read two pieces of it that prefaces the question that I have for you.

The writer was Robin Stepwell Wilson. On one piece it says Connecticut's existing statute banning discrimination on the basis of sexual orientation on public accommodations subjects violators to fines up to $100 and 30 days in jail, or both.

And one of the concluding statements is that whether we are a plural enough society to allow religious dissenters to live alongside same sex couples, without depriving those couples of their civil rights. This is the basic, you know, kind of discussion here and it's a challenge.

With those statements being said, and if I need to repeat them for you I will. The question is this. Are you proposing, the proposal that you've given us today, are you basically proposing that persons who have conscionable objections based on faith, not be penalized, for example, fired, due to that objection, like the service workers, if the refusal to provide said service does not prohibit or impede the delivery of service.

DAVID REYNOLDS: That is what we are talking about here today, Representative. We're trying to, again, protect people's rights so they're not harmed by their religious beliefs, that actions, legal actions I guess before the authority of the state doesn't come down upon them and harm their life.

And one of the things, many of the things, especially in same sex marriages, the issue we're looking at here, in terms of a justice of the peace or a judge, or you know, a photographer or an inn to stay at, there's not usually just one choice. There's a lot of other choices.

So just because the state is respecting religious difference doesn't mean they're denying the other couple the service. They're denying them the civil right. They think there's plenty of other positions, and I think that's where you come in our society, where you balance the two.

That person, because that person won't perform that marriage, cannot ever get married in the State of Connecticut? No. Do you know how many justices of the peace are there per town in the State of Connecticut? Quite a few.

REP. MORRIS: I guess you kind of led into where my second piece was for you to confirm it, because I was going to kind of make certain that we're clarifying by saying where your position you're at is in order to respect religious rights because we want to respect all rights, and I've, one of those I've been very clear on when it comes to gay rights, I'm a proponent.

Everyone knows, my biggest challenge is when it comes to same sex marriage. Other than that, I'm going to push and enforce for all of the other rights.

But at the same time, I'm a strong proponent for religious rights and trying to make sure we're balancing them all, and that's why I like what this writer put here. I think it's something for everyone to consider.

Are we a pluralistic enough society that we can respect the rights of those with religious convictions as well as those who are gay, and make certain we're legislating in such a way that the both can live together and no one is harmed, you know, you live well. So it's a matter of how we do that.

So in order to respect religious rights, provided there is opportunity to receive the services in an equal manner, but religious objection is not penalized, are you satisfied?

For example, under old civil rights, black people, the colored people had to go drink at the fountain. Everyone got water, all right? But there was a colored fountain and there was a white fountain, okay?

White people went in the front door of the restaurant and the blacks went in the back. Everyone got food, but it wasn't equal, okay?

DAVID REYNOLDS: Correct.

REP. MORRIS: Okay? Part of the argument that brought us here today to the same sex marriage is that civil unions were not equal to marriage, all right? And we have a Supreme Court that said it's not equal. All right?

So therefore, you know, you've got to make sure that marriage is afforded to everyone so that everyone now has this equal institution, all right?

So the question then comes down to, if we have an equal institution there, provided, as you said, whether it's a photographer or someone else providing a service, as long as someone can avail themselves of that same service, and the person can really demonstrate, not just, because I think there's some good arguments that have been brought up here.

I mean, some people arbitrarily, because they are homophobic, try to deny someone of a service, and that, we don't want to have. But where someone we may promote a process where people can viably prove beyond a shadow of a doubt with all the different things the Catholic Church does, that it is really serious because of their religious conviction that they're not offering that service, and there isn't a shortage area in that area, because that could be a problem as well, of providers, all right, then do you think, does this then kind of work into language that you're considering it would make sense?

DAVID REYNOLDS: I think that's something that is reflective of the language, and I think we have to, that we live in such a pluralistic society that if that photographer, whoever, wouldn't do

that service that there is somebody available to do that service, so the right isn't being denied.

In the case, you know, we were talking about before, what happened there is, the person says I object based on my religious grounds, is then dragged to court or a suit, of before a commission and have to pay out legal fees, et cetera, is penalized for that belief, why the person bringing that charge, goes on and receives the service that they, you know, they just went to another justice of the peace. They went to another photographer or something like that, so they're really showing no harm there.

But the person that said, I don't want to do this because, you know, it's really against my religious. Really, this is a belief, and they can justify that belief, solemnly justify that belief but they get harmed from it. So that's what we're trying to prevent. That's not mutual respect.

If they go after somebody, harm somebody because of their faith, and then go off on the side and take care of all your business the way it would have been taken care of anyway.

REP. MORRIS: So if I understand you correctly, your concern would be that the person under our current legislation may incur the harm of the $100 fine or the 30 days in jail when there might have been an equal opportunity for someone else to provide that service?

DAVID REYNOLDS: That's definitely the issue, a topic related to this, yes, definitely.

REP. MORRIS: Okay. I think, Representative, I can't think of her name right now, from New Haven,

brought up a good point in terms of conscience to coercion and the whole respect case.

SEN. MEYER: Dillon.

REP. MORRIS: Dillon, Representative Dillon. Thank you very much, Senator Meyer.

And that's another thing that brought us to where we are today in terms of the whole same sex marriage piece. When we heard it two years ago, the concern was that we wanted to make certain for people that are gay, that they felt they have the same level of respect, and marriage would give them that, and therefore would legislate, we would be somehow legislating respect.

And the judges have basically done that. Of course, I don't think you can legislate or coerce people into doing it.

How do you think, what do you think, long term or do you predict there could be any type of backlash whether it's upon faith communities or gay communities if we do not address, effectively, the issue of making certain that we are, in our effort to make certain that we're providing equal access to protections for people that are gay, if we're not also adequately providing the protections for people of faith, whether we in the Legislature understand those tenets or not?

DAVID REYNOLDS: Well, I think, you know, it's hard for me to speculate on the future. But I think right now in the State of Connecticut civil rights are very well protected for the gay community, for any community. I think we have a strong history, and the court has ruled on this issue. It's the law of the state, and we have to live with that.

And the purpose that we bring this proposal before this Committee is to try to avoid conflict. You know, we live again, and the word pluralistic society, we want to avoid conflict.

So we're trying to look at that and say, what can we do to avoid cases where people, because they believe certain things, that are practicing their faith are, and I would say maybe some of these cases I cited were victims of, you know, dislike. You know, that person believes in that religion. I can't stand these religious people so I'm going to sue them and hurt them and they can bleed.

So I mean we, that could be very wall part of these. I can't, you know, speak to what was in the plaintiff's mind in the cases, but I think we have to be careful of that. And as we move into this new era, we should, the Legislature should address that.

REP. MORRIS: So are you alluding to that piece, so to speak, you know, and to protect rights.

So, is that what you were alluding to earlier in your testimony when you said we may end up having to, if we don't address this as an issue, if we don't demand them coming back just two years from now, because people who have religious convictions now are being compelled to do something that conflicts with their religious convictions, and then are penalized for it, may end up with a number of different cases that we end up coming back here if we do not make sure that we are fairly and adequately balancing the rights of both groups of people?

DAVID REYNOLDS: That's exactly our concern, you know. We're trying to be, again, the word

proactive. We're trying to avoid people from having to go into a hardship and then have the Legislature reconsider the issue after somebody's already gone through a hardship..

REP. MORRIS: Thank you very much, Deacon Reynolds.

SEN. MCDONALD: Well, the good news is there's only one more Committee member who wants to ask you any questions. The bad news is, during the course of your testimony, we picked up nine additional people who want to testify, so let's keep that in mind. But Senator McLachlan has been very patient.

SEN. MCLACHLAN: Thank you, Mr. Chairman, and thank you, Deacon Reynolds for your time today. Much appreciated. This is certainly a fascinating topic for me and many others in the State of Connecticut and across the country.

And I sense that what you're focused on is preservation of religious liberties. So that's a simple statement.

DAVID REYNOLDS: The ability of individuals to (inaudible). Yes.

SEN. MCLACHLAN: And so, we have preservation of religious liberties in the First Amendment, and so your concern, just for clarification is that in Senate Bill Number 899, there is a section that carves out the clause for clergy--

DAVID REYNOLDS: Correct.

SEN. MCLACHLAN: --to excuse themselves in this scenario of a ceremony.

So are we in agreement that your proposed changes are to make changes to those exclusions, or add to the carve outs, if you

will, of Section 7, similar to what was in place under the civil union statute in Connecticut, where it did, in fact, I believe, allow for justices of the peace to decline to perform a civil ceremony?

DAVID REYNOLDS: That is one of the changes that we read about that justices of the peace were able to do that. But now they received a ruling, I believe, an opinion from the Attorney General saying that they can no longer do that. They have to basically either do those ceremonies, be willing to do them, or to step away from those ceremonies.

So that is a little stronger language than occurred during the period of the civil union, so they're now under a, you know, an opinion from the Attorney General.

If you don't want to do same sex marriages, don't be a justice of the peace. So your faith excludes you from holding that position.

SEN. MCLACHLAN: So generally speaking in the argument of religious liberties granted to us in First Amendment, your concern and that of the Catholic Conference, is that Senate Bill Number 899 is somehow trampling on the religious liberties of people in a way that it is excluding or not specifically carving out those religious liberties?

DAVID REYNOLDS: I think our concern with Senate Bill Number 988 is that it doesn't go far enough to recognize those religious liberties, and because of what we see happening in other parts of the country and Canada and other European countries of true religious people of the religious faith that objected. That this just does not go far enough.

And if we're going to finally codify the Kerrigan case, make same sex marriage the law of the State of Connecticut clearly within its statutes, that we should also recognize this, not have it be, you know, something in the room that nobody wants to talk about, recognize that this is an area of conflict and the Legislature should address that to protect both liberties.

Same sex couples now have their religious beliefs protected fully. The religious people are wondering what's that going to mean for me? Am I going to be able to practice my faith fully or do I have to worry about being like the Methodist down in New Jersey or the photographer in New Mexico or the Catholic up in Vermont where people are going to come after me because I'm trying to run a business, get on with my life, and they just don't like, you know, my religious beliefs.

SEN. MCLACHLAN: So do you believe that there is a distinct difference between religious liberties and some of the concerns of my colleagues where they are concerned that exclusions beyond that of the clergy are discrimination?

Do you, have you thought through what is the balance there?

DAVID REYNOLDS: We're not seeking to discriminate. We're just seeking to preserve rights.

SEN. MCLACHLAN: I don't imply that you're, what I'm saying is that you've got the religious liberty argument, and you have the concerns that are valid and certainly everyone in this country is concerned about preserving civil rights.

DAVID REYNOLDS: Correct.

SEN. MCLACHLAN: My colleague, Senator Gomes talked a lot about that.

I think that there is a balance of religious liberties and civil rights. Have you thought through that to help us preserve the civil liberties, the religious liberties in this case as it relates to a gay marriage?

DAVID REYNOLDS: Well, I think in the world right now we have civil rights of gay couples. We have people of different sexual orientations are very well protected, and if you look at the balance, we're worried that the balance is now going to shift, because as when I was talking to Senator Gomes, responded to his question before, I said you've really had a conflict between two civil liberties.

Religious freedom is a civil liberty, and of course, under state law of Connecticut, they have the same sex marriages now as a civil right, a civil liberty.

So I think you have two conflicts and the state has to be careful that there's a respect within our society in Connecticut for those. And since we are one of the first, I mean, Massachusetts, we're number two for same sex marriage right now, you know, it's a good opportunity for the State of Connecticut to say, hey look, we have the same sex marriage and to the rest of the country if the trend continues, here's how we dealt with this issue. Here's how we feel, you know, about religious liberties in the state, and make a strong statement about that, and help protect also the people of faith.

SEN. MCLACHLAN: So some legal scholars, of which I am not, being a lay person it's always interesting to have such an intense legal

argument surrounded by such esteemed colleagues with a long legal profession, I look at it, the legal process, the law-making process, I believe I look at it out a different window than my fellow colleagues who are accomplished lawyers.

And so when I look at it out that different window of a lay person, if you will, both in the Legislature and in the Church, I wonder if it isn't such an ironic part of the American experience that we have this very dramatic declaration of the Connecticut Supreme Court affording gay couples the right to marry, which is the law of the land and soon to be codified, and yet there is concerns after that very dramatic and important decision, whether you agree with it or not, a very important decision, that the impact of that decision is now perhaps taking away someone else's religious liberties.

And so the legal scholars that I'm reading and speaking to are saying, Legislature, you have a great opportunity now to take pause and assure that religious liberties are preserved in this process.

And so, I ask you again, has the Catholic Conference in Connecticut, and your peers in other religions who sit at the table with you on community projects all the time, has there been discussions about those concerns that honor the civil rights of the gay couple's right to marry, and yet will clearly honor the religious liberty concerns that you've talking about today.

Has there been, in the faith communities, has there been discussion that you're aware of yet, and if not, why not?

DAVID REYNOLDS: I think within the Catholic Conference, first of all, yes, there's been discussion with them, my counterparts around the country, about the concern about how do you balance the two now that, you know, in a state especially like Connecticut where you have that conflict. So we've had that discussion.

With other faith communities, we differ. I mean, there's some Christian faith communities that support same sex marriage, some that do not support it. There's some that are split on it, you know, different arguments are occurring within their own faith, like the Episcopal Church.

I mean, there's a tremendous battle going on within the Episcopal Church about the issue of same sex marriage and relationships, et cetera.

So it's a very tough one, I think, and again, I can't speak, but knowing the people I know in the other faith communities, I think there's a profound respect for religious difference and a feeling that, you know, the state should respect that religious difference.

So I don't think, I don't find one religion out there trying to, you know, override another religion. I think again, with the people I know, and we haven't had a deep discussion about this, but there's a profound respect that, you know, religious liberty is very important.

Because you know, right now we're talking about the Catholic faith, but there's other faiths that we may have, so let's face, you know, what other issue might come along.

So I think as the Legislature approaches an issue like the same sex marriage, which has

been, and still is in our country divided among usually, you know, a civil rights issue versus religious beliefs. I mean that's the major conflict in here.

That as we attempt to resolve that, we just can't say well, we're going to give all preference to civil rights issue and we're not really, we don't even recognize the whole religious conflict that occurred during this battle, and try to just shove it under the carpet.

I think when you do that, it's just going to come back to haunt you and it's going to be problems or just one side that has the advantage and now is going to, you know, take advantage of the other side.

So I think it's a discussion that, you know you're right. Maybe religious faiths should sit around the table and discuss this and come to a common ground on that.

SEN. MCLACHLAN: Well, let's face it, there are members of the Catholic Church, some who have spoken today who don't agree with the management of the Catholic Church, some who were born and raised in it, and no longer feel the same way about their faith as it relates to the Catholic Church, and so that's their experience.

However, I think that those, that's the American experience, though. That's sort of the general experience that we all go through life with different experiences, and at this point in time in our lives, we're looking at life out a different window, and I want to go back to my point just one more time, and then move on if I can, that I encourage you and the Catholic Church, and all of the faith

communities in Connecticut and across the country for that matter, to look seriously at their, first through an eye of respect for one another, and respect of one another's faith.

But look very carefully at the balance of religious liberty and civil rights, and how can you offer suggestions to the legal minds of this Judiciary Committee, that will codify the Kerrigan decision in such a way to honor the decision of the Supreme Court of Connecticut, but most importantly, respect all parties involved.

And what I'm hearing is that there are grave concerns that the bill as proposed now is not respectful of all parties involved. So I urge you to do that as quickly as possible, and I will encourage in any way I can from my end of the state in Danbury, to encourage people to do the same, and offer suggestions that are clearly spoken, respectful, and do clearly offer ways for us to move on and honor religious liberty. Thank you.

SEN. MCDONALD: Hopefully, there are no further questions for Mr. Reynolds. I certainly appreciate your patience. You've been more than generous with your time today. I appreciate it very much.

DAVID REYNOLDS: Thank you.

SEN. MCDONALD: Next is Anne Stanback, followed by Ben Klein. Good afternoon.

SB899

ANNE STANBACK: Good afternoon, Senator McDonald, Representative Lawlor and members of the Committee. My name is Anne Stanback and I'm the Executive Director of Love Makes A Family, the Connecticut organization whose mission has

been to change our state laws so that loving, committed same sex couples can legally marry.

After eight years, that day finally arrived on November 12th with the Supreme Court's ruling in Kerrigan. Today, I am here to speak in support of Senate Bill Number 899.

There are lawyers testifying later who can speak to this bill's technical elements better than I can. My role is a simpler one. I am here to say thank you to this Committee for moving the dialogue toward marriage equality forward in our state.

I am also here to speak on behalf of the 20,000 plus members of Love Makes A Family, who support the Kerrigan decision. I can sum up their sentiments using the word from my favorite sign at the Decision Day victory rally in October. Proud of my state.

Because that is the feeling. People are proud. And people are supportive. When same sex couples began to marry in Connecticut in November there were no major protests. There was no backlash. That fact, combined with the results of two independent statewide polls that indicated clear majority support for the court's ruling shows that this issue was settled in Connecticut.

The bill being heard today will close this final chapter on the efforts and legal discrimination based on sexual orientation.

Marriage equality is the law in Connecticut, and this bill won't make it any more legal. What it will do, however, is conform our state statutes to the Kerrigan ruling and clear up confusion that exists because of Connecticut's civil union law.

It will also clarify issues related to recognition and remove demeaning language that was added as a compromise to assure passage of the so-called gay rights bill.

That language was insulting to many of us when it was added 18 years ago, and today it is simply unacceptable. The language made some Legislators feel comfortable back in 1991, but all its talk of not condoning homosexuality and not requiring the teaching of homosexuality as an acceptable lifestyle, had no legal impact then, and repealing it will have no legal impact now.

So why repeal this section at all? Because words matter, and the only thing the words referenced in Section 17 do is to demean gay people in our families. Our state has moved beyond that.

The court's majority in Kerrigan said as much, citing this language as an example of prejudice and state-sponsored disapproval of gay and lesbian people that is no longer acceptable.

In preparation for today's hearing, I looked back at my testimony from the first hearing the Judiciary Committee held on this issue back on March 16, 2001. I closed my remarks then with words that are just as appropriate today as they were eight years and ten days ago.

What could possibly be wrong with making it easier for me to take care of and be responsible for the person I've made a lifelong commitment to?

What could possibly be wrong with allowing the same thing for the other couples here today? Marriage is about building stronger families.

Building stronger families builds stronger communities, and that is a good thing for all of us. Thank you.

SEN. MCDONALD: Thank you, Anne. And you're very gracious to thank us, but certainly this whole issue could not have come to this place without your work and the work of the many dedicated men and women of Love Makes A Family, and all of the supporters of Love Makes A Family, especially the members of the faith communities that have been so helpful to you and (inaudible) over the years.

And I have no questions, but I understand that congratulations are in order to you as well on your marriage. So congratulations.

ANNE STANBACK: Thank you.

SEN. MCDONALD: We, for good, bad, or indifferent, whether you are pro or con on issues, we do ask that members of the public not display positive or negative reaction to the things that are said in public hearings. Are there any questions for Anne? Representative Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman, and congratulations for me, too. You know, I found out like everybody else that I got a thing in the mail that said you guys eloped, right, but I'm sure it was a wonderful scene.

In any event, you mention in your testimony something that I recall, and that is the deliberation of the Legislature back in 1991 when language was added to the statutes as part of the bill that outlawed discrimination based on sexual orientation in employment and in housing.

And I don't specifically recall. Were you involved in that whole effort back then?

ANNE STANBACK: I was yeah.

REP. LAWLOR: And so, many of my colleagues here on the Committee and elsewhere in the Legislature have asked about why this specific provision is in this bill, why repeal this statute.

And I think it might be useful just for a minute to try and explain what that statute is, how it got there, what it actually says, so that people understand what is really being contemplated here.

So you said that this was a compromise added to the bill. Could you just explain what the original, what the basic bill says, and why this, what your understanding was of why this language was added on at the end?

ANNE STANBACK: The basic bill simply added sexual orientation to the state anti-discrimination laws, so it was pretty straightforward. And what the language that's referenced in Section 17 says is, and I won't read the whole thing but nothing in the gay rights bill shall be deemed or construed to mean, and then there were four things.

It should not be construed to mean that there were numerical quotas required once the sexual orientation bill passed.

That it shouldn't be construed to mean that schools were going to have to teach about homosexuality in a certain way, that it did not say that the state condoned homosexuality.

So, I don't know if you call it a double negative, but it basically did not have any

legal impact, but I think people just wanted to, it just make some Legislators feel comfortable enough to actually be able to vote on the bill.

REP. LAWLOR: And would it be fair to say that back then there was a, because there have been a number of years between the time this, the anti-discrimination proposal first got to the Legislature.

ANNE STANBACK: Eighteen.

REP. LWWLOR: Eighteen years, right? And then the culmination was 1991, and as I recall it passed. It was an overwhelming vote and there was a bipartisan support for it, so at the end of the day there was real consensus around enacting this into out statutes. Is that right?

ANNE STANBACK: That's right.

REP. LAWLOR: And when you say anti-discrimination, I think some people may not understand the details, but in essence what it said is, you can't be fired from your job or evicted from your apartment just because you're gay. Right? That's the essence of it.

ANNE STANBACK: Denied credit or be denied public accommodations.

REP. LAWLOR: And prior to this, in theory, an employer could say, or a landlord could say, you're out of here because I don't like gays, right? And then after this law passed, that would be an illegal practice just the same would be if you did that to someone because of their race or their religion or anything else? Is that right?

ANNE STANBACK: That's right.

REP. LAWLOR: And the concern that people had, I think, and correct me if I'm wrong, was that if this anti-discrimination bill passed, then some court down the road would use the very fact that the Legislature passed this bill to say, well, obviously, now there has to be same sex marriage, right?

I mean, that was the concern that was expressed back then, right?

ANNE STANBACK: Yes.

REP. LAWLOR: And the reason, one of the reasons offered for adding this language was whether or not it's a good idea to have same sex marriage, you can't use this specific statute to say that the Legislature must have intended same sex marriage by passing the thing. It was clarifying really what we weren't doing at that time? Right?

ANNE STANBACK: Correct.

REP. LAWLOR: Okay. Now, there are actually five provisions, right? The first one says nothing here is to condone homosexuality or bisexuality and I think there's a few other things on that list.

But when you hear people talking about condoning homosexuality, what does that mean to you?

ANNE STANBACK: It is a buzz word of sorts. I mean, I think of it, and when no one is condoning, or is the state condoning heterosexuality? I am who I am and I don't need the condoning of the state, but I do need equal legal protection.

REP. LAWLOR: So do you mean by that just like whatever condoning actually means. I mean, it's a free country and whatever you are you are, any more than we condone people of a particular religious faith or national origin.

I mean, you characterize it as demeaning. I mean, why is that demeaning to be condoned?

ANNE STANBACK: Well, what's demeaning is that of all the groups that are covered under the anti-discrimination statute, the Legislature felt that only to add this kind of language saying what they weren't doing just as it affects gay and lesbian and bisexual people.

REP. LAWLOR: So, do you think it would affect if we just singled out, let's say, I don't know, Native Americans, we're going to condone them but we're not going to discriminate against them but we're not going to condone them either. Don't think we're condoning it just because we're not going be able to (inaudible).

I mean, does that seem like maybe if you were a Native American like my father is, you'd be a little offended by that?

ANNE STANBACK: Yes. It's sort of a backhanded compliment. We're going to give you these rights, but we sure don't want you to think that we think you're okay.

REP. LAWLOR: Right. And it seems like 20 years later that's a little out of step with certainly the public opinion in the State of Connecticut in terms of gays and lesbians. Would that be fair to say?

ANNE STANBACK: That is fair to say, and I think, I actually hadn't thought about this before, but the Legislature put it in for a certain reason,

but in fact the majority in the Kerrigan ruling chose this particular section of the statute as the reason, as one of the reasons for giving heightened scrutiny to people because of their sexual orientation.

REP. LAWLOR: There's a lot of ironies in this process.

ANNE STANBACK: There is.

REP. LAWLOR: And one of the ironies is the very passage of that, this sort of insulting language helped to make the case of a history of persecution against gays and lesbians in the state. Isn't that right?

ANNE STANBACK: That's correct.

REP. LAWLOR: Because the Legislature actually voted to put this language in there.

ANNE STANBACK: That's correct.

REP. LAWLOR: Also, kind of interesting since I was involved in this other debate, too, about civil unions, the whole battle about whether or not we would add the definition of marriage to the statutes and singled out as an example, the Legislature for no apparent reason going out of their way to make an argument that gay couples are a little bit less than straight couples.

It's interesting that this additional language had the opposite of the intended effect.

ANNE STANBACK: That's right. And I go back to my testimony. I think words do matter, and you know, young people if they are gay and they read our statute, you know, is this the kind of language that is going to make them feel good

about themselves, or, you know, feel self hatred.

REP. LAWLOR: So there's five provisions in the statute. We just talked about that first one about the condoning homosexuality but the last two seem to be obviously obsolete. The provision that says nothing in the 1991 statute should be interpreted to somehow allow for same sex marriage, right? That's done.

ANNE STANBACK: That's done.

REP. LAWLOR: And then the other thing is, nothing in the 1991 statute should be interpreted to create a special classification for gays and lesbians, something like that, right? Actually, that's what the Supreme Court did. They did it not because of any law that had been passed in the Legislature.

They did it in part because of this very statute we're seeking to repeal right now, but that's done, too. The court said what they said, and that's the law of the state.

That leaves two, and the other two provisions seem to have, in the focus of most of the questions I've gotten at least from colleagues here or from constituents or citizens around the state, and that deals with sex education and quotas or affirmative action.

So just to be clear, and maybe you're not an expert on this stuff, I'm not sure, but this particular statute said, nothing in the anti-discrimination law should be interpreted to require education in the schools. Do you have it in front of you? I don't know.

ANNE STANBACK: To authorize the promotion of homosexuality or bisexuality in educational

institutions will require the teaching in educational institutions of homosexuality or bisexuality as an acceptable lifestyle.

REP. LAWLOR: Well, there's a certain insulting aspect of that language, too, but apart from that, since 1991, the Legislature has adopted statutes on sex education in the schools, and what takes place is clearly governed by those statues, and basically what they say is, local school districts can choose to have whatever curriculum they want on that topic, and if they do, parents have every right not to have their children participate in that.

So that's the law. So with or without the statute, we're seeking to repeal, that's the law. In order to for it to change, the Legislature would have to vote to change that. Is that your understanding?

ANNE STANBACK: Yes.

REP. LAWLOR: So repealing this really doesn't have any effect, because there's already a law that would still remain about sex education in the schools. Right?

ANNE STANBACK: Correct.

REP.LAWLOR: And the final thing is, quotas or affirmative action. And I think you may be well aware of this, but there are a bunch of laws about affirmative action. I think this Legislature has established them and they deal with racial minorities, ethnic minorities, and women, basically.

The Legislature's never passed a law about affirmative action seeking to hire more gays and lesbians as far as I know. Is that your, I

mean you've been involved in this movement. Have you ever heard of that one?

ANNE STANBACK: I have not.

REP. LAWLOR: Okay. So I think that is what it is. I think Justice Borden, in his dissenting opinion, commented there actually are a lot of gays and lesbians in state government as it turns out, some relatively influential, so it would be kind of hard to imagine there being an affirmative action project for that.

But in any event, getting rid of this language doesn't affect the current rules on affirmative action at all.
Is that your understanding?

ANNE STANBACK: That's correct.

REP. LAWLOR: So, because you, I think you said in your opening testimony that the repeal of this old statute, which was added as an accommodation to get a bill passed 19 years ago, would have no effect because there's already other laws on the same topic that would not be repealed, and people seem to be pretty comfortable with all those other laws. Is that your understanding?

ANNE STANBACK: That's correct.

REP. LAWLOR: Well thank you. It's good to go through this because some of my colleagues just asked me this today, and I thought it would be important to point that out. And there actually are some interesting background information prepared by the Office of Legislative Research and other offices about this issue, what is the actual legal significance of deleting this, what appears to

be arguably as an archaic statute from another time, so thank you.

Are there other questions? If not, thanks again.

ANNE STANBACK: Thank you.

REP. LAWLOR: And this may be the last time you have to come here and do this.

ANNE STANBACK: I think it may be. Thank you.

REP. LAWLOR: Okay. Next is Ben Klein. And Attorney Klein will be followed by Janet Peck and Carol Conklin, who are testifying together and then Peter Wolfgang.

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BEN KLEIN: Thank you, Representative Lawlor and members of the Committee. My name is Ben Klein. I'm an attorney with Gay and Lesbian Advocates and Defenders. GLAD is proud to have been the lead counsel for the plaintiffs in the Kerrigan case, and we are also thrilled today to be able to extend our great appreciation to Representative Lawlor, Senator McDonald, to members of this Committee for the tremendous leadership that has been demonstrated in this state to advance fairness, and equality for lesbian and gay couples.

There is no question that for decades now, the State of Connecticut, both in the Legislature and in the courts, has been at the forefront nationally, of really advancing respect and dignity for its gay and lesbian citizens in establishing equality.

The Kerrigan decision in ruling that it's unconstitutional to exclude same sex couples from marriage, I think it's important to keep in mind what Kerrigan did.

Kerrigan focused a tremendous amount of its attention on the long history of unjustified discrimination that lesbians and gay men have experienced. And Kerrigan established that the state can no longer unjustifiably treat lesbians and gay men differently, nor can the state pass a law whose sole purpose is to disapprove of gay and lesbian people.

In short, what Kerrigan means bottom line is our laws and institutions must be neutral as to sexual orientation.

The bill today really affirms those principles in Kerrigan. It conforms the state's statutes to those equality mandates in a number of ways, by making sure that the common law of Connecticut on recognition of legal relationships entered elsewhere is applied fairly and neutrally to all relationships, including those of same sex couples by encouraging other states to respect all marriages of Connecticut citizens and by providing an orderly transition from a system in which we've had two classes of citizens. Those who can enter civil unions, and those who can marry, to assist them in which everyone is treated equally and we have one system.

I would like to focus my remarks on three areas that have come up in the testimony today, and the first is the issue of those who are authorized by statute to solemnize marriages, and this bill ensures that the religious liberty and free exercise concerns of clergy are respected, and that no clergy has to solemnize any marriage that they choose not to consistent with their rights under the First Amendment, and under the Connecticut Constitution.

But justices of the peace are a different matter, because justices of the peace are state actors. This issue actually arose in Massachusetts shortly after the Goodrich decision there. And as many of you know, we had a Governor at that time who was a staunch opponent of marriage and who was very critical publicly of the Goodrich decision.

But Governor Romney instructed justices of the peace in Massachusetts that they could not refuse to marry same sex couples, and the reason for that was that in spite of his opposition, Governor Romney understood that that would be unconstitutional because state actors cannot discriminate under the Constitution.

And this issue has come up way earlier in our history, and I have discussed in my testimony, an opinion from the Texas Attorney General in 1983 when the issue came up there, whether a justice of the peace could refuse to marry an inter-racial couple, and it's really an exact analogy to why it would be unconstitutional given the Kerrigan decision, for justices of the peace in Connecticut to refuse to marry same sex couples.

They are state actors and they cannot violate the equal protection provisions of the Constitution. They are very distinct from clergy who have their own free exercise rights.

I would also like to address briefly the language that was just discussed during the Anne Stanback testimony about the antiquated language in the sexual orientation, non-discrimination law passed in 1991.

And as has been indicated, this language had no purpose other than to express anti-gay

prejudice, and it is because of the Kerrigan decision that a light
was really put on this language, and is, I think, a compelling reason for the Legislature to remove it.

And without going into any lengthy reading of Kerrigan, I just want to give you a sense of what the Kerrigan Court said about this language. The Court said, by singling out same sex relationships in this manner, there is of course no such statutory disclaimer for opposite sex relationships.

The Legislature effectively has proclaimed, as a matter of state policy, that same sex relationships are disfavored. That policy, which is unprecedented among the various anti-discrimination measures enacted in the state, represents a kind of state-sponsored disapproval of same sex relationships and serves to undermine the legitimacy of homosexual relationships and perpetuate feelings of personal inferiority and inadequacy among gay persons.

This language is really, it is not only antiquated, but to allow it to be part of this state's law in light of Kerrigan, in light of the changes that this Legislature has made to the laws of Connecticut since 1991 would be a stain on the great accomplishments that the Legislature and the Committee, and the State of Connecticut have made.

Finally, I wanted to comment briefly about some of the discussion earlier about the scope of businesses, commercial entities, where a proprietor may not want to serve lesbian and gay people.

I think the Committee actually gave--

REP. LAWLOR: Can I just say one thing. Normally, well, the bell's not, normally we ask you to limit it, but I would be asking you all these questions just as soon as you're done, anyway. So please proceed--

BEN KLEIN: I'm almost done.

REP. LAWLOR: --because I'd like you to explain.

BEN KLEIN: I apologize for running over.

REP. LAWLOR: That's okay.

BEN KLEIN: But I think the Committee members themselves have engaged in a very eloquent discussion showing the slippery slope that opening up that Pandora's box would involve.

Clearly, if it were just anti-sexual orientation, there may be some problems in light of Kerrigan. If it were opened up to all forms of discrimination I think those issues have been well raised in the Committee.

But the point I think to keep in mind, is that there is a significant difference in balancing religious liberty and non-discrimination. There's a significant difference between clergy and religious entities and individuals who open themselves up to the public. They're commercial entities. They make money by running their business and the State of Connecticut has a very strong interest in ensuring that those businesses are available to all citizens and not to only some citizens based on the personal beliefs of the business owner.

Thank you, and I do apologize for exceeding my time.

REP. LAWLOR: Thanks, Attorney Klein, and since you are a lawyer, you know, as a matter of fact let me just say, you were the attorney who represented the plaintiffs in the Kerrigan case, and the argument in front of the State Supreme Court was one of the first telecast under the new technology they have over there.

Not just that it was on TV, but they had the sort of close up shots and you get a real good sense of what was going on in the room, and everyone I've spoken to, and certainly I feel the same way myself, watched not just that hearing, but your particular presentation.

Regardless of how you feel about the issue, I was extremely impressive given, especially given the graveness of the thing, you know, the way it was presented, the way it was explained, the engagement with the justices of the Court was I think, part of this great tradition we have in Connecticut to try and work our way through complicated emotional problems in a very civil and respectful way, and I just want to thank you for that and congratulate you on the outcome, of course.

But that was very impressive, impressive work that day.

BEN KLEIN: Thank you.

REP. LAWLOR: Now, having said that, you are from Massachusetts, are you not?

BEN KLEIN: I am.

REP. LAWLOR: Okay. And I'm taking that a Red Sox fan?

BEN KLEIN: Absolutely.

REP. LAWLOR: Okay. Well, I am prepared to condone that. But I want to ask you some Massachusetts questions.

BEN KLEIN: Okay.

REP. LAWLOR: I've gotten a lot of emails expressing concern about this particular bill, and more often than not, people mention the adoption agency situation in Massachusetts, and I think we all sort of know the outcome of that.

In other words, I think it was Catholic Charities had an adoption service. They closed down, ultimately, but why that happened I think is not 100 percent clear. Do you know why, what that had to do with the marriage decision in Massachusetts and how that all came to be? Do you know the actual facts on that one?

BEN KLEIN: Yes, I do. The, it actually, the decision of Catholic Charities to stop its state contract to the adoption placements actually had nothing to do with the implementation of marriage in Massachusetts.

I think what happened was that that decision was made about the same time that marriages began in Massachusetts and so there was confusion in the public mind that those two things were somehow related.

Catholic Charities had been, had a state contract to do adoption placements for many years, starting sometime in the 80s, and they were placing children with same sex couples.

When that came to light in the press, there were some people within the Church and within Catholic Charities who had concerns about the agency doing that.

But what the agency acknowledged was that under the laws of Massachusetts, wholly separate from the implementation of marriage in Massachusetts, but under the nondiscrimination laws, which have been effect since about 1989 in Massachusetts, Catholic Charities could not discriminate on the basis of sexual orientation based on that, you know, that law passed in 1989, and therefore, they chose to, rather than to continue in compliance with the nondiscrimination law, to cease their adoption placement contract.

It's important to keep in mind that this was a state contract. Catholic Charities was getting state money to make these adoption placements, and they had to comply with state nondiscrimination laws.

REP. LAWLOR: And so the nondiscrimination law you're referring to in Massachusetts, I take it, is almost identical to the Connecticut law, which was passed in 1991.

BEN KLEIN: That's correct.

REP. LAWLOR: And so, as people think about what, if any impact the existence of same sex marriages, or marriage equality in Connecticut would have on things like adoption agencies affiliated with religious organizations, it really had nothing to do with the law that was passed in 91, not the decision that was rendered by the Supreme Court last year. Is that basically the case?

BEN KLEIN: That's correct. That's correct.

REP. LAWLOR: And discrimination in public accommodations, whether it's a hotel or a restaurant, or a workplace or an adoption

agency, based on sexual orientation has been prohibited here for almost 20 years. So if there were going to be problems, they would have already occurred.

BEN KLEIN: That's right. That's right.

REP. LAWLOR: And so I think it's important to clarify that because some people I think linked the timing of this decision by Catholic Charities to close their adoption operation with the recently decreed marriage equality in Massachusetts and assumed that one led to the other. But you're saying that that's not the case?

BEN KLEIN: That's exactly correct.

REP. LAWLRO: And my research indicates the same information you've just conveyed, and I think anybody who is listening or watching who wanted to just double check that, it's relatively easy to figure this out, that it had nothing to do with the marriage decision. Catholic Charities had been allowing gay couples to adopt kids for a long time, but for whatever reason reversed field in 2005, but it's not directly related to the marriages.

BEN KLEIN: That's right. And in fact if people go back, they want approval, newspaper articles on this, the spokespeople for Catholic Charities themselves said that these placements with same sex couples were made because of the nondiscrimination law in Massachusetts, and those placements began in the early 90s, long before we had marriage for same sex couples.

REP. LAWLOR: And as it turns out, all this was actually being paid for with taxpayer dollars.

BEN KLEIN: That's correct.

REP. LAWLOR: Okay. Thank you. Are there further questions? Representative Hetherington.

REP. HETHERINGTON: Thank you, Mr. Chairman. I would, you're explaining this in a very lucid fashion. I'm going to take advantage of that to improve my understanding.

A lot of discussion has come forth on the photographer or the baker. Now the banning of discrimination in that context, where is that found? Where is that based? Is that on the 91 law in Connecticut?

BEN KLEIN: Yes.

REP. HETHERINGTON: Okay.

BEN KLEIN: It's based on the prohibition of discrimination on the basis of sexual orientation being placed in a public accommodation, which was passed in the 1991 law. And I think it's important as you raise the timing of this to keep in mind that again, these are not new issues. Marriage really doesn't change. People could have asked, you know, 10 years ago people could have gone to a photographer and said we want you to photograph our commitment ceremony, so there's nothing really new in terms of the issues that have been raised as a result of the Kerrigan decision.

These are, these are issues that have, you know, been around for a long time, and the law has really, I think, created already established principles to deal with the intercession of religious liberty and the state's interest in nondiscrimination.

REP. HETHERINGTON: And the 91 law generally parallels laws that prohibit discrimination on other bases, race, whatever.

BEN KLEIN: That's correct.

REP. HETHERINGTON: Now these activities, business activities where discrimination is not permitted, they do not depend on state action, I guess. It's not like a restaurant or a bar that has a liquor license.

A photographer, for example, operates without state license or without, so they don't depend on those kinds of state involvement.

BEN KLEIN: That's right, yes.

REP. HETHERINGTON: Okay, thank you.

REP. LAWLOR: And I think just for clarity, the three categories that are covered in the anti-discrimination law are public accommodations, which are restaurants, hotels, any other kind of business where you can pay for a service. Housing and credit practices, those are the three categories and there's a litany of illegal forms of discrimination, race, national origin, religion, sexual orientation and a few others.

Further questions? Senator McLachlan.

SEN. MCLACHLAN: Thank you, Mr. Chair and thank you for your testimony and your expertise in this area.

You mentioned Catholic Charities in Boston and so I certainly whipped out the Google here to take a look at one article that I'm reading from March 10, 2006 where the President of Catholic Charities saw no alternative but to

pull out of the business altogether, according to their statement on March 10, 2006.

"The world was very different when Catholic Charities began this ministry at the threshold of the 20th century. The world changed often and we adapted the ministry to meet changing times and needs. At all times we sought to place the welfare of children at the heart of our work, Father Hare and Cannon said in their statement."

"But now we have encountered a dilemma we cannot resolve. In spite of much effort and analysis, Catholic Charities of Boston finds that it cannot reconcile the teaching of the Church, which guides our work in the statutes and regulations of the Commonwealth. The issue is adoption of same sex couples and we realize that for many, it is a sensitive, deeply felt issue of conscience."

Now just for clarification, you're saying that this was a different law, not the same sex ruling in Massachusetts, but effectively in Connecticut, does the same thing happen because the Kerrigan decision and the codification of that with Senate Bill Number 899, does it effectively do the same thing?

BEN KLEIN: Well, in terms of public accommodations it doesn't, but one of the issues you're raising, and this was never really flushed out is that this was a, in Massachusetts, this was a state contract.

So taxpayer dollars were paying for these services, so that I think that it would probably be true that under the nondiscrimination law passed by this state in 1991, a public accommodation could not

discriminate on the basis of sexual orientation.

But it probably would be true that if the state funded services that were, that in fact discriminated on the basis of sexual orientation, that law would be subject to a higher level of review because of Kerrigan.

But the problem that Catholic Charities found itself in, in terms of their conflict was created because of the anti-discrimination law and that would be true in Massachusetts as well as Connecticut.

SEN. MCLACHLAN: Thank you for that answer, but again, I'm not a lawyer, but I'm sensing that the Kerrigan decision is an anti-discrimination decision, and so it is the same thing, isn't it? Lay person's speak now.

BEN KLEIN: Well, I think it would really be a question of, I'm not trying to avoid it, it's just that, in Massachusetts it's never been found its way into a court proceeding, so it was never flushed out.

Catholic Charities certainly felt like they had to stop doing the adoptions because of the anti-discrimination law and they said that explicitly, so that was certainly their understanding of why they had to terminate the adoptions.

I think it's a question of whether you're looking at it as an issue of a public accommodation or as an issue of state action because of the use of taxpayer dollars. But both of them, you know, I don't know if a court would actually look at the services that Catholic Charities provided as in fact the state itself is providing those as opposed to

looking at it simply through the lens of the nondiscrimination law. That was never really established.

But there's no question that the nondiscrimination law felt it would prohibit sexual orientation discrimination in those services.

SEN. MCLACHLAN: And I'm sure the vision of the leadership of our Committee is looking to assure that by codifying the Kerrigan decision in Senate Bill Number 899, that we won't have questions going down the road, and you know, I honestly applaud the efforts that we find a way to be sure that we don't go into a quagmire of questioning the Supreme Court decision, the Supreme Court of Connecticut's decision on this and so, this discussion is very important, I believe.

I'm convinced that we're just going to have law suit mania if we don't get it right now, and I think that the legal scholars that have suggested that we get it right now are very correct in their assertion and frankly, their demands on us that we get it right.

But that leads me to another question about Massachusetts, and if I'm not mistaken in Massachusetts there was a decision. And the decision called on the Legislature to codify it, and they never did.

BEN KLEIN: Are you speaking of the Goodrich, the marriage decision?.

SEN. MCLACHLAN: Yes. But isn't there something that hasn't happened that just sort of finished the business in Massachusetts as it relates to same sex marriage. I understand that there's

still a step that has to be taken by the Legislature and they have failed to do so.

BEN KLEIN: No. That's actually not correct. The Goodrich decision what it did was, it said that it was unconstitutional to exclude same sex couples from marriage. It ordered the state to begin issuing marriage licenses to same sex couples.

But what it did was, it stayed the judgment for six months to give the Legislature an opportunity to act if it so chose, and the Legislature did nothing, but there was nothing required of the Legislature to actually make Goodrich an operative, effective decision and marriages in Massachusetts began six months after the Goodrich decision was issued in accordance with that opinion.

SEN. MCLACHLAN: And so, again, not a lawyer, stayed the decision for six months. That's sort of a message to the Legislature from the bench saying, you've got work to do. Is that sort of what they mean when they say that?

BEN KLEIN: No. No. I think that, and I apologize. It just simply means the judgment would not go into effect, the decision would not go into effect until six months after.

I think it was simply a gesture of respect from one branch of government to the other to simply give it the time, an opportunity to conform the laws to the decision if the Legislature so chose.

But the Court'S opinion is, it operates on its own, excuse me, and it went into effect without any action by the Legislature.

SEN. MCLACHLAN: So in your judgment, what would happen in Connecticut if Senate Bill Number 899 is not passed, and we are just left with the decision of the Supreme Court of Connecticut? What happens? Are we going into the same quagmire that we're concerned about with improper language of Senate Bill Number 899, or do we just sort of hum along and have some conflicting words in state statute that people aren't comfortable with?

BEN KLEIN: Well, I think there are a couple of considerations, and first of all, the Kerrigan decision is already in effect.

SEN. MCLACHLAN: Yes.

BEN KLEIN: And people are getting married and that will not change. But I think that it is, first of all I think Connecticut is in a somewhat different situation because Connecticut passed its civil union law. Massachusetts had not done that.

So I think it's actually a very admirable and important thing for this Legislature to take up a bill like Senate Bill Number 899 to ensure that there is no confusion.

There are some people who are confused by the, why do we have civil unions and marriage? Why do we still have two systems in place when equality means we should have one system?

So I think that what this bill does is clarify the equality mandate of Kerrigan. It eliminates confusion among people, when you have two statuses for same sex couples, and it eliminates language in the statute that Kerrigan, unlike in Massachusetts, that Kerrigan has specifically pointed to and said, this language is solely because of anti-gay

bias and prejudice, such as removing the language in Section 17.

So, those are the things that I think are important to do in passing this bill. I think that it will ensure a smooth transition from the civil union system to a marriage system, and eliminate aspects of Connecticut's law, which really do reflect inequality.

SEN. MCLACHLAN: So are you suggesting then that the Kerrigan decision, which I've read, although I have not read and studied as a legal scholar as many people around me have, that Section 17 deleting Section 46a-81r is required as part of the Kerrigan decision that we must strike that language from the state statute?

BEN KLEIN: It's not required, but I think that what the Supreme Court has said very clearly is, the Supreme Court has said the state cannot disapprove same sex couples, the state cannot treat lesbian and gay people unequally, and the Kerrigan decision specifically pointed to that language and said, this language has no purpose other than to reflect bias and disapproval against same sex couples, and is really just evidence of discrimination by the state in the past.

You are correct that there's nothing in Kerrigan that mandates the removal of that provision, but I think that given the fact that Kerrigan has pointed that out so sharply and clearly, it really would be a stain on the tremendous accomplishments of this Legislature, to leave on the law, language of prejudice, and that's what the Supreme Court said.

The Supreme Court said that this language is language that has not been these kinds of gratuitous, anti-gay comments, have not been

levied by the Legislature and any other group, and that should be reason enough.

This state should be proud of everything that's been accomplished. It really is a leader in the nation, and this is a vestige of past discrimination, which should be removed.

SEN. MCLACHLAN: Well, it's an interesting observation. It's a leader in the nation when it's only, you know, one of two in some 50 states. I think that it's a leader in that it sort of stumbled into it. I'm not sure that the Legislature was actually the one that was able to tackle this issue the way I would have hoped it would have happened.

You know, I'm personally not in favor of laws being sort of handed down from the bench. I'm not sure that's the democratic process that I'm real comfortable with.

But the decision, back to the decision, the Kerrigan decision, and how it zeroes in, as you say, on language of Section 17, I could see where the decision would affect the statement, nothing in our statute, this is, there's five points to Section 17, but nothing in our, or there's five parts to Section 46a-81r, nothing in our statutes is meant to imply the State of Connecticut condones homosexuality or bisexuality or any equivalent lifestyle, and then it begins with the next four sections.

Would the Kerrigan decision have stated somewhere clearly, the next number two that says, to authorize the promotion of homosexuality or bisexuality in educational institutions or require the teaching in educational institutions of homosexuality or bisexuality as an acceptable lifestyle.

Are you suggesting the Kerrigan decision says strike that also?

BEN KLEIN: Yes.

SEN. MCLACHLAN: And so the Kerrigan decision says that that should be part of curriculum now?

BEN KLEIN: No. Let me clarify what the Kerrigan decision is saying about this. But before we do that, let's start with what this language means.

When this language was passed in 1991, it actually did not prevent any school from teaching about same sex relationships or lesbian and gay people in a positive light. This language did not prevent that at all. It had no effect on that.

Similarly, if this language is removed, it will not require or authorize any school district to teach anything about gay and lesbian people.

The law around curricula has been very clear for a long time, that local school districts have broad discretion to make decisions among educators and school administrators about what they teach and how they teach it, and that was exactly the Supreme Court's point, which is that this language had no effect, no effect at all, other than to express disapproval of lesbian and gay people, to stigmatize a group of citizens to express disapproval, and that is why Kerrigan says this language is so objectionable.

It's gratuitous language that was put in the law to demean a group of citizens that no other protected category in the anti-discrimination laws of the State of Connecticut have ever

experienced, and that's why this language should be removed.

It's meaningless language other than to express prejudice.

SEN. MCLACHLAN: Well, that's an interesting observation. I guess I'm torn now by, I respect your points. I really respect your points, but I'm really torn by the observation that part of the Connecticut General Statutes is irrelevant, and it's one thing to be irrelevant before the Kerrigan decision, which is what you basically stated, I believe, and now that it's, you're claiming it's irrelevant after the Kerrigan decision, even though the Kerrigan decision didn't say that.

Here's my concern. If our Connecticut General Statutes has feel good, is that what you're telling me basically it was? We were just trying to bargain in 91 to come up with some language to make people feel good? I'm not sure. I wasn't here. The only thing I know about 91 is that's when we got the income tax, and I don't know anything about this issue in 91.

But if you're telling me that this language was inserted in Connecticut General Statutes as a feel good measure, then it's, that whole library of Connecticut General Statutes full of that same kind of feel good stuff that we're ignoring?

I guess my point is, that if it was in the book, if it's in the law, then why wouldn't it be the law?

BEN KLEIN: Well, it has no, it did not in 1991 have any legal effect. As I said, here the Legislature in 1991 said this law, this is not

a discrimination law, which does have a statute. You can't discriminate in employment. You can't discriminate in housing. You can't deny somebody, you know, access to a job because of sexual orientation.

What the Legislature was saying in this provision was, you know, nothing in this non-discrimination law is authorized to promote, you know, homosexuality, teaching of homosexuality in the schools as an acceptable lifestyle.

That's, that is a statement that has no effect, because the non-discrimination law doesn't do and doesn't for any group do any of the things that are in these four provisions.

There's nothing in. the non-discrimination law doesn't require teaching of anything, about anything, in any school. It doesn't authorize quotas or numerical goals in hiring. The non-discrimination law doesn't do that.

So these four provisions were put in because some people, I assume this, because I was not there, some Legislators were not comfortable with passing the law and wanted to put in this language that had no legal effect, but which Kerrigan has now said is simply an expression of bias.

That's all it is. It doesn't have, it doesn't, it does not now and never did force the schools to teach anything, nor did it prevent schools from teaching anything.

SEN. MCLACHLAN: Well, for clarification, how did it not prevent schools from teaching anything? Are you suggesting that a board of education can develop a curriculum of pretty much

whatever they want and the state law and the state government goes along with that?

BEN KLEIN: Well, what the, the non-discrimination law that was passed in 1991, all it did was say, as Representative Lawlor mentioned, you can't be fired from a job because of your sexual orientation.

You can't be denied housing because of your sexual orientation. You can't be denied access to a public application or be denied credit simply because you're a lesbian or gay and for no other reason.

SEN. MCLACHLAN: And I agree with that.

BEN KLEIN: That's what the law did.

SEN. MCLACHLAN: I think that's good law.

BEN KLEIN: And then they added in this language that said, by the way, this law doesn't do these things, but we just want to make sure that nothing in this law is construed to do these things like authorize the teaching of homosexuality in schools.

So in fact, the non-discrimination law didn't authorize any of these things. It would not have had anything to do with what can and can't be taught in a school. It didn't then it doesn't today. All it did is include statements that had no purpose, and therefore were really just reflections of a bias in order for the law to be passed.

It is the law that choices about curricula are made by local school districts. They don't, they have broad discretion to make those decisions about what books get taught, what subjects get taught, and that's why this

particular provision didn't have any impact on that.

SEN. MCLACHLAN: So if Senate Bill Number 899 passes as proposed that strikes 46a-81r, and this, specifically this point of require the teaching in educational institutions as it talks about goes away, then a board of education strikes from their curriculum any mention whatsoever of this, and frankly, I don't know. I'm not an expert on curriculum and I can't tell you what's currently taught in the public schools.

I know that I always hear stories from parents when they object to something that's being taught in the schools, but I can't tell you what the curriculum is, and even if there is a statewide curriculum on this.

But let's say the board of education has made a policy decision that they're not going to talk about it in the curriculum. They're not going to include it in the curriculum, and now this is gone from Connecticut General Statutes and someone sues the board of education and says, we want you to do that. What happens?

BEN KLEIN: Well, what this means is that the non-discrimination law cannot be used to force the schools to teach about lesbian and gay people or same sex relationships.

SEN. MCLACHLAN: But if this is gone?

BEN KLEIN: No. If this is gone, it still can't be used because it never was part of the non-discrimination law. The ability to do that was never part of the non-discrimination statute.

SEN. MCLACHLAN: So I guess my point is, it exists, 46a-81r exists in the book now. And I guess what you're telling me is that a judge, when

they're considering something, is going to pretend that 46a-81r right now is invisible? That it doesn't exist because it's irrelevant? I'm confused by your statement that it's irrelevant if it's in law.

BEN KLEIN: It is of no legal effect. It's not, and I'm struggling with the way to try and--

SEN. MCLACHLAN: Well, you're not talking to a lawyer, so I appreciate your struggling a little bit.

ZBEN KLEIN: --articulate this a little better, except I'm
Like not getting to the heart of your concern. But the non-discrimination law does certain things as (inaudible). It protects people from being fired from a job, denied housing, denied access to a business, and so this language is simply saying, by the way, don't understand the non-discrimination law to do something else. Okay?

But the non-discrimination law doesn't do that in the first place. So that's why it has no legal effect.

SEN. MCLACHLAN: I know you're telling me that, but that's not what the law says. Right?

BEN KLEIN: It is what the law says because all it says is, nothing in this law shall be deemed or construed to mean these things.

SEN. MCLACHLAN: That's what the law says now.

BEN KLEIN: Right.

SEN. MCLACHLAN: If Senate Bill Number 899 passes, the law no longer says that.

BEN KLEIN: Right.

SEN. MCLACHLAN: But you're telling me that even though it is the law now, it's irrelevant and it will not effect it if it's absent later?

BEN KLEIN: That's correct.

SEN. MCLACHLAN: But that, frankly, sir, that doesn't make sense to me.

BEN KLEIN: Well, I'm not sure I'm doing a good job, I think that of explaining this to you, because the only way I can say it is, that language in 1991 was added into the non-discrimination law, and it was language that in a sense should never have been there because it has no effect on the scope of the non-discrimination law, so it was gratuitous, meaningless language of no legal effect.

SEN. MCLACHLAN: Okay. Well, I guess we'll agree to disagree. I'm just perplexed that we have a law on the books that I'm being told by a lawyer that it's irrelevant. It's irrelevant that it's there now and it's irrelevant if it's erased. I just don't, you know, I don't understand that statement.

If the desire of this bill was to codify the Kerrigan decision, then isn't it the only thing that needs to be repealed in that section, the portion that deals with the authorization and the recognition of the right to marry?

BEN KLEIN: Well, I think that the Supreme Court when it was discussing this language, talked about all of the provisions of 81r, and it talked about all of them as having no purpose other than having an expression of bias. So that's why I think the Legislature should repeal the entire section.

This is a state that's committed to the eradication of bias and the Supreme Court has now said that this has no purpose other than to reflect bias. It seems to me that that's a good reason to get rid of this language.

SEN. MCLACHLAN: But if we get rid of it, it doesn't change anything because it really didn't exist to begin with?

BEN KLEIN: It doesn't change the scope of the non-discrimination law or the way in which the non-discrimination law can be used.

SEN. MCLACHLAN: Okay. Thank you.

SEN. MCDONALD: Thank you very much. Let me ask a couple of quick questions, sort of as a corollary to Senator McLachlan's questions. Maybe we can approach this from a different perspective.

As I read the current language under 46a-81r, it talks about, it uses an interesting verb. It uses the verb to condone, right, which at least to me sort of has an implication of acceptance with some tacit approval.

And so, when you look at that in the context of condoning homosexuality or bisexuality as it points out in Subsection 2 as an acceptable lifestyle, inherent in condoning something as something that's acceptable, seems to me to have some social or political approval or disapproval.

And if that's true, isn't it also true that the Supreme Court in Kerrigan said that the mere fact that as a political statement, giving social or political acceptance to homosexuality or bisexuality as an acceptable lifestyle is in

itself a stigmatizing and discriminatory result by legislative action.

BEN KLEIN: That's right. The Court said precisely that.

SEN. MCDONALD: So by removing that language, it would be removing the stigmatizing effect of condoning or deeming something to be politically or socially acceptable when as a public policy matter it's irrelevant because it's a constitutionally protected group of individuals who have been historically discriminated against.

BEN KLEIN: That's right.

SEN. MCDONALD: So, I don't know if that advances the debate, but it does occur to me that since this legislation was passed in 1991, there have been a lot of development in our schools, not the least of which is the inclusion of, in many of our schools, of gay straight alliances, which certainly does seem to indicate that many schools at least want to acknowledge that there are gay students in the public schools who need to be incorporated and integrated into the educational experience.

BEN KLEIN: That's right. That's exactly right, and there was nothing in 81r that would prevent a school from doing that.

SEN. MCDONALD: And as to the, you know, maybe it's just my personal opinion, but it always seems to me that when we pass laws they have either positive or negative mandates associated with them, that there is something affirmative that needs to be done, or something that we preclude as a matter of public policy from happening, and there's nothing in this language that has

either that positive or that negative implication. Is that fair to say?

BEN KLEIN: That's right. I think that's actually a very good way of explaining why this language has no particular legal effect.

SEN. MCDONALD: Okay. And apparently you talked about this when I was out of the room, but in describing that language, the Supreme Court actually pointed to it as an indicia, if you will, of official disapproval by negative implication of homosexuality or bisexuality.

BEN KLEIN: That's right.

SEN. MCDONALD: And as part and parcel of the decision, that whole context was considered to create a stigmatizing effect on the feelings of inferiority, and indeed perhaps the political powerlessness of homosexuals in our state.

BEN KLEIN: Right.

SEN. MCDONALD: Thank you very much. Are there other questions of Mr. Klein? Representative Morris.

REP. MORRIS: Thank you, Mr. Chairman. Good afternoon, Mr. Klein.

BEN KLEIN: Good afternoon.

REP. MORRIS: Following up on the questions of Senator McDonald. Section 46a-81r that refers to authorizing promotion of homosexuality or bisexuality in education institutions or require the teaching in educational institutions of homosexuality or bisexuality as an acceptable lifestyle.

As I understand it, you said whether this was in or out of there, it doesn't make a difference.

BEN KLEIN: In terms, that's right. Because the schools themselves have authority over curriculum. The non-discrimination laws have no relevance to that.

REP. MORRIS: I want to counter that, and get into a little discussion here because, and looking at if we were to get rid of this, I'm wondering whether, when this was written in, this is basically implying something. It has an implied effect of stopping legislation that would do this, whether the intent was to stop legislation that would do these things.

Let me give you an example. Current educational legislation as we understand it, the state was required under 46a-89, no, got the wrong one. Sorry, the wrong statute. I have it in front of me.

Okay, here we go, was required to, it's actually 10-16(c), all right, is required to develop family life education curriculum guide. Good thing. All right?

In a part of that it says, the guide shall include a number of things, but one of them is human sexuality, all right? So the state is required to do that.

It was interesting to note, though, whatever reasons when that legislation was put together, it said the guide shall not include information pertaining to abortion as an alternative to family planning, so clearly there's a lot of political debate around this issue, so this is what the state's required to do.

Now immediately thereafter are the two pieces that I think we all generally understand that keeps the local control in place. That's Section 10-16(b), which says the family life education programs are not mandatory. So the state must do the guide, but the program is not mandatory, and it basically says, nothing in Section 10-c inclusive, shall be construed to require any local or regional board of education to develop or institute such family life education program.

So currently (inaudible) you don't have to do that. All right. The state has to do it, but locally you don't have to. It even follows up even further. In 10-16e says students are not required to participate in family life education programs. All right?

No students shall be required by any local or regional board of education to participate in any such family life program, which may be offered within such public schools. You understand the protections that are given. I think surely, that makes everyone feel comfortable.

However, if you were to take this piece of the legislation out today, which makes it clear that the state cannot be in a position to promote, to promote. I'm not talking about condone, because I have problems with the first part of 10-6 when it talks about condoning. It sounds like tolerating as opposed to promoting, something totally different.

The second part comes off promoting homosexuality and bisexuality in educational institutions. So if we got rid of that and this was no longer on the books, what would stop us as Legislators whether today, whether it's five years from now or ten years from now

saying, you know what? We as a Legislature feel that, you know, we want to mandate that all kids are given this type of education as it deals with homosexuality and sexual orientation, and it's based on the curriculum guides that we, the State of Connecticut have put together. Okay?

And that may not acknowledge religious freedoms, religious perspectives, and now kids are held as captive audiences to hear teachings, where they're respectful of the people that are gay, okay, but they're hearing teaching that is contrary to what they hear within their faith perspectives.

BEN KLEIN: I'm not sure I understood your question.

REP. MORRIS: The question is, if we were to get rid of, we're doing what is suggested in this bill today, okay, because I believe this bill certainly applies and makes it clear that the state is not, we're saying the state is not going to promote that. This isn't what we're promoting. We just want to make certain that there's respect for all individuals, but there's nothing in this that says we're going to specifically promote homosexuality bisexuality or anything as a lifestyle.

And currently, basically, our legislation right now I think does assure that that's happening because local rule is still the order of the day. However, if you were to do what's being suggested here now, I think, correct me if I'm wrong, I think the state could say, you know what? We're giving these other two things that would allow local rule as it pertains to the curriculum.

And the state could say, you know, this is our curriculum guide. Every student, every child,

whatever it is, and this is what we're promoting. So that's why it seems to be a safeguard. Help me to understand why it isn't. And if it has no meaning, because that's, I think that's a good example where this would clearly have meaning.

BEN KLEIN: I think the, if I'm understanding your question and point, there is, the state, I assume, and I'm not familiar with the educational statutes, but the state all the time passes educational statutes that may provide, you know, guidelines to schools and school districts about what subjects to teach and so forth.

That is apples and oranges with this non-discrimination law, and I think the point I'm trying to make is that the non-discrimination law applies to employment, public accommodation and housing. It doesn't apply to schools, so that if, it would be as if the state passed a law that said, nothing in the non-discrimination law is authorized to promote any religion within our schools.

Well, the non-discrimination law doesn't. The non-discrimination law, that vehicle isn't something that could possibly promote any religion within the schools, so that it is there for language that is of no effect.

In other words, I really think I'm not succeeding in explaining this well--

REP. MORRIS: And I guess, I think many of us would have a challenge in accepting that when that law was put in place in the early 90s, that people were, didn't have that sense of thoughtfulness, particularly the number of lawyers that we have in our Legislature, that they would put something in law that has,

that's purely insignificant. It had to have some value then, and here we are 20 years later, and I'm saying, help me to understand where it has no value today and no relevance.

BEN KLEIN: It had political reasons.

REP. MORRIS: Just in the light of the examples I'm giving you.

BEN KLEIN: It was put in place for political reasons, and no other reason.

A non-discrimination law cannot be used to sue a school to force it to teach something. So therefore, saying that nothing in this non-discrimination law shall be construed to authorize schools to teach something has no meaning.

There may be other laws the Legislature can pass, education statutes, where the Legislature may be able to weigh in about what schools do, but a non-discrimination law isn't the kind of legal vehicle that does that.

And that's why putting something in a non-discrimination law that says, this law shall not be construed to teach something in the schools is of no effect. The law doesn't do that in the first place. Does that help at all?

REP. MORRIS: Not really for me, but in terms of, you said it has no effect, but as long as it's on the books and we're making it clear, and nothing in the non-discrimination laws is intended to say that the State of Connecticut is going to promote in an educational arena, all right, the teaching of homosexuality as an alternative lifestyle, okay?

And the concern is, you know, you've heard the debate all day long, with those is we're trying to also consider religious liberties. The concern obviously is for those parents who teach their children something totally different, and their kids are respectful, all right, but now end up being captive audiences to teaching that their parents, they're totally different, and kids become conflicted. kids who are very respectful to persons who are gay. All right?

So, by taking, I don't know what the value is of taking it off as opposed to the value of keeping it on, to protect, because I think it was said earlier, the balance here is trying to protect everyone's liberty, and everyone's rights, to find that good balance in doing that.

I appreciate our Co-Chairs and a lot of discussion is happening, because we all sort of listen to each other with very open, we really have different sides of the fence on this, but we try to really hear and listen and try to really balance things.

So if one of our balances is, you want to a certain, you know what? For those who have religious liberties, religious differences, we've made it clear. You cannot treat persons who are gay in a disrespectful manner, that that will not be tolerated in the State of Connecticut. All right?

We're trying to make something of the laws that create access for persons who are gay, but at the same time recognize that there are some philosophical, some different beliefs and tenets that we need to respect from the gay persons, I mean, from religious people, so with GLAD be adverse.

I mean, if this one piece stayed on the books, would you be adverse to it? As you said in your own words, it has no effect?

BEN KLEIN: Yes.

REP. MORRIS: Please tell me why.

BEN KLEIN: Because the only reason for this provision to stay on the books is as an expression of disapproval of lesbian and gay people. That is what the Supreme Court has said.

In other words, as I think Senator McDonald indicated earlier, schools are already, some schools are already teaching course work about same sex relationships, families where two parents are the same sex. Nothing in this statute prevents that.

Other schools are not teaching it, and if this is removed, nothing would force those schools to teach that subject matter. So the only effect of this language is language that was put in place in 1991 for political reasons, not for legal reasons, but political reasons, to give comfort to those who weren't comfortable with lesbian and gay people.

And the Supreme Court has now indicated this language had no purpose other than to reflect the state's official disapproval of lesbian and gay people. That should be regarded as impermissible, and GLAD would certainly feel that if something were left in that was gratuitous language and solely of lesbian and gay people that that was demeaning and unacceptable. So that's the reason why we would not support leaving that clause in.

REP. MORRIS: If I can, I know that part of your argument that you left out that I brought forward is the possible conclusion that can come out of this, and that's, I mean, not just have the natural conclusion, but the possibility of a conclusion that because you take this out, you can then take out these other two clauses that are currently in statute that protect the very local rights that you cited that Senator McDonald brought up. But that's a yes in some districts.

It is being public, because local rule is, you know what? In that locality we believe that this ought to be taught and there's been that acceptance there, all right? However, at the same time, in another community, it may not have been, all right?

And the communities are making those decisions, just like federal rights, state rights, okay. So, and I need your, I wish you could cite to me specifically where in the Kerrigan decision it says each one of these points, one through five, are somehow disapproving of homosexuality because you keep saying it in a general sense.

BEN KLEIN: Yes.

REP. MORRIS: I think you were asked earlier, but if you can cite specifically.

BEN KLEIN: The Kerrigan, the citation for the Kerrigan decision is at 289 Connecticut, let me just, and if I'm clear, I want to make sure 289 Connecticut 135 is the citation for the Kerrigan decision and the discussion of this language is at Pages 204 and 205 of that decision.

And you will see that they are talking about the five categories, not just the one related to, which shall not be construed to marriage.

REP. MORRIS: Okay.

BEN KLEIN: For example, they do talk about it, as Senator McDonald referenced, the clause that nothing shall be construed--

SEN. MCDONALD: Then if I might, just because this is being transcribed. If you, I believe the citation, not everybody has the case in front of them. I believe it's just one paragraph of the decision. If you would be kind enough to read it for the record, I'd appreciate it.

BEN KLEIN: Certainly. It's very short.

SEN. MCDONALD: Thank you.

BEN KLEIN: It quotes the entire section of 46a-81. I'll quote all five of these provisions.

SEN. MCDONALD: Okay. That's great.

BEN KLEIN: And it says, by singling out same sex relationships in this manner, there is of course, no statutory disclaimer for opposite sex relationships. The Legislature has effectively has proclaimed as a matter of state policy that same sex relationships are disfavored.

That policy, which is unprecedented among the various anti-discrimination measures enacted in the state, represents a kind of state-sponsored disapproval of same sex relationships and consequently serves to undermine the legitimacy of homosexual relationships to perpetuate feelings of personal inferiority and inadequacy among gay persons, and to diminish the effect

of the laws barring discrimination against gay persons.

Indeed, the purposeful description of homosexuality as a lifestyle, and they put that in quotes, as a lifestyle not condoned by the state, stigmatizes gay persons and equates their identity with conduct that is disfavored by the state.

That is the language in Kerrigan.

REP. MORRIS: So thank you very much. In fact it's interesting that even the last sentence of it gives (inaudible). I've got a problem with the condoning as well. I think that is demeaning language, quite frankly.

But thank you for making it clear because I needed to know that the entire piece is scripted there although they didn't deal with the issue that I'm talking about in terms of education.

BEN KLEIN: But what's clear because is that they're talking about, they're not merely talking about provision around the recognition of marriage. They're talking about, for example, the lifestyle language doesn't appear in the marriage clause. It appears, you know, just as nothing shall be, you know, construed to teach in educational institutions.

They use that word lifestyle in the educational institutional clause and that word lifestyle is specifically discussed by the Court.

REP. MORRIS: Thank you. I would just hope that this discussion can continue to go forward. I hear what judges say. But the Legislators do make law, and I do respect the judges and their opinions.

I do know that we have Legislators often disagreeing with judges as well. We get the opportunity to make laws based on what we think is in the best interest, and then they get the judges, whether we did the right thing in the end.

I hope we get a lot more conversation goes forward between either you and the Catholic Conference, Love Makes A Family and others, in terms of what we can do to balance the rights of all individuals.

I personally, I hear what the judges say. I personally don't, especially since even you say this doesn't make a difference being on the books, it really doesn't. I think it does make a difference in terms of it's not a political feel good for me.

I'm looking at the faces of some of the people in the room who came here today because they want to fight for religious rights, their religious freedoms, and they're not saying forget the same sex marriage stuff. Okay, the judge has done that. But they're here to promote and to fight for their rights as well, and the fact that their children have to be taught in schools.

How do we make certain that we balance their liberties with yours? Thank you very much.

BEN KLEIN: Thank you, and I certainly would be happy to participate in any further discussions.

SEN. MCDONALD: Are there any other questions from anybody for the first time? If not, Senator McLachlan for the second time.

SEN. MCLACHLAN: Thank you, Mr. Chair. I'm reading the Kerrigan decision, Page 37, and it says, in recent years our Legislature has taken substantial steps to address discrimination against gay persons. These efforts are most notably reflected in this state's gay rights law, see General Statutes 46a-81a through 46a-81r.

BEN KLEIN: Right.

SEN. MCLACHLAN: And, which broadly prohibits discrimination against a person because of his or her preference for heterosexuality, homosexuality or bisexuality having a history of such preference or being identified with such preference. I'll stop there.

They reference the gay rights law, which everybody, I think, generally speaking agrees that was a good thing in Connecticut. I don't think anybody's disputing a lot of what you've said.

But I've got to keep going back to this, it's in the book but it doesn't mean anything, and you're quoting part of the decision that says bad, bad, bad.

But yet in another spot they're saying well, this was a good thing and they're including that section. So, not a lawyer talking again, and I'm going to keep saying that to you because you were getting frustrated with me with my questioning.

Why are we talking out of both sides of our mouth with Connecticut General Statutes? That's what I don't understand. It just doesn't make any sense.

Even the decision from the Supreme Court of Connecticut to me, and again, I'm taking it out of context, but that's what we do in politics. We take everything out of context and then beat the living daylights out of it.

When you take it out of context, once again, it doesn't make sense.

BEN KLEIN: Let me first say, Senator, that any frustration I may have revealed was with myself, for feeling like I was not explaining this clearly, and not at all with your questions. I certainly hope you understand that and I don't want to be misinterpreted as having any frustration with the questions here today, and I think that everybody has engaged in a very diligent, good faith effort to clear this out and understand how to go forward. So, my frustration was with my own inability to be articulate.

But I think that the, I don't have the Kerrigan decision in front of me, but the section that you're reading, there's no question that the Court has said that Connecticut has been a leader in eradicating discrimination based on sexual orientation.

We said that in our brief, and we outlined for the Court, all of the things that Connecticut has done since 1969, not just since 1991 to eliminate discrimination.

But the Court then did, in the context of the decision, go on to say, notwithstanding the passage of the gay rights law and the progress that Connecticut has made, there are manifestations of discrimination and prejudice that not only is there a history of discrimination, but there are manifestations of discrimination and prejudice that still exist

in our laws today that reflect the fact that lesbian and gay people haven't achieved full equality, and that that was one of the reasons the Court gave for establishing heightened, a closer review of discrimination against lesbian and gay people.

And it then went on to talk about 81r as one of the manifestations of ongoing expressions of prejudice and disapproval.

So you're right. They said, the gay rights law was progress that should be applauded, but they went on to say, notwithstanding that, there are still expressions of discrimination against gay people.

SEN. MCLACHLAN: So it's not unusual in the legal world to, you know, you have to read the whole thing. You can't take anything out of context.

It's an interesting thought of how much work we must have ahead if we have so many laws on our books in the State of Connecticut that were, you know, written as feel good that didn't mean anything, that we just were, you know, trying to pat somebody on the back to get a vote.

I guess we have a lot of work to do to try to clean up all that stuff because our library of Connecticut General Statutes might shrink a lot, wouldn't it, if we sort of erased all these things in there?

BEN KLEIN: Well, I'm not sure. I'm not sure that it would. I certainly, you know, haven't gotten through them. But I think the point the Supreme Court made was that this kind of provision doesn't exist for all the groups.

SEN. MCLACHLAN: Thank you, sir.

SEN. MCDONALD: Is there anything further? If not, thank you very much.

BEN KLEIN: Thank you very much.

SEN. MCDONALD: Next is Janet Peck and Carol Conklin. Good afternoon.

JANET PECK: Good afternoon.

SEN. MCDONALD: And welcome to the Judiciary Committee.

JANET PECK: Thank you. My name is Janet Peck and I am here today with my wife, Carol Conklin. Carol and I are lifelong Connecticut residents and presently live in Colchester. We are one of the plaintiff couples in the Kerrigan case and are here today in support of Senate Bill Number 899.

Thirty-three years ago, Carol and I fell in love and began to share our lives together. For all of those years we've dreamed of getting married. On January 24th of this year, our dream came true as Carol and I were joined in marriage, surrounded by our family and friends. That day will always be one of the happiest days of our lives.

After 33 years to finally be able to pledge our love and commitment to each other in a way that is honored and celebrated by everyone, everywhere felt so amazing, so satisfying and so right.

Carol would say that as a married couple we are no longer living outside of what is seen as acceptable or normal. We are now part of, rather than separate from everyone else. We are equal. We are free to be who we are.

All the wrongs that have been done to us over the years, the disrespect, the discrimination, the lack of recognition for the truth of our love, the pain of not being able to give each other the ultimate gift of love and commitment, the pain of exclusion and invisibility has begun to fade. The wounds have begun to heal.

We cannot say that we feel more connected to each other than we were before we married. We've always felt married. But we can say that we feel more connected to everyone else. We now feel more connected to our deceased parents, who taught us the true meaning of marriage, and to our family members who joyfully and willingly took an active part in our ceremony, even though many are active members of faith communities that do not support our right to marry.

And we feel more connected to the people of the community where we live. The outpouring of support to us has warmed our hearts and will never be forgotten.

After our case was won, people sent us cards of congratulations and would come up to us on the street, in the grocery store, and just about everywhere else and extend their hand in congratulations, excitingly asking us the details of our wedding plans.

Many of these people were strangers to us and had simply seen our picture in the paper or read about our story and felt compelled to show their support for our upcoming marriage.

Marriage connects us to something greater than ourselves, and to others in a way that was not possible before. As a married couple, the love that Carol and I have held in our hearts for 33 years finally feels free and at peace, and the

promise of our love that had its beginnings so many years ago is now complete.

We feel so fortunate to have been able to marry in the state that we have always called home and proud that Connecticut continues to be a leader on this issue of equality. Thank you.

SEN. MCDONALD: Thank you very much, Janet and congratulations to both of you. I suspect when you first met each other 33 years ago you never anticipated becoming civil rights leaders in your own right, so thank you for putting yourselves forward as one of the plaintiff couples in the Kerrigan case, and I congratulate you on not only that achievement but the celebration of 33 years together. It's a tremendous accomplishment for any couple, straight or gay and you should be quite proud of it.

Are there any questions? Representative Gonzalez.

REP. GONZALEZ: Good afternoon, and congratulations both of you.

JANET PECK: Thank you.

REP. GONZALEZ: The day that you got married, you said January what?

JANET PECK: Twenty-fourth.

REP. GONZALEZ: Twenty-fourth. The day that you got married, who performed the wedding?

CAROL CONKLIN: A justice of the peace.

REP. GONZALEZ: A justice of the peace. And did that justice of the peace that performed the

wedding, she was happy and she was (inaudible) Right.

CAROL CONKLIN: Yeah, she was great.

REP. GONZALEZ: And you took pictures?

CAROL CONKLIN: Oh, yeah, we took pictures.

REP. GONZALEZ: And the person that took the pictures was happy also?

CAROL CONKLIN: Yes.

REP. GONZALEZ: Okay. So you don't think there is a difference between a person, and I believe that you were happy, all of you guys were happy. But the difference between that day that the justice of peace agree with you and was happy. The people that took the pictures, the person that took the pictures was happy. So that means they agree with you.

But you don't think that putting a person that don't feel happy, don't feel comfortable, you don't think, you're not going to feel comfortable either.

You know, the day of the wedding is about happiness, of everybody being happy, everybody shared the same, and having a justice of the peace, you know, for (inaudible) because if they don't perform the wedding, he's going to get, you know, he's going violate and he's going to get fined for that.

You don't think that that would make you uncomfortable also, having a person that is doing the wedding just because he's being forced by the law?

CAROL CONKLIN: Well, I think that if you have someone in that said job to perform those ceremonies that they shouldn't show us, number one, that they were unhappy performing it. They should treat you just as they would treat anyone, with respect and dignity.

I work for an institute of the state, and I can't go around treating somebody that I don't like differently. I have to just, you know, treat everybody kindly and you know, with respect.

REP. GONZALEZ: Yeah, right. But--

CAROL CONKLIN: That's what you try to do.

REP. GONZALEZ: Right. But maybe it's not that they don't like, maybe they don't agree with, you know, maybe they don't agree. That doesn't mean that because I don't agree with you that I don't like you, you know?

CAROL CONKLIN: Absolutely.

REP. GONZALEZ: Because I can disagree with you, then I would like you as a person, you know, and I won't do anything to hurt you.

CAROL CONKLIN: So wouldn't you then--

REP. GONZALEZ: But maybe you have to also understand, you know, if there's a difference of opinion, you have your opinion and I have mine.

CAROL COHKLIN: Yes.

REP. GONZALEZ: And I will respect your opinion, you know, because you have a right for that. But also on the other side, you have mine.

So if it is a person that is a justice of the peace has been doing that for years, but they don't feel comfortable, you know, doing the wedding, it doesn't mean that he's going to harm you or he goes against you. It's because that's the person's belief and the person's feelings.

It's the same if it's you. You have your feelings. I wouldn't go against your feelings, you know. I wouldn't criticize. That's your feelings.

So if it's a person that has different feelings, why do we have to go after the law and punish the person, because it's their feeling. And again, I'm saying, you have your right and yes, you know, respect.

What about that person's rights, or what about that person's feelings? You know, everybody, we don't agree. This is a world that we don't, not everybody shares the same, not everybody likes the same color, not the same like you know, doesn't like, it's a world that you have diversity. We have different people and people have different feelings.

So I believe, my opinion, that if we all can work together, well, hey, good. And it would be better, a better world to live.

But also, this is why this is the world because we have people that have a lot of diversity, different colors, different feelings and I think that we have, in my opinion, that we have to respect each other, and if a person doesn't feel good, doesn't feel right, not because they don't like you but that's their feeling, you know, that's the way they feel.

Why would we going to punish that? Why we have to go after that person? It's also your feeling, your right, but that person's feelings and their rights.

So I think that, you know, here, as a Rep and we have to find a way how we can resolve the problem, but we also have to draw the line to imposing (inaudible) things that people don't feel comfortable. They're not hurting anybody, you know. They're not attacking anybody. They're not stealing. They're not killing, but they are feeling, and we have to know when to draw the line and how we can respect each other.

And again, I have a niece. She's a lesbian and I love her to death, and I will never allow anybody to be disrespect her, and I would never do that. Her life is her life. I don't get involved. I don't, you know, I don't say anything. No, I don't criticize her. No. That's my blood and I love her.

But she understands and I understand her feelings, her ideas, my feelings, my ideas, and I think that we have to be like that with everybody. I think it would be a better world, you know, if people learn how to respect everybody's feelings.

CAROL CONKLIN: But I think that when you're respecting someone's feelings you're not telling the justice of the peace that they can say they don't want to marry anybody else but just a group of people that are gay and lesbian.

REP. GONZALEZ: But you also will find justices of the peace that would be comfortable to do it because it's their opinion. You know, you will

find judges that maybe, you know, they will do it.

You know, I think that is about people's rights, and I know you have rights. Gays and lesbians they have rights.

But also, they are other people who are not gay and lesbians they also got rights, and I think that's give and take, you know. You will find a lot of work from justice of the peace that would be willing to marry couples, gays and lesbians. I don't think that is going to be a problem.

But you also, you're going to find people they don't feel comfortable with it. That doesn't mean they're going to mistreat you or they don't like you, but they don't feel comfortable with it, you know?

And how do we go with that? Do we force the person, that we're going to force a person to do something they don't like or they don't feel comfortable with? That person is not attacking anybody. That person is not stealing. That person is not doing anything wrong but her feelings, and I think we have to respect that also.

SEN. MCDONALD: Representative Gonzalez, do you have a question?

REP. GONZALEZ: My question is, how can we force, and I've been asking the question, and I think that I got the floor and I have the same right.

And my question was from the beginning, how can we force a person that is not, that is not doing anything wrong, is not killing, is not doing anything wrong, how are we going to force that person?

SEN. MCDONALD: Would you care to answer that question?

JANET PECK: I guess we respectfully disagree and that I would just expect that any public official would be able to carry out the duties of the law.

SEN. MCDONALD: Thank you very much.

REP. GONZALEZ: Thank you very much and congratulations.

SEN. MCDONALD: Representative Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman. Good afternoon. Actually, you guys have been a couple for what, 33 years. Is that what it was?

JANET PECK: Yes.

REP. LAWLOR: And I take it you go out to restaurants and public places, a lot of things like that.

JANET PECK: Yes.

REP. LAWLOR: Did you ever have like a waiter refuse to serve you because of their religious beliefs, that they don't believe that same sex couples should be together or anything like that? Did you ever have that experience?

JANET PECK: Actually yes.

REP. LAWLOR: Tell me about that.

JANET PECK: It was a while back, but we were in a restaurant and we sat there and sat there and sat there, and we were not served, and we kept

looking at each other. There was nobody else around in the restaurant. There were other people that were being served but it's not like there was a crowd, that they couldn't have time to serve us.

And finally we asked somebody, could you please, you know, serve us and wait on us and they said, I'm going on break. I'll get the next person. And the next person came and they said well, I'm not your server.

And it just was, kind of a tough thing for us, and we were sitting there going what do we leave? What do we do? And we went to the manager or the assistant manager at the time and said, you know, we've been here for, it was probably half an hour to 45 minutes and nobody is serving us. And they said, well, I'll go see about it, and went to see about it, and actually in those days, this was a while back, but they said they do not want to serve you because of who you are, because they are uncomfortable with who you are.

And we weren't holding hands or making a scene in the restaurant, so yes, actually that did happen to us.

REP. LAWLOR: And so, what's wrong with that? I mean, they have their personal views. Why should they be forced to serve you in a restaurant like that?

CAROL CONKLIN: Well, I think I should, we should be able to have the right to eat in a restaurant, in any restaurant in any place in this state and this country.

REP. LAWLOR: And that's illegal now in Connecticut since 1991 to do that kind of thing.

JANET PECK: This was after 1991, but yes.

REP. LAWLOR: Did you go to court and sue them or anything like that?

JANET PECK: No, we did not.

REP. LAWLOR: Tell all your friends not to go to that restaurant.

JANET PECK: Yeah, we did do that.

REP. LAWLOR: All right. Well, are they still in business?

JANET PECK: No, they're not.

REP. LAWLOR: There you go. Well, what goes around comes around, I guess in that respect. But thank you very much.

JANET PECK: Thank you.

SEN. MCDONALD: Are there any other questions? If not, thank you very much. Next is Peter Wolfgang, followed by Patrick Doyle.

PETER WOLFGANG: Hello members of the Committee. I'm Peter Wolfgang. I am the head of the Family Institute of Connecticut Action, and I am here today to ask you to amend Senate Bill Number 899.

You have my written testimony. It focuses on three sections of this bill that we want amended.

Section 2, which hasn't been talked about at all, which seems to export Connecticut's same sex marriage ruling to other states, which the Connecticut General Assembly I don't think has

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the power to do, so we think Section 2 should be struck from the bill.

Section 7, which you had a very long discussion with Dave Reynolds from the Catholic Church about earlier today, and I want to circle around back to that.

And Section 17, which you've already had some discussion about, and you know, Section 17 this is why we think this bill needs to be amended. It goes far beyond the Kerrigan ruling. This is not just a mere case of legislative housekeeping.

And you know, I would cite as evidence of that, no less an authority than Ben Klein when he was here testifying with Senator McLachlan, Klein himself said it's not required. The Kerrigan ruling does not require that Section 17 be repealed in its entirety.

In fact, his exact words were, nothing, as I wrote them down, nothing in Kerrigan mandates its removal.

You even saw a distinction between the five subsections inside the bill from Representative Lawlor when he was questioning Anne Stanback. Representative Lawlor said obviously, Subsections 4 and 5 need to be removed because they conflict with Kerrigan. That word obviously, that distinction, I think is very important.

There is no good reason why Subsections, the other subsections, of course, Subsection 4 on same sex marriage, we understand where that would conflict with Kerrigan but there's no reason why the first three subsections of that bill need to be removed.

Representative Morris talked about condone. He doesn't like that, either. He thinks perhaps that implies some intolerance of homosexuality. I would defer on that question because my time is limited to Mark Dost later this evening, in his testimony where he zeroes in on the difference between tolerance and affirmation, a conversation that I think is very germane to the use of that word condone.

But I do want to say something about Section 7. I think all the concerns raised by Dave Reynolds, and it's interesting, because on same sex marriage and related issues, many members of this Committee and certainly the Co-Chairman are on a polar opposite place than where the Catholic Church and the Family Institute are, and yet there's, I thought there was some implicit agreement, actually, in that back and forth in that, you know, Dave Reynolds' concern was that unless Section 7 is amended and strengthened, that all sorts of attacks on religious liberty will follow.

And you know, going on from there what we heard were references of the equating of any misgivings about same sex marriage to racist justices of the peace. You don't want to marry black and white people.

We heard references to the Protestant Reformation and what if a Protestant doesn't want to provide services to a confirmation.

We heard Representative Dillon's concern that the Catholic Church to her is seemingly a bunch of old men that are obsessed with gay issues.

I mean, when you can take, it's inside that sort of political milieu, that it seems to me that those sorts of attacks are going to come. The difference is, we think that's a bad thing

and you're okay with it. So that's why, and you know, I doubt of my ability to persuade you otherwise.

But other members of this Committee and of the Legislature at large should understand. We're not being alarmists. All you have to do is look at the testimony from when Dave Reynolds spoke, the back and forth, this is coming down.

I think we both agree. The difference is you're okay with it because you think it's the equivalent of racism and we don't, and that's why we want this bill strengthened.

SEN. MCDONALD: Thank you very much, Mr. Wolfgang, and I appreciate you adhering to the time or close thereto. Let me ask you a couple of questions because I certainly had more than enough time to talk to Mr. Reynolds about Section 7, but--

PETER WOLFGANG: That's why I brought my water.

SEN. MCDONALD: He and I did not have a chance to really talk about Section 17, so I'm going to use this opportunity to talk with you about that, and to ask my questions of you regarding that.

Now, you acknowledge that Subsection 4 does need to come out in light of the Kerrigan decision, correct?

PETER WOLFGANG: Yes.

SEN. MCDONALD: Okay. What about Subsection 5, which says to establish sexual orientation as a specific and separate cultural classification in society? Does that need to come out in light of the Kerrigan decision in your opinion?

PETER WOLFGANG: I think arguably it does not. The specific language is, gosh, I have it here somewhere. The specific language, and you just read it, to establish sexual orientation as a specific and separate cultural classification in society.

I think arguably it does not need to come out. However, as I think Representative Lawlor mentioned earlier, you know, part of the holding of the Kerrigan ruling is that same sex marriage is now, it's predicated on, we're now declaring homosexual, homosexuality or sexual orientation a suspect class like race.

So in that sense, at least, sexual orientation is now a separate legal classification. The specific lesson, excuse me, the specific language of Subsection 5 is whether it's a specific and separate cultural classification.

I think arguably that's a political call, and it's within the Legislature's power to say, no, we're going to keep Subsection 5. But it's the first three subsections that really jump out at me.

Subsection 4 I wouldn't fight for, and I don't know if I would fall on my sword for Subsection 5, but it's an interesting question. I think there's an argument to be made to keep it.

SEN. MCDONALD: In your opinion, is that a convincing argument?

PETER WOLFGANG: I find it convincing. The other three subsections are far more important and I think there will be other venues. You know, it's a question if, and I should say, I have to get everything I could in my three minutes.

It's not as if we're reconciled to Kerrigan like the Catholic Church in their testimony were opposed to Kerrigan. But I think as I heard someone from your press office telling the media today that that's not what's before us today.

So as a question of venue, what's before us today is what is the language that will be entered into the law to codify, to implement the Kerrigan ruling, and I think those first three subsections, if you keep those in, that's something that goes far beyond the Kerrigan ruling.

SEN. MCDONALD: Well, to be clear, there is a part of this bill that is intended to bring our statutes into compliance with the Kerrigan ruling, but there's nothing in the Kerrigan ruling that required us to migrate civil unions over into marriages, right? And we're doing that in this bill, too, correct?

PETER WOLFGANG: Yeah.

SEN. MCDONALD: So, we can hopefully all agree that the Legislature still has the role of establishing the laws that actually do define relationships, so there's nothing that would prevent us from removing these provisions from statute if that is the collective will of this legislative body. Don't you agree?

PETER WOLFGANG: Well, the language you chose is worth a conversation in itself. That the, you know, we can all agree that the Legislature still has the rule to define relationships.

Just in 2005 this Legislature explicitly defined marriage as between a man and a women and three years later, four judges usurped that. So I don't know.

I'd like to see the Legislature have as much rule as it should in a healthy democracy and to exercise it wisely.

SEN. MCDONALD: Let me just remind you, and I'm certain you recall it, this Committee actually by democratic vote approved marriage equality in 2007. Right?

PETER WOLFGANG: Which then died in the House.

SEN. MCDONALD: But you will acknowledge--

PETER WOLFGANG: Oh, yes. It was 27 to 15. I remember.

SEN. MCDONALD: Very good. And so we can certainly acknowledge that we have the authority if it's the will of this Committee and the General Assembly as a whole to remove any of this language if we deem it appropriate and in the interests of our constituents. Right?

PETER WOLFGANG: It is within this Legislature's power to make, I mean, you're a political arm of the government to make a political decision to remove a statute that I fear the removal of which would then be read as a legislative intent by either the Commission on Human Rights or maybe some enterprising judge that there will now be a mandate to teach homosexuality in the public schools and so forth. That's our concern with the removal of those three subsections.

So yeah, do you have that power? Sure. Is it a good idea? No.

SEN. MCDONALD: Okay. So and in fact under Subsection 5 the current statute says nothing shall be deemed or construed to establish

sexual orientation as a specific and separate cultural classification in society.

Isn't it in point of fact the position of the Family Institute that homosexuals are a specific and separate cultural classification that is not worthy of equal protection under the law?

PETER WOLFGANG: It is the position of the Family Institute that marriage is the union of one man and one woman. Homosexuals are entitled to the same rights as everyone else, but that right, it's a right that isn't a right. To redefine marriage is something that is for all of society, whether the issue is homosexuality or polygamy or any other sort of redefinition of marriage.

Again, I know that's not what's before us today. The question before us is, what will be the statute that implements the Kerrigan ruling, but you know, for the record, that's where we're at.

SEN. MCDONALD: Okay. And do you share Representative Morris' concerns about the use of the word condones in Subsection 1.

PETER WOLFGANG: Well, and I made a brief reference to Mark Dost, Attorney Mark Dost's testimony who you'll be hearing later today, but I think, I agree with the testimony that I read that you'll be hearing later regarding a difference between tolerance and affirmation.

I mean that's, I thought the gay rights bill from 91 struck a really nice balance in that, you know, there's going to be tolerance but we don't want this misread as some sort of affirmation, some sort of mandate that things that are opposed to parental rights, to

traditional religious beliefs, will now be taught in the public schools whether parents like it or not, something that by the way is now happening in some places in Massachusetts.

SEN. MCDONALD: I guess my question is, my question to you, though was, do you agree with Representative Morris that the use of the word condones is problematic in that subsection?

PETER WOLFGANG: No, I do not. I think for him it's a question of tolerance, and I disagree on that.

SEN. MCDONALD: Okay. Do you think that homosexuals are looking for tolerance or acceptance?

PETER WOLFGANG: Well, I think they're looking to redefine marriage for all of society, which is the question that goes beyond acceptance or tolerance or affirmation.

And when I say they, I should say, you know, you're talking about homosexuals, homosexuals per se. I'm talking about those activists, homosexual, heterosexual or whatever who are in favor of same sex marriage.

SEN. MCDONALD: Well, you used the word tolerance, not me. So tolerance--

PETER WOLFGANG: Quoting Representative Morris' discussion of the word condone.

SEN. MCDONALD: Tolerance to me has an implication that one is in a position of superiority and will tolerate one who is not on the same level or of the same stature as the one who is doing the tolerating. Is that fair to say?

PETER WOLFGANG: No.

SEN. MCDONALD: What's tolerance mean to you?

PETER WOLFGANG: Tolerance to me is just one of the social goods by which a pluralistic society has a certain level of social peace. I mean, there may be all sorts of things that other people who do not share any sort of characteristics of mine tolerate in me, and I don't necessarily view their tolerance as a sign that they're somehow superior to me.

SEN. MCDONALD: Now, with respect to Subsection 2, after all of this debate and all of the time we have spent together over the years, do you still, well, do you believe that homosexuality is an unacceptable lifestyle?

PETER WOLFGANG: Homosexuality or, I mean--

SEN. MCDONALD: Well, Subsection 2 talks about the promotion of homosexuality in educational institutions or require the teaching in educational institutions of homosexuality or bisexuality as an acceptable lifestyle.

And so my question to you--

PETER WOLFGANG: Subsection 2, I'm sorry. Are you talking about Subsection 2 of the law that Section 17 would repeal?

SEN. MCDONALD: Correct. So you have said that we should retain that language. So my question to you is, do you consider homosexuality or bisexuality to be unacceptable lifestyles as a matter of public policy.

PETER WOLFGANG: What I believe is that we should not repeal a law that could then be read as a mandate to teach homosexuality or bisexuality as an acceptable lifestyle in educational institutions.

My concern is that doing so would lead to something that could be read as a legislative intent for a mandate. So that's, my concern is about society not my own personal views about homosexuality, but that society in the aggregate, that some of what we've seen in schools in Massachusetts will happen in Connecticut that the process will be set up so that children will be taught things that are against their parents' beliefs and parents will have no say about that regarding homosexuality.

If parents, just essentially that parents' religious beliefs should be respected, and their parental rights, and that removing Subsection 2 would make it less likely that that will be respected.

SEN. MCDONALD: Okay. But my question to you, either in your personal capacity or in your representative capacity, can you answer the question, is homosexuality or bisexuality an unacceptable lifestyle? Yes or no?

PETER WOLFGANG: Well, here's the problem I have with that question. It's interesting. You say in all the years we've been together this is actually the first time that I've ever been hit with that question. I've heard that question come up a lot in the previous hearings over the years. Representative Lawlor has been hit with it. My predecessor as head of the Family Institute was probably hit with when he sat in this seat.

I, this is the first time I've ever been hit with the question, and the problem I have with that question is, I mean, you know who I am. You know who our organization is. We're the lead organization in opposition to same sex marriage, where this issue is concerned.

And when you ask this question of me, and when you ask it of other people who are opposed to same sex marriage, and of course, many people who are opposed to same sex marriage are opposed to it out of their traditional religious beliefs that homosexual activity, as opposed to you use the word homosexuality, homosexual activity is that the actual homosexual acts are something that's unacceptable or against their religious beliefs.

But it seems to me when that question is asked that what you're getting at is motivation. You're saying, oh, well, you know, you can talk about marriages between a man and a woman or for the good of society, but you know, it really comes down to the fact that you know, you're opposed to homosexual activity, which I know for those of you on your side of this issue is viewed as something as bigotry.

To me, that would be the equivalent of my making an issue out of the fact that both of you are practicing homosexuals. If I were to make an issue out of that, that would be, it would be wrong, because it would be making an issue out of your motivation.

I would be saying, well it's not really that they're concerned about equality or that they're concerned about civil rights. It's that they're homosexuals so they're using their position to push their own agenda, and I think it would be wrong for me to say that to you, just as I've always felt it was wrong that you guys always jump to that and try to plant that suggestion that, you know, well, it's just, because I know for folks on your side of the issue, well that's the moral equivalent of racism.

So, you know, I have the traditional beliefs of my faith and of many other traditional religions, but that's what I've always thought, and I've never got in that question, but since you asked, that's what I think of it.

SEN. MCDONALD: Okay. I asked for a yes or a no answer. You're, I'm not--

PETER WOLFGANG: That's the same belief. I'm a practicing Catholic. I believe what the Catholic catechism teaches.

SEN. MCDONALD: Okay. So the Catholic catechism teaches that homosexuality is inherently evil and objectively disordered. Right?

PETER WOLFGANG: No. It doesn't. It does speak against homosexual acts. On the question of sexual orientation, it does not call it inherently evil. It makes a distinction.

Again, I know these distinctions are lost on those who disagree with us on these issues, and it's very far afield of the question that's before us today, which is, what's the proper implementing of the Kerrigan ruling.

When my friend on my side of the aisle, Dave Reynolds was here, we got into discussions ranging from the Iraq war to the Protestant Reformation, the Holocaust denial, and you know, that's why I'm leery to get into these questions of, well, what's your personal beliefs about homosexuality and so forth.

Whatever my beliefs, I think that Section 7 needs to be revised. Section 17 needs to be revised and Section 2 needs to be struck.

SEN. MCDONALD: So you're, I mean, I'm just trying to get an understanding of why you believe that Subsection 2, which seems to preclude, seems to preclude the construction of any of our non-discrimination statutes as constituting or condoning homosexuality or bisexuality as an acceptable lifestyle.

You seem very defensive that you want that to remain in our statutes, and if you're that adamant that it needs to remain, to make sure that we don't have our laws construed as allowing homosexuality to be deemed as an acceptable lifestyle, I'm trying to figure out why that's such an important component of this law for you?

PETER WOLFGANG: Two examples from Massachusetts. There was the case of David Parker, evangelical father of a five-year-old boy in the boy's kindergarten class in the public school. He was being taught out of a book that promoted homosexuality.

Parker objected to that. He had a back and forth exchange with school officials and I mean, eventually the man was arrested and spent the night in prison because he just didn't want his son taught out of that book.

Another couple in Massachusetts, a similar situation to work with. Their child was second or third grade, and they filed a lawsuit trying to prevent similar materials from being taught.

The judge threw out the lawsuit saying that because Massachusetts now recognizes same sex marriage, the state has a rational interest in fostering its acceptance. And, you know, that's what I object to, that parents are going to be, that children are going to be taught this against the will of the parents, and

that's why I think Subsection 2 should stay in there because of Ben Klein notwithstanding, I think it provides some bull work against that or at least against something that could then, if it's repealed read as a mandate to mean its opposite, that this will be taught.

SEN. MCDONALD: Do you disagree with the majority opinion in Kerrigan where it indicates that the section that we're just talking about, 46a-81r is a kind of state sponsored disapproval of same sex relationships?

PETER WOLFGANG: You know, I read the decision last October when it came out, so I'd have to go back and look at what the language says.

Your question is, is it a state sponsored disapproval? I don't know. It could be read that way. I know that the specific language of the statute says that you know, that there's nothing in the gay rights bill from 91 will be taught to promote homosexuality in educational institutions as an acceptable lifestyle.

And so I know that's it at least a disapproval of that, of the actual black leather language of the bill. Whether it's a disapproval of wider things, I don't know. We can have a discussion about it.

But for the purpose of implementing this bill, what I'm asking is that this Subsection 2 stay in there.

SEN. MCDONALD: And do you disagree with the majority of the Kerrigan Court that said that that same section of the General Statutes serves to undermine the legitimacy of homosexual relationships?

PETER WOLFGANG: Well, you know, I understand that the Kerrigan majority opinion didn't like the language of this, of this statute, but there's, I mean, there's (inaudible) on the decision saying, we don't like the language. We think it's demeaning. We think that our state disapproval of same sex relationships.

But the whole thing as opposed to the, you know commentary and in the actual holding, as I think even Representative Lawlor implied when he was questioning Anne Stanback is that, obviously Subsection 4 needs to go, but so much hinges on that word obviously that he used with Anne, that even though the majority expressed disapproval as even Ben Klein said, it's not required that this thing be struck in its entirety.

Nothing in Kerrigan mandates removal. That was Ben Klein's words, and on that, at least if nothing else, I agree with him.

SEN. MCDONALD: And my final question for you, Mr. Wolfgang is, immediately preceding you, Janet Peck and Carol Conklin testified before the Committee that they had been in a relationship for 33 years.

Is it your opinion that that relationship is not worthy of the approval and respect of the State of Connecticut?

PETER WOLFGANG: It's my opinion, is it my opinion that it's not worthy of the approval or respect? It's my opinion that they deserve the same rights that everyone else in society should have, but this is, you know, the same argument we've had for a very long time, that to you, those rights include same sex marriage, and to me that's not a right. That's a

redefinition of marriage, something that's a social good for all of society.

SEN. MCDONALD: Thank you very much. Representative Lawlor.

REP. LAWLOR: Thank you, Mr. Chairman. Just to clarify it. We have the advantage of computers up here and we can do Google searches quickly, and I just, on the question of intrinsically disordered, et cetera, the most recent quote from the Pope is, I think he refers to homosexuality, and he said, the tendency toward an intrinsic moral evil, which is homosexuality, and thus the inclination itself must be seen as an objective disorder. So that's the direct quote. That's the most recent statement on that topic.

But having said that--

PETER WOLFGANG: I can get you some of his encyclicals if you want.

REP. LAWLOR: I understand.

PETER WOLFGANG: Fascinating reading. I'm sorry, go on.

REP. LAWLOR: I read for the most part, I'm just picking out the most recent quote, I thought to kind of get to the heart of it. It seems like he makes a distinction between what you characterize as the behavior or being a practicing homosexual, I think was your word versus people who just happen to be gay as it turns out.

But having said that--

PETER WOLFGANG: Well, he, you used the word tendency, but I'm sorry, go on, again, far afield.

REP. LAWLOR: I quoted the word tendency. I didn't use it.

PETER WOLFGANG: Right. You quoted it. That's what, I think that's great. That's an important distinction, tendency towards an intrinsic. He's making a distinction between homosexual and homosexual activity.

REP. LAWLOR: But he said, thus the inclination itself must be seen as an objective disorder. I think that's a little different from the act itself, I guess. But I'm just saying.

You, at the outset you recommended some amendments to the bill. Is that correct? Did I understand your testimony correctly?

PETER WOLFGANG: Well, I recommend the amendment to seven, to Section 7 that Dave Reynolds does not yet have for you.

REP. LAWLOR: Okay. Did you bring it with you?

PETER WOLFGANG: No, I did not. I discussed it with our friends in the Catholic Church ahead of time, and I know that typically what happens is, we have this hearing, and then at some point down the line the vote takes place, so we don't have the amendment, but we will.

REP. LAWLOR: I just thought it would be useful to, it seems like you spend a lot of time thinking about this issue. I thought it useful if you had the language we could talk about it today, but.

You know, the other thing is, I think I got an email from you, but I certainly read it saying something about the sort of anti-democratic nature of this whole process, and would you at least concede that what we're doing right now is a legitimate process by a democratically elected Legislature?

PETER WOLFGANG: Yes. And you know, as a matter of fact, that goes to something that Senator Kissel discussed in his back and forth with Dave Reynolds. I'm so glad you brought that up.

Yes, this conversation that we're having right now is part of the legitimate democratic process. It was very interesting when Senator Kissel was questioning Dave Reynolds, that he was saying look, you know, you fought against same sex marriage. I was with you. Well thought, but goodness gracious, you know, the Kerrigan ruling's come down and here's where, I held your hand up until now, but now the road forks and we part company.

And I would only cite as an example, I would say that what's happened in Kerrigan was not a legitimate exercise of a democratic republic, but the conversation that we're having right now.

I would cite as an example the Roe v. Wade decision on the national level, you know, regardless of where you sand on Roe v. Wade, if you're for it, if you're against it, after Roe v. Wade was handed down in 1973, that was hardly the end of the matter for the Legislative Branch.

It was hardly a case of okay, we opposed abortion but now it's the law of the land so that's the end of the matter.

There was the Hyde amendment, which said that we're not going to provide federal tax dollars for abortion.

There was, you know, religious liberties, the Catholic hospitals in this state despite Roe are not required to provide abortions and so forth.

The fact is, even though the Kerrigan ruling, like Roe v. Wade, there was still more work to be done. There was the Hyde amendment. It was up to the legislative body to define what the limits of this court ruling is until some other court ruling perhaps hopefully comes along.

But in regard to the Kerrigan decision, even though the Kerrigan decision has come along, this is hardly the end of the matter.

Section 7, and of course, you know as I said, we're not reconciled to Kerrigan itself, but we're, that bedrock issue we'll take up again on another day.

Regarding the actual implementing of Kerrigan, the statute that's before us, Senate Bill Number 899, Section 7, you know, these are things, religious liberty, whether all or only part of Section 81r is going to be struck. I mean, this is your job in the same way that the Hyde amendment after Roe v. Wade was the job of the Congress.

So yes, this is definitely a legitimate democratic function, and my hope is that you will exercise it in a way that causes the least possible disruption to traditional religious liberty and parental rights in our state.

REP. LAWLOR: And you said and repeated here again today, that the fact that the Court has issued a decision in a case like this is in and of itself an undemocratic exercise. Is that basically your point of view on that topic?

PETER WOLFGANG: Yes.

REP. LAWLOR: Okay. So what do you think is the role of a State Supreme Court or the United States Supreme Court? What is their job?

PETER WOLFGANG: It is to interpret the Constitution, and there is nothing in the State Constitution that says there shall be same sex marriage.

I strongly concur with, concur, I mean I'm not one of the justices, but I'm in strong agreement with Justice Zarrella's dissent.

REP. LAWLOR: Is there anything--

PETER WOLFGANG: Particularly the footnote 15, which was about Family Institute.

REP. LAWLOR: Is there anything in the United States Constitution about marriage one way or the other?

PETER WOLFGANG: Is there anything in the, well, there's, what is it that (inaudible) the Court rulings that (inaudible).

REP. LAWLOR: I'm talking about the actual text, because you said there's nothing in the State Constitution regarding same sex marriage. There's nothing in there about marriage, either.

But I'm asking you, is there anything in the United States Constitution on the topic of

marriage itself. Does the word marriage appear in there anywhere?

PETER WOLFGANG: I haven't sat down and read the U.S. Constitution in its entirety in a while, so I don't know.

REP. LAWLOR: Well, I have. I can represent that there's not a mention of the word marriage in there. So, I guess, the reason I'm asking you that question is because you know, so if there's a conflict between well, do you think that if the State Legislature passes a law, no matter what the law says, it should be respected, and do you think it's possible for that law to be unconstitutional?

PETER WOLFGANG: I think the issue before us today is, what is the proper language that should go into Senate Bill Number 899 to implement the Kerrigan ruling, and not the illegitimacy that I and so many others see in the Kerrigan ruling.

I'm concerned, again, and I mean it's cool we're still close to the main subject. We're not off in the Protestant Reformation and stuff yet, but I want to stick to the issue itself, which is that, this bill needs to be amended.

REP. LAWLOR: Okay. But you, yourself testified, I think in your actual opening statement you referred to the State Supreme Court decision and it was undemocratic and therefore, you know, deserving less than the full respect, I guess, I don't know.

But what, I mean, do you think that it's an improper role for the Court to decide about who's entitled to be married and who's not, or is that just something that the Court should not get into at all, no matter what?

PETER WOLFGANG: Does it matter what I think right now? I mean, right now we've got Senate Bill Number 899 before us, and the question is, how should it be implemented, and regardless of what I think the Court's role is or whether it's overstepped its, I mean, what we've got before us is how should Senate Bill Number 899 be revised.

REP. LAWLOR: Well, all right. Well, if you're not going to answer my question. I'd like to read you a law that was validly adopted in the State of Virginia in 1960 and it says "intermarriage prohibited, meaning of term white persons. It shall hereafter be unlawful for any white person in this state to marry any save a white person, or a person with no other mixture of blood than white and American Indian.

For the purpose of this chapter the term white person shall apply only to such person as has no trace whatever of any blood other than Caucasian, but persons who have 1/16th or less blood of an American Indian have no other non-Caucasian blood shall be deemed to be white persons.

All laws heretofore passed are now in effect regarding the intermarriage of white and colored persons shall apply to marriages prohibited by this chapter. Colored persons and Indians defined every person in whom there is ascertainable any Negro blood shall be deemed and taken to be a colored person, and every person not a colored person having one-fourth or more American Indian blood, shall be deemed an American Indian, except that members of Indian Tribes existing in this Commonwealth having one-fourth or more of Indian blood and less than 1/16th of Negro blood shall be deemed Trial Indians."

And violating that statute is a felony in the State of Virginia, and two people by the name of Loving were arrested for violating that statute and they claimed that that was unconstitutional, so do you think the United States Supreme Court has the right to tell the State of Virginia that they can't prohibit interracial marriage like that?

PETER WOLFGANG: Well, these examples are fascinating because they get to the point of what I've been saying.

To you, this is the equivalent of rights. Those of us who are opposed to same sex marriage, we're the moral equivalent of racists and perhaps before all is said and done, we may yet be turned into the legal equivalent of racists.

That's why Subsection 7, I mean, how do we treat racists? Well, you know, we take away their tax exempt status. I mean, there are things that you know, if you're the legal definition of a racist, there are legal consequences for you, Bob Jones University and so forth.

If you're making out, those of us who understand marriage to be what it has always been in all of society, and this is what Maggie Gallagher was getting at in her testimony here two years ago. It's a very big idea. It's going to have tremendous consequences that go far beyond same sex marriage or any sort of academic back and forth that you and I have about the role of the courts.

This is a very, very big thing going on here and it's very important that, and I'm sorry we

don't have the amendment language yet, but Section 7 needs to be strengthened.

REP. LAWLOR: Well, I'm only saying, you're the one who said the Court has no right doing this kind of thing, and I'm just asking you, do you think the Supreme Court has the right to declare that Virginia statute unconstitutional?

PETER WOLFGANG: I think the relevance is, you know, we have Senate Bill Number 899 before us, and how should that be reformed or amended, and whichever way you and I agree or disagree about it is unrelated to what I think of the Court's roles.

REP. LAWLOR: Okay. But having said that, do you think the courts have the right to overrule state statutes, and in particular, if you were on the Supreme Court, would you have voted to declare that statute unconstitutional or not?

PETER WOLFGANG: I would, I know if I were a Legislator I would vote against that statute. If I were on the Court, I don't know. I haven't read the Loving, is it the Loving decision that you're talking about.

REP. LAWLOR: Loving v (inaudible)

PETER WOLFGANG: I haven't read it, you know, in a very long time, but you know, in general if you're asking, yeah, I'm opposed to racism. I mean, it's kind of, you know, kind of obvious, it's kind of a given.

But, you know, the specifics of the Court and what the Court's proper role is and all that, I think is far afield from the question of how shall Senate Bill Number 899 be revised.

REP. LAWLOR: Yeah, well for you, maybe. Not for me.

SEN. MCDONALD: Senator Gomes was next.

SEN. GOMES: Good afternoon. Family Institute. Who was your predecessor, I keep hearing named predecessor. Was it Mr. Brown?

PETER WOLFGANG: It sure was.

SEN. GOMES: My friend.

PETER WOLFGANG: Brian sends his best.

SEN. GOMES: Yeah. I've got something to send him, too. We'll talk about that later.

I hear you said, I heard him ask you about whether homosexuality was thought of by the Family Institute or yourself as being evil and then they came across with what the Pope had said about a tendency toward intrinsic moral evil.

You said your personal beliefs are based on the Catholic catechism. Am I right on that?

PETER WOLFGANG: Well, I was invited to discuss my personal beliefs but if you paid close attention to what I said up to that point, I'm making arguments that ought to be accessible to anyone regardless of their personal beliefs.

SEN. GOMES: Then you're saying that your personal beliefs are not, you can be objective when it comes to the term of homosexuals, and that your personal beliefs would not lead you down the path of being rigid and not objective?

PETER WOLFGANG: I believe that I am objective, yes, if that's what you're asking me.

SEN. GOMES: All right.

PETER WOLFGANG: Out of charity, that's something that you try to assign to those with whom you disagree, and you know, to raise the issue of whether you're not, like I said in my discussion with the Co-Chairman. It would be like saying to the two of them, well, you're homosexual so are you sure you can be objective on same sex marriage. I just, I disagree with it.

SEN. GOMES: Well, I, it's an honest question. I mean, I haven't said you're not objective. I said, could you be objective?

When you talk about homosexuality, if you were to give, I mean, a lot of people couldn't wrap up their belief about something in one word. If you were to, if somebody were to ask you a one word description of what you believe about homosexuality, what would that word be?

PETER WOLFGANG: I don't really give homosexuality a lot of thought, to tell you the truth. I mean, it's, you know, in regard to same sex marriage, I give the proper definition of marriage a lot of thought.

This may be, I know again, I come back to Representative Dillon's concern that the Catholic Church is a bunch of old men obsessing over gay stuff. The truth is, we don't really give it a lot of thought, but it comes up a lot, so it becomes necessary for us to talk about it.

So when we do, you know, I don't know, like what my one word about homosexuality would be. I'll get back to you on that.

SEN. GOMES: That's very strange. You're here testifying on a homosexual marriage, homosexuals being married and you say you don't give homosexuality a thought.

PETER WOLFGANG: I said I don't give it a lot of thought.

SEN. GOMES: That's very strange.

PETER WOLFGANG: I give the topic of marriage a lot of though. Again, if same sex marriage was not on the radar, if instead there was a very strong political movement to redefine marriage to allow polygamy, I'd be here fighting that just as hard.

It's not about homosexuality, it's about marriage. But again, today it's not specifically about marriage or same sex marriage. It's about what is the language for Senate Bill Number 899. How will it be properly implemented, the Kerrigan ruling?

SEN. GOMES: Then you're saying what you are testifying about and you said marriage, it's what you believe a marriage to be. Polygamy is not marriage. Two homosexuals being joined in marriage is not a marriage? It's just what you believe to be marriage.

PETER WOLFGANG: I don't think it's just me.

SEN. GOMES: Well--

PETER WOLFGANG: I would say that it's, you know, it's most of human civilization and history and cultures across time and place and religion and so forth. So I don't think that marriages between a man and woman is just some little idiosyncratic view of mine.

But again, I mean, the Kerrigan ruling happened. There may be other opportunities to say something specifically about that.

What's before us today is what will be the proper language of Senate Bill Number 899 by which it will be implemented.

SEN. GOMES: I'm not interested in what everybody believes. I'm just trying to get my arms around you, here, testifying today and what you believe, and I'm asking you. I asked you what your description of homosexuality if you would give a one word description and you said, you don't give a thought about homosexuality.

PETER WOLFGANG: No, I said I don't give a lot of thought.

SEN. GOMES: A lot of thought. But you're here testifying on a subject that involves specifically, homosexuals joining together in marriage.

PETER WOLFGANG: As I already said to the Co-Chairman, my beliefs are those of the Catholic Church.

SEN. GOMES: And that is what the Family Institute is based on, right?

PETER WOLFGANG: No. Family Institute is non-sectarian, ecumenical. We're actually loosely affiliated, associated with, focused on the family, which is not Catholic.

SEN. GOMES: Loosely focused on a family.

PETER WOLFGANG: I'll try again. We're loosely affiliated, associated with focus on the family. Associated.

SEN. GOMES: I'm going to stop right here because you're confusing the hell out of me.

SEN. MCDONALD: Thank you, Senator Gomes. Representative Holder-Winfield followed by Representative Dillon.

REP. HOLDER-WINFIELD: Good afternoon. I want to go back to David Parker, because I do go back and read transcripts and it's important because it helps me to sometimes put into context what I sat through, and it seemed to me that you testified that David Parker was a parent who was at a school where there was a book that they were teaching from that talked about homosexuality.

PETER WOLFGANG: Yes.

REP. HOLDER-WINFIELD: And that he was arrested for basically protesting that. Is that correct?

PETER WOLFGANG: Well, he had an email and phone conversation back and forth with school officials that went on for the better part of a year, fruitless. All he asked for was a guarantee to know ahead of time when the book is taught, so that he could opt out his child. That's all he asked for.

They wouldn't give him that. Eventually, he went down to the school and said, I'm not leaving until you give me that guarantee. Instead of doing so, they had him arrested and he spent the night in prison.

REP. HOLDER-WINFIELD: So, first of all, my understanding was that they weren't actually teaching from the book and that the book was a book that talked about more than homosexuality. It talked about all kinds of relationships,

single parent, divorces and all those types of things.

And the other thing was, I understand that the book that they weren't teaching from was part of a diversity book bag, and that you are correct, that they had this ongoing discussion.

So he wasn't, in my understanding, he wasn't actually arrested simply because he protested. He was arrested because he refused to leave until he got what he wanted, so he was actually harassing the school officials. Is that not correct?

PETER WOLFGANG: Well, you know, he asked for something simple. It went on for about a year. It was his own five-year-old son, so you know, eventually he went down and said, you tell me this or I'm not leaving. I think a lot of fathers of five-year-old boys could understand.

REP. HOLDER-WINFIELD: Is that a yes?

PETER WOLFGANG: No, I object to the word harassing.

REP. HOLDER-WINFIELD: Thank you.

SEN. MCDONALD: Representative Dillon, followed by Representative Morris.

REP. DILLON: Hello, Peter, or Mr. Wolfgang, how are you doing? I just wanted to straighten out a little bit, since you've quoted me twice, and it's my own fault that I did that rant.

I was quoting a group of 20-year-olds when I was questioning them about their religious observance, and the reaction, and I stated it, so I suppose it's got my name next it. The reaction was, what's up with their thing about gays. It's somebody else's life. Why is that

all they care about, quote, unquote, and then came the old men thing, which I assume, you know.

But it's quite true. I mean, I do worry about the loss of a very rich tradition, which is much richer than one would think by picking the paper up where it all seems to be about folks' identity and about gays.

It's very, I don't know that in a vacuum, I don't particularly have an issue with anyone having a particular belief.

What I'm troubled about in terms of the presentation is, the point at which the issue of conscience turns into one of coercion of others' behavior, and I guess I'm concerned about the loss of a tradition, which nourished me, and it's being reduced to just one or two issues.

And I understand from a political science point of view that every institution is going to test its authority at the margins. But I think the point has been made, and I guess on the issue of Kerrigan, I guess I would refer you to Justice Scalia, whose dissent in the Lawrence Texas case basically predicted if the Supreme Court basically said that sodomy between consenting adults was okay, then gay marriage would have to follow inevitably as a matter of law.

This was foreseeable and it happened at the national level, I don't know that anyone needs to ventilate too much about what happens in Connecticut or Massachusetts to a certain extent if they look at the precedent in the Supreme Court and that something that was foreseeable and predicted by Justice Scalia,

they're really applying the laws. It's logical to follow that.

But having said that, I just wanted to make it clear that I certainly have no problems with old men, or old women for that matter. I do think that there's a lack of proportionality and emphasis here, and I just, I'm just so proud of our tradition and I just don't like to see it reduced to something.

And I agree with Maggie Gallagher, except that I go in the other direction. I mean, I went downstairs and sat with her in the cafeteria--

PETER WOLFGANG: I remember.

REP. DILLON: --after she spoke that night. I agree this is a very big idea. But I think some of the stuff that you guys do is a very big idea too and it can have implications.

I don't want to go into court and have someone say that I came through it because I was baptized as a Catholic. I don't, you don't really know once you put that weapon in play what's going to happen when somebody picks it up, and I don't want, I don't like to see it input, implied anywhere in law necessarily. I don't know where it's going to go ten years from now, and on that we have to respectfully disagree.

Since you quoted me twice, though, I assume I got your goat and I'm sorry about that because I like you, and I think we've had some very respectful conversations about things we do have in common. So I certainly don't want it to end on that, but I do disagree with the emphasis very much, and I am still very upset with the Vatican's reconciliation with the Holocaust denial.

I mean, I can't let that go. That is very, very embarrassing to me. It's not your fault. It's not Mr. Reynolds' fault. It's something that's a scandal to me and it makes me worry about their judgment.

PETER WOLFGANG: Pat, thank you, excuse me, Representative Dillon, thank you for your comments. I always find them very, very interesting.

And you know, I agree with you. There's so many places where you and I agree and of course, a few big ones where we don't. But it's true, isn't it Representative Dillon, that our faith is so much bigger than same sex marriage and abortion, the two really big issues that pop up and that of course, you know, I'm not an official representative of the Catholic Church.

I'm a layman for an independent organization, but I just want to second your point, of course. Those are the two big issues that I'm heavily involved in, but our faith is, my goodness, architecture, art, science, literature, I mean, 2000 years of an incredible tradition.

And I would only say in response, that I do, I think it's a little unfair to say that the Catholic Church is you know, that these are the only issues, like this is the focus, this is the emphasis. These are the issues that the media will pay attention to. But I think, you know, the Catholic Church is here on a whole variety of issues.

You know, it was interesting during the whole constitutional convention thing last year, you know. We were part of a, we wanted a yes vote.

We were part of a coalition of a whole bunch of groups, taxpayers and people like that, and the media seemed to only want to talk to me, and I asked a reporter in one of the most prestigious media outlets afterwards, like why is just me? Why is it? She said, your issue is sexier.

And I think there's, you know, regardless of where people stand on this issue, I think there is kind of a tendency, and I don't mean to downplay the importance of this, it's hugely significant, that's why I'm here today, but I guess I'm responding specifically to your comments regarding the Church.

REP. DILLON: Well, absolutely, and I really, I was traveling in the south. My own family and my husband have roots in the south. I was down there when they were just isolating the AIDS virus, and the hysteria among some of the fundamentalist communities in Georgia, there was nobody who was willing to step forth and help people with AIDS except the Catholic Church.

PETER WOLFGANG: I remember.

REP. DILLON: Now, in Connecticut, people wouldn't like the position they chose because they said, hate the sin, love the sinner. But at that point in Georgia, that looked pretty good because the other position was, they deserve it, you know.

And Cardinal O'Connor, for all the things, and I have a poster of him, not a poster, I have a picture of him in my office, but, saying that God was a man. There were times that he had a mouth, but I do, too. That's fine.

His notion of service to the community, those people with AIDS, there's a whole richness

there in terms of our ministry that is bigger. That's all I wanted to say, and we agree on that.

PETER WOLFGANG: Thank you.

SEN. MCDONALD: Representative Morris, followed by Representative Hamm.

REP. MORRIS: Thank you very much, Mr. Chairman. We're getting into good evening, now.

PETER WOLFGANG: I'm up to my second bottle of water, so I'm good.

REP. MORRIS: My question is basically also to clarify a statement that I made earlier, and I didn't hear you clarify this one piece. It's Section 1, Subsection 1 of the bill, where nothing shall be deemed or construed to mean that the State of Connecticut condones homosexuality or bisexuality or any equivalent lifestyle, and I said, I've got problems with that word, condones.

PETER WOLFGANG: I understand.

REP. MORRIS: I think Anne Stanback said here earlier, you know, words are important. And I would like to hear your piece on (inaudible) condones versus affirms, you know. I think you referred to someone else, but I'd like to hear your piece, just so I can clarify where I'm at.

When I say that, I always believe that the state's role basically is neither to endorse nor reject, you know, but to protect, you know, the basic human rights of all citizens regardless of their race, their glass or their gender, all right?

So I think our role is more of a protection side, for the good of society, and in order to do that, in order to balance the kind of rights that we were talking about today, the state can't take a position that I'm endorsing one over another, or rejecting one in favor of another, all right?

So that's the context in which I put that, and when I kind of see the word, condones, it's a little lighthearted. So, when you finish what you're going to share with me, I'm just wondering, because we do have the opportunity now, while we're looking at this bill, if this word also appears to be troublesome, would you be opposed to that word being replaced with one, which I kind of thought about.

You know, we're talking about promoting, because now we're doing more to endorse. If the word was actually nothing to the mean that the State of Connecticut will promote homosexuality or bisexuality because we don't promote any other thing. We protect.

PETER WOLFGANG: I'm looking at the language right now, condone. The word promote thing comes up again in Subsection 2, doesn't it?

REP. MORRIS: Right. So if you're in favor of keeping Subsection 2 and it kinds of go in line with Subsection 1, that's the difference, whether we're actually, we're the active force to promote something.

PETER WOLFGANG: I'd like to consider that further and talk to you about that more. That's an interesting suggestion you've made.

You know, and it reminds me. I understand what you're saying, Representative Morris, in terms of clarifying your position.

When we had the same sex marriage hearing here with this Committee two years ago, I remember you at the time, we had civil union on the books, and the question was, would it be replaced with same sex marriage.

You made a really interesting argument that you felt that, and it's not the Family Institute's argument. It's not our position, but it was a really sort of novel approach that civil unions was somehow, that same sex marriage would actually be demeaning of same sex couples in a way that civil unions wouldn't, that same sex couples are different in that to have this other thing. Civil unions is actually a way of honoring that difference, and that's not the Family Institute's argument, you know.

But it was a very, you know, always very interesting thought, so I understand what you're saying.

REP. MORRIS: But I still think you didn't answer the question in terms of clarifying for us at least your position in terms of affirmation, tolerance, that whole piece.

Do you have a distinction in your mind as to the use of either those two words or concepts?

PETER WOLFGANG: Well, you know, I think tolerance is something that we all ought to extend to one another and Senator McDonald notwithstanding, I don't think it necessarily means that if someone's tolerating me that they have a superior social or cultural status to me.

Whereas, when we, you know, when we affirm or we promote something, that's of a different nature than tolerance. That's something that, I'm trying to think of an example, that that's

something different than merely promoting social peace and you know, some base line of proper behavior amongst one another.

REP. MORRIS: Okay. And again, my rationalization for going through this with you, Peter, is because we have the opportunity, while we're going through this democratic process, for all sides to hear one another, and so when I hear the other side saying is that a, you know, they have a problem with that piece of it.

So if it's just a matter of a word tweak and the concept that we understand, we can move forward with the concept, let's just do the word tweak rather than having a word that is vague.

Because it sounds like, just listening to everybody, we all have a different interpretation or sense of what that word can mean for us.

The final piece, and it kind of goes to I guess a lot of the questions that you were given about your personal faith, where you are, and religious liberty to a great degree today has been discussed, right?

And certainly, we have many individuals that come before us. We talk about the subjects who are gay, and we get to hear, you know, how they feel, their paths that they've gone through where they've been ridiculed, demoralized, treated in a subject of bigotry, undeniably subject to bigotry.

Let me ask you, as you're going through this journey fighting for the rights of those persons of faith, how do you feel going through this process? Do you feel that people are kind of being bigoted toward you and your faith?

Do you feel that sometimes people are treating you hostile? I think the Legislature needs to hear that.

PETER WOLFGANG: You should see my in box. The stuff that comes, I mean, you know, the cultural milieu here in the mainstream media, which I know many people who share my views consider it biased toward the last liberal.

You know, there's the sense in pop culture and in the media that those of us who oppose same sex marriage well, we're the haters, we're the bigots, and you know, I don't want to generalize entirely when speaking about those who are opposite of my position on this issue.

But I mean, we keep a file of hate mail that would just make your hair stand on end, some of the emails that we get. There's something happening, well, no, I won't even get into that.

But some of the stuff is already a part of the public record. Dr. Marie Hilliard, who used to be the head of the Connecticut Catholic Conference was, someone was arrested for making a death threat against her during the debate over the civil union bill in 2005. I think Channel 3 was the only media outlet that covered it.

Around that time, Family Institute, we made up these big banners that said defend marriage now, and several of the churches that are pro family that share our views displayed these banners around the state. They were torn down in the dead of night. They were vandalized. They were stolen.

You know, we don't normally, we try to make arguments based on you know, this is what we believe in terms of, you know, reason and what's in the best interest of society.

We don't normally, well, we don't normally get into these sorts of things but my goodness, I could write a book on some of the really strange things that have come from some, not all, but some on the other side and it really would turn around the whole question of, you know, where the hate's coming from.

REP. MORRIS: I know I'm very thankful, and I'm sure you are for the very civil debate that we have here in the State of Connecticut as opposed to what we saw at the Proposition 8 went through its series in California and where a lot of faith institutions were--

PETER WOLFGANG: I talked specifically about myself and Family Institute in the State of Connecticut, Marie Hilliard, but you're right.

Regarding Prop 8, there's stuff that's been done against the supporters of Prop 8 in California that really again, sort of turns on its whole head, this question of who's being intolerant and who's acting out of hate.

And again, I don't want to paint with a broad brush. I know actually there were some national gay rights organizations that spoke against that as well, but there really were some really just incredible, unbelievable incidents.

REP. MORRIS: Do you have any information or reports or anything that could help us to comprehend all, how these kinds of decisions have had impact on religious liberties, if at all?

PETER WOLFGANG: I can, and this probably will be part of the process of the amendment that the Catholic Church will submit to you. I can put together a report. You know, some of these, I think Senator McDonald spoke of it in terms of, you know, of rhetoric that has power.

I mean, there's actual, you know, beyond rhetoric, these are actual concrete examples that happened. Some of them have been discussed together. We could put together some sort of report for you, yes.

REP. MORRIS: I thank you very much for your testimony. If anything, one last question, though.

Are you Catholic?

PETER WOLFGANG: I am.

REP. MORRIS: Okay.

PETER WOLFGANG: I should emphasize, too, I mean, our membership is, maybe only about half of it is Catholic. We speak for people of all faiths who share our beliefs and we've, I personally have developed a great love in my heart for all the evangelical Protestants and others, Mormons and so forth that have been a part of our movement.

REP. MORRIS: Okay. You're going the way I want to go. You share that great commonality of all those who share your belief. How about those people of other faiths who don't share your beliefs?

PETER WOLFGANG: I try to love everyone.

REP. MORRIS: Okay. All right. Well, that was important. It was important to hear because I

think it's part of this discussion, you know. I think one of the biggest challenges, one of the challenges that we have is a lack of sensitivity to others' beliefs.

PETER WOLFGANG: For what it's worth, and you know, I tried to stay away from this when Representative, I think, one of the Co-Chairmen were asking me about my personal beliefs.

But I think I'm probably the only conservative in my family. I mean, not my own family, my wife and my children, but my family of origin, my parents, my brothers, you know.

And not to take anything away from anyone, but I know we've all, we've heard the stories from the folks on the other side about the pain, you know that they experience when they come out as gay or homosexual to their families and so forth, try being the only Republican in my family. I could tell you some stories, but, sometimes they still speak to me.

REP. MORRIS: All right. Let me pursue this just a little bit further. In terms of religious liberty then, and for those who are of a different position, because this is an opportunity for us to look at these things.

Let me take a faith that takes a totally different position than FIC. We were talking about earlier, the Episcopal Church, which we know, you know, had its schism around this whole issue of same sex marriage, okay?

Would you agree that even though they take a different position than you, you know, not all of them, but you know, as a church they take a different position that in terms of religious liberty, you'd be prepared to come here and fight for their liberty to believe what they

believe just as hard as you believe what you believe.

PETER WOLFGANG: Yes, absolutely. We're about religious liberty.

REP. MORRIS: Thank you. Well, could you really expound upon that, because I think we need to hear that. What I kind of sense that I hear, well, you know, FIC is just here and this is what they believe and they're only fighting for what they believe on their side, and this is a, this state's position against a gay rights position as opposed to what Senator McDonald was talking about earlier.

What's the real issue of making certain that we are also protecting the real religious liberties, even when those liberties do not agree with you, and it's divergent.

PETER WOLFGANG: Naturally. I mean, the churches that we have the closest relationships with are the ones who agree with us, and we were here a couple of years ago. Those are the ones we know best.

And you have to remember, those religious bodies who are on the other side of us on same sex marriage were anathema to them. We're like the moral equivalent of racists, so you know, they don't reach out to us a lot. We don't hear from them a lot.

But, you know, there was a Baptist Church out in Southington that ran into some trouble with its bible college, you know, regarding the state government was requiring a bunch of things and we were here supporting them on a bill that was introduced a couple of years ago. I think the whole thing was eventually dealt with in other ways.

But there was legislation here that we were working on to help them on that. There's other religious liberty issues regarding other churches that are similar.

If some church came to us with something similar to the harassment that this Baptist bible college in Southington was experiencing, that would be of interest to us. That would be something we'd take a look at because religious liberty is, you know, we like to support the faith communities that sustain a good civil society.

REP. MORRIS: Peter, thank you very much.

PETER WOLFGANG: Thank you.

SEN. MCDONALD: Thank you very much, Representative Morris. You know, just for the record, I know I can speak for myself and Representative Lawlor and perhaps others of the General Assembly.

I don't highlight or advertise the death threats or physical threats that we've received, so it's not just because we don't do it, it doesn't mean they're not there.

PETER WOLFGANG: I only mentioned it because I got that question, but I figure it's probably a touchy but real topic for all of us who are prominent in this, on this issue.

SEN. MCDONALD: And on both sides.

PETER WOLFGANG: Yeah, on both sides.

SEN. MCDONALD: Thank you. Representative Hamm was next, then Senator McLachlan.

REP. HAMM: Thank you, Mr. Chairman. I either have the advantage or disadvantage of having missed a lot of the conversation earlier in the day, but I wanted to share with you how concerned I was, in fact flat out furious with the tone of the conversations that you were having with Representative Lawlor, primarily.

I think it was really disrespectful and crossed the line. You said at least four times to questions that you weren't happy about having to answer, that you were here to discuss how to implement Kerrigan, Senate Bill Number 899, and that was the agenda for the afternoon.

I don't believe that's why we're here. There's an agenda. There are several published bills and the witnesses are here to assist members of the General Assembly in making decisions about how we're going to vote on those bills.

I understand sometimes it's difficult to be where you are. I remember 20 years ago dating myself, when Representative Tulisano and Representative Wollenberg were the chairs and I was representing a constituency from sitting where you're sitting, and they toasted my butt. I mean, they asked me questions that I just didn't want to hear, didn't have a clue about, but that's what we do in the Judiciary Committee. It's how we make decisions.

I just wanted you to know I was offended. I thought your tone was over the top. There was a lot of snickering going on. It was, you were absolutely disrespectful to our process, and I hope that you've stopped it. Thank you, Mr. Chairman.

SEN. MCDONALD: There wasn't a question but whenever somebody makes a statement I always afford the

witness an opportunity to respond if they would like to.

PETER WOLFGANG: I will only say that, you know, thank you for your comments. I respectfully disagree with them.

SEN. MCDONALD: Senator McLachlan.

SEN. MCLACHLAN: Thank you, Mr. Chair. Mr. Wolfgang, thank you for your testimony today, and I'm glad that you accurately portray how important a discussion is.

I wonder if you could share with us a little more about the point that I brought up before with others and Representative Morris had just talked about also, and that is religious liberties.

You mentioned that there's this term in Hartford known as legislative intent, and that seems to be such a very important aspect of nearly every court decision that in fact, you know, the mystery of language not existing in Connecticut General Statutes, they will go back and look at the legislative intent of the words to create new laws. It's apparently what they do sometimes. And so, but that's part of the judicial process.

So if the legislative intent is oh, so important in everything we do, you made a point about the removal of language with regard to the legislative intent may be construed by the CHRO or "an enterprising judge" that can call into question what it really says.

And so, I wonder if you could elaborate a little bit on that and how that relates to either the lack of, or the assurance of, religious liberties in this case.

PETER WOLFGANG: Well, as I mentioned earlier, this body, this legislative body passed a bill, a law in 2005. When they passed the civil union law they attached an amendment to it, explicitly defining marriage as between a man and a woman.

And yet the Court in 2008 just, you know, by their own authority, created same sex marriage. It's possible that you can, in fact, in their case, in that case it was that they didn't like the legislative, what they read to be the legislative intent, and I think in the current environment in which we live, with the judges, with the Commission on Human Rights and so forth, that we have to be very careful and very explicit that we, especially, and you've heard it much in the discussion today, that you know, to oppose same sex marriage, well, that's the equivalent of racism.

And I think in that sort of political environment, we need to be very, very careful what we pass at the Legislature that something not be read as a legislative intent that some unelected agency head or judge can then take and run with for any other particular cultural agenda.

And my concern is that, I mean, this particular 81r, this particular statute that currently Senate Bill Number 899 would repeal in its totality. I mean, what this statute says is, nothing in the law shall be deemed or construed to mean that the state condones homosexuality, authorizes the promotion of it in the schools or authorizes some sort of quota system that if the Legislature repeals this law saying nothing in the law shall be construed to mean this, that some enterprising judge can say, well, this repeal, I'm going to read that as the

Legislature intending that the law does mean this.

I think in the times that we're living in, and the things that we've seen, I think that's entirely possible. And even, you know, some of the conversation that's occurred in the course of this hearing, those of us who disagree with same sex marriage are the moral and perhaps seen in the legal equivalent of racist. We need to be very alert to that, and that has ramifications.

You asked me about religious liberty. Well, you know, how do we treat racists in the law? I mean, if you're a racist that has legal consequences for you. Bob Jones University lost its tax exempt status because they disapproved of interracial dating or something. There's other situations.

If those of us who are opposed to same sex marriage are considered the legal equivalent of that, then that will have effects on religious liberty.

Dave Reynolds, I think, made a reference to New Jersey. I think it's Cottage Grove where a Methodist Church or organization had a boardwalk pavilion and a lesbian couple wanted to rent it out for their civil union commitment ceremony, and because the Church refused to do that, they lost the tax exempt status over that beachfront pavilion.

These are the things that ought to be avoided. These are some of the reasons why we oppose same sex marriage to begin with. We never came up here and testified, the Family Institute didn't, and said, well, we're up here because homosexuality, whatever it was, Representative Lawlor was quoting Pope Benedict as saying.

We said we have concerns about religious liberty, about what's in the best interest of children, and we're seeing some of this come about in New Jersey and Massachusetts in other places.

And this is, you know, as Representative Morris has said, this is in this democratic deliberative body, this is my opportunity, the opportunity of the public to come before you and say, these are our concerns. Please get out in front of this. Please amend this bill in some way to protect this, to make sure this does not come about.

SEN. MCLACHLAN: Senate Bill Number 899 specifically exempts the clergy and allows them to take a pass on performing same sex marriages. But as I understand it, the First Amendment already provides that protection, but yet we're putting, there's an inclusion of that in the bill, specifically in the bill.

Is that problematic of, you know, all this legislative intent issue that that is included, but many others are excluded?

PETER WOLFGANG: That's an excellent point. I think it could be read that way. And you know, I mean, a lot of times from the people on the other side of this issue, they try to narrow down religious liberty to simply a question of whether the clergy will be forced to perform same sex marriage, and they assure us that no, that will never happen.

And you know, as I testified today and as Dave Reynolds testified, the question of the negative effects of same sex marriage on religious liberty go far beyond just the

question of whether the clergy will be forced to perform same sex weddings.

It can be used as a way of sort of marginalizing and pushing the church or churches, out of the roles that they have traditionally always played in our society since its founding.

So I think your point is very true, that it is problematic the way that's written right now, that it could be read as a legislative intent, that the things that aren't specifically enumerated in there, you know, like justices of the peace and so forth, or these other issues that have come up today regarding religious liberty, are things that can be done.

SEN. MCLACHLAN: And so, you know, as I read the stories that are already out on the Internet about this hearing today, it's being reported that the concern is that florists will not be able to decline services to someone who is having a gay marriage.

I mean, I heard, I guess I heard something about that earlier this morning, but I must have missed that.

I think it's--

PETER WOLFGANG: You mean they wrote the story before I testified?

SEN. MCLACHLAN: No. I think it was someone else that they were writing about. But I guess here was my concern. I've heard a couple of my colleagues sort of whisper in my ear either as they were leaving or out in the hallway, that this discussion sort of ran into a ditch sometime along the day.

And that's alarming to me, because I think that the Chairs of this Committee in their vision of raising this important bill, feel that this is a very important matter.

And in Massachusetts they didn't bother fixing their decision, but in Connecticut, you know, we had a court decision and this Legislature wants to fix it, so it's very important.

And so it's alarming to me that the perception may be that this discussion is running into a ditch. So whatever we can do to steer it back out of the ditch is important if that's the perception, number one.

And number two, I wonder if you think that the Kerrigan decision has altered any rights in Connecticut? Has anyone's rights been enhanced, or has anyone's rights been taken away?

PETER WOLFGANG: The only thing that we know of thus far, in a way in which rights have been altered in Connecticut by the Kerrigan ruling is that one group of people in Connecticut have had their rights taken away, and that's the justices of the peace.

Under the old civil union law from 2005, justices of the peace had a right of conscientious objection. They could refuse to perform civil unions if they so desired.

Under the Kerrigan imposed same sex marriage ruling, they have been told by Attorney General Blumenthal that they no longer have that right.

So meanwhile, same sex couples, you know, the Kerrigan ruling did not confer upon them a single new right, benefit, privilege, that they did not already have under civil unions.

I mean, you've already heard the testimony from some of them. It's more in terms of, well, I feel that I'm affirmed now or something, but there's no actual rights from the state government that's been conferred on them.

It didn't enhance their rights. They didn't get any new rights. What happened was justices of the peace got a right taken away from them, and that's one of the things we'd like to see restored in Section 7.

SEN. MCLACHLAN: Can you expand on your reference to adoptions in Massachusetts? When we talked to Mr. Klein, I think his perception of the Catholic Charities Boston's reasons for their stopping adoption services in Massachusetts, his perception, and what I thought I was reading, was different, and so that's perfectly all right that we can agree to disagree on the perception of it.

But what is your opinion about the adoptions in Massachusetts, and what specific concern do you have regarding the effect of Senate Bill Number 899 as it relates to that here in Connecticut?

PETER WOLFGANG: Well the, regarding adoption in Boston, Mr. Klein is at least partly correct. I'm going on memory here, that Catholic Charities in Boston actually had been providing adoptions to same sex couples.

And as I recall, it was the Bishop, the Archbishop of Boston got wind of it and put a stop to it, and then, and that it was the same sex marriage ruling. I mean, he was under the impression that the earlier gay rights law didn't prevent him from putting a stop to it, but then the same sex marriage.

I think the folks inside the Catholic Church in Massachusetts tell the story differently than Ben Klein did, but I know they were providing it that the Bishop put a stop to it, and that it was related to the same, I recall that it was related to the same sex marriage matter, and I recall that Governor Romney actually was trying to carve out some sort of religious liberty exception for the Catholic Church for the adoptions, that it went nowhere.

And in fact, this was something of an internal debate within the Church. When I say the Church, I include lay activists like myself that, you know, that the Catholic Church could have gone to court over this and won, instead of choosing to quit their adoption business, but the lawyers that they were consulting thought differently, and so they were forced out of the adoption service.

Ben Klein says it was because of another, it was because of a gay rights law and not because of the same sex marriage thing. I thought I remembered it differently but I have to go back and check.

SEN. MCLACHLAN: Thank you. And finally, assuming that changes, amendments can be made to Senate Bill Number 899, do you feel that the Family Institute can be supportive of this measure as we try to move forward?

PETER WOLFGANG: Well, if it was amended to our satisfaction, we would at least drop out opposition of it. I mean, if the amendments that we add were strengthened, you know, put this bill in the position we want it into, support is probably too strong a word, but we would at least drop our opposition of it.

Of course, we're opposed to same sex marriage. We're opposed to the Kerrigan ruling, and we will look for venues and opportunities to address that issue.

But as far as the issue before us, if this, our concern if this goes beyond mere legislative housekeeping, that it goes beyond Kerrigan, and if it was changed to do no more than what Kerrigan absolutely requires, then we would at least drop out opposition.

SEN. MCLACHLAN: Thank you very much.

SEN. MCDONALD: Representative Holder-Winfield.

REP. HOLDER-WINFIELD: Good afternoon again. I have a question. In response to Senator McLachlan, you just said that there's only one group of people who have lost any rights and you referred to justices of the peace.

What rights did they lose?

PETER WOLFGANG: Under the civil union law, unlike the civil union law in Vermont, Connecticut crafted a civil union law that allowed JPs to conscientiously object. If they wanted to, if it violated their conscience, they did not have to perform same sex ceremonies.

REP. HOLDER-WINFIELD: I would think that that would be a privilege. It's not something that I think that everybody would agree you're entitled to, which is more along the lines of a right.

So, I mean, well maybe I should ask you the question. How do you define a right?

PETER WOLFGANG: How do I define a right? Well, I think it's defined in natural law, in the

founding documents of the nation and in common sense and reason.

REP. HOLDER-WINFIELD: How do you define a right? I understand that there are documents we could refer to, but I'm asking you, how would you define a right?

You put forward that certain people lost a right.

PETER WOLFGANG: Rights are something rooted in our nature as human beings.

REP. HOLDER-WINFIELD: Okay.

PETER WOLFGANG: I mean, you're asking me a philosophical question.

REP. HOLDER-WINFIELD: I'm asking you a question to which I would think there would be an answer. If you're going to make an argument about whether rights have been gained or lost, I would assume that you would know what a right is. That's all I'm asking you from your point of view what a right is.

PETER WOLFGANG: I think, well, in regards to the matter of JPs, I think a right is the ability to perform your function without being told by the state that you can only do it by violating your conscience.

I think rights to conscience is a right, not a, you know, not a privilege to not require that your conscience be violated.

REP. HOLDER-WINFIELD: And when it comes to rights, where do my rights end and yours being? Where's that intersection?

PETER WOLFGANG: This is, you know, again, and it comes back to the race thing. This is very important. I despair of my ability to persuade you that justices of the peace not being forced to perform same sex weddings is a right rather than a privilege.

But the fact that you seem okay with the fact that this is something, whether it's a right or a privilege, this is something that's been taken away for justices of the peace, for any members of this Committee, or of the Legislature at large who understand, who agree with me that yeah, something's been taken away here, it shows the need to strengthen Section 7 of the, of Senate Bill Number 899.

Section 7 must be strengthened to restore justices of the peace their ability to have their right of conscience, which I do view as a right and not a privilege.

REP. HOLDER-WINFIELD: I actually ask you questions so that I can actually understand your position. I'm not trying to put forward anything, and it makes it more difficult for me to understand you when you tell me what I think.

So I'm asking you--

PETER WOLFGANG: I gathered from your line of questioning that you viewed it as a privilege. If I was mistaken, I apologize.

REP. HOLDEN-WINFIELD: I'm asking you to explain to me what you see as a right, and my understanding of what a right and a privilege is may be incorrect, so when I ask you, that is actually an opportunity for you to provide to me, perhaps I could be wrong. I believe that I can be wrong. It's an opportunity for you to

clarify for me, and it makes it very difficult for me to understand your position when it seems that you're not very intent on answering a lot of the questions being asked.

PETER WOLFGANG: A right is, you know, I would be repeating what I've said at this point. A right is something rooted in our nature as human beings. It would include the right of conscience, the right of religious liberty and not being forced to do things that violate your religious beliefs just in order to perform a function in society.

REP. HOLDEN-WINFIELD: Do you believe that's absolute? So if something that falls within the way you described a right could cause harm, so there are limits to rights, correct?

PETER WOLFGANG: Yes.

REP. HOLDEN-WINFIELD: And so in terms of where rights abut, you would say that there are limits there to a point. There are points at which there are limits to one's rights.

I'm not trying, I'm actually trying to understand, whether you understand that or not. I'm actually really trying to understand where you're coming from.

So my question is, you do believe that there are limits when the two rights sometimes abut.

PETER WOLFGANG: Yes.

REP. HOLDEN-WINFIELD: And in this case, you may not be able to do this, but in this case, where would you see that point? And it's fine if you can't do it, but I'm just trying to get--

PETER WOLFGANG: Okay. It wouldn't be the case, for instance, and understand where I'm coming from. I mean, to me, well, frankly, there is no such thing as a right to redefine marriage, which is what has happened here.

Now, our opponents believe that there is, that there is this right to same sex marriage, and so as they see it, now they have this right that's been given to them.

And on this question of, you know, different rights abutting, that's the first thing that needs to be said about where we disagree, because I don't see an abutting of rights, but even accepting that line of viewing it, no same sex couple would somehow not be able to get married if justices of the peace were given their rights in conscience not to be forced to perform it.

There's always going to be someone who, out there, who would be willing to perform it for them. So I don't think it would be too much of a hardship on them to say, to allow justices of the peace their right not to perform same sex marriages.

This Legislature decided it wasn't too much of a hardship when they passed the civil union bill, and they included that right of objection.

REP. HOLDER-WINFIELD: Final question. Just once more so I actually understand. You said you don't see it as a right, and I can understand that you might not see that, so I guess my question to you is, in terms of how we operate civilly, where do rights come from?

PETER WOLFGANG: Rights are rooted in our nature as human beings. They're defined explicitly in

the founding documents of the nation and the Constitution of the United States, the Declaration of Independence, and that nature and nature's laws as Thomas Jefferson put it in the Declaration of Independence.

REP. HOLDER-WINFIELD: Okay, thank you.

REP. LAWLOR: Further questions? Senator Gomes.

SEN. GOMES: I just have one question, I hope. Being a justice of the peace, evidently that's, you know, that's sort of a patronage job. They just pass them out to people at election time.

But there are certain rules that govern a justice of the peace. Where, you cannot take something away from somebody that they don't have. Could you show me where a justice of the peace had the right to not perform, to not perform a marriage in their job, in the makeup of the job as a justice of the peace.

PETER WOLFGANG: Well, this is one of the problems with what happens when marriage is redefined and why it should not have been.

They had a right to decline to perform same sex civil unions.

SEN. GOMES: Where?

PETER WOLFGANG: It was in the civil union law that was passed by this Legislature.

SEN. GOMES: But prior--

PETER WOLFGANG: A right I guess you could say that was granted by this body.

SEN. GOMES: Prior to that, the rights that you're talking about, where did they come from other than the law?

PETER WOLFGANG: Rights come from our nature as human beings, from the Declaration of Independence, the Constitution of the United States, nature and nature's laws. Thomas Jefferson said it in the Declaration of Independence.

SEN. GOMES: Well, one of those things that will overrule your right is some specific job you might have, and there are rules that overrule your rights, too.

You don't always have that specific inherent right on any job that you work. Do you agree to that?

PETER WOLFGANG: This comes back to Maggie Gallagher's big idea from two years ago. If you create same sex marriage, which the Kerrigan Court has now done here in Connecticut, there's an inevitable clash between marriage and religious liberty, where, you know, you're now saying that because of same sex marriage, that folks of traditional values, traditional beliefs are being pushed out of something that they had before, that they can no longer be justices of the peace without violating their conscience.

I disagree with that. I don't think the Court mandates it, and I think Senate Bill Number 899 should be changed to protect that.

SEN. GOMES: You just answered something that you said that I said, I don't know if anybody in here ever heard me say all of what you just said.

I asked you, I asked you, do certain jobs that you have overrule, if they have rules on a job, overrule your rights for you to do anything you want to do?

PETER WOLFGANG: Yeah. I mean, I agree with that in principle. I don't agree with how you're applying the principle and what I take to be your question.

SEN. GOMES: Well you, well, I didn't apply it. When I asked you the question I didn't apply it to same sex marriage. I just applied, I just asked you the question according to the rules that on jobs, or rules for anything, whether you're in a school, whether you're in a university, whether you're on the job or whatever, there are certain rules that overrule your right to do whatever you want to do.

PETER WOLFGANG: Yes, Senator.

SEN. GOMES: Right. Thank you.

REP. LAWLOR: Further questions? Representative Morris.

REP. MORRIS: Thank you, Mr. Chairman, and for the last time. As far as JPs piece okay, I thank you for clarifying for us what you perceive has been taken away in terms of justices of the peace rights, and we got this whole rights piece.

So I just want to restate what I think I'm hearing, and you tell me a yes or no if I'm correct.

What I conclude that you're saying, the right that JPs had was one that was statutorily given to them by this Legislature with the civil union bill. Is that correct?

PETER WOLFGANG: Yes.

REP. MORRIS: But I also may hear, and this one I need you to elaborate a little further on. Before I ask that, I do not hear you saying that the Legislature doesn't have the right to take that away from them. Am I correct? You're just stating that to go forward and do this, they will lose that right? Am I correct?

PETER WOLFGANG: Well, just to be clear. The Kerrigan ruling.

REP. MORRIS: No, no, be clear. All my question has to do with is, are you saying that, are you denying that the Legislature does have the right to take away what we gave?

PETER WOLFGANG: Yes.

REP. MORRIS: Okay. We certainly have the right to do it.

PETER WOLFGANG: Yes.

REP. MORRIS: But you're not arguing the fact that whether we have the right, you're just making it clear that if we do this the way we're doing it right now without amending the language, that right that we guarantee under the civil unions bill will be lost?

PETER WOLFGANG: Yes. They'll be deprived of.

REP. MORRIS: Okay. I'm going to have to go a little further to another right. So we've dealt with this. We statutorily gave it to them.

The right as I understand it from you goes to our larger conversation that we've had in terms

of religious freedom. Why, as I heard you say it, I think we gave them the right not to perform a civil ceremony for their religious conviction. Is that correct?

PETER WOLFGANG: You know, I have to go back and, I'm trying to describe it in terms of conscience. I'd have to go back and read the actual discussion that took place on the floor of the House and the Senate when that, to what extent it was about religious liberty or just conscience, you know, right of conscience in general, but it's, you know, it tends to all hang together.

REP. MORRIS: Okay. Well, even if it was just right of conscience, you don't remember what the debate was about on the floor, because to me that's meaningful.

If we made that exception, there had to be some valid reason, and if religious liberties or conscience was considered then, I personally have a question why we're not considering that now.

PETER WOLFGANG: Right.

REP. MORRIS: That's why I need you to help me with this. Right.

PETER WOLFGANG: That's a great point, and you know, I only want to add, too, that you know, the Kerrigan decision, there's nothing explicitly in there that requires that this right be taken away from justices of the peace. It was the Attorney General's interpretation of it afterwards.

But you know, your specific question to me is, well, what was, you know, we're back to legislative intent again--

REP. MORRIS: Yeah, logic.

PETER WOLFGANG: What was the legislative intent of this right that was given the justices of the peace in the civil union law, and see, I'd like to make sure I have all my facts straight before I say something, and I would have to go back and check the actual testimony, I mean, you know, the transcripts of what took place on the floor of the House and the Senate, but I would be very surprised if religious liberty was not a big part of it.

REP. MORRIS: Okay, thank you very much, because certainly we respect the Attorney General as well, but recognize it was an opinion so, and it certainly wasn't challenged under the civil union law, so that's why I'm following this line of questioning. Thank you very much.

PETER WOLFGANG: Thank you.

REP. LAWLOR: Further questions? If not, thank you very much.

PETER WOLFGANG: Thank you, Representative.

REP. LAWLOR: Next is Patrick Doyle. Mr. Doyle, please, and then, is Sean Glenn still here? Sean Glenn? Okay, you'll be next, Sean. And then Reverend Pawelek. Is Reverend Pawelek still here?

PATRICK DOYLE: Good afternoon, Representative Lawlor and members of the Judiciary Committee. My name is Patrick Doyle and I'm the Education Manager at the Civil Liberties Union of Connecticut, and I'm here today to express our support of Raised Senate Bill Number 1056 An Act Concerning Students' Right To Free Speech.

OBADIAH BALLINGER: Good evening, Representative Lawlor and members of the Judiciary Committee. Our names are Obadiah Ballinger and Javen Swanson. We live in New Haven and are engaged to be married.

We strongly urge your support of Senate Bill Number 899 implementing marriage equality for same sex couples.

We met at Yale Divinity School in 2006 and discovered that we have much in common. Both of us grew up in rural Minnesota communities, attended church affiliated colleges and went to seminary with the full support of our families and our faith communities.
We're both pursuing ordination in ministry in Christian denominations.

Our life together reflects this pastoral preparation. We first met studying biblical Greek. We practice our sermons with each other on Saturday nights, and we plan for a big church wedding this May in the Divinity School Chapel.

As people of faith, we believe in the importance of marriage and family life. We understand marriage to be a sacred covenant between two people blessed by God and recognized by the community.

We know also that marriage has a secular dimension. It's supported with special benefits according to civil law. These are designed to weave together a social network that supports a couple and whatever children grow up in their care.

These governmental privileges and responsibilities, which you oversee as Legislators, help to hold families together.

Though we happen to be gay, we ask to be treated like every heterosexual couple also preparing for their wedding day. We're delighted to know that our marriage will have true equality in Connecticut.

Civil unions have been a helpful attempt to extend governmental benefits and responsibilities to same sex couples, but they have at the same time denied true equality.

Civil unions cannot hope to capture the centuries of culture and tradition wrapped up in the word marriage however identical the legislative provisions might be.

We're pleased that this bill will end the division between the two categories and consider married, all loving couples that enter into covenant together.

We have been called by God into a relationship with each other and will marry before God and a supportive community. Recognizing that some religious communities will choose not to lend their support to full marriage equality, we appreciate the freedom of religion recognized in this bill permitting some faith communities to dissent.

With this legislation, which treats us as full and equal citizens, our religious covenant will carry with it the complete rights and responsibilities of the law.

We ask you to support this bill to implement equal protection and make our joy complete. Thank you.

REP. LAWLOR: Thanks to both of you and congratulations. It's something to be admired

and congratulations on having established this relationship.

Just out of curiosity, since you're planning your wedding, have you had any problems finding a photographer or florist or anything?

OBADIAH BALLINGER: We've been delighted to find very helpful people wherever we've looked. Most of them are our friends and members of the community and in the wedding service industry have been very supportive and thankful for our business.

REP. LAWLOR: Well, that's great. That would be my sense. I asked earlier, there was a couple here earlier who had been together for 33 years, and I asked them had they encountered any wait staff or anybody that had ever sort of refused to serve them or provide a service because they perceived them to be a gay couple of whatever.

Since you're a relatively recent couple and younger and probably travel in different circles, have you had that experience as a couple yet in Connecticut?

OBADIAH BALLINGER: Not really. We've been very lucky. I would say that there's a certain amount of, when you go out to each, the waiter doesn't always know who to give the bill to.

There are certain things that still put us in an awkward position time to time, but we haven't experienced this type of discrimination that was mentioned earlier.

REP. LAWLOR: And I guess in many ways it's, times are changing quite a bit and I think that that couple mentioned that was a few years ago that that took place.

And you're divinity students. Obviously, you've given a lot of thought to these things, and I'm sure you talk to members of the clergy and people of faith all the time.

How do you sense the evolution of thinking among people of faith on the topic of gay marriage, same sex couples? I mean, have you seen a change over the past three or four years? I know you're new to Connecticut. Maybe it's a different context here altogether, but I'm curious of your impressions.

OBADIAH BALLINGER: My particular tradition in the United Church of Christ has wrestled with this for decades but has seen in its own life together, our denomination has seen progression toward greater openness and inclusivity, and wanting to use the same standards of behavior to recognize and hold same sex couples to the same standards that we hold heterosexual couples to.

So I was at the National Church Conference in 2005 where our Church took the step at the national setting to support marriage equality.

But in my experience, and in speaking with other people of faith, there is a general progression toward more openness and inclusivity toward equality for gay and lesbian people.

REP. LAWLOR: This was the national meeting in Hartford that you're referring to?

OBADIAH BALLINGER: No. This was actually a national meeting two years earlier in 2005 in Atlanta.

REP. LAWLOR: Did you go to the meeting in Hartford?

OBADIAH BALLINGER: I did, yes.

REP. LAWLOR: Did you hear Barack Obama's speech?

OBADIAH BALLINGER: I did, yes. We did.

REP. LAWLOR: Oh, great.

JAVEN SWANSON: And I would echo most of what he said. I'm actually a Lutheran. I'm a member of the Evangelical Lutheran Church of America, and we are in the process right now of the conclusion of an eight-year process of studying sexuality, which has actually been going on for the entire life of our Church studying homosexuality.

And we're just into the point of voting on a social statement on sexuality and some recommendations for a ministry, which would potentially open up our denomination to the possibility of same sex marriage recognized by the Lutheran Church, and the possibility of ordaining gay people in committed relationships.

REP. LAWLOR: And as this process unfolds in each of the two churches, I mean, have you personally noticed that people's points of view evolve over time, and do you know people who used to think one way and now switched their thinking a little bit, or evolved at least?

JAVEN SWANSON: Yeah, I mean, I know, just speaking from a Lutheran position that each church-wide assembly, we have an assembly every two years, each time the vote gets a little closer, and so I know that just looking at that measure, it is, things are changing.

I do know that in my own world, Minnesota congregation, as I started coming out, people in the congregation when they realize that they know someone who is gay, it really transforms them, or at least causes them to wrestle a lot with the issue.

So I think that as more and more gay people come out and continue to be more public about living their life, I think it does have an impact on people.

REP. LAWLOR: It seems like that's a universal phenomenon, right?

JAVEN SWANSON: Yes.

REP. LAWLOR: The more, and if you know somebody it's different, right? That's interesting. You know, the United Church of Christ, you may know this, but it used to be the official religion of the State of Connecticut. Did you know that?

JAVEN SWANSON: I do know that.

REP. LAWLOR: And we wouldn't be having this discussion if had, the church would have made the decision for us and it would have been over--

JAVEN SWANSON: We'd be talking about different things.

REP. LAWLOR: That's right. Now we wait for the Court to do it. So, anyway, well, thank you very much. Are there further questions? Representative Dillon.

REP. DILLON: I just wanted to welcome you as a fellow New Havener, and I guess the Chair asked you about changes in terms of attitudes.

You're both from rural Minnesota. Do you plan to settle here in Connecticut or go back to Minnesota and do you see a difference regionally or rural urban?

OBADIAH BALLINGER: We expect probably to move closer to our families back in Minnesota at some point, and the differences between urban and rural, I mean, I would say there are differences, but you're going to find people who are more, we know people who are very accepting who live in a rural context and certainly not everyone who lives in an urban setting is going to be fully on board with marriage equality.

So you can make some generalizations, but it would be painful to pinpoint those specific people to stereotype too much.

JAVEN SWANSON: And speaking regionally, too, just in terms of east coast versus upper mid-west, it's definitely different. It's a different climate here, for sure, and I think that just my experience at Yale Divinity School I know very few classmates who do not support us, and those who don't aren't particularly vocal about it.

And I know that it's much more difficult to be in our position at seminary and the mid-west. So I do know that that's a regional difference is big.

REP. DILLON: Thanks for coming all the way up here. That's nice, and waiting so long.

JAVEN SWANSON: Thank you.

REP. LAWLOR: Representative Holder-Winfield.

REP. HOLDER-WINFIELD: I just want to welcome you, too, especially considering that you helped me with my campaign.

REP. LAWLOR: There you go.

REP. HOLDER-WINFIELD: I just wanted to say that.

JAVEN SWANSON: You're welcome.

REP. LAWLOR: So you can go home, now.

JAVEN SWANSON: We're happy you were successful.

REP. HOLDER-WINFIELD: Thank you.

REP. LAWLOR: Thank you. Are there further questions? If not, thanks to both of you. Thanks for staying all day. You picked a relatively low number. You thought you'd be out the door by 3:00, I'm sure. Right?

Next is Laura Gordon. Is Laura still here? Ethel Sorokin? Andrew Zwick? And as you're coming up, Mr. Zwick, let me just see if the next few folks are here so we'll know who's next. Pat Avallone? Pat, okay, you'll be next.

And then Kate Bartos. Is Kate still here? Tom Ude. Tom's still here. So it will be Mr. Zwick, Miss Avallone and Mr. Ude. Katie Bartos? She'll be next if she's still here. Go ahead, Mr. Zwick. Mr. Zwick is Number 71. Go ahead, I'm sorry.

ANDREW ZWICK: My name is Andrew Zwick and I'm here today to oppose Senate Bill Number 899. I feel that we're in an ever-deepening recession right now and the Governor has asked us to share the price to balance the budget, I'm wondering what are the financial impacts of this bill on the

state as a whole, the actual, the implied, the collateral financial cost to the taxpayer.

The state has eliminated various commissions to balance the budget, such as the Commission for Women, the Commission for Hispanics and the Aging Commission, as well as for the elderly, and I'm wondering if we cannot afford to pass this bill in light of what's going on with the economic climate.

REP. LAWLOR: I don't believe it actually costs anything.

ANDREW ZWICK: Not for implementing it or for the additional cost of, like we've had some discussions today here on education if it came into our school systems. Who will do the teaching? Will it be in the classrooms?

REP. LAWLOR: It doesn't require anything like that. It's eliminating some language that's in the statutes, like the civil unions. I mean, it might save some money to get rid of the whole civil union status. Right now it still exits so to get rid of all those forms and all that extra stuff. So apart from that, I don't think it changes anything in terms of money.

ANDREW ZWICK: Okay, for the bill right now, but what about the implications in the future?

REP. LAWLOR: Well, those would have to be separate bills in the future. We'd have to pass a bill if anybody wanted to do anything other than this.

ANDREW ZWICK: But that's eventually going to be coming down the pike.

REP. LAWLOR: But that will be up to our future Legislators, the Legislature, to decide whether to vote for or against the bill.

Each of the bills we consider has a fiscal note prepared by the nonpartisan Office of Fiscal Analysis that figures these things out.

I think when they do the civil union bill, they actually determined they would actually make money because more people would be paying the marriage tax and stuff like that, so. Of course, all the weddings and taxes that are generated through those ceremonies and things like that.

So I think the old fiscal note was that we would actually make money doing it, but this doesn't change anything.

ANDREW ZWICK: Well, those were the comments that I have for tonight.

REP. LAWLOR: Okay. Well, thank you very much for waiting today. Mr. Avallone. Is Kate Bartos back now?

KATE BARTOS: Yes.

REP. LAWLRO: Okay. You'll be next ma'am, and then Tom Ude, then is Beth Kerrigan still here? Yeah, okay.

PAT AVALLONE: Thank you so much, and my name is Pat Avallone. I'm opposed to the bill, Senate Bill Number 899. I just have a few comments, especially on Number 15, which defines as no man may marry his mother, grandmother, daughter, granddaughter, sister, niece, stepmother or stepdaughter, and no woman may marry her father, grandfather, son, grandson, uncle, nephew, step-father or step-son.

Now, as we define these words, because see, words mean a lot, and the (inaudible) of the words will make or break a person.

Now it speaks about no person may marry such a person, parent. Now, taking away from a father and a mother, this would specify it as parents.

Grandparents, taking away a grandfather and a grandmother it redefines what a grandfather and a grandmother means.

A child, it redefines what a son and a daughter means. Grandchild, again, redefines what a son and a daughter means. Siblings, it also redefines children, you know, parents of siblings, sibling child, step-parents or step-child and marriage within this degree is void.

I would say that marriage within the degree of you know, of a mother or a father or sister or brother, you know, nephew and son. Also, when you transform what we have held initially from the beginning of time as father and mother and you use a transforming word, it makes it very easy to pass an agenda, an idea, because that idea that has been passed, it is not given by, as I believe, the Creator God, but has been given by thoughts and minds of human beings that like me, at one particular time fell into sin.

I, myself, was a sinner, and I thank God, I thank God that he came into my life and he saved me. He brought me through by his precious blood.

Is he able to save this agenda also of marrying between men and men and women and women? I believe he could. I believe that he could bring through any of the gay, as you want to

call them, homosexual, lesbians, to understand what the true value of life is.

The value of life is not between a man and a man and a woman and a woman. The value of life is between a man and a woman. Without that, you get no creation.

Now, I just wanted to bring up a few more points. To determine, when you have a baby, how do you determine what that baby is? Is he a boy or is he a girl, or would you determine him as what, as an it until you wait until he grows up to find out his sexual origins or what he is like?

I mean, this is truly against humanity. It's against nature of what is going on. I mean, I'm speaking up not by anger, by righteousness, I'm speaking. I'm speaking up because I believe in my belief, and truly, as I said, the Lord has opened my mind and my eyes to see the truth in the spiritual world.

Well, let me just bring it forth. Are the demon spirits are taking over our world. I'd like to speak up because I really don't like demon spirits. I don't fight against flesh and blood, against principalities of the dark world.

So what I was going to bring to you also, it was by changing these words, right, now you could determine a mother is no more a mother but is a parent and a father is no more a father but it's a parent. So it could be either a father, two fathers and two mothers would be just fine as the parents.

Or, as a child you'd call them a sibling or you could call them a child, and it would not certainly mean that it's a boy or a girl.

So the agenda of having the nature of boy and girl it is lost by the thoughts and ideas of sinful mankind.

Now, is God able to save all? Yes, he is. Does God like what's going on? No, he doesn't. I mean, I'd like to answer some of the questions that you had proposed to some of the other gentleman that were up here.

God thinks it's an abomination unto him, an abomination, and I have nothing against people, but I have something against the acts of what people do.

Of course, I'm not going to go, I'm going to love them anyways. I truly believe that I could tell them about the Lord and you can change anybody's heart, and that goes, that went for me and it goes for my extended family, for anybody that wants to accept Jesus Christ, the Kind of King and the Lord of Lords, the one that is able to save sinned men. He's able to save me. He's able to save you, and anyone who wants to accept him, and he will give you a new revelation.

Of course in this, nowadays, I mean, everything looks so great now, we could have implementation of seeds, you know, we could have an incubation so you know, babies are, but I have a question.

If we place, and this is all in hypotheses, which it could be, if we place two men on an island and two women on an island and a man and a woman on another island, which of those do you think are going to live and reproduce? That is my question to the agenda and the idea that certain people of this world have and not seeing that it's a destruction in life. It's a

destruction in the belief of a human race and a naturally, also into a natural implementation of man and woman.

This is what I wanted to speak up.

REP. LAWLOR: Thank you very much.

PAT AVALLONE: You're welcome. We thank you so much for your hearing.

REP. LAWLOR: No problem. Any questions? If not, thank you. Next is Kate Bartos.

KATE BARTOS: Good evening. I'm here to say that I am opposed to Senate Bill Number 899. I'm not here to complain about the economy or the greed that got us to the economic crisis. I'm not here to ask for support for our military or our veterans, which I think is incredibly important, but I'm here for something that is even more crucial and basic and I truly wish I were not here.

I believe that marriage is between one man and one woman and it's a basic building block of society, and that children deserve the protection of their two biological parents. Life has been this way since Adam and Eve.

After watching and questioning of the people and, the people giving testimony this morning and throughout the day, you'll see that I respectfully disagree with many of the members of the Committee.

Frankly, as a citizen, I felt that the State Judiciary hijacked the will of the majority of the people, of the citizens of the State of Connecticut last fall when they declared the civil union bill unconstitutional and created this mess that we are in now, and I say that

with all due respect although I know it's a strong statement. It's my opinion and I'm very grieved to have this situation in our state.

The majority of the citizens in this state do not condone the gay lifestyle, but they accept is as an expression of free will.

The majority of people strongly oppose the promotion of the teaching of the gay lifestyle in our schools, exposing our children to harmful behavior.

If you doubt that being gay is harmful, then just go to the National Institute of Health on the web and just search death statistics of homosexuals. The medical studies are astounding and very sad. The first answer I found this morning, and I've done it before, so I just think random answers will work fine said that quote, Surveys suggested that the median age of death for homosexuals is less than 50 years old.

Four contemporary data bases were used. Number one, obituaries in the Homosexual Press from 1993 to 1997 reflected treatment success for those with AIDS but suggested a median age of death less than 50 years.

Number two, two random, two large random sexuality studies in 1994, one in the U.S.A. and the other in Britain, yielded results consistent with the median age of death for homosexuals of less than 50 years.

Number three, the median age of those ever married in Denmark, Sweden and Norway was about 50 years, while that of the ever homosexually partnered, anyone who had ever had a homosexual partner, was about 40 years.

Further, the traditionally married were about five times more apt to be old, and four times less apt to be widowed young.

And number four, IV drug abusers and homosexuals taking HIV tests in Colorado had almost identical age distribution. The four lines of evidence were consistent with previous findings suggested that homosexual activity may be associated with a life span shortened by 20 to 30 years, unquote.

I suggest that you do it yourself, fellow citizens, in the privacy of your own home, go to the National Institute of Health website yourself. We are being deceived. Why would we want to sanction, never mind condone a lifestyle that shortens life 20 to 30 years?

Why would we want to expose our children to this danger? We might as well teach them to go out and smoke and take drugs. Love compels us to protect our children and our loved ones and our fellow citizens from danger.

Why would we as a state want to establish this dangerous lifestyle as a specific and separate culture of classification in society?

Did you catch that last study? IV drug abusers had almost identical AIDS distributions with homosexuals. It's very heartbreaking.

As a taxpayer and a parent and a pastor, I believe that marriage between one man and one woman should be protected. So do the majority of people in this state and this country.

Look, even getting a driver's license is protected. You have to be 16. You must have adequate vision probably to see the road and

the signs and the other cars, and you have to pass the test.

We're not violating anyone's civil rights for people who don't qualify for a driver's license. We're not violating anyone's civil rights for having a few basic requirements for getting married, like satisfying the biological requirement of being designed to have children and to continue our society.

Section 17 must be amended to protect children and families and to protect religious liberty in this state as one of the most basic liberties in our society. Thank you.

REP. LAWLOR: Thank you very much. Are there questions? If not, thank you. Tom Ude and Beth Kerrigan. Is Chris Powell still here? How about Don Shubert. Is Don here? Okay, sorry, all right. You'll be after Miss Kerrigan.

Before you start, Tom, let me just, I want to go through the remaining names, just so we get a general idea of who's left to testify, okay? So Darlene Capson? Is Darlene still here? Jane Ferrall? Joe Maisano? Conrad Seifert? Jim Hanley? Sharon Emmons and Mary Roche? Maureen Murphy? She's still here. Ed Gavin? Beverly Prager? Jeannine Marson? Paul Brady? Minh Leu.

MINH LEU: Yes.

REP. LAWLOR: Okay. Tom Casey? Amy Miller? Don Noel? Mike Fitzpatrick? David Collins? Mary Elizabeth-hager Dixon?

MARY ELIZABETH HAGER DIXON: Yes.

REP. LAWLOR: John Curry? John Friedlander?

DEBBY FRIEDLANDER: Yes.

REP. LAWLOR: Art Arpin? Dave Cameron? Dennis Carrithers?

DENNIS CARRITHERS: Yes.

REP. LAWLOR: Jennifer Zito? Rosemarie Lewis?

ROSEMARIE LEWIS: Yes.

REP. LAWLOR: Jan Guaraino-Rhone? Ally Segar?

ALLY SEGAR: Yes.

REP. LAWLOR: Is there anyone else who plans on testifying I didn't call? I know, but is anybody here that signed up other than the names I called? Okay. All right. Thank you. Go ahead, Tom, I'm sorry.

TOM UDE: That's all right. Thank you, Representative Lawlor and members of the Committee for this opportunity to speak. My name is Thomas Ude, Jr. and I'm a senior staff attorney with Lambda Legal Defense and Education Fund.

Lambda Legal is a national organization dedicated to the, dedicated toward achieving full recognition of the civil rights, lesbian, gay men, bisexuals, transgender people and those with HIV throughout the Untied States.

We've been involved in, either as counsel or amicus, friend of the court, in marriage cases, in marriage recognition cases throughout the country, and I, we support Raised Senate Bill Number 899 in its entirety for a number of reasons.

One is that marriage recognition is an increasingly and relationship recognition, I should say, is an increasingly complicated matter, particularly for same sex couples.

A lot of jurisdictions recognize, some recognize marriage. Actually only two states in the United States right now. Some recognize relationships by other names and some don't recognize them at all.

And for couples, unless they're going to stay entirely within the confines of one state, they need to know that their relationship is going to be recognized elsewhere, and I think Sections 1 and 2 of this bill are an important step toward doing that.

I also want to talk about some of the other issues that this bill addresses. Some of these have already been talked about. I did submit written testimony. I'm not going to read that into the record because I think it's already there, obviously.

But what it does, and I think the title of the bill is important, because it emphasizes that this is implementing the equal protection guarantee under the State Constitution.

It's not just the Kerrigan decision although the Kerrigan decision clearly had a lot of important things to say about those rights, particularly as they affect lesbians and gay men.

It resolves issues of what are now extra rights. Right now, lesbians and gay men have a choice, civil union or marriage, which heterosexuals do not have. This clears up the law and straightens things out in that regard by resolving it, providing an orderly process

for civil unions to be transitioned into marriage, recognizes and respects the relationships that existed while they were civil unions as well as marriage.

There is still one issue that I don't know how it could be addressed, which has to do with relationships such as the one that we heard about earlier today of more than 30 years where there was no opportunity for legal recognition, but there are some things that are a little beyond the scope of this bill.

It gets rid of several provisions in the law that are no longer true, which are provisions that define marriage, and it also, and this shows up in particular Section 17, which there's been a lot of discussion of.

It gets rid of provisions that the State Supreme Court said served no real function other than to stigmatize gay men and lesbians by declaring them in one way or another as being less equal, less than equal to, excuse me, heterosexuals.

Each of the provisions that are in 46a-81r are unique to gay men and lesbians. None of them exist for any of the other categories of discrimination, the other traits or characteristics that are covered by the anti-discrimination laws in this state.

It's inconsistent with the State Constitution's equal protection guarantee to continue that, and I would also submit that any additional protection beyond what is currently provided for with respect to clergy declining to perform particular ceremonies, any further extension of that that was unique to gay men and lesbians would also violate the State Constitution, and would be inconsistent with the decision in

Kerrigan, which found that gay and lesbians have historically been discriminated against and that any law that singles them out for different, less favorable treatment has to be very carefully examined in order to make sure it's not just carrying forward old prejudices.

The last thing I want to mention is that I did earlier actually look up the definition of condone in Merriam-Webster's online dictionary, anyway, and what it means is to regard or treat, and then it has in parenthesis, something bad or blame worthy as acceptable, forgivable or harmless, and it's synonym is excuse.

And I think that the strength of this bill is that it clearly and unequivocally sends, clarifies, a number of statutes that have codified inequality into our law and makes them, makes gays and lesbians and heterosexuals equal.

So we urge your support and appreciate all of the work that this body has done throughout the years.

And I would just add on a personal note, I, the gay rights bill that was passed back in 1991 was, had a huge impact in my life because it allowed me to be out and be who I was when I was at work, when I was out at restaurants and other places, and in other areas of my life.

So I just want to add my voice to those who emphasize the importance of the various advances that have been made over the years.

REP. LAWLOR: Thank you, Tom. There's no question that these deliberations have the ultimate effect of sending a clear message to gay and lesbian kids around the state, and I think in

many ways it seems like what some people are afraid of, but in a very real way for a lot of the kids struggling with the prejudice that's out there. The laws can sometimes be very helpful, so appreciate that.

And you know, this has been happening both in Legislatures and in the courts, and I know the organization you work with in the Lambda Legal has been in the forefront all the way in fighting for people's rights in this regard, so thank you for doing that.

Are there any other questions? Representative Dillon.

REP. DILLON: Just welcome, and as your former State Representative, although you still have the mark. I'm just glad to see you.

TOM UDE: Thank you.

REP. LAWLOR: Further questions? If not, thank you. Thank you, Tom.

TOM UDE: Thank you very much.

REP. LAWLOR: Beth Kerrigan. Beth, did you testify earlier? I heard your name come up lots of times earlier.

BETH KERRIGAN: You stole my line.

REP. LAWLOR: I'm sorry.

BETH KERRIGAN: Okay. It is, indeed, a pleasure to come before you to continue the discussion of equality in support of Senate Bill Number 899.

My name is Beth Kerrigan. My partner of 15 years is Joanne Mock, and unfortunately she

left a long time ago to go back to work at The Hartford and now has since picked up the boys.

Together we are raising our two beautiful energetic seven-year-old twin sons, Fernando and Carlos who attend first grade at Whiting Lane School in West Hartford.

I probably stand before you as one of the plaintiff couples, thankful to be part of the Supreme Court case, which was successful in winning the right for same sex couples to marry in the State of Connecticut.

I am thankful and appreciative of the work of this Legislature in moving equality forward, and I trust, as Senator Kissel stated, that the Legislature would have delivered marriage equality.

That being said, I do take great pride having my name as part of such an important decision, and I think I've heard my name more times today that I probably have in my entire life.

After the decision, we received so many congratulatory comments, whether in grocery stores, walking around, cards, and I'd like to take a moment just to read one. It's from Ann Mangiola in Wethersfield, Connecticut, who I have no idea who it is, but it says, Sunday, October 12, 2008 to Joannie and Beth, as a Catholic Italian of 73 plus years, four children, 10 grandchildren, three and a half great-grandchildren, I must say I am so glad that you're not doing that stinking chicken dance at your wedding. Yahoo. God bless you and stay strong. Sincerely, Ann Marie.

The morning that we got the word that the decision was going to be announced, we discussed not telling our sons if it was not a

decision in our favor, realizing that the disappointment would be hard for them. How could we possibly explain to them why their parents could not share in the tradition of marriage?

Together, Jody and I frantically read the decision on the computer, not knowing what the outcome would be, we called GLAD who confirmed we had won. Immediately, we embraced, cried, ecstatic, that finally our family had gained the recognition, the status, that all the families we knew enjoyed.

We were also relieved not to have to explain to our boys why their parents, who love and commit their lives to their well-being and happiness, couldn't be married.

We walked into the front office of Whiting Lane School to pick up the boys and share the good news with them. The staff, including the principal, showered us with heartfelt congratulations. The boys were overjoyed and asked if they were going to go get their wedding suits on, thinking that we were going to get married that day.

We headed to Hartford to celebrate. When asked after the day's events if we needed our parking lot ticket validated, I had responded we had just been validated. The Supreme Court said we were equal and deserving of the right to marry.

Words cannot express the overwhelming feelings of gratitude and joy we felt the day we witnessed Judge Silbert signing his name to a document that would allow Jody and I to join in marriage for the first time in our lives.

Later that day, our boys accompanied us to West Hartford Town Hall to apply for our marriage

license, a day we'll never forget. We are both proud and thankful to live in the State of Connecticut where equality also lives.

As a committed same sex couple raising children, we urge the Legislature to support this bill in order to tie together the loose ends remaining from the Supreme Court decision. Thank you.

REP. LAWLOR: Well, thanks. And I guess, I'm not sure what questions to ask, but maybe the best one is, because so much, we've really been talking about this in the Legislature for 10 years, and just my own experience here talking to the Legislators, people's minds have changed so much, and I think you recounted a couple of stories of people who have sent you congratulatory messages, and it kind of sounds like that.

But, I mean, do you have that sense? I mean, a lot of people must talk to you about this, I mean, your co-workers, your extended family, your neighbors, people you run into. I mean, do you get a sense that people's minds are changing?

BETH KERRIGAN: Oh, without a doubt. Absolutely. And this whole case has prompted conversations that never would have taken place before, you know, in our schools, in our neighborhoods, absolutely.

REP. LAWLOR: How about that question of discrimination, because you know, one of the suggestions that's been made is we should carve out some type of an exception, where in essence that people felt like a strong religious view, that they might be able to deny you certain types of public accommodations, like for

example, participate in you know, the photographer at your wedding or whatever.

Have you encountered people who said that because you're a same sex couple that they just couldn't deal with you or wouldn't deal with you? Any experiences like that?

BETH KERRIGAN: I have had experiences with respect to employment, yes.

REP. LAWLOR: Okay. I mean, can you characterize it or is that just something--

BETH KERRIGAN: What do you mean characterize it?

REP. LAWLOR: Could you just explain, because you know, there's--

BETH KERRIGAN: Well, all right. I sell long-term care insurance for a living and when the case hit the press, I lost a significant contract. The case was announced on a Thursday. On Monday my contract was severed. Since that happened, I've had people say to me, I wouldn't buy insurance from you if you were the last person on earth. I saw you on TV. I can't believe it.

So there are those. They are the exception. Quite frankly, I appreciate their honesty because I like to know where people are coming from, but I think the vast majority have been just the opposite. I think that is the exception.

REP. LAWLOR: Well, actually, that kind of conduct is perfectly legal. It's not a nice thing, but you know, you can shop where you want, I suppose, to be a customer.

I think if you flip it around and if who as your employer doing it to you or your landlord or someone like that, you know, that would be an illegal form of discrimination, so I'm just wondering, have you had that experience as a couple? Has someone denied service to you or something like that?

BETH KERRIGAN: I've never been denied service, no.

REP. LAWLOR: All right. Just curious.

BETH KERRIGAN: Sure.

REP. LAWLOR: Are there further questions? Well, if not, thank you very much. I'm sorry, Senator McLachlan.

SEN. MCLACHLAN: Thank you, Mr. Chairman, and Miss Kerrigan, I applaud your courage in this, in the way in which your life has become an open book. Frankly, it's amazing to me how anyone can step forward and experience what you've done, you and your partner have gone through. It's just frankly, beyond comprehension how anyone would frankly would want to do that, how they would, where you've gotten the courage and the strength to do that, I applaud you for that.

I wonder, though, you heard an awful lot of discussion today and I made a comment somewhere along the way that I thought our discussion today somehow got into a ditch, and I think that some of the comments that have been shared were off the point, if you will. They weren't really focused on what we're trying to accomplish here today, like how to find the Supreme Court decision and staying focused on Senate Bill Number 899.

But we've heard, and I've asked many questions about religious liberties, and I wondered, what do you feel about, personally feel about the question of religious liberties as we try to codify the court decision.

Have you had any personal thoughts on that matter, and you know, have any of your friends or acquaintances discussed that particular issue with you?

BETH KERRIGAN: Not in depth. I would say, quite frankly, it's an honor to be part of a case that I believe is so important for civil rights.

I guess my very basic understanding of the law is the separation of church and state, and that's just the one that I'm continuing to hold strong to, that there's certainly is a place for religion, and I do respect every religious belief out there.

But when it comes to civil rights, I think we need to remove the component of religion from the decision.

SEN. MCLACHLAN: And so you draw, you personally draw a line, I assume you're not a lawyer, nor am I, because you're in the insurance business, but you draw a line between a civil right and a religious liberty, that religious liberty is part of the discussion of separate of church and state, and so therefore a religious liberty in your mind is not part of our concern?

BETH KERRIGAN: Yeah. I probably don't know enough to even comment in a way that it would make a lot of sense.

SEN. MCLACHLAN: Okay. Well, again, I thank you for being here and going through this many years

that you've been doing that. I wish you the very best.

SEN. MCLACHLAN: Well, I thank you for all your work.

REP. LAWLOR: Further questions? Senator Gomes.

BETH KERRIGAN: Hi.

SEN. GOMES: I don't have any questions, but I wanted to congratulate you. Some of us up here, we argue for things we believe in, and we cast votes for things that we believe in, but you've got to admire the people that step forth out in the forefront to wage a battle. I congratulate you on your success. Thank you.

BETH KERRIGAN: Well, thank you. And I think you here were a part of that success. There's no doubt about it and again, it's an honor to be a part of something that is so important towards equality going forward.

REP. LAWLOR: Thank you. Further questions? If not, thanks a lot. Thanks for waiting.

BETH KERRIGAN: Thank you.

REP. LAWLOR: Don Shubert.

DON SHUBERT: Good evening, Representative Lawlor, members of the Committee. My name is Don Shubert. I'm the President of the Connecticut Construction Industries Association.

I'm, we're opposed to Raised Senate Bill Number 965 An Act Concerning False Claims. We've been actively engaged in contracting reform for four years now, and we've been supportive of the Legislators' efforts to reform state contracting.

REP. LAWLOR: Darlene Capson? I'm just going to call, I've called these names before, but just in case they're here? James Farrell. Joe Maisano. Conrad Seifert. Jim Hanley. Sharon Emmons and Mary Roche. None of those people are here, right? Maureen Murphy. Ed Gavin's not here, right? Beverly Prager's not here. Jeannie Marson, Paul Brady then Minh Leu, who will be next. All right. Tom Casey's not here. Amy Miller. Don (inaudible). Mike Fitzpatrick. Dave (inaudible). None of those people are here. So Mary Elizabeth-hager Dixon will follow Minh Leu. Good evening.

MAUREEN MURPHY: Good evening, Representative Lawlor, Senator McDonald, who's not here. But I want to thank him and all the honorable members of the Committee for holding this public hearing today. SB899

I've been before you many times before. I can't count the number of times, but my name is Maureen Murphy, and I'm a partner in the law firm of Murphy, Murphy and Nugent in New Haven, where my practice focuses primarily in the area of family law.

Just to give you some background on myself, I'm a member of the Family Commission, which is responsible for among other things, proposing revisions to the Family Court Practice Book Rules.

I'm also Co-Founder of the New Haven Academy for Child Advocacy and a member of a work group on the development of a curriculum for training guardian ad litems for family court.

I'm often appointed by the Family Court to serve as guardian ad litem in highly contested custody cases. In addition, I have presented numerous CLEs, continuing legal educations, on

civil unions and the right to marry the same sex couples, and annually, Judge Lynda Munro and I train the Family Relations officers on the legal issues of civil unions and marriages for same sex couples.

For the last 20 years, a large part of my practice has been devoted to representing gay and lesbian clients and their children in family matters in family and probate court and representing same sex couples in their efforts to protect their relationships to the extent allowed by law. I'm very proud to say that I was one of the Connecticut counsel in the Kerrigan case.

Since the morning of October 10, 2008, I have witnessed an overwhelming expression of joy and gratitude from my many clients and heartfelt congratulations from judges, court personnel, colleagues and many others, who share in the joy of knowing that same sex families are accorded the same respect and dignity that all families need and deserve.

There are countless poignant stories of how the Kerrigan decision has changed the lives of many. More than once, maybe more than five times I've had to wipe back the tears from my eyes, and this is emotional for me because it is such a big issue, as I have sat across the desk from a glowing couple relating how much this means to them as they plan their long-awaited wedding.

But the most moving are the children. Those old enough to know and understand that their moms or their dads can now be married just like their friends' parents are.

Along with the joyful call, there have been many questions from couples' lawyers, even

judges, about what to do with civil unions, and what to do about the current provisions in the Connecticut Statutes that are contradictory to the Kerrigan decision.

Senate Bill Number 899 resolves those many questions that are surfacing. Thousands of couples, lawyers and judges, need clarity. There must be one marital status for all couples. Most couples in my practice entered into a civil union to provide their family all the protections available under Connecticut law.

This bill affords those couples the ability to have their civil union converted into a marriage. Similarly, the repeal of, I'm sorry, this bill, I'm going to depart from it because I don't want to take any longer, but there's a couple of things that I would like to address.

This bill really clarifies for the courts, and for couples what will happen with their civil unions, with their marriages if they travel out of state, if people from out of state come into this state. People really haven't addressed that today, but I think it's a very important provision and the courts need that kind of clarity.

It prevents recognition cases from being brought here in the State of Connecticut, and I do believe that with all the great work that this Committee has done, they have a responsibility to ensure that you're preventing litigation, particularly when the State Supreme Court has given you direction.

And the State Supreme Court has given clear direction that Section 17 is mandated, and I would probably disagree with some of the

previous testimony that it is not required under the Kerrigan decision.

Ten years ago in 1999, the Supreme Court invited this body to amend the adoption statutes. They didn't mandate it. They invited it, and this body did so a year later, and I'm proud to say that I was a part of that and had some voice in that, and that also was a very emotional moment for myself in these proceedings.

This is essential that this provision that is in 81r of our statutes be removed. The Supreme Court has been clear. It is a badge of discrimination. It doesn't help anybody. It only sets up a particular group of people that have been discriminated against in this state and throughout the country. It removes that, so that that badge of discrimination no longer exits.

If this body fails to do so, I believe that you're inviting further litigation because the State Supreme Court has been clear. They didn't invite the Legislature to change it. They actually said, this is a badge of discrimination, so I believe that it's absolutely necessary.

I would like to address one other issue that has come up, and that is the public officials. As a state actor, a state actor takes on a responsibility to do the bidding of the state. That person, by taking on that position, cannot decide to simply not do something because they find the person odious to their religion.

If that were the case, judges, and this Committee has brought this up all day, but I need to reinforce it, judges, justices of the peace, they're all similar in that they have a

duty to perform their duties under the law and the Constitution of the State of Connecticut.

So, I again want to thank this Committee for all that you've done in the past, and I want to urge you to pass this bill, and to end the discrimination that has occurred in this state, despite the efforts that have been made by this Committee and the legislative body.

REP. LAWLOR: Thank you very much, Attorney Murphy. It's been an interesting 10 years, hasn't it?

MAUREEN MURPHY: It certainly has.

REP. LAWLOR: I want to thank you for your persistence on this as well. I know we've met in many different forums and it seems like in many ways is a culmination.

MAUREEN MURPHY: Yes, we have. And I would also like to say that I've been up here many times, and I know that there have been people on this Committee that have really struggled with this issue, and struggled with my testimony, but I have always felt like I have been treated with tremendous respect, even by those people who felt very differently than I did.

And there are people that have come up here to testify that I've debated outside of this building, and they have always treated me with respect. And as an out lesbian who's been practicing law now for along time, because I'm pretty old, I have never been discriminated against by judges or my colleagues. I have been treated with respect all of the time, and I think that that comes from this legislative body.

So again, I really want to thank you, and I apologize, but there is one other thing that I forgot to say.

I've been doing adoptions for a very long time, and so I would like to address the adoption issue that has been raised a couple of times.

There are statutes that provide that if you enter into a state contract you may not discriminate. There is one in particular, which is, I believe it's 4a-60a that says that you can't discriminate if you receive a state contract on the basis of sexual orientation.

But even before that bill passed, there were other bills regarding state contracts that would prevent discrimination.

This particular, the Kerrigan decision doesn't address adoption. This bill does not address adoption. The fact that that hasn't been raised has nothing to do with this bill. This bill won't make those adoptions more difficult or less difficult. This really has nothing to do with it. All of those laws have already been in place.

REP. LAWLOR: And as far as you know, adoption services in Connecticut abide by the law.

MAUREEN MURPHY: To be honest with you, I'm certain that I have done more same sex adoptions than anyone else in the state. I have done hundreds and hundreds of them, and I know of no one who has ever gone to Catholic Family Services to have their home study done or to have an adoption.

Now, I have no reason to believe that they're not abiding by the law if they're receiving a

state contract, but I do know that they are a certified child placing agency.

So I honestly don't know the answer to that, but there have been laws to protect that from day one, since the bill passed in 2000.

REP. LAWLOR: And is that not covered by the original 1991 anti-discrimination law or not? Is it a public accommodation?

MAUREEN MURPHY: I believe that it would be a public accommodation. In addition, I believe that it comes under the state contract, and we may not discriminate in the state contract.

So I believe, as I said, I believe that this has been covered since at least 2000 when the co-parent adoption bill passed.

REP. LAWLOR: So if there was a problem we'd know about it by now. Is that what you're saying?

MAUREEN MURPHY: That's what I would say. But certainly this bill doesn't create that problem, so I really wanted to clarify that.

REP. LAWLOR: Okay. Thank you. Questions? Representative Dillon, then Senator Gomes.

MAUREEN MURPHY: Hi, Representative Dillon.

REP. DILLON: I want to thank you for all the work you've done, but also, I think there's still some things, and I wanted to ask because you raised that, and the issue of the adoptions did come up in Massachusetts, as you know, in terms of Catholic Family Services.

If I remember correctly and I may not, it's been a long day. I believe it was in 2000 that the Vatican office, I can't remember the name

of it, but it's the old office of the inquisition that was headed up by the person who is now Pope Benedict, issued the directive to Catholic institutions in the United States that anyone who, any institution that holds itself out as Catholic cannot do X, Y, Z, and some of those things include awarding an honorary degree honoring anyone on the campus, and so forth.

It's interesting because under our law, for example, if you receive tips or tax money, you know or if you receive state scholarship money, it doesn't apply to a seminary, but you can go to a religious affiliated school.

The issue was really that they straddled because they don't impose doctrine. But I really don't know. It would seem to me, it's very hard to prove a counter factual whether or not an institution is refusing to permit State Legislators on campus, for example, or to grant them honorary degrees. You'd have to prove that they wanted to.

But I know that there has been an issue around trying to restrict speakers in a number of the dioceses in Connecticut I'm aware of. And you were involved in a case involving the advisor to a friend of ours who is going for his doctorate in philosophy. His wife worked for a paper here.

Do you have any views on that? Do you see that as unfinished business, or would that fall within the public accommodations act if that were to be addressed? I know you need a plaintiff here, but yeah.

MAUREEN MURPHY: I think that that probably would fall within the public accommodations, and I think it's very interesting. I would like to

point back to a case that was in the State of Connecticut. It was at the CHRO and then it went into federal court and it was the State Employee Charitable Campaign was trying to determine whether the Boy Scouts could continue to receive charitable campaign funds.

And the conclusion of the CHRO was that they could not, because they could not find a non-discrimination statement.

The Boy Scouts then went into federal court to say that that was actually discrimination against them on the basis of their viewpoint, that they had a very strong viewpoint that they should be allowed to discriminate. That's not how they referred to it, but that they should be able to do that.

REP. DILLON: Free association.

MAUREEN MURPHY: And that case, the District Court and the Court of Appeals both held that it was not viewpoint discrimination, that the state has the right to determine discrimination laws and who they are protecting under their state laws and their State Constitution.

And I think that that is the balance that's been going on here today all day, and having come from a very religious Irish Catholic background, the testimony of that is that I have 58 first cousins, which is pretty Irish, I think.

That that is a balance that has to be constantly weighed and I think that what happened in the Boy Scouts case is very similar to what we're talking about here today, that you do have to weigh people's strong held beliefs with protecting civil rights, and in

this case, it's protecting those civil rights that must win out.

And that is what our Supreme Court has said. By pointing to 81r, they are saying, you must get rid of this. If you don't, you're inviting litigation.

REP. DILLON: Well, just politically speaking, and the policy also, and it troubles me. We have the same issue with Plan B, and some of those directors have come out of another country, and the Church does not pay to operate the schools. It doesn't provide any financial support to the Orders of Women Religious. It provides no financial support to the hospitals.

But there seems to be this message coming out of Rome to control Catholic institutions, but the financial support isn't there, and it's a very complicated issue here when you're writing the law because in some ways they're caught in the middle.

I just say that. It's an unfortunate situation but I appreciate the work that you've done and certainly in the Albertus case.

MAUREEN MURPHY: Thank you very much.

REP. DILLON: That was one of those cases. Thanks.

MAUREEN MURPHY: Thank you, Representative Dillon.

REP. LAWLOR: Senator Gomes.

SEN. GOMES: Good evening.

MAUREEN MURPHY: Good evening, Senator Gomes.

SEN. GOMES: After congratulating Miss Kerrigan on winning the case, I thought I would be remiss

if I didn't mention that you did a wonderful job of making it possible.

MAUREEN MURPHY: Thank you very much.

SEN. GOMES: And congratulations on that. Thank you.

MAUREEN MURHPY: Thank you very much. I feel like I played a very small part compared to someone like Ben Klein, who really deserves a lot of the credit, and our wonderful plaintiff.

But that would not have happened, I believe, if it weren't for this Committee, because we have had the opportunity to tell our stories here, and when you hear the stories, it does change people's minds.

And so I really do believe we have a great debt of gratitude to everyone on this Committee, whether you agree with it or not. You've given us the opportunity to talk, and I think that's very important. So thank you.

REP. LAWLOR: Further questions? Senator McLachlan.

SEN. MCLACHLAN: Thank you, Mr. Chair, and thank you very much for your testimony today, and your wealth of knowledge and a long time working on this issue.

I'm repeating myself. You've heard me ask this question many times, but the Senate Bill Number 899 specifically exempts clergy, and you know, many have said that it's not necessary, really, to exempt them because that's covered under the First Amendment, although that is included in the bill.

And others would say that you know, that's not balancing religious liberties in the process.

And so, I wonder if you could help me with understanding a little better, your perception of the religious liberties argument, perhaps both sides, if you would, and how that is different than the civil rights argument, which I understand clearly the civil rights argument.

MAUREEN MURPHY: I think that one of the things that might be helpful is to illustrate that one of the parties that sought to intervene in the Kerrigan case early on at the trial court level were two town clerks who were opposing, wanted to intervene and be heard, because they were opposing the Kerrigan, the plaintiffs, because they believed that if we were successful in the Kerrigan case then they would have to violate their religious principles, their closely held religious principles in having to handle the marriage license to a same sex couple.

And they lost at the trial court level and withdrew before it got to the Connecticut Supreme Court. And while I don't have the amicus briefs with me but I could get some of them for you, Senator McLachlan if you wanted to see some of the arguments that were made about religious freedom.

And I think what it, it's very important to consider what a public official signs on to do, and I think that was why they withdrew. They knew they were going to lose. When you balance those closely held religious views with your duties that you've signed on for, then that becomes the real issue.

It's not even so much about protesting the civil rights of the individuals because the law has already determined that you must follow the rules that have been set forth. So that's why I believe it's a little bit different argument with Senate Bill Number 899.

Because what we're saying here is that Kerrigan has already told us what the answer is, and the answer is that you must protect and you may not discriminate. And if you're a public official, although Kerrigan doesn't talk about the public officials, it talks about what you must do, what the state must do, and they must give these individuals their marriage license.

And so the fact that it's a public official that has that closely held religious viewpoint is significant. It's very important who we're talking about balancing that.

The same way with the florist or the photographer. We have a public accommodations law that's been in existence since 1991, and even if you have a very important religious tenet that is of a major religion, if you hold yourself out to the public to provide, goods and services, you may not say I'm not going to do this for you because it violates my religious principles.

And that's what the law has been, and it is a tough, it's a very tough balance. And it's not always so easy to draw bright lines.

SEN. MCLACHLAN: But Senate Bill Number 899 does really draw a line. Let's put public officials aside for a minute, because I guess you're assuming that I'm concerned about the justices of the peace and I understand that argument. If one chooses to be a public official then they should follow the rules, and you know, I don't have any problem with that argument.

But if we are carving out, if you will, this group known as clergy, then what is, why are we doing that?

MAUREEN MURPHY: Well, that's very interesting, Senator McLachlan, and one of the things that I have heard for years is that you can't have same sex couples be given the right to marry because then religious groups, priests, reverends, that they would be forced, rabbis, they would be forced to marry now.

And I believe that a very good reason for putting that in there is to clarify that this is not going to infringe on any clergy's rights to follow their religion.

You're absolutely right. The First Amendment would require that anyway. But people out there don't know that. I can't tell you the number of times I've been asked if a priest now would have to perform a same sex wedding. It is a constant question, and I wouldn't be surprised if you've received emails that have said that that would be the result of the Kerrigan decision.

It clearly is not. So putting it in there only clarifies that this decision does not infringe on the clergy's right to perform religious and civil marriages.

SEN. MCLACHLAN: Thank you. And one more question. I had sort of a lengthy discussion with Mr. Klein about Section 17 and language being stripped from state statute in Senate Bill Number 899, and his comment, which still is frankly confusing to me, that the language really meant nothing.

It was a political statement at the time to facilitate other legislative action in 1991, and that it had no bearing on the civil rights. It was irrelevant and it should be taken out.

And I still don't understand that argument, so I'm going to try one more time with a specialist in this field, to try to tell me, inform me, so that I can understand it as a lay person.

Why is it that a piece of Connecticut law exists but doesn't mean anything, and now we want to take it out and it won't mean anything that we took it out? It doesn't make any sense to me.

MAUREEN MURPHY: I understand your confusion.

SEN. MCLACHLAN: Or the legislative intent of taking it out won't mean anything.

MAUREEN MURPHY: I see it a little bit differently. As I just said to you when you asked me the question about why are we singling out clergy if the First Amendment does that anyway?

And I gave you what I think is a reason that we might want to do that, is because there's a lot of confusion out there about that and I think it clarifies that.

I think that that was 81r was, rather than so much to appease people, and that it was meaningless. It actually clarified that this gay rights law didn't mean these things, and the reason that it was put in there, I don't want to say it wasn't a compromise, but the reason it was put in there is because people were saying, if you pass this gay rights law, then that's going to mean that we have to teach homosexuality as a, what is it, a positive light, that is hold back lifestyle in a positive light.

And so that was really a declaration. But this isn't what this bill is doing. But in doing so

as the Kerrigan court said, you're actually giving them a badge of discrimination. You're actually holding them op as less than, and I don't believe that that was the intention of the statute. I believe that it was more as a reassurance that this isn't what the gay rights bill is doing.

It's not intended to create marriage for same sex couples. That was true in 1991. The gay rights bill wasn't intended to create same sex marriage.

And so, it was really a declaration of what the bill is not, and I don't believe anybody intended to discriminate against same sex couples or gay people by putting those provisions in.

And all of us have benefited by the gay rights bill that was passed in 1991. We are one of the first states to have that. I think there were seven in the country.

So it really wasn't meaningless, but it was out there to explain to people what this isn't, but there's no reason for that any more. It didn't have the effect of telling school districts that they couldn't teach homosexuality. It didn't say that they couldn't teach homosexuality as an acceptable lifestyle.

It didn't do any of those things. It merely stated that's not what the gay rights bill is. Does that help folks, because I don't know?

SEN. MCLACHLAN: Well, it's, you are in agreement with your colleague on this issue. I'm getting the same message, the same response, and I've just got to try and process it. I must say, I'm still confused by it, but I will continue to study it and I thank you for your feedback.

MAUREEN MURPHY: If there's anything I can do to be helpful. When my son graduated from high school he went to Hand High School in Madison. There would have, he would not talk a whole lot about having a lesbian mother because in the Madison School District at that time it would just not have been something that would have been real acceptable.

And a few years later, I was teaching at Children from the Shadows, which is now called True Colors and it was, Children from the Shadows was a conference on gay views and there were lots of school districts that would send their advisors and their gay, straight alliance students there.

And I saw over a period of a couple of years, from the high school that my son had gone to, and he graduated in 1995, that in that high school where there was no such thing as a gay straight alliance, that within a couple of years there were 30 students. There were 15 students at the conference. It was amazing how many changes there were.

And that in and of itself was a statement that homosexuality is an acceptable lifestyle. That's not what they were teaching But they were saying, we are people, too, and if your parents or if you are gay, then it is acceptable. You shouldn't be the discriminated against.

But all of that happened under this provision, and taking it out only gets rid of this discriminatory language that is there now, that Kerrigan has said, this is discrimination, and I believe if we don't remove it, that there will be lawsuits to remove it.

SEN. MCLACHLAN: And just finally, you're saying that we will have litigation or lawsuits if it's not removed, and others think that we're going to have them if it doesn't stay, or at least parts of it don't stay.

So, do you think we're going to have lawsuits either way? Is that sort of what I'm hearing?

MAUREEN MURPHY: Well, as a lawyer, I'd never want to predict that they're aren't going to be lawsuits, but because I think that's sort of what keeps us in business.

But what I would say is that anybody could bring a lawsuit, but the law of the State of Connecticut has been articulated by Kerrigan. Kerrigan has pointed to this particular statute and said it's discrimination.

I think that this body, in my opinion, and as a lawyer, we must listen to that and fix it. Kerrigan was not about 81r. It was about marriage.

SEN. MCLACHLAN: Right.

MAUREEN MURPHY: And that's all that it had to take care of. But it looked to 81r and said, this is an example of discrimination in our statutes and I believe that that is what we have to list to.

It doesn't mean we won't have lawsuits, but we have to listen to the Supreme Court.

SEN. MCLACHLAN: Thank you very much.

MAUREEN MURPHY: Thank you.

REP. LAWLOR: Thank you. Are there other questions? If not, thanks again.

MAUREEN MURPHY: Thank you very much.

REP. LAWLOR: Minh Leu. Go ahead, I'm sorry.

MINH LEU: My name is Minh Leu, and I'm currently a junior at Hall High School in West Hartford, and I'm here to support Senate Bill Number 899.

About three years ago I became disturbed when I learned that my state still had discrimination written in its laws targeted toward its gay residents. I have learned in history class that separate is not equal, so I wanted to help change the discriminatory laws so that gay and lesbian couples can marry instead of only having civil unions.

Because of the historic Supreme Court case Brown vs. the Board of Education, I can say that I am proud to go to a Connecticut public high school, I not only learned about diversity in school. I see it everywhere. There are people of every race and religion who speak dozens of different languages and who come from all corners of the world, all in one school.

In my experience, it has been extremely beneficial for schools to teach laws instead of hate, and to teach diversity instead of uniformity.

However, there is no part of Senate Bill Number 899 that would require schools to teach anything. That will continue to be left up to the local boards of education.

Thus, I am puzzled to see that anti-equality advocates are here to advocate for schools to disregard homosexuality as a diversity, as part of American culture.

So, in order to help change these laws, I began to volunteer at the statewide organization lobbying for gay rights, Love Makes A Family, during the summer of 2007.

There I came in contact with all sorts of lesbian, gay, bisexual and transgender people. I learned that these people are nothing like what the anti-gay community made them out to be, and learned that these people are exactly like everyone else. Some are nice. Some are not. Some had kids. Some are single. Some had a master's degree from Yale, and some had none at all.

I had an epiphany. I realized how wrong it was for my state to deny such a fundamental and important civil right to such a large group of people. I experienced this compelling feeling to go out in my community and to change this blatant discrimination.

To help do this, I traveled to towns and cities all over Connecticut such as Derby, Farmington, Hartford, Middletown, Portland and West Hartford to speak with hundreds of different people and to get hundreds of signatures for a pro-gay-marriage petition.

I was surprised to see that people of every race, socio-economic status, age, gender, religion and creed all agree that gay marriage should be legal in Connecticut.

Through my experience working with these people from all over the state, I gained the hope that my Legislators would go along with the consensus and pass a gay marriage Senate bill.

I am pleased that the Connecticut Supreme Court changed the discriminatory laws on October 10, 2008. A majority of justices ruled that it was

unconstitutional to deny gays the right to marry and on November 1, 2008, the first gay marriage licenses were handed out to gay couples, and surprisingly the apocalypse has not come yet.

Please support Senate Bill Number 899, and thank you so much for listening to me speak today.

REP. LAWLOR: Thanks, Mr. Leu. Are you still in school?

MINH LEU: Yes. I'm a senior.

REP. LAWLOR: Where do you go to school?

MINH LEU: At Hall High School.

REP. LAWLOR: Oh, cool. Very good. Going on to college?

MINH LEU: Yes, I hope to go.

REP. LAWLOR: Okay, and thank you for the work you've done. I'm sure it's been a great learning experience.

MINH LEU: It definitely has been.

REP. LAWLOR: And you lucked out a little bit. You're on the end of this curve, you know, this learning curve, but I hope you'll share with your friends and people in the future the experience you had here in Connecticut, because other states are about to go through a similar process. Sometimes they'll look for some inspiration, some support, some strength, to see that all things are possible and you can help spread the word. Is that okay?

MINH LEU: Yeah, it kind of sounds great.

REP.LAWLOR: Are there further questions? If not, thank you very much.

MINH LEU: Thank you very much.

REP. LAWLOR: Next is John Friedlander. Oh, I'm sorry, I skipped over Mary elizabeth. I apologize. Mary elizabeth-hager Dixon. Is Mr. Friedlander still here?

JOHN FRIEDLANDER: Yes.

REP. LAWLOR: Okay. He'll be next.

MARY ELIZABETH-HAGER DIXON: Good evening. My name is Mary elizabeth-hager Dixon. I come before you to today to share my thoughts, concerns and ideas related to the issue of same sex marriage.

The process of considering Senate Bill Number 899 seems to be an opportunity for us here in Connecticut to look at the issue of the legal union of two adults in a comprehensive way.

I testified on this issue as you know, Chairman Lawlor, in 2005 and 2007. I believe there are three crucially important constitutional principles and guarantees related to, and involved in, this issue.

The first, affirmed ever so narrowly, and after 17 long months of deliberation, but affirmed last October, the constitutional principle and guarantee so crucially important, precious and dear, equality before the law for all, including legally formalized contract and union between two adults, setting aside the use of the word marriage for now.

Second, equal respect before the law for the full spectrum of our religious diversity.

Third, and well established, time-honored, precious foundational constitutional principles of the separation of church and state.

Due to the fact that time doesn't allow a longer read, I would like to briefly like to read some excerpts from the testimonies I presented to this Committee in public hearings on the subject in 2005 and 2007, and if time allows, a few brief segments from several other inclusions and the compilation they are part of.

REP. LAWLOR: Can I just ask. Are we talking about really long excerpts?

MARY ELIZABETH-HAGER DIXON: I don't think so.

REP. LAWLOR: We try to limit people to about three minutes.

MARY ELIZABETH-HAGER DIXON: I'm fading. So anyway--

REP. LAWLOR: Because we do have a transcript of all of this, really.

MARY ELIZABETH-HAGER DIXON: That's what I was going to mention. A few brief segments from several other inclusions and the compilation they are part of, and which I submitted today concerning same sex marriage and civil union originally dated May 7, 2007, knowing full well I'm not going to beat the bell, I bid my written testimony in full to the Committee's attention for at least a quick legislative read.

I have felt for a long time that homosexual couples should have, boy that went quick. It went much quicker.

Well anyway, let me just close by saying the testimony is there, the previous testimony.

I have deep, deep and grave concern for the disrespect of our conservative brothers and sisters. My personal theology is very liberal, but I cannot tell you, and it was evidenced here in this hearing room today, the disrespect and derision, the mockery aimed at conservative people and people of less sophisticated thought and expression. I was appalled.

And I find that not only here, it's terrible it's here, but it's out there, too. And I really do believe, as you know, that the reason that this movement has had the effect to the degree it has, because it has been forwarded and pushed by established members and organizations, clergy of liberal theology, and I still believe, and we haven't had that opportunity to talk about the possibility of a compromise and follow the process such as they have in France and other countries.

And that would totally eliminate the problem of the, oh, the justices of the peace because it would be a simple, formal contractual agreement that's signed in a civic setting. And then if you want to have a sanctification in a sacred place, fine. Or if you are an atheist or an agnostic, you go to a park or a country club and you have a friend, or you just share, exchange your vows with each other.

But it just really, it grieves me every time I encounter it, and the discrimination and the disrespect of more conservative brothers and sisters of faith and agnostics and atheists.

So, it's been a long day. You have my, the compilation I put together of my thoughts and my testimony, and I appreciate the opportunity to speak and I really think that Connecticut, because I guess this is not going to happen here, the possibility of having a compromise approach.

We could have done such a wonderful service for the rest of the country, because the general populous that gets counted in these polls, it's not where the polls say. I encounter it all the time. I mean, I'm on the bus. I'm, I have a very unusual life, and I walk with a great variety of people, and it's the attitude toward this is not what the polls say. They are incorrect.

I just encountered yesterday an orthodox clergy person. He had a collar on. And so I asked him, you know, this topic was on my mind, and I broached it gently and circumspectly, and the bottom line was, he said, yeah, when I have to fill out those forms for the state I don't feel comfortable. I really don't like acting as an agent of the state.

So I just share those thoughts with you, Mike.

REP. LAWLOR: Well, thank you very much. Are there any questions? If not, thank you. Next is John Friedlander.

SB899

JOHN FRIEDLANDER: Thank you, Chairman Lawlor. My name is John Friedlander. I neglected to put my wife's name on the list, a mistake for which I will probably pay the price later this evening, but my wife Debbie would like to start now.

DEBBY FRIEDLANDER: Hi, I'm Debby, Debby Friedlander. I'm a realtor, photographer and a justice of the peace. As a part of realtor's commitment to uphold the state and federal laws, we are sworn not to discriminate on the basis of any of the protected classes, including sexual preference.

The idea that judges, justices of the peace and photographers would be held to a lesser standard for services. Thank you.

JOHN FRIEDLANDER: It's been many years and it's been a pleasure coming back here. I'm happy to say we're going to stop meeting this way. That will be a pleasure.

Life's greatest lessons are taught by the smallest actions in the simplest times, the breaking of bread when a neighbor is hungry, a kind word when a friend is feeling low, a warm greeting for a stranger alone.

We are all brothers and sisters together, our differences trivial compared to the ways we are the same.

When terrible accidents befall us, we come together to grieve. When great wars afflict us, we long together for peace. And when great issues divide us, we search together for wisdom to guide us.

In the great stories, which lift us up, brotherhood topples racism, charity overcomes selfishness, patient wins over haste and love always overcomes hatred.

And in the stories that make us better brothers and sisters, it is actions, which speak louder than words. The deed carries the lesson, not the speech.

Hating the sin but loving the sinner is empty posturing when the result is a brother or sister abandoned. Denying one's prejudice while urging others to practice it or permit it by law is transparent hypocrisy and obvious to all but those in denial.

One day, each of us will face our eternity and we will ask ourselves if we have lived a good enough life. When that time comes, we will know most certainly if we spoke of love but did not act in love. We will be judged accordingly.

Here in this house of law, our business is to bring the judgment of the Supreme Court of Connecticut into the day-to-day actions of our civil society. Words must convert to deeds.

Let us remember as we deliberate that this is the United States of America, founded on among many other uniquely powerful, fundamental and self-evident principles, the freedom of and if we so choose, the freedom from religion.

Now, I presume that there are as many versions of God in this room as there are hearts beating blood, but as we congregate in this great house of law, we determine the laws of our civil society, not the rules of any faith.

When our work here is done, we will know among other things, how our taxes can be filed, how our estates can be settled, how our medical care can be managed by our chosen loved ones, and how our employers may not discriminate against us.

What will not be addressed here in this house of law is how we may relate to our chosen saviours. Our private relationship with our

own God is as our founding fathers intended it, our own business to be conducted as we each wish in private.

When the judgment of the Supreme Court is finally translated to the words and rules of law, through Senate Bill Number 899, which we both support, for the first time in Connecticut we will all truly be free to express our own God's love for us, and that truly will lift us higher than we have ever been before.

REP. LAWLOR: Well, thank you, Mr. Friedlander and Mrs. Friedlander. Appreciate that. It was worth the wait, I hope? It was for me at least. Are there questions? If not, thanks again for staying all day.

JOHN FRIEDLANDER: Thank you for the opportunity.

REP. LAWLOR: Next is Dennis Carrithers, and Mr. Carrithers will be followed by Rosemarie Lewis and Ally Sega. Mr. Muckle, you're signed up?

ROBERT MUCKLE: (Inaudible)

REP.LAWLOR: Okay. I'll get to the handwritten list sometime, but I see your name on the sign up sheet. Okay. I'm sorry, go ahead.

DENNIS CARRITHERS: Good evening. My name is Dennis Carrithers. I'm with the Connecticut Association of Schools. We're a member school organization of the elementary and middle and high schools of the state that belong to our association. SB 1056

I'm here speaking on behalf of principals. We would have had a number of principals here today but this is testing week, and with a snow day on Monday, a lot of schools were testing today.

there's a transcript of it, so people may not be here listening to it in person but ultimately this has a (inaudible).

ROSEMARIE LEWIS: Yes, I understand that.

REP. LAWLOR: Okay. Right.

ROSEMARIE LEWIS: I actually went home the last time I testified and I watched part of it on the Connecticut, whatever, I've forgotten what the name of the thing is. SB899

Anyway, the testimony I was going to give I have actually handed in, and so rather than go over those points again, which have been discussed fantastically and thoroughly, I have decided that I would just do this instead.

This is the dissenting position of Mr. Zarella in Kerrigan v. Commissioner of Public Health. This is the dissent.

The majority concludes that the marriage laws, which define marriage as the union of one man and one woman, classified on the basis of sexual orientation that this classification is subject to intermediate scrutiny under Article First, Paragraphs 1 and 20 of the Connecticut Constitution as amended by Articles Five and Twenty-One of the Amendment, and that under this heightened level of review, the state has failed to provide sufficient justification for limiting marriage to one man and one woman.

The latter conclusion is based primarily on the majority's unsupported assumptions that the essence of marriage is a loving, committed relationship between two adults, and that the sole reason that marriage has been limited to one man and one woman, is society's moral

disapproval of or irrational animus toward gay persons.

Indeed, the majority fails, during the entire course of its 129-page opinion, even to identify, much less to discuss, the actual purpose of the marriage laws, even though this is the first critical step in any equal protection analysis.

I can prove to the contrary that, because of the long-standing fundamental purpose of our marriage laws is to privilege and deregulate procreative conduct, those laws do not classify on the basis of sexual orientation, and that persons who wish to enter into a same sex marriage are not similarly situated to persons who wish to enter into a traditional marriage.

The ancient definition of marriage as the union of one man and one woman has its basis in biology, not bigotry.

If the state no longer has an interest in the regulation of procreation, then that is a decision for the Legislature or the people of the state, and not this court.

Therefore, I conclude that the equal protection provisions of the State Constitution are not triggered. I further conclude that there is no fundamental right to same sex marriage. Accordingly, I dissent.

I just wanted to read that into the record because so much has been about, you know, this is not necessary and so on and so forth, and my position is that same sex marriage is not what we want in the State of Connecticut.

And that does not mean that I don't like you or any of the other wonderful people who have been

here, because I do. It has nothing to do with my personal feeling about any individual. It has to do with the law and the foundation of our society and the fact that marriage is something that was here to provide children with moms and dads. Thank you very much for listening.

REP. LAWLOR: Thank you very much. Are there questions? If not, thank you. Thanks for waiting.

ROSEMARIE LEWIS: Thank you.

REP. LAWLOR: Ally Sega.

ALLY SEGA: Representative Lawlor and the rest of the Judiciary Committee who have stayed. My name is Ally Sega and I'm a UConn School social work student, and I'd like to thank you for this opportunity today to speak on Senate Bill Number 899, which is An Act Implementing The Guarantee of Equal Protection Under The Constitution Of The State For Same Sex Couples.

I believe that passing this bill is really important for gay, lesbian and bisexual people in Connecticut.

First, I'd like to recognize and identify as a bisexual woman and as such, I believe that it's very important based on my beliefs, that regardless of whether I love a woman or a man that it is equal.

Passing this bill, which I'm really excited that the Court's already ruled was unconstitutional not to allow same gender marriages, would confirm my belief, so I'd be very excited to have it passed.

I would like to share a small story about something that happened at my workplace. I had a supervisor, not my direct supervisor, thank goodness, came to me one day and told me that my lifestyle choices made people uncomfortable and that it was unprofessional of me to speak of my personal life.

It was a very hard situation for me to take, as I like to be an honest and open person, but what made that situation even harder was about a week later one of my co-workers was getting married, and that same supervisor addressed her and said, you know, we're so excited that you're engaged. We want to know all the details. Please tell us all about it, which to me said that unless you're marrying a man, unless you're a woman marrying a man, or a man marrying a woman, you're not an equal person.

This bill will, it may not change her mind and it may not change some of the other people's minds who are testifying here today. It would make it a big deal for people like me to have the State Legislature say that we believe that you are an equal person in the State of Connecticut, and I think it would tell people like her that discrimination is wrong and it's not okay, at least not in Connecticut.

So, thank you for allowing me to speak, and there's not many of you, but if you have any questions?

REP. LAWLOR: Well, thanks. Thanks for doing this. We really appreciate it. Were you here all day?

ALLY SEGA: Yeah, pretty much. But I got a lot of studying done for school, so.

REP. LAWLOR: Can't argue with that. Had you been to a legislative hearing before, or is this the first time?

ALLY SEGA: No. I've watched a lot of them on TV, but I've never actually made it down here, so.

REP. LAWLOR: Is it different to the young person?

ALLY SEGA: Until you're actually speaking, not really. But I don't mind public speaking, so I'm glad to be able to do this.

REP. LAWLOR: Do all of your fellow students feel the same way about public speaking?

ALLY SEGA: I don't think so. I wish they did, but probably not.

REP. LAWLOR: Okay. Well, thanks for waiting all day. Are there any questions? If not, thanks again. That's, there were some folks, I see Mr. Muckle here and is there anyone else who would like to testify that didn't sign up? You folks, too? Okay? Do you mind what the order is? I don't have a list. Mr. Muckle.

ROBERT MUCKLE: Good evening, Mr. Chairman and Committee members. My name is Robert E. Muckle, Sr. and I'm from Waterbury, and I do not support Senate Bill Number 899.

I understand that Section 17 of this bill would repeal state law and homosexuality, meaning that the promotion of homosexuality and bisexuality could be taught in our school system.

Things are bad enough in our schools with the teaching of comprehensive sex education without the added promotion of homosexuality and bisexuality.

Enclosed with my statement is an article titled, Reading, Writing, Arithmetic and Sex? It's by Michael Hisborn, and that was in the *American Life League Magazine-Celebrate Life*.

According to Dr. Melvin Anshaw, author of a psycho-analytical look at today's sex education "a partial summary of adverse effects due to the sex educator's interferences during latency is that they one, make the six to twelve-year-old student less educable.

Two, can block the development of compassion.

Three, weaken the mental barriers controlling base sexual instincts, thereby making the child vulnerable to perversion in later life."

He also writes about the dramatic increase in violent crimes from 1960 to 2007 and he quotes "There can be little doubt that interrupting the latency period of development has had a catastrophic impact on society as a whole."

A quote from a former teacher of grades seven to twelve. "I observed firsthand the psychological damage that sex education causes in children. Now to put it briefly, I saw children become obsessed with sex and saw their grades drop as soon as they became interested in sex, and I saw children of an easy-going nature become widely emotional as a result of this obsession."

Now the reason I bring this up is that as bad as comprehensive sex education is in our schools today, can you imagine how much worse it will get by bringing homosexuality as normal into the discussion?

So please read this article and vote against Senate Bill Number 899.

I'd like to make a couple more comments, you know, just listening all day. The talk came up on the catechism of the Catholic Church, and two years ago and today, a thought that keeps coming to mind, kept coming to my mind was KISS, keep it simple stupid.

You know, someone's going on and on and on, you know, and the catechism of the Catholic Church, Paragraph 2357 to 2359 says, homosexual reality is intrinsically disordered and on masturbation, it says that it's intrinsically and gravely disordered, and on contraception it's intrinsically evil.

So I want to be able to point out, the Catholic Church has been around for 2000 years and never made a mistake on moral teachings, okay? So I just thought, making, this is a great record and what we should keep in mind, okay? That's it.

REP. LAWLOR: Thank you very much. Are there questions? If not, thanks again, Mr. Muckle. I don't know who's next. There's only two of you. Oh, Mark. Are you on the regular list?

MARK DOST: Page 3.

REP. LAWLOR: Did I call your name?

MARK DOST: No.

REP. LAWLOR: I went down the list. Oh, the handwritten list, yes, I'm sorry. That's where we are now. Mark Dost. D-o-s-t. It's on the handwritten list. I'm sorry, Mark.

MARK DOST: Good evening, Chairman Lawlor and other members of the Committee. My name is Mark Dost. I'm a resident of Waterbury and I'm an attorney in private practice. By way of credentials, I'm a member of the executive committees of the Estate and Probate, Elder Law and Human Rights and Responsibilities Section to the Connecticut Bar Association. I was also involved as amicus in the Kerrigan case on the losing side.

My views presented this afternoon are my own. This afternoon I'm speaking with regard to Raised Senate Bill Number 899, which purports to implement the Kerrigan decision.

Now, the first point I'd like to make is, there is no emergency that requires that this legislation be passed or that it be passed in haste. The Kerrigan decision required no implementing legislation. It was self implementing. Same sex couples are already being married in Connecticut.

Second, if the Assembly feels the need to enact implementing legislation, it should at the same time implement civil rights legislation to protect against state intrusion on the civil liberties of people of faith and others who do not share the views of the four Kerrigan judges who voted to change our law, and that will require a change in the so-called gay rights bill passed in 1991.

It may help to remember that the gay rights bill was passed with the support of the Catholic Church in order to promote tolerance toward homosexuals. It did not threaten the rights of individuals and groups who believe that sexual activity should be limited to the union for life of a man and woman in marriage.

If Raised Senate Bill Number 899 is about civil rights, then the bill should make it clear that the state is not committing itself to a policy of intolerance toward people of faith.

Instead, this Committee should be adopting legislation that will protect the constitutionally protected free speech and associational rights of people who hold the traditional views of marriage.

Raised Senate Bill Number 899 seeks to repeal Section 46a-81r, a section of the gay rights law passed in 1991.

Section 4 of that act probably should go, given Kerrigan, but the act itself is a critical part of the gay rights law since it establishes that the purpose of the law, which impinges not only on state action, but also on private action is tolerance.

My fear is that outright repeal of the act would move public policy from tolerance to affirmation of homosexuality, and with that, intolerance of those of us on the other side of the debate, who do not and cannot affirm same sex marriage because of faith, reason or conscience.

I'm concerned with the impact of this legislation on freedom of expression, freedom of association and freedom of religion. The current religious exemption in 46a-81p provides some measure of protection to religious entities and religions educational institutions but does not come close to meeting the First Amendment standards enunciated in the Hurley and Dale U.S. Supreme Court cases.

Section 46a-81r then, in conjunction with 81p does act as an important counterbalance against

over-reaching by those who might apply the earlier sections of the gay rights law beyond its four corners.

It should not be implemented unless and until provisions are substituted or added that would protect expressive associational and religious rights.

The balance of my written testimony, I really should bring to the attention of the Committee one major defect in Section 7. Section 7 does talk about the clergy, no clergy being required to perform a same sex ceremony, same sex marriage ceremony contrary to religious tenets of the denomination.

There are denominations in Connecticut that don't have clergy, but do currently perform, not same sex unions, but perform marriage ceremonies and have been doing it forever, so there does have to be that technical change to accommodate assemblies that don't have ordained clergy that are governed by elders or members of the congregation.

The final part of my testimony has to do with questions even proponents of same sex marriage might have concerning some of the policy decisions being made in Raised Senate Bill Number 899. If you'd like me to talk about those, I could talk about those, but I realize my time has expired.

REP. LAWLOR: Thank you. Are there any questions? Senator McLachlan.

SEN. MCLACHLAN: Thank you, Mr. Chair, and thank you for your testimony. If you've been here for any period of time, I have, I'm sort of like a broken record in my question, when I hear someone talk legal speak is, what is your

feeling about the concerns raised through much of the day, and even in the media today, about religious liberties and the lack of, perhaps, as a result of this Senate Bill Number 899 in its attempt to codify the Kerrigan decision.

MARK DOST: If the intention of the Legislature is to codify Kerrigan to follow the mandate of Kerrigan, my concern is also to make sure that the religious liberties, and the right of expression and the right of association is also protected.

After the Hurley and Dale decisions there wasn't a movement to implement those provisions. I guess they're self-implementing because they're under the United States Constitution.

So what I'd like to see is, you know, the right of expression and association enunciated in those cases recognized under Connecticut state law.

But I would also like to see accommodation. When the Kerrigan decision was decided, when the Kerrigan decision came out, I should say, the state and religious institutions or faiths, really parted company, and I think our law has to recognize that, that there really was a parting of the ways.

With the civil union statute we had a separate system and the civil union statute really functioned as an accommodation of traditional, of people who held to traditional views of marriage. But right now with Kerrigan there has been a parting of the way between the state and religion and people of faith who hold the traditional values, and I think we have to recognize that in our law and I think we have to accommodate that in our law.

So I think as we're moving toward implementing Kerrigan, we do have to not only recognize but also affirm, religious liberty.

SEN. MCLACHLAN: Thank you. You raise a good point. I appreciate it. Thank you for staying so late.

REP. LAWLOR: Thank you. Are there further questions? If not, thanks again.

MARK DOST: Thank you.

REP. LAWLOR: I'm sorry, I don't have your, I don't know which of the person is on the list of names.

PATRICIA GALLOWAY: Galloway.

REP. LAWLOR: Galloway. Thank you. Please have a seat.

PATRICIA GALLOWAY: Thank you, Chairman Lawlor and those other Representatives and Senators still here. My name is Patricia Galloway. I'm from Trumbull, and I've been here all day. You have been in the building, anyway. I appreciate this opportunity.

I really feel like I'm representing hundreds of thousands of other Connecticut citizens who could not be here today because of work and other responsibilities, many with children, and my objection to parts of Senate Bill Number 899 have been well expressed by Attorney Dost and others.

I feel that repealing Section 17 is wrong as only item four is relevant to truly being needed to implement the Kerrigan decision, and perhaps the offending word in the state not

condoning, maybe substitute the word endorse or something, the state doesn't endorse homosexuality or bisexuality or maybe some of you find the word lifestyle offensive, maybe another term could come up for that.

But other than that, I think we need to have strong protections for the First Amendment rights, the religious freedom rights and parental rights of all of our citizens and taking these other sections out that are not necessary to implement the Kerrigan ruling would be a slap in the face to people and open the door to over-reaching in these areas as we have seen happen in Massachusetts.

People mentioned today that Parker and the Worthland case where even though the parents technically had a legal right to opt out their children, the state and the school boards found another way. They didn't call it sex education. They said well, this is diversity training. You can't take your child out of this. And this could happen in Connecticut, too, so we need to be protected in those areas.

And I have to frankly admit that I've been appalled today at some of the intolerance for Catholics. I'm not Catholic myself, but the intolerance and the derision, which has come from members of this Committee to people who testified earlier, and I've seen it in past years and it's really shameful. It's just regrettable that that happens.

And simply protecting the rights of ministers of churches not to have to perform ceremonies, which are against the concept of their faith, that is not all that's needed for the First Amendment rights of religious rights and frankly, there are people that aren't even really religious that don't agree with the

notion of redefining marriage, and their rights need to be protected, too.

And it's not just that we who disagree should have to be silent except in our homes and our churches. We have First Amendment rights and those rights need to be protected, so this bill should be amended to protect the parental and religious freedom rights of all citizens.

And just one more thing, it was earlier mentioned the New Mexico photographer case who was sued. I believe it was a woman because she didn't feel comfortable photographing a same sex ceremony, and there was a California case where a woman fertility specialist or obstetrician, I'm not sure of her title, but anyway, a medical doctor.

She felt it was against her conscientious beliefs to impregnate, help assist a woman who was going to bring a child without a father being in that child's life, she referred the patient who another doctor who provided the service. The woman had her baby, but she chose to sue this doctor anyway.

Now, to me, those incidents where you've got someone who has a conscience, they refer you, you get the service from somebody who has not the conscience objection, so to me they would provide a better service. There's no loss. So for a person to sue the photographer or sue the doctor or sue the businessman or whatever, when they get the service, to me that's either greed or rubbing your nose, you know, rubbing someone's nose in something to be spiteful and I don't understand it.

REP. LAWLOR: Thank you very much. Are there questions? Senator Gomes.

SEN. GOMES: I don't have a question. I just have a comment to make concerning the comment you made about Catholics.

If you thought that it was a disrespect for Catholics that some of us have shown in here today, I am Catholic, and what I showed is a disrespect for people who misrepresent what it means to be a Catholic.

It's not the fact that they were Catholic, but to espouse some of the things that they talked about, which in context has nothing to do with being a Catholic, to represent Catholic views in a sense that they did today was offensive to me as it was offensive to you to hear what we said.

I just wanted you to know that. You know, I don't usually rail up at people for no reason at all, but when a misconception is gained by somebody's testimony or somebody's answer to somebody's testimony, I will answer it.

And the reason why you think that we had a disrespect for Catholics, I have a disrespect for people who represent something in a manner, which does not really exist.

PATRICIA GALLOWAY: Well, I appreciate the opportunity to share my views, and I appreciate your staying, but I hope you appreciate that some of your comments come off, and some of the questions today and a couple of years ago to Brian Brown come off as lecturing and verbal harassment for people of religious faith, which may differ in some respects from your own, and that everyone has their own perspective and I think you need to respect other people's beliefs, and anyway, that's my impression, and I appreciate (inaudible).

SEN. GOMES: That is the reason I make the comments that I make because I do respect other people's beliefs.

PATRICIA GALLOWAY: Well--

SEN. GOMES: Some of the, you do speak of Brian Brown. Brian Brown was offensive to some people when he testified, and you know, we are here to listen to people's testimony and then make a decision, but not to capitulate to everybody that thinks that they are right.

PATRICIA GALLOWAY: I appreciate that, but sometimes comments and questions come off, especially when they come from many people continually going on for a couple of hours, they come off as trying to entrap and verbal harassment. That's the way it appears to many of us, and I don't know, you probably weren't here, but look up Jane Stanwich, I think that was her name. A couple of years ago she was, I don't think you were there but Senator McDonald was there until the bitter end and it was worth it for me to hear what she had to say. Thank you for staying and hearing me.

SEN. GOMES: Beauty is in the eyes of the beholder, and some of the conversations are gauged by somebody who's on the other side of the argument that doesn't want to see it as constructive or the truth, you know?

PATRICIA GALLOWAY: Well, a person who comes to testify, to me, they're sharing their feelings and we appreciate the opportunity. But sometimes it gives the impression from some of the questioning and the badgering it comes off of, as if they're being, what's the word, testifying in a congressional hearing like they've been summoned to answer questions and

that's the way it comes off sometimes. I'm sorry.

SEN. GOMES: They're not summoned to answer questions, but once you are here, it's all right to ask the questions. (Inaudible)

PATRICIA GALLOWAY: Yes. But it can be done in a respectful manner.

REP. LAWLOR: I'd only point out that you'll notice that when that's happening typically that there are paid lobbyists who are here. This is their job.

PATRICIA GALLOWAY: Yes, but sometimes it gets very personal.

REP. LAWLOR: You should, all I could say is you should read some of the emails that we get from. that are inspired by these folks. They're very, very, very, very nasty. They're promoting this point of view.

PATRICIA GALLOWAY: I don't need to, but they're not--

SEN. GOMES: I just want to accommodate you. When you said something personal, the subjects that come through the Judiciary Committee are personal, very personal, and some of it will make you cry to listen to some of it, and some of them make you made. (Inaudible). Because some of the people sitting over there comment and want their views to be heard, and we have the right to question their views.

PATRICIA GALLOWAY: I understand. But all of us could have been home a couple of hours earlier if there hadn't been such repetitive haranguing and in some cases, lecturing, I felt. That's how it came off to me.

SEN. GOMES: I could have been home seven hours earlier, too, but I'm here.

PATRICIA GALLOWAY: I appreciate--

SEN. GOMES: I'm personally here to hear everybody's testimony.

PATRICIA GALLOWAY: I appreciate that, but.

REP. LAWLOR: Any other questions? Senator McLachlan.

SEN. MCLACHLAN: Thank you, Mr. Chair. I don't have a question. I just wanted to thank you for your persistence in hanging in there. This has been an experience for me, and I appreciate your dedication to hang in there and share your comments, and I'm sorry that you had that perception about today.

You weren't alone. There were other people that had said the same thing to me, but I think that is part of the process that seems to occur when there is an issue that there are many people on both sides of the issue and very few in the middle of the issue. It does seem to polarize, and I think sometimes people might say things they don't necessarily mean, so thank you for coming. I appreciate it.

PATRICIA GALLOWAY: Well, thank you, and thank you for your reasons, calm questioning and also for responding to the emails I sent to you a couple of weeks ago.

REP. LAWLOR: If there's no further questions we'll close the public hearing. Thank you very much. Sorry, oh, I'm sorry. I'm sorry. Didn't see you sitting there. Come on up.

CHERYL MARTONE: I was being really quiet and waiting patiently. Good evening, Representative Lawlor, and my name is Cheryl Martone and I'm from Westbrook, Connecticut, formerly of East Haven. You know who I am, I think.

I'm here to testify on Senate Bill Number 899 and Senate Bill Number 1056, and I was just wondering, can I ask you who brought up this bill, Senate Bill Number 899, what--

REP. LAWLOR: It was raised by the Judiciary Committee.

CHERYL MARTINE: Just the whole Committee?

REP. LAWLOR: Yes.

CHERYL MARTONE: Okay. What I want to state that I see this as a violation of natural rule of life that has occurred here, and my testimony is purely of, purely a freedom of speech, and you can't have children without a man and woman so it's to me unnatural that people are a couple of the same sex. They do get married, but they can live together and I was just wondering.

To me it's just like they're just making a big deal out of it. Everyone has feelings and a mind to think that, but since the beginning of man and woman it is a born nature to be of a man and a woman and have children, so why is this, it seems so unnatural that people, they want to have a relationship and make this big, huge explosion in society.

Okay. I was a cub scout leader for two years, so I see how the young minds think in a group and it's very disturbing for them to hear about same sex relationships, cub scouts that were like nine and ten years old, and I know that it

is an adult matter and it should not be brought up in the schools.

Protection from an adult or other person trying to neglect or abuse a child could be taught but not a matter of sexual choice or sexual preference or sex in the fifth or sixth grade should be a personal preference of the parent bringing up the child to teach the child about sexual preference.

And I think that at schools, the choice of, the school is trying to maybe teach this kind of behavior or teach about this kind of behavior, should be in the privacy of someone's home, not a public issue because if children have questions about this nature, it shouldn't be prejudice of the school to teach the children about what their views are. It should be the natural law of the parents. That's my view.

REP. LAWLOR: Okay. Well, thank you very much. Are there questions? If not, thanks for waiting. Appreciate it. If there's no one who would like to testify, we will call the public hearing closed.

CHERYL MARTONE: Appreciate it. Thank you.

REP. LAWLOR: Thanks. Good night.

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Testimony of Maureen M. Murphy before the Judiciary Committee
On March 6, 2009
In Support of Bill no. 899, An Act Implementing The Guarantee Of Equal Protection Under The Constitution Of The State For Same Sex Couples.

Dear Committee Co-Chairs Sen. Andrew McDonald and Rep. Michael Lawlor, and Honorable committee Members:

Thank you for this opportunity to address you today. My name is Maureen M. Murphy and I am a partner in the law firm of Murphy, Murphy and Nugent in New Haven, Connecticut, where I practice primarily in the area of family law. I am a member of the Family Commission (formerly Workgroup on Family Rules) which is responsible for, among other things, proposing revisions to the Family Court Practice Book Rules. I am also co-founder of the New Haven Academy for Child Advocacy, and a member of a workgroup on the development of a curriculum for training *Guardian ad Litems* for family court, and I am often appointed by the family court to serve as a *Guardian ad Litem* in highly contested custody cases. In addition, I have presented numerous CLE's on civil unions and the right to marry for same sex couples, and annually, Judge Lynda Munro and I train the Family Relations officers on the legal issues of civil unions/marriages for same sex couples.

For the last twenty years, a large part of my practice has been devoted to representing gay and lesbian clients and their children in family matters in family and probate court and representing same sex couples in their efforts to protect their relationships to the extent allowed by law. I am very proud to say that I was one of the Connecticut counsel in Kerrigan. Since the morning of October 10, 2008, I have witnessed an overwhelming expression of joy and gratitude from my many clients and heartfelt congratulations from judges, court personnel, colleagues, and many others who share in the joy of knowing that same sex families are accorded the same respect and dignity that all families need and deserve.

There are countless poignant stories of how the Kerrigan decision has changed the lives of many—more than a few times I have had to wipe back the tears from my eyes as I have sat across my desk from a glowing couple relating how much this means to them as they plan their long-awaited wedding—but the most moving are the children, those old enough to know and understand that their moms or their dads can now be married just like their friends' parents are.

Along with the joyful calls, there have been many questions from couples, lawyers, even judges about what to do with civil unions and what to do about current provisions in the

Connecticut statutes that are contradictory to the Kerrigan decision. Bill 899 resolves those many questions that are surfacing. Thousands of couples, lawyers, and judges need clarity. There must be one marital status for all couples. Most couples in my practice entered into a civil union to provide their family all of the protections available under Connecticut law, however, they passionately wanted to be married. This bill affords those couples the ability to have their civil union converted into marriage, while at the same time affording due process to that small number of couples who may not want their civil union converted into a marriage, by giving them a year from the enactment date to dissolve that union. Sections one and two of the bill are necessary to address the different states' development of recognition of same sex relationships and to provide clarity to courts as to how to address those relationships. Without such provisions, the family courts are likely to face significant and needless litigation on recognition issues.

Similarly, repeal of §46a-81r of the Connecticut General Statutes avoids needless litigation. More importantly, Kerrigan mandates its repeal by specifically pointing to this statute as discriminatory. The demise of the badge of discrimination enacted with the gay rights bill is long overdue. Connecticut is not a state that can any longer tolerate singling out individuals for disparate treatment or disfavored status simply because of who that individual is. Nor is there any validity to the arguments of the opponents of the repeal of this section that the repeal would force public schools to alter their curriculum or mandate how homosexuality is addressed in the classroom. Section 46a-81r did not prevent schools from addressing homosexuality in the classroom in a positive light, nor does its repeal demand that the issue be addressed in any manner at all. The law is clear that local school districts have broad discretion in their teaching material and arguments to the contrary are simply without merit.

The one overriding theme that I have heard continuously since October 10, 2009 from couples and colleagues is that we are so fortunate and proud to live in Connecticut. I am exceedingly proud to be a lawyer in this state and to be here before you. I applaud you for this bill and I urge you to pass this legislation in furtherance of this body's continued recognition of the civil rights guaranteed to the citizens of this state by its constitution.

TESTIMONY OF SHARRON EMMONS AND MARY ROCHE
SUPPORTING SB 899

First of all, we'd like to say that we are both pleased and proud to live in the State of Connecticut where our Supreme Court had the courage and integrity to do the right thing, albeit perhaps not the universally popular thing. To the Court we say 'Thank you.'

My partner Mary and I have been in a loving relationship for 10 years. We had our holy union ceremony, officiated over by an Episcopal priest on August 19, 2000, where we committed to each other in front of our families and friends. We applied for a marriage license at Middletown Town Hall in 2005 to bring the issue to the media and to people, and, of course, were denied. We had our civil union ceremony at Metropolitan Community Church of Hartford in 2006, with a few friends after Sunday service, and that day we gained the rights and protections that we never had before. And on August 19th of this year we will have our marriage ceremony. And it will be joyous and sacred, as were our other two moments. But this time it will be that much more special and that much more powerful, because we will have climbed the steps of those other ceremonies to get to that place that provides the dignity and the clarity that is understood and respected by all. Marriage.

For as committed as we've been to each other for these 10 years, knowing that we will soon call our relationship a marriage solidifies that relationship for us in a different way. There is that 'something extra' here that binds us together more firmly, that makes it feel more permanent. This right to marry brings us closer to the final step in the journey that we've been on for 10 years. While civil union was good in the protections it afforded us, it left us angry and feeling as though we had once again been given the back-handed compliment that said, "you can have something but not everything." Marriage was reserved for those "other" people, not for us. But now our relationship will finally be elevated to the same level as our neighbors, as our straight friends, as our parents. There is no greater joy in life than that – to just be able to have what others could always have had and that so many have taken for granted. With all due respect, you probably never realized how fortunate you are to have what we could never have until now.

The battle will wage on, in the other 48 states and at the federal level, and we will continue to be a part of it until all legislators at all levels realize that rights and protections guaranteed for anyone are good for everyone. But we are proud that Connecticut and its sister state Massachusetts have led the way thus far. Your signing into law this basic human right will be, once again, a demonstration of Connecticut's courage and integrity to do the right thing.

Minh Leu

Testimony for Senate Bill 899

My name is Minh Leu, and I am currently a junior at Hall High School in West Hartford. About three years ago, I became disturbed when I learned my state still had discrimination written in its laws targeted towards its gay residents. I had learned in history class that Separate is **never** Equal. So, I wanted to help change the discrimination so that gay and lesbian couples could legally marry instead of having civil unions.

Because of the historic Supreme Court Case "Brown versus the Board of Education" verdict, which stated that Separate is Not Equal, I can say that I am proud to go to a Connecticut Public High School. I not only learn about diversity in my school; I see it everywhere. There are people of every race and religion, who speak dozens of different languages, who come from every corner of the world, all in one school. In my experience, it has been extremely beneficial for schools to teach love, instead of hate, and to teach diversity, instead of uniformity. There is no part of Senate Bill 899 that requires schools to teach anything – what will be taught in schools will continue to be decided by the local boards of education. Thus, I am puzzled to see that anti-equality advocates are here today to lobby for schools to disregard homosexuality as part of the diversity that makes up American culture.

In order to join the cause to change the laws, I began volunteering at Love makes a Family during the summer of 2007. While I was volunteering there, I came into contact with all sorts of Lesbian, Gay, Bisexual, and transgendered people. I learned that these people were nothing like what the anti-gay community made them out to be. I learned that the people in this community were exactly like everyone else; some were nice, some

weren't, some had kids, some were single, some had a master's degree from Yale, some had none at all. It was when I had this epiphany when I realized how wrong it was for my state to deny such a fundamental and important civil right to such a large group of people. I experienced this compelling feeling to go out in my community and change this blatant discrimination.

I began to go to towns and cities all over Connecticut such as Derby, Farmington, Hartford, Middletown, and Portland, to speak with hundreds of different people and to get hundreds of signatures for a pro-gay marriage petition. I was surprised to see that people of every race, socioeconomic status, age, gender, and religion, agreed that Gay Marriage should be legal in Connecticut. It was my experiences working with these people from all over the state that I gained the hope that legislators would go along with this consensus, and pass gay marriage.

But, I am pleased that the Supreme Court changed the discriminatory laws; on October 10th, 2008, a majority of Justices ruled that it was unconstitutional to deny gays the right to marry. And on November 12th, 2008, the first marriage licenses were handed out to gay couples, and surprisingly, the apocalypse has not come yet.

Please Support Senate Bill 899, and thank you so much for listening to me speak today.

Testimony of Beth Bye
State Represenative, 19th District
On S.B. 899: AN ACT IMPLEMENTING THE GUARANTEE OF EQUAL PROTECTION UNDER THE CONSTITUTION OF THE STATE FOR SAME SEX COUPLES.

The Bye-Wilson family at Beth and Tracey's wedding November 12, 2008.

The Bye-Wilson family as they appeared on their 2008 Christmas card.

State of Connecticut
COMMISSION ON HUMAN RIGHTS AND OPPORTUNITIES
Central Office ~ 21 Grand Street, Hartford, CT 06106
Promoting Equality and Justice for all People

To: Judiciary Committee

From: Robert J. Brothers, Jr., Acting Executive Director

Date: March 6, 2009

Re: SB 899, AN ACT IMPLEMENTING THE GUARANTEE OF EQUAL PROTECTION UNDER THE CONSTITUTION OF THE STATE FOR SAME SEX COUPLES

The Commission on Human Rights and Opportunities **SUPPORTS** SB 899, AN ACT IMPLEMENTING THE GUARANTEE OF EQUAL PROTECTION UNDER THE CONSTITUTION OF THE STATE FOR SAME SEX COUPLES.

SB 899 codifies the Court's decision in *Kerrigan v. Commissioner of Public Health*, 289 Conn. 135 (2008). It resolves existing inconsistencies in the statutes. It is essential, to ensure that the statutes as written are brought into compliance with the decision of the court.

Prior to the Supreme Court's decision in *Kerrigan v. Commissioner of Public Health*, 289 Conn. 135 (2008), a same sex couple in a committed relationship was permitted to obtain a license to enter into a legally recognized relationship - *civil union,* which is similar to but not marriage. In fact, existing statutes prohibited a same-sex couple from entering into the relationship of marriage. In *Kerrigan*, the Court determined that the marriage-like *civil union* was not the same as *marriage* and that "laws restricting civil marriage to heterosexual couples violated same-sex couples' state constitutional equal protection rights." The Court essentially ordered the state to issue marriage licenses to same-sex couples.

The Commission supports SB 899 because it will revise the statutes to require: that marriage licenses be issued to eligible couples regardless of the gender of the partners; clarification of identifying terms referring to the spouses in the statutes; clarification of which relationships will be considered as *marriage*; clarification of what will happen to couples who have entered into civil unions; clarification of rights and privileges of marriage; and in CHRO's statutes, it will modify CONN. GEN. STAT. 46a-81a and repeal the disapproving and negative inferences regarding committed same-sex couples and their families and homosexual lifestyle set forth as CONN. GEN. STAT. 46a-81r.

The Commission on Human Rights and Responsibilities respectfully requests that the Judiciary Committee **APPROVE** SB 899.

Senator McDonald, Representative Lawlor, and all of the Judiciary Committee, my name is Ally Sega and I am a UCONN, School of Social Work student. I would like to thank you for this opportunity to speak today on Senate Bill 899, An Act Implementing the Guarantee of Equal Protection under the Constitution of the State for Same-Sex Couples. I believe passing this bill is very important for gay, lesbian, and bisexual people in Connecticut.

When I was in my teens, I identified as a lesbian but it did not mean that I did not want to someday get married. Like other girls my age, I wanted to have a wedding ceremony with the person I loved, which was then another girl. Now that I am older, I realize that weddings are fun but that marriage is the important thing. There are many rights, and responsibilities, that are involved when a person gets married. Assets and insurance flow more easily from partner to partner and the person you are spending your life with has the right to make decisions for you, if you are unable. I now identify as bisexual and I would still like to have the opportunity to marry the person I fall in love with, regardless of that person's gender. I was excited that the courts ruled that it was unconstitutional to deny marriage rights to anyone based on the gender of their partner. I would like the legislature to pass this law, so that state of Connecticut has the laws, which the courts have already decided should be legal, legal in the books.

I also believe it is important to change the language that was in the 1991 "gay rights law". People say "Sticks and stones may break my bones but words will never hurt me" but I don't believe this to be true. I have worked for the same agency for almost 10 years and have had all very positive performance reviews. I am in graduate school at the University of Connecticut, where I have about a 3.8 grade point average. I coach a master's level swim program that has grown since I have taken it over and have swimmers who have state records and can swim at the national level. I have worked with many organizations and been on the board of directors for a couple nonprofit organizations. I have been told by coworkers and supervisors that I excel at the things I do. My parents laugh at me when I tell them in amazement that someone gave me a compliment, because they see that it is deserved when I do not. I am the first to find my faults, criticize myself, and feel that I am not good enough for the things around me. It took me a while, but I believe that this is related to my sexual orientation. As a lesbian and as a bisexual, I have often been told that God doesn't love me, that I don't

deserve to get married and have a family, that it understandable if people don't like me because of my "lifestyle choice".

About 4 years ago, I had a supervisor at the agency I work at (thankfully not my direct supervisor) tell me that I make people uncomfortable and that it really is more professional to keep my personal life to myself. This same supervisor a week later, rushed up to a coworker that I was trying to solve a work problem with, cut me off as those I wasn't there, and exclaimed, "I heard you got engaged, tell us all about it! We want to know every detail."

I was at a party about 3 months ago. A coworker's 6 week old baby was crying and she had to go do something. She gave the crying baby to me and within a few minutes, I had calmed the child. He peacefully fell asleep in my arms. Many people thought that the baby was mine as he looked so comfortable there. This supervisor was shocked that I would be good with babies. Her perception was that if I wasn't straight, I wouldn't have any maternal skills.

What this supervisor has said to me and how she reacts to me is very hurtful. While I would like to be able to say, "It's her, not me", it does affect the way I look at myself. I understand that this law will not make everyone an instant fan of gays, lesbians, and bisexual people, but by the State of Connecticut saying that we are ok with people of all sexual orientations, it is a positive step in making our state a better place. While I may always be self conscious about my abilities, if we make a more positive environment now, maybe the children, who are growing up now and in the future, will not face the hurtful remarks that I have. Maybe they will grow up in a place where they feel truly valued as a whole person, of any sexuality.

PLEASE SUPPORT SB 899

An Act Implementing the Guarantee of Equal Protections Under the Constitution of the State for Same-Sex Couples

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Hello, my name is Beverly Tremper Prager and I live with my husband Rich in Simsbury where we've raised 2 daughters, Sarah and Alex. Sarah, our eldest is 22, lives in Boston and is a lesbian. I am testifying here today on her behalf so that she could eventually marry the partner of her choice and feel just as accepted and equal in the eyes of our state and country (legislature) as our other daughter who is not a lesbian.

My husband of 26 years and I have tried hard to demonstrate to our daughters that marriage is a commitment that should not be taken lightly, requires hard work and creates much happiness. We want both of our daughters to have the opportunity to experience marriage. Rich & I feel that Sarah's marriage to a partner who is female in no way threatens the institution of marriage, but if entered into with integrity and commitment would only strengthen it in contrast to the many heterosexual marriages we've seen fail.

I am also here for all the others who right now may not have a family member who is gay but believe in equal rights for every citizen under our rules of government.

Please vote for this bill which will afford all our daughters and sons equal rights to marry.

Thank you.

Testimony of Jane Ferrall, Moderator Greater New Haven PFLAG
Judiciary Committee, March 6, 2009

PLEASE SUPPORT: SB 899, An Act Implementing the Guarantee of Equal Protections Under the Constitution of the State for Same-Sex Couples

Senator McDonald, Representative Lawlor, and members of the Judiciary Committee. My name is Jane Ferrall and I am the moderator of the Greater New Haven chapter of PFLAG, which stands for Parents, Friends and Families of Lesbians and Gays. I am also the parent of a gay son.

I urge the members of this committee to support the passage of SB 899. Our high court has taken the courageous and correct step of granting equal protection under the law to all citizens of our state, both gay and straight. Now the legislature should take the next step of approving the changes that need to be made in our laws, to bring them into conformity with the court's decision and, I believe, the beliefs of the majority of our state's citizens. Our society has moved on tremendously from our attitudes of 20 years ago, and our laws should, too: our law books should not contain hurtful or discriminatory language, whether this is a relic of the past or not.

My son was asked once what he expected out of life as a gay person, and I was really struck by his answer: to be treated like everyone else and to have a level playing field. He doesn't want special rights, he just wants to be treated the same as other people. The fact that we have now legalized marriage for him, and many others, in this state, was an enormous and hugely welcome step in the right direction. I have never been prouder to be a Nutmegger than I was that wonderful Friday in October.

I thought it might be helpful to the committee to hear a couple of concerns that many parents of gay children have. So many of our "new" parents come in expressing dual fears: first, that their precious child might be targeted or hurt simply because he or she is gay. Second, so many parents have heard terrible things about the so-called "gay lifestyle" of promiscuity or multiple partners. They worry that their child will be doomed to being a pariah, and become self-destructive as a result. Not a result that anyone on this committee would want for their child, that's for sure!

Marriage does so much for our gay children. It sends an incredibly powerful message to both them and the rest of society, that the way they are is acceptable and okay. We have extended a very important institution to include them. This tells our children and the people around them, that even on the highest governmental levels, they are affirmed. This can't help but make it a safer world for our kids. Second, permitting gay people to marry also says, your relationships are as important and sacred as anyone else's. You do not have to take a back seat, your love and commitment are just as special as any other person's. Bringing gay people into the fold, into the larger society, makes their relationships stronger and more committed. Yes, I'll be honest, I want all my kids to have that boring lifestyle of the spouse, the house, the kids and the dog... and I think that at heart, that's what most of them will eventually want as well. Finally, having marriage equality also gives us moms the chance to ask that M question and annoy all our kids, not just the straight ones!

In summary, I ask this committee to take the additional steps necessary to make marriage equality a reality in this state and in our law books. Thank you for listening.

Jane Ferrall

Raised Bill No. 899

An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same Sex Couples

Judiciary Committee
Hearing Date: March 6, 2009

Mr. Chairman and members of the committee,

My name is Rosemarie Lewis. I reside in Shelton. I will speak on Raised Bill 899. I oppose this bill in its present form and will explain my opposition.

The Supreme Court recently struck down the state's civil union law and ruled that same-sex couples have a constitutional right to marry. I was present during the debate on the civil union issue and the subsequent vote. I recall that the focus was on the need for fairness in the treatment of same sex couples regarding hospital visiting rights and other privileges denied them because they had no formal standing as couples in the eyes of the law.

A brief summary of the statement of purpose of SB 899 is: "implementing the court's decision and providing for the merger of existing civil unions into marriages." During my reading of the bill, I encountered a section which does not seem to me to apply to the stated purpose of the bill:

Section 17. of this bill repeals Section 46a-81r of the general statutes. What is being repealed here and why? Reading this information, one finds:

"Nothing in sections 4a-60a, 45a-726a, 46a-51, 46a-54, 46a-56, 46a-63, 46a-64b, 46a-65, 46a-67,46a-68b and 46a-81a to 46a-81q, inclusive, subsection (e) of section 46a-82, subsection (a) of section 46a-83, and sections 46a-86, 46a-89, 46a-90a, 46a-98, 46a-98a and 46a-99 shall be deemed or construed (1) to mean the state of Connecticut condones homosexuality or bisexuality or any equivalent lifestyle, (2) to authorize the promotion of homosexuality or bisexuality in educational institutions or require the teaching in educational institutions of homosexuality or bisexuality as an acceptable lifestyle, (3) to authorize or permit the use of numerical goals or quotas, or other types of affirmative action programs, with respect to homosexuality or bisexuality in the administration or enforcement of the provisions of sections 4a-60a, 45a-726a, 46a-51,

46a-54, 46a-56, 46a-63, 46a-64b, 46a-65, 46a-67, 46a-68b and 46a-81a to 46a-81q, inclusive, subsection (e) of section 46a-82, subsection (a) of section 46a-83, and sections 46a-86, 46a-89, 46a-90a, 46a-98, 46a-98a and 46a-99, (4) to authorize the recognition of or the right of marriage between persons of the same sex, or (5) to establish sexual orientation as a specific and separate cultural classification in society."

Why repeal all of Section 46a-81r of the general statutes? I acknowledge that the phrase "to authorize the recognition of or the right of marriage between persons of the same sex" fulfills the stated purpose of the bill. Do the proponents of the bill intend, by the abolition of the other sections, to authorize the promotion of homosexuality or bisexuality in education or require that such lifestyles be taught as acceptable? Is the purpose to establish sexual orientation as a specific and separate cultural classification in society? Or will quotas or affirmative action programs be required with respect to homosexuality or bisexuality in certain areas of our culture if this bill goes forward in its present form?

These questions must be answered and the appropriate items must be rescued from repeal before this bill is allowed move forward.

Thank you.

Rosemarie Lewis

Testimony On Behalf Of The
Connecticut Regional Office of the
Anti-Defamation League

IN SUPPORT OF
BILL NO. 899
AN ACT IMPLEMENTING THE GUARANTEE OF EQUAL PROTECTION UNDER THE CONSTITUTION OF THE STATE FOR SAME SEX COUPLES

March 6, 2009

The Anti-Defamation League (ADL) was founded in 1913 with a mandate to fight the defamation of the Jewish people and secure justice and fair treatment for all. Today the ADL is one of the country's leading civil rights and human services organizations. The Connecticut Regional Office of ADL is based in Hamden and serves the entire state of Connecticut.

We submit this testimony today to express our strong support for Bill 899, An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same Sex Couples.

In the *Kerrigan* case, the Connecticut Supreme Court ruled that the state constitution and long-standing principles of equal protection under the law require that people be entitled to marry the same sex partner of their choice, and that segregating heterosexual and homosexual couples into the separate institutions of marriage and civil unions violates those principles and protections.

We believe that the *Kerrigan* ruling was necessary to protect the rights of same-sex couples and their children. The secular status of marriage confers legal, social and financial benefits that are not otherwise available to citizens, and nothing short of marriage conveys the commitment, permanence or legitimacy of a relationship between two people. Whatever one's personal or religious beliefs about marriage, the reality is that same-sex couples form and raise hard-working families of many different faiths and backgrounds in Connecticut. We should ensure that all families, and all of our friends, relatives, co-workers, and neighbors have equal opportunities to plan their futures and organize their lives, and should not exclude families from these basic protections on the basis of sexual orientation, as we do not on the basis of race, religion or national origin.

As the United States Supreme Court said in its landmark decision in *Romer v Evans,* the American constitutional tradition does not use the law to single out any group for discriminatory treatment. Discrimination on the basis of sexual orientation is as ugly as any other form of discrimination. Bill 899 ensures that the equal protection against discrimination provided by the Supreme Court in *Kerrigan* is incorporated into the Connecticut statutes, giving that protection the important force and impact of the legislative process.

We urge you to support Bill 899, ensuring that all in Connecticut are equally protected by the law, and that no one suffers discrimination based on their sexual orientation.

The Rev. Joshua Mason Pawelek
Chairman, Connecticut Clergy for Marriage Equality
Parish Minister, Unitarian Universalist Society: East, Manchester
Testimony on SB 899, March 6, 2009

Distinguished Members of the Judiciary Committee:

First I want to thank you for the opportunity to come before you today to speak in support of SB 899, "**An Act Implementing the Guarantee of Equal Protections Under the Constitution of the State for Same-Sex Couples.**" My name is Josh Pawelek. I am the parish minister of the Unitarian Universalist Society: East and the Chairman these past three years of Connecticut Clergy for Marriage Equality, a collective of more than 300 clergy across the state who have worked to support gay and lesbian couples in their quest for marriage equality.

If you hear me say nothing else, I want you to hear that the Supreme Court's decision in the Kerrigan case has been tremendously important in the lives of the gay and lesbian couples—both those to whom I minister and those who are my close personal friends. It is difficult to put into words the sense of joy these couples feel in coming to me—even if they already have a civil union—and asking me to marry them. There is a profound difference between civil union and civil marriage—separate is not equal—and it is wonderful to finally be able to say the words, "I pronounce you married."

I also want you to hear that couples from all over the country are contacting me and my colleagues in CCME to ask about coming to our state to have their weddings. While I'm not in this business to make money, I recognize the economic benefit to the state can be enormous as couples from near and far come to CT to hear the words, "I pronounce you married."

I urge you to support SB 899 for a variety of reasons. First, it brings clarity to our marriage statutes by bringing them in line with the Kerrigan decision, and merging civil unions into marriages. Obviously, such clarity will bring efficiency. Efficient government is effective government.

Second, SB 899 removes demeaning language that continues to suggest that marriages between same gender loving couples are somehow not as valid as marriages between heterosexual couples. I see this older, demeaning language as the sign of a time we have left behind in Connecticut. A state with a culture of acceptance and equality such as Connecticut does not need such demeaning and insulting language in its marriage statutes.

Finally, SB 899 will allow recognition of similar marriages and civil unions performed in other states as well as urge all states to recognize all Connecticut marriages. I believe this is simply the right thing to do to promote efficiency, to prevent long and drawn out court battles, and to send a message to the rest of the country that Connecticut

is a leader in honoring the worth and dignity of all its citizens and the citizens of other states.

Thank you.

Testimony of Janet Peck and Carol Conklin
Judiciary Committee, March 6, 2009

Please Support: SB 899, an Act Implementing the Guarantee of Equal Protections Under the Constitution of the State for Same-Sex Couples

Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Janet Peck and I am here today with my wife, Carol Conklin. Carol and I are lifelong Connecticut residents and presently live in Colchester. We were one of the plaintiff couples in the Kerrigan case and are here today in support of SB 899.

33 years ago, Carol and I fell in love and began to share our lives together. For all of those years, we dreamed of getting married. On January 24th of this year, our dream came true as Carol and I were joined in marriage surrounded by the love and support of our family and friends. That day will always be one of the happiest days of our lives.

After 33 years, to finally be able to pledge our love and commitment to each other in the way that is honored and celebrated by everyone everywhere felt so amazing, so satisfying and so right.

To me being married means that our 33 year love and commitment to each other is finally recognized and respected by others - that doors that were previous closed to us, are now open and that our future together is a little brighter and more secure.

Carol would say that as a married couple we are no longer on the outside looking in – that we are no longer living outside of what is seen as acceptable or normal – we are now a part of rather than separate from everyone else – we are equal – we are free to be who we are.

Since our marriage, all the wrongs that had been done to us over the years – the disrespect, the discrimination, the lack of recognition for the truth of our love, the pain of not being able to give each other the ultimate gift of love and commitment - the pain of exclusion and invisibility has begun to fade - the wounds have begun to heal.

We can not say that we feel more connected to each other than we were before we married. We have always felt married. But we can say that we feel more connected to everyone else.

In my affidavit to the court as plaintiffs in the Kerrigan case I wrote that "marriage is not just the glue that holds two people together, it is the glue that cements entire families together, generation after generation." Carol and I no longer live outside of that special family bonding and are now connected to the generations of family who married before us and who will come after us.

We now feel more connected to our deceased parents who taught us the true meaning of marriage and to our family members who joyfully and willingly took an active part in our

ceremony even though many are active members of faith communities that do not support our right to marry.

And we feel more connected to the people of the community where we live whose outpouring of support to us has warmed our hearts and will never be forgotten. After our case was won, people sent us cards of congratulations and would come up to us on the street, in the grocery store and just about everywhere else and extend their hand in congratulations - excitedly asking us the details of our wedding plans.

Many of these people were strangers to us and had simply seen our picture in the paper or read about our story and felt compelled to show their support for our upcoming marriage. Marriage connects us to something greater than ourselves and to others in a way that was not possible before.

As we begin our lives as a married couple, the love that Carol and I have held in our hearts for 33 years finally feels free and at peace and the promise of our love that had its beginnings so many years ago is now complete.

And we feel so fortunate to have been able to marry in the state that we have always called home and proud that Connecticut continues to be a leader on this issue of equality.

Family Institute of Connecticut ACTION

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Peter Wolfgang

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3/6/09 Testimony of Peter Wolfgang, President of FIC Action, on S.B. 899

Good afternoon Chairman Lawlor, Chairman McDonald and members of the committee. My name is Peter Wolfgang and I am the President of the Family Institute of Connecticut Action, an organization whose mission is "to encourage and strengthen the family as the foundation of society and to promote sound, ethical and moral values in our culture and government." I am here today to ask you to amend S.B. 899, an act implementing the Supreme Court's invention of same-sex marriage.

S.B. 899 goes beyond mere legislative housekeeping. Section 2 asserts that the rights granted to a marriage—presumably including a same-sex marriage—entered into this state may be recognized by another state if the parties travel to or reside in that state. This appears to be an attempt to export Connecticut's court imposed same-sex marriage regime on those states where voters exercised their right to protect marriage as between a man and a woman. It is bad enough that voters in our state did not have that same right. We should not be attempting to export the judicial imposition of same-sex marriage on those states which have a more vigorous culture of democratic accountability than our own. In fact, it is unlikely that the Connecticut General Assembly even has the power to do so. Section 2 of S.B. 899 should be removed.

Section 7 of this bill must be far stronger than the current language. The negative effect of same-sex marriage on religious liberty and rights of conscience involve far more than the question of whether clergy will be forced to perform same-sex weddings. Connecticut's justices of the peace are being told they no longer have the right to refuse perform same-sex ceremonies that they had under the civil union law passed by this legislature. That right must be restored. Catholic Charities in Boston was forced to end its adoption services because the state told them they must place some of those children in homes with same-sex couples, a violation of their beliefs. Section 7 must be amended to make certain that same-sex marriage does not lead to similar attacks on religious liberty in Connecticut.

Section 17 of this bill would repeal a state law protecting public policy on a wide range of moral issues. A repeal of this law could be read to mean that the State of Connecticut 1) **condones** homosexuality or bisexuality or any equivalent lifestyle, 2) **authorizes** the promotion of homosexuality or bisexuality in educational institutions or requires the teaching in educational institutions of homosexuality or bisexuality as an acceptable lifestyle, and 3) **authorizes or permits** the use of numerical goals or quotas, or other types of affirmative action programs, with respect to homosexuality or bisexuality in the administration or enforcement of non-discrimination laws. Section 17 should repeal only that part which conflicts with Kerrigan; the rest should remain.

SB899

March 6, 2009

I would say good morning, but I don't think it is a good morning. However, I do extend my greetings. I'm not here to complain about the economy or the greed that got us to this crisis. I'm not here to ask for support for our military and veterans, which I think is incredibly important. I'm here for something that is even more crucial and basic, and I wish I were not here.

Marriage between one man and one woman is the basic building block of society. Children deserve the protection of their two biological parents. Life has been this way since Adam and Eve.

Frankly, as s a citizen, I am appalled that the state judiciary would hijack the will of the majority of the people as they did last fall, when they declared the civil union bill unconstitutional and created this mess we are in now.

The majority of the citizens in this state do not condone the gay lifestyle, they tolerate it as an expression of free will.

The majority of people strongly oppose the promotion of the gay lifestyle in our schools, exposing our children to harmful behavior.

If you doubt that being gay is harmful, then just go to the National Institute of Health and just search death statistics of homosexuals. The medical studies are astounding, and very sad.

The first answer I found this morning said:

Quote: surveys suggested that the median age of death for homosexuals is less than 50 years. Four contemporary databases were used . . .: (1) obituaries in the homosexual press from 1993 through 1997 reflected treatment success for those with AIDS but suggested a median age of death less than 50 years; (2) two large random sexuality surveys in 1994--one in the USA and the other in Britain--yielded results consistent with a median age of death for homosexuals of less than 50 years; (3) the median age of those ever married in Denmark, Sweden, and Norway was about 50 years, while that of the ever homosexually partnered was about 40 yr; further, the /traditionally/ married were about 5 times more apt to be old and 4 times less apt to be widowed young; and (4) intravenous drug abusers and homosexuals taking HIV tests in Colorado had almost identical age distributions. The four lines of evidence were consistent with previous findings suggesting that homosexual activity may be associated with a <u>lifespan shortened by 20 to 30 years</u>. Unquote.

Do it yourself, fellow citizens. Go to the National Institute of Health website yourself. We are being deceived. Why would we want to sanction, never mind condone, a lifestyle that shortens life 20 to 30 years! Why would we want to expose our children to this danger? We might as well teach them to go out and smoke and take drugs. Love compels us to protect our children from danger.

Why would we as a state want to establish this dangerous life style as a specific and separate cultural classification in society? Did you catch the last study?: "intravenous drug abusers had almost identical age distributions" with homosexuals. Very heartbreaking.

As a taxpayer, I believe that marriage should be protected. So do the majority of people in the state and this country.

Look, even getting a driver's licence is protected. You have to be 16, you must have adequate vision, (probably to see the road and the signs, and the other cars,) you have to pass the test.

We are not violating anyone's civil rights by having a few basic requirements for getting married, like satisfying the biological requirement of being designed to have children and continue our society. Section 17 <u>must</u> be amended to protect children and families, and to protect religious liberty in this state, one or the most basic liberties in our society. Thank you.

Pastor Kate Bartos
New Hartford, CT

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TESTIMONY OF GAY & LESBIAN ADVOCATES & DEFENDERS IN SUPPORT OF RAISED BILL NO. 899

Gay & Lesbian Advocates & Defenders (GLAD) strongly urges this Committee to vote in favor of Raised Bill No. 899. This bill conforms Connecticut's statutes to the Supreme Court's decision in *Kerrigan v. Commissioner of Public Health,* 289 Conn. 135 (2008), and affirms the equal treatment of same-sex couples.

The *Kerrigan* decision ruled that it is unconstitutional to exclude same-sex couples from marriage. In so doing, *Kerrigan* discussed in great detail the long history of unjustified discrimination against lesbians and gay men in our law and society. *Kerrigan* also established that the state can no longer single out lesbian and gay people for different treatment nor pass a law with no purpose other than to express disapproval of a same-sex sexual orientation. In short, after *Kerrigan*, our laws and institutions must be neutral as to sexual orientation.

This bill affirms the equal treatment under the law required by *Kerrigan*. In addition to conforming the state's marriage statutes to *Kerrigan*, this bill (at Section One) codifies the common law of Connecticut by clarifying and ensuring that Connecticut will recognize marriages and other legal relationships (such as civil unions) validly entered into in another state. It is a well established legal principle that a person has the right to enforce in Connecticut legal rights arising under the laws of another state unless the laws of the other state contravene Connecticut's public policy or positive law. *See, e.g., Adamsen v. Adamsen*, 151 Conn. 172, 176 (1963). In spite of this clear law, some courts

in Connecticut (before passage of the civil union law) and other states have not applied this principle neutrally or equally to people who have entered into civil unions (or other similar relationships) in another state. This bill ensures that equal treatment by removing any potential confusion as to the validity of these legal relationships in Connecticut. This provision will assist Connecticut residents who entered into a civil union in another state, such as Vermont, as well people who travel or move to Connecticut. In addition, this bill will eliminate wasteful litigation disputes over these issues, thus conserving judicial resources and furthering efficiency in the courts.

While the *Kerrigan* decision mandates that Connecticut treat its lesbian and gay citizens equally, Connecticut cannot, of course, eradicate discrimination by other states. Section Two of this bill, however, encourages other states to respect all valid Connecticut marriages. This provision does everything the state can possibly do by sending a strong signal to other states about Connecticut's commitment to the fair and equal treatment of its citizens.

This bill (at Section Seven) also ensures that clergy may choose not to solemnize certain marriages consistent with their rights under the free exercise provisions of the state and federal constitutions. It is also important, however, to clarify another issue related to persons authorized to solemnize marriages which, though not addressed in this bill, may be the subject of testimony to the Committee. Justices of the peace and others authorized by law to solemnize marriages are state actors. Justices of the peace are given their authority by the state and have no power until a town clerk issues a certificate of authority. *See* Conn. Gen. Stat. Ann, § 7-33a. Their duties – e.g., solemnizing marriages, administering oaths, taking depositions – are state functions. Because justices of the

peace are state actors, a bill granting them a religious exemption from performing their state duties would be unconstitutional. In an opinion dated October 28, 2008, Attorney General Blumenthal stated that "public officials who have been authorized to perform marriages may not refuse to perform a marriage for discriminatory reasons in violation of the Connecticut Constitution."

The obligations of a justice of the peace to perform state duties in a nondiscriminatory manner is not new, as demonstrated by a 1983 opinion of the Texas Attorney General that the refusal of a justice of the peace to marry an interracial couple violates equal protection. *See* Office of the Attorney General, State of Texas, Opinion No. JM-1, March 8, 1983. The Attorney General concluded that "there can be no doubt that when a justice of the peace performs a marriage ceremony, he is acting in the name and under the authority, of the State of Texas. And he is thereby engaging in 'state action.'" The constitutional guarantee of equal protection extends to all official state actions. The Texas Attorney General reasoned that since the U.S. Supreme Court had made it clear in *Loving v. Virginia* that a state violated equal protection when it refused to marry people on racial grounds, a justice of the peace similarly may not refuse to exercise his or her state authority to marry people on racial grounds. In Connecticut, in light of the *Kerrigan* decision finding it an equal protection violation to exclude same-sex couples from marriage, the same principle applies, preventing justices of the peace from discriminating against same-sex couples.

In keeping with *Kerrigan's* ruling that the state may not discriminate against or disfavor lesbian and gay people, this bill (at Section 17) removes provisions in the 1991 Gay Rights Law that the Supreme Court stated have no purpose other than to express

antigay bias and disapproval of same-sex relationships. Conn. Gen. Stat. Section 46a-81r added a provision to the sexual orientation nondiscrimination law which states that nothing in that law "shall be deemed or construed (1) to mean the State of Connecticut condones homosexuality or bisexuality or any equivalent lifestyle, (2) to authorize the promotion of homosexuality or bisexuality in education institutions or require the teaching in educational institutions of homosexuality or bisexuality as an acceptable lifestyle, (3) to authorize or permit the use of numerical goals or quotas, or other types of affirmative action programs, with respect to homosexuality or bisexuality in the admission or enforcement of the nondiscrimination law ... (4) to authorize the recognition of or the right of marriage between persons of the same sex, or (5) to establish sexual orientation as a specific and separate cultural classification in society."

In fact, the nondiscrimination law did not authorize any of these things. To the contrary, its only purpose was to demean and stigmatize gay and lesbian people. The *Kerrigan* decision directly addresses this provision in Connecticut law and characterized it as follows:

> By singling out same sex relationships in this manner- there is, of course, no such statutory disclaimer for opposite sex relationships – the legislature effectively has proclaimed, as a matter of state policy, that same sex relationships are disfavored. That policy, which is unprecedented among the various antidiscrimination measures enacted in this state, represents a kind of state-sponsored disapproval of same sex relationships and consequently serves to undermine the legitimacy of homosexual relationships and perpetuate feelings of personal inferiority and inadequacy among gay persons, and to diminish the effect of laws barring discrimination against gay persons. Indeed, the purposeful description of homosexuality as a "lifestyle" not condoned by the state stigmatizes gay persons and equates their identity with conduct disfavored by the state

Kerrigan, 289 Conn. at 205-206. Conn. Gen. Stat. Section 46a-81r undermines the important efforts to advance equality by this legislature and the State of Connecticut. It is an official stamp of discrimination which this legislature should remove.

Some people may incorrectly testify before this Committee that the removal of this language will mandate that schools "promote" homosexuality in the schools. This is simply a scare tactic. Nothing could be further from the truth.

In reality, Section 46a-81r never prevented schools from including curricula materials that discuss lesbian and gay people or same-sex relationships in a positive light. Nor will removing this language require schools to include any particular material in curricula. The sole effect of Section 46a-81r was to stigmatize lesbian and gay people, as *Kerrigan* noted. The law about school curricula is that local school districts have always had broad discretion to make the decisions about what subjects to teach and how they should be taught. This was true after Section 46a-81r was passed and it will be true after it is repealed. Decisions to teach or not to teach particular material will, as always, remain with educators and local school administrators.

Finally, this bill (at Sections 11 and 12) provides for a smooth and orderly transition from a legal system of civil unions for gay people and marriage for heterosexual people to a system in which there is one legal system for all citizens. This is important for two reasons. First, in our legal system, equality requires that all citizens be treated equally. We do not and should not have different statuses for different citizens. Civil unions, while an historic step forward, created a second class status solely for gay and lesbian citizens. Second, the existence of two systems for same-sex couples has created confusion for some people (e.g., whether they can get married if they have a civil

union; what is the effect of having both). This bill removes that confusion and creates one system, marriage, for all citizens.

For these reasons, Gay & Lesbian Advocates & Defenders strongly urges this Committee to vote in favor of Raised Bill No. 899.

Lambda Legal
making the case for equality

Testimony of Thomas W. Ude, Jr.
Senior Staff Attorney, Lambda Legal

Before the Judiciary Committee of the Connecticut General Assembly
March 6, 2009

Re: Raised S.B. Bill No. 899, AN ACT IMPLEMENTING THE GUARANTEE OF EQUAL PROTECTION UNDER THE CONSTITUTION OF THE STATE FOR SAME SEX COUPLES

Lambda Legal supports Raised S.B. Bill No. 899, An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same-Sex Couples.

For many years, the General Assembly has been an important and crucial leader in recognizing and advancing full equality for lesbians and gay men. None of the laws that advanced rights were enacted easily. At each step, there was opposition even to that which many may consider simple and straightforward – as there is today. But it is also true that now, as then, there is strong support for doing what is right.

Lambda Legal Defense and Education Fund, Inc. is a national organization, with members in Connecticut and throughout the United States, dedicated to achieving full recognition of the civil rights of lesbians, gay men, bisexuals, transgender people and those with HIV through impact litigation and public policy work. For more than 35 years, Lambda Legal has been advocating for equality for gay men and lesbians throughout the United States, and has been counsel or *amicus* in scores of cases establishing the rights of gay men and lesbians in many areas, including cases in the courts of states throughout the United States on behalf of same-sex couples seeking the right to marry, and cases on behalf of couples seeking respect for and recognition of marriages and other legal relationships that were entered into elsewhere.

Raised Bill No. 899 would further many important objectives while respecting both the unique nature of marriage and the equal protection guarantee of the Connecticut Constitution. My testimony focuses on four of those objectives.

First, this bill addresses the issue of relationship recognition, an issue that continues to present serious and significant problems for many lesbians and gay men who have entered into committed, legally-sanctioned relationships. It has always been the case that the particular rights and benefits of marriage differ somewhat from one state to another, and often differ even further in different countries. But for couples who are of the same sex, that situation is further complicated by the fact that some jurisdictions recognize relationships between people of the same sex as marriages, but others refuse to recognize relationships between people of the same sex only as some status other than marriage. Still other jurisdictions have yet to respect or recognize marriages between two people of the same sex at all. Because very few people stay entirely within the borders of their home states

for their whole lives, recognition of relationships between different states and countries is a significant problem. Sections 1 and 2 provide a strong statement of interpretive intent as to how relationships from elsewhere can be respected here in Connecticut, and provide a framework to facilitate respect for, and recognition of, Connecticut relationships under the different laws of other states and countries. Further, it respects the uniqueness of marriage while simultaneously focusing on the substantive rights and benefits that characterize the different legally-recognized relationships available to couples seeking to protect one another and their families.

Second, Section 7 recognizes, as the court did in *Kerrigan v. Commissioner of Public Health*, 289 Conn. 135, 250-51 (2008), that the marriage of same sex couples will not jeopardize religious freedom, and acknowledges the existing first amendment rights of religious organizations not to perform marriages that cannot be reconciled with their beliefs. At the same time, its brevity and clarity respects the promise that the Connecticut Constitution's equal protection guarantee holds for couples seeking to marry.

Third, Sections 11 and 12 provide that the legal relationships of couples who are currently in civil unions and who become married will reflect the combined duration of that relationship's legal recognition. For couples with children, and for couples for whom, for various reasons, the length of the relationship can be very important. Providing a clear and predictable rule allows them to know their rights with added certainty.

Fourth, Sections 9, 10, and 17 each repeal provisions enacted into law, at various times, in combination with laws that advanced civil rights or provided other important protections. These provisions changed no substantive rights. However, as described by the Supreme Court in *Kerrigan* last fall, these provisions "proclaimed, as a matter of state policy, that same sex relationships are disfavored." 289 Conn. at 204-05. And those provisions made the same statement to lesbians and gay men who are not in relationships. In *Lawrence v. Texas*, the United States Supreme Court struck down consensual sodomy prohibitions as unconstitutional, explaining in part that *those* laws were a declaration that in and of itself was an invitation to subject gay men and lesbians "to discrimination both in the public and in the private spheres;" the court noted that the continued existence of those laws "demean[ed] the lives of homosexual persons." 539 U.S. 558, 575, 123 S.Ct. 2472, 2482 (2003). The continued existence of the laws repealed by Sections 9, 10 and 17 of this Bill similarly demean the existence of gay men and lesbians, and by their repeal, Connecticut will have taken another important step closer to full equality.

Connecticut has a proud history of legislative action to protect civil rights. In addressing these vestiges of discrimination concerning marriage and acting to further this State's equal protection guarantee, this body will continue that long and proud tradition. For all of the foregoing reasons, Lambda Legal urges you to pass Raised Bill No. 899, An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same-Sex Couples.

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Permanent Commission on the Status of Women
The State's leading force for women's equality

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Testimony of
The Permanent Commission on the Status of Women
Before the
Judiciary Committee
Friday, March 6, 2009

In Support of:
S.B. 899, AA Implementing the Guarantee of Equal Protection under the Constitution of the State for Same Sex Couples

Senator McDonald, Representative Lawlor and members of the committee, thank you for this opportunity to provide testimony in support of S.B. 899, which would codify the Supreme Court's decision in Kerrigan v. Commissioner of Public Health into State law; thereby declaring it unconstitutional to deny same-sex couples the right to marry in Connecticut.

PCSW monitors and make recommendations on policies or practices that grant or withhold benefits to individuals based on gender, or that are grounded in and reinforce stereotyped notions of gender roles. Same-gender marriage and more generally, all issues related to full equality and respect for gay, lesbian, and bisexual individuals, fall squarely into this category. PCSW urges this Committee to statutorily extend the fundamental civil right of marriage to all Connecticut citizens.

This bill would have no legal force with respect to religious marriage in Connecticut. Faith-based communities remain free to offer religious marriage to, or withhold religious marriage from, same-gender couples, as their religious beliefs dictate. Even so, opponents of this bill, with arguments frequently grounded in theology, contend that the long history of marriage as between one woman and one man compels the conclusion that civil marriage was meant to be, and therefore must remain, an exclusively heterosexual institution. We respectfully disagree.

As an initial matter, we should remember that, even though the institution of marriage does have a long history, the rules governing civil marriage in our state have never been etched in stone. Rather, they have evolved over time, in the direction of broader access, greater equality,

CONCERNING
SAME SEX MARRIAGE
AND
CIVIL UNIONS

Mary elizabeth-hager Dixon
Monday 7 May 2007

LET THERE BE ...

A NEW CONNECTICUT COMPROMISE, 2007

Let it begin here, and now! There are many among you who could write it ... All of you can be part of it.

It can begin here .. it really can ... if you but lead. After all,

THIS IS CONNECTICUT!

That being said, I would like to read from a testimony I wrote and presented to this Committee in Public Hearing on this subject Monday, February 7, 2005.

Introductory Remarks
Connecticut General Assembly – Judiciary Committee Public Hearing Testimony
House Bill 7395 – An Act Concerning Marriage Equality
Monday – 26 March 2007

Mary elizabeth-hager Dixon

TRANSCRIPTION OF EXTENDED NOTES
WRITTEN DURING A PUBLIC HEARING
OF
THE JUCICIARY COMMITTEE
OF
THE CONNECTICUT GENERAL ASSEMBLY
(*Subject Matter: Same Sex Marriage*)
MONDAY, FEBRUARY 7, 2005

THOSE ORIGINAL EXTENDED NOTES WERE
USED AS THE BASIS FOR TESTIMONY GIVEN BY
MARY elizabeth hager DIXON
BEFORE THE PUBLIC HEARING WAS ADJOURNED
LATER THAT DAY

Good evening. My name is Mary elizabeth hager Dixon

I come before you today, as a Christian – firmly and deeply committed to the faith of my birth – who has spent a lifetime constantly reviewing and examining that faith, my understanding, acceptance, and sometimes rejection, of its various: teachings & tenets ... doctrinal & theological interpretations ... as well as – though admittedly to a lesser degree – the teachings and tenets of other religions.

As means of further introducing myself to you, I also mention that I have held for many years, certification as a History/Social Studies teacher at the secondary level. I believe strongly in the Separation of Church and State.

As in all the most important issues of life, issues related to the Separation of Church and State are not easy, nor clear-cut. Likewise, in all the most important issues in life, the devil is so often in the details.

I am sorry I was not able to be here earlier for the full hearing, but I just returned late Saturday after being out-of-state for an extended visit with family, hence I did not have time to prepare formal remarks, but I would like to share these thoughts which have come to mind as I sat here in this hearing listening, as I think they reflect a different point of view than those I have heard during the time I have been able to be here with you today. These thoughts I share today have developed over a long period of time. They are the result of much studied consideration and reflection however, I have never before written them down.

I did not sign up on either the support or oppose list for the legislation under consideration – for I think my position falls between support and opposition.

I have felt for a long time that homosexual couples should absolutely have EQUALITY with heterosexual couples BEFORE THE LAW.

I believe also, that churches, synagogues and other religious communities should absolutely have the right to sanctify, or refrain from sanctifying, the union between two people according to their faith's beliefs, tenets and ecclesiastical law.

It is my position and strong belief, that neither our state nor our nation should be in the business of conveying the sanctity of sectarian religious blessing to anything.

I believe the term marriage should be stricken from all legal record and reference, in the same way as the Congregational Church was stricken from our law and record, as the established church of our state by our Connecticut State Constitution of 1818.

I believe the joining of all couples, homosexual and heterosexual, should be referred to by a new term BEFORE THE LAW – perhaps "Spousal Contract", if that term has not been used in the past and does not have a discriminatory history or implication ... as the term "Civil Union" has for so many.

I believe the joining of couples BEFORE THE LAW – heterosexual and homosexual alike – should be accomplished in a brief civil formality in a town or city hall. Should couples wish, such a civil formality could be followed by an optional second personal/religious ceremony, much like the long established tradition in France and other European countries of heterosexual couples often having two marriage "ceremonies".

I believe the term marriage should be left exclusively to religious and personal use.

I believe all legal rights, privileges and responsibilities of heterosexual couples should be accorded to homosexual couples.

I believe there is a reasonable and respectful solution to this important and difficult issue that guarantees *EQUALITY BEFORE THE LAW*, and *RESPECT FOR RELIGIOUS DIFFERENCE* [... and ensures the *SEPARATION OF CHURCH AND STATE*, as well]*.

*[ ] Bracketed addition added Monday, December 18, 2006

An Afterword
Friday 4 May 2007

During my testimony of March 26th 2007, I added the extemporaneous thought:

> I know how excruciatingly painful the term "Civil Union" has been for so many ... for so long. That is why I suggested the use of a new term, when I first presented these thoughts to this committee two years ago, in February of 2005, but perhaps now, it is a term whose time has come – as long as it is used ***equally*** for gay and straight couples alike.

Hence my use of the term "Civil Union" a month later, at a forum held at the University of Connecticut School of Law – remarks following ...

Remarks at *Love Makes a Family* Forum

The University of Connecticut School of Law
Wednesday – 18 April 2007

Thank you Senator McDonald, for your comments respecting the fact that this issue can not be discussed in a vacuum, without consideration of religion. I appreciate your mentioning a few facts related to a Roman Catholic point of view, and perspective.

I would add, however, that discussion and consideration of various religious points of view and history, is appropriate as related to new legislation concerning marriage and civil unions. We all know *The Church* is not the only church – and Christianity is not the only religion ... just as we know agnostics and atheists are not of one mind or belief.

I believe one of the main reasons we have the problem before us today, is because we in these United States of America ... and very directly here in Connecticut ... are dealing with the vestiges of theocracy.

Ever since I was a little girl, I could not understand why ministers and other clergy acted as agents of the state ... being so aware of all of the discussion, and even anger, acrimony and animosity concerning a whole host of issues related to a phrase I learned at a very early age – *The Separation of Church and State*

I think we need to have Civil Unions for ***everyone*** ... gay and straight ... and leave "the word" – the term "marriage" – strictly to personal and/or religious use – to ***everyone's*** *personal and/or religious use* ... And truly have *Equality Before The Law* for ***everyone!!***

I do not understand why – especially in a setting such as this – no one is voicing concern about the bedrock constitutional principal of *The Separation of Church and State* ...
... no one.

This is a transcription of notes drafted by Mary elizabeth-hager Dixon during the course of the above mentioned forum, and used by her, as the basis for comment during the Audience Response Portion of the evening's program.

FINAL THOUGHTS
IN CLOSING

Monday 7 May 2007

As I draw this presentation to conclusion, several thoughts keep coming back to mind ...

(1) RE. The sentence on Page 3 of this presentation which reads.

> It is my position and strong belief, that neither our state nor our nation should be in the business of conveying the sanctity of sectarian religious blessing to anything.

I would emphatically add .

And that is **exactly** what we would be doing if we instituted the state use of the term marriage for single-sex couples We would be conveying religiously grounded sanctity, sanctification and blessing to single-sex unions by *civil law*, according to the beliefs of theologically liberal religious belief groups and individuals of various faith traditions, including those of liberal belief and point of view among individuals who believe there is nothing beyond humanity to believe in ... to the detriment, disrespect and insult of theologically more conservative religious belief groups and individuals, and thus would be denying those theologically more conservative religious belief groups and individuals *EQUALITY BEFORE THE LAW*. We would be ***establishing*** *religious preference, belief and practice for some* ***BY LAW***, to the detriment of others – clearly a violation of the *constitutional mandate against THE ESTABLISHMENT OF RELIGION, OR RELIGIOUS PRACTICE* ... and a clear violation of the *constitutional principle* of the *SEPARATION OF CHURCH AND STATE*.

(2) RE: The sentence on Page 5 of this presentation which reads:

> I think we need to have Civil Unions for *everyone* ... gay and straight ... and leave "the word" – the term "marriage" – strictly to personal and/or religious use – to *everyone's personal and/or religious use* ... And truly have *Equality Before the Law* for ***everyone!!***

I would expand these thoughts: (1) to more clearly acknowledge and respect the full and equal rights of *all* who are given *legal standing as couples* before the law, and (2) to more clearly acknowledge and respect the full and equal rights of those who are not members of a religious congregation or faith community, those who are not adherents of a religion, those who are agnostics, and those who are atheists, by saying ...

I think we need to have Civil Unions for *everyone* ... gay and straight ... and have the joining of ***all*** couples *BEFORE THE LAW* accomplished in a brief *civil* formality in a town or city hall. Should couples wish, such a civil formality could be followed by an optional religious or secular ceremony. I believe the term "marriage" should be stricken from all legal record and reference, in the same way as the Congregational Church was stricken from our law and record, as the established church of our state by our Connecticut State Constitution of 1818, and that clergy no longer act as agents of the state ... another lingering vestige of theocracy through the ages. I believe we need to leave "the word" – the term "marriage" – ***strictly not to legal use***, but to personal, social/cultural, and/or religious or secular/non-religious use – to *everyone's personal, social/cultural, and/or religious or secular/non-religious use* ... And truly have *Equality Before the Law* for ***everyone!!***

Let us indeed, truly have *EQUALITY BEFORE THE LAW* for *all* who are given *legal standing as couples* ... let us ensure *RESPECT FOR RELIGIOUS DIFFERENCE* and *EQUALITY BEFORE THE LAW* for *all* with respect to religion – for religious conservatives, for religious liberals, for religious moderates, and for those of no religion or religious faith, as well . and let us carefully guard and protect the *SEPARATION OF CHURCH AND STATE*, which protects ***us all***

LET THERE BE ...
A NEW CONNECTICUT COMPROMISE, 2007

Let it begin .. HERE AND NOW!

REPRISE of CONTENTS ... A LIST

LET THERE BE ... *A NEW CONNECTICUT COMPROMISE, 2007*
Introductory remarks to testimony presented to the Judiciary Committee of The Connecticut General Assembly in Public Hearing on *House Bill 7395* "*An Act Concerning Marriage Equality*" – Monday March 26, 2007

Transcription of notes used as basis for testimony presented in Public Hearing to the Judiciary Committee of the Connecticut General Assembly on two occasions· *Monday February 7, 2005* and *Monday March 26, 2007*

An Afterword – Saturday April 28, 2007

Remarks at *Love Makes a Family* Forum – University of Connecticut School of Law Wednesday April 18, 2007

Final Thoughts, In Closing – Monday 7 May 2007

Reprise of Contents ... A List

READER SPEAK

'The markets were free enough so that the Wall Street aristocrats could play free and easy with other peoples' money They raked in huge payouts while the scams were rolling and left us with a wrecked economy' **FAV at courant.com/readerspeak.**

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MARK MIRKO | mmirko@courant.com

UCONN STUDENTS Lauren Millerd, center, and Nick Arntsen, right, are among those exulting Friday outside the state Capitol after the state Supreme Court ruled that same-sex couples have the right to marry

GAY RIGHTS

FREE TO WED

Connecticut Joins Two Other States In Allowing Same-Sex Marriages

By **DANIELA ALTIMARI** | altimari@courant.com

MAJORITY OPINION

The state Supreme Court on Friday delivered gay and as early as next month. It also provides fresh fuel to opponents of same-sex

CTSPORTS
The Red Sox defeat the

Post Office Box 844
Tolland, Connecticut 06084
11 October 2007

Dear

I compiled the following, intending to share copies of it with the full membership of our Connecticut State General Assembly, since neither co-chair of our Connecticut State General Assembly Judiciary Committee has responded favorably to the idea of considering any compromise approach regarding the issue of "Same Sex Marriage" ... not during the Public Hearing of the Judiciary Committee on 7 February 2005, nor during or after the Public Hearing of the Judiciary Committee on 26 March 2007 ... nor during several opportunities I had to speak with each of them about this issue in the intervening time between those two public hearings.

The "pulling" of this issue from the legislative agenda last May, made it seem untimely to share the copies I had prepared with the members of the House and Senate during the 2007 Session of the General Assembly. To date, I have not shared the enclosed compilation with them.

I have wondered since then, learning of the case brought before our Connecticut State Supreme Court, if it would be appropriate to share the compilation I made with the Court.

I do not have the means to seek legal guidance on proper judicial protocol and procedure. Therefore, I respectfully share the enclosed compilation with you, asking that you please take a few minutes to review it, and do with it whatever you deem appropriate.

Most sincerely yours,

Mary elizabeth-hager Dixon

Judiciary Committee
Hearing on Raised Bill No. 899
Testimony of Mark W. Dost
March 6, 2009

Good afternoon, House Chairman Lawlor, Senate Chairman McDonald, and other members of the Committee. My name is Mark Dost. I am a resident of Waterbury and an attorney in private practice. By way of credentials, I am a member of the executive committees of the Estates and Probate, Elder Law, and Human Rights and Responsibilities Sections of the Connecticut Bar Association. I am also a past chair of the Elder Law Section of the CBA and a fellow of the American College of Trust and Estate Counsel. My views presented this afternoon are my own. This afternoon, I am speaking with regard to Raised Bill 899, which purports to implement the *Kerrigan* decision.

My first point: There is no emergency that requires that this legislation be passed or that it be passed in haste. The *Kerrigan* decision required no implementing legislation. It was self-implementing. Same-sex couples are already being "married" in Connecticut.

Second: If the legislature feels the need to enact implementing legislation, it should at the same time implement civil rights legislation to protect against state intrusion on the civil liberties of people of faith and others who do not share the views of the four *Kerrigan* judges who voted to change our law. And that will require a change in the so-called "gay rights" bill passed in 1991. It may help to remember that the gay-rights bill was passed *with the support of the Catholic church* in order to promote tolerance toward homosexuals. It did not threaten the rights of individuals and groups who believe that sexual activity should be limited to the union, for life, of a man and woman in marriage. If RB 899 is about civil rights, then the bill should make it clear that the State is not committing itself to a policy of intolerance toward people of faith. Instead, this committee should be adopting legislation that will protect the constitutionally protected free-speech and associational rights of people who hold to traditional view of marriage.

RB 899 seeks to repeal sec. 46a-81r, a section of the "gay-rights" law passed in 1991. Section 4 of that act (marriage in CT is limited to the union of a man and a woman) perhaps could go, given Kerrigan. But sec. 46a-81r itself is a critical part of the gay-rights law, since it establishes that the purpose of the law, which impinges not only on state action but also on private rights, is tolerance. My fear is that outright repeal of sec. 46a-81r would move public policy from tolerance to affirmation of homosexuality and, with that, intolerance of those of us on the other side of the debate who do not and can not affirm same-sex marriage because of faith, reason, or conscience.

I am concerned with the impact of this legislation on freedom of expression, freedom of association, and freedom of religion. The current religious exemption

in 46a-81p provides some measure of protection to religious entities and religious educational institutions, but does not come close to meeting the first-amendment standards enunciated in the *Hurley* and *Dale* cases. Section 46a-81r, then, in conjunction with section 46a- 81p, has acted as an important counterbalance against overreaching by those who might apply the earlier sections of the gay-rights law beyond its four corners. It should not be eliminated unless and until provisions are substituted or added that would protect expressive, associational, and religious rights. In addition, there should be something in the law that acknowledges the rights of parents to have their children opt out of public-school curricula contrary to the teachings of their faith or own moral convictions; that may not be constitutionally required, but it is an important and necessary accommodation to parents. I am also concerned with the rights of public-school teachers and other public employees who refuse to promote, against reason and conscience, the idea of sex outside of marriage, as that term has historically been defined.

RB 899 has some other flaws. For example, the provision concerning marriage ceremonies (sec. 7) is flawed, since it does not appear to recognize that some weddings are performed, legally, in congregations that have no ordained clergy.

Even proponents of same-sex marriage may have some questions about the policy decisions being made in RB 899. For example, it eliminates civil unions and requires that same-sex couples choose marriage; I am not sure I understand the policy reason for eliminating the choice, especially when only two states recognize same-sex marriage. Further, the bill converts existing civil unions to same-sex marriages, rather than allowing an opt-in. It also does not make clear under what conditions civil union partners or domestic partners from other states who happen to be in Connecticut temporarily would become "married," thus muddying their legal status in other jurisdictions.

Mark W. Dost
31 Gaylord Glen
Waterbury, CT 06708

March 6, 2009

Judiciary Committee

I do not support SB 899 AA Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same Sex Couples. I understand that Section 17 of this bill would repeal the state law on homosexuality, meaning that the promotion of homosexuality or bisexuality could be taught in our school system.

Things are bad enough in our schools with the teaching of Comprehensive Sex Education without the added promotion of homosexuality and bisexuality.

Enclosed with my testimony is an article titled "Reading,'riting,'rithmetic and ... sex?" by Michael Hichborn that was in the American Life League magazine CELEBRATE LIFE. Part one in the November = December issue and Part two in the January – February issue.

According to Dr. Melvin Anchell, author of a Psychoanalytic Look at Today's Sex Education, "A partial summary of adverse effects due to the sex educators' interferences during latency is that they 1) make the six- to 12-year-old student less educable; 2) can block the development of compassion; 3) weaken the mental barriers controlling base sexual instincts, thereby making the child vulnerable to perversions in later life."

He also writes about the "dramatic increase in violent crimes from 1960-2007". "There can be little doubt that interrupting the latency period of development has had a catastrophic impact on society as a whole."

A quote from a former teacher of grades 7-12,"I observed, firsthand, the psychological damage that sex education causes in children. To put it briefly, I saw children become obsessed with sex and saw their grades drop as soon as they became interested in sex. And I saw children of an easy-going nature become wildly emotional as a result of this obsession."

The reason I bring this up is, as bad as comprehensive sex education is in our schools today, can you imagine how much worse it will get by bringing homosexuality as normal into the discussion!!!

Please read this article and vote against SB 899.

Robert E. Muckle Sr., Waterbury

Reading, 'riting, 'rithmetic and... sex?

By Michael Hichborn

The culture of death has waged a cruel and relentless war on children in this country, but the war didn't begin with the decriminalization of abortion, nor did it begin with the alleged "right to privacy" codified by the Supreme Court's 1965 *Griswold v. Connecticut* decision, which decriminalized the use of contraceptives. The war started with the push to indoctrinate children about three letters: S-E-X.

Prior to the 20th century, the closest thing to sex education was marriage, and preparation for marriage consisted of parents teaching their children about the virtues of modesty and chastity. Modern man, however, in his so-called liberation from absolute moral standards, took it upon himself to publicize a deeply private and intimate act. The results have been devastating.

"Sex education programs from kindergarten through high school continuously downgrade the intimate, affectionate, monogamous nature of human sexuality."

The history of sex education is a sordid affair. One of the earliest writings on the subject belongs to Margaret Sanger, foundress of Planned Parenthood. *What Every Boy and Girl Should Know*, published in 1915, laid the groundwork for what is now called comprehensive sex education in schools by advocating a clinical approach to what had previously been regarded as a moral, rather than medical subject.

In 1933, Elise Ottesen-Jensen, later a founding member of the International Planned Parenthood Federation, founded what is now known as the Swedish Association for Sexuality Education. This organization proudly acknowledges that its work led to the "abolition of the law on contraception, and the legalization of abortion and homosexuality." In 1938, Sweden dropped its ban against disseminating information on birth control. In 1944, it decriminalized homosexuality, and by 1955, sex education was compulsory in Swedish schools

PP saw Sweden as the testing ground for introducing sex education in this country. In 1946, it adopted a resolution advocating school sex education for the U.S.

Meanwhile, the notorious Dr. Alfred Kinsey, a zoology professor at Indiana University in Bloomington, Indiana, shocked the nation with two publications known as the *Kinsey Reports. Sexual Behavior in the Human Male* (1948) and *Sexual Behavior in the Human Female* (1953), both of which relied heavily on fraudulent data obtained from convicts and known sexual deviants, formed the basis of Kinsey's theories on human sexuality. According to Concerned Women for America, "The scientific methods of Kinsey have been discredited by medical and social science professionals."

Kinsey believed that children are potentially orgasmic from birth, all forms of sexual experimentation are beneficial, adultery is natural and healthy, pedophilia and incest are healthy, and homosexuality is natural, healthy and acceptable. The Sex Information and Education Council of the United States was founded at Indiana University's Kinsey Institute in 1964 to teach and promote these and similar Kinseyan theories on human sexuality.

SIECUS has been at the forefront of promoting and designing sex education programs in the U.S. Its first director was Dr. Mary Calderone, who also served as Planned Parenthood Federation of America's medical director from 1953 to 1964.

In 1966, the National Education Association passed its first resolution endorsing sex education and the U.S.

Department of Health, Education and Welfare began to push for including sex education in public school curricula, starting at the lowest grades. In the same year, HEW gave SIECUS funds to give a conference and develop the first sex education teacher training manual.

In 1970, federal funding for PP's programs through the Title X program began, and PP and SIECUS began to collaborate closely. Thanks to SIECUS, PP and organizations such as the American Association of Sexuality Educators, Counselors and Therapists, by the mid-1970s, sex education courses had been widely implemented in America's schools.

Dr. Melvin Anchell wrote an extraordinarily perceptive analysis entitled *A Psychoanalytic Look at Today's Sex Education*, which explains children's mental and emotional dispositions at various stages of development and how sex education disrupts their natural, healthy mental and emotional growth. Anchell pinpoints the underlying fatal flaws of school sex education:

> Sex education programs from kindergarten through high school continuously downgrade the intimate, affectionate, monogamous nature of human sexuality. Whether the sex educators purposefully intend to do so or not, their sex teachings act, nevertheless, to desensitize students to the spiritual quality of human sexuality.
>
> In addition, every teaching known is used to break down the students' mental barriers of shame, disgust and morality that are natural inborn mental dams that control base sexual urges.

Essentially, young children are not equipped to understand the intimate details of human sexuality. Yet, organizations like SIECUS and PP push not only teaching children as young as five about human sexuality, but also giving them details about topics such as homosexuality and masturbation. CWFA reports that in 1991, "SIECUS published and distributed its *Guidelines for Comprehensive Sexuality Education, Kindergarten—12th Grade* to all U.S. school boards. SIECUS urged all public school administrators and teachers nationwide to promote sex education in every grade and in every school."

One may wonder what sort of psychopath would believe it is appropriate to teach five-year-olds about such things, but once you recognize the barriers that are destroyed in the minds of youth, the agenda becomes perfectly clear.

For about the first six years of life, a child's primary means of learning are largely sensory experiences and observations of cause and effect. Scientists have been able to observe and track the growth of neural pathways directly related to this primary education. As these neural pathways grow and make more connections, it is important for the child to continue exploring, learning and making new discoveries.

However, Anchell points out, "If misguided adults, sex educators or child molesters cause the child to linger in these early sensual stages, an arrest in further sexual growth may occur." Further, he warns they "may become fixed in the need for an undue amount of exhibitionistic and voyeuristic pleasures in his or her later sex life. In such cases, the eye replaces the genital organ as the primary sexual site." If children this young can be programmed to become accustomed to pornographic images and sexual urges, then it is understandable why organizations promoting pornography, birth control and abortion would support it. These children become the seeds for future business.

The second phase of sexual development is known as the latency period, which begins at about age six and lasts until puberty begins. To sell the idea of sex education to the public, SIECUS and PP had to completely deny the existence of what Pope John Paul II referred to in his 1981 apostolic exhortation *Familiaris Consortio* as "the years of innocence."

During the latency period, sexual feelings lie dormant, allowing the developing child to direct his energies toward growth in other areas. Children in this phase have stopped learning as much through the senses as they previously did and have begun to grasp abstract concepts, allowing them a greater capacity for learning subjects such as math, history and the mechanics of grammar. When comprehensive information on human sexuality is introduced at this stage, naturally dormant sexual energies are aroused, thereby reducing the energy naturally used for intellectual growth.

Anchell writes, "A partial summary of adverse effects due to the sex educators' interferences during latency is that they 1) make the six- to 12-year-old student less educable; 2) can block the development of compassion; 3) weaken the mental barriers controlling base sexual instincts, thereby making the child vulnerable to perversions in later life."

Comprehensive sex education proponents may scoff at such statements, but in the second part of this article (to be published in the next *Celebrate Life* issue), I will present the evidence that proves them true.

Michael Hichborn is a researcher for American Life League and former teacher. He received an M.A. in Education in 2004. The sources for this article are listed in the online version, available at www.clmagazine.org.

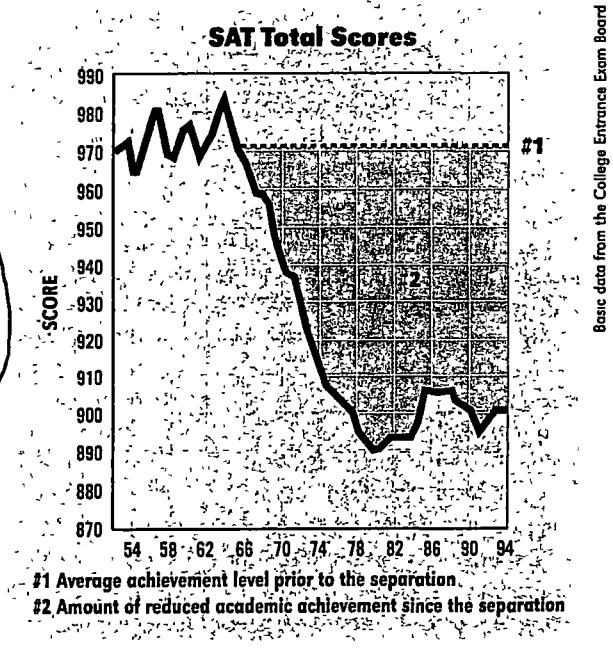
Email this article from our web site www.clmagazine.org

Reading, 'riting, 'rithmetic and... sex? Part 2

By Michael Hichborn

In the first part of this article (see *Celebrate Life*, November-December 2008), I traced the history of sex education in American schools and described its harmful impact on the individual child's cognitive and emotional development. According to Dr. Melvin Anchell, author of *A Psychoanalytic Look at Today's Sex Education*, "A partial summary of adverse effects due to the sex educators' interferences during latency is that they 1) make the six- to 12-year-old student less educable; 2) can block the development of compassion; 3) weaken the mental barriers controlling base sexual instincts, thereby making the child vulnerable to perversions in later life."

Bearing in mind that school sex education was introduced into schools in the 1960s and has been implemented on a large scale since the 1970s, this begs the question of how it has affected American society as a whole.

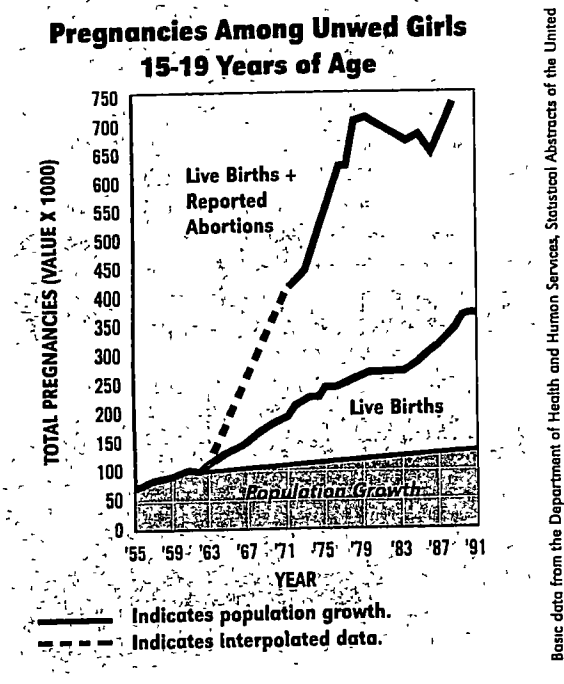


Plunging scores and soaring crime

According to data collected by the College Entrance Exam Board, SAT scores plummeted from about 980 in 1964 (the year that Dr. Mary Calderone, founder of the Sex Information and Education Council of the U.S., started pushing schools to teach sex education) to 890 in 1980—a drop of 90 points. It rebounded by only a few points through 1994. Interestingly, in 1995, the SAT's content and scoring methodology was altered significantly. According to the *Wall Street Journal*, "The SAT was made less difficult and 're-centered' so as to raise scores by about 100 points."

But, as Dr. Anchell's analysis indicates, mental acuity is not the only casualty of sex instruction at a young age. The U.S. Uniform Crime Report shows a dramatic increase in violent crimes from 1960-2007. In 1960, the total number of violent crimes (including murder, aggravated assault, robbery and forcible rape) was 160.9 per 100,000 inhabitants. By 2007, this figure had skyrocketed to 466.9 per 100,000 inhabitants. It is particularly noteworthy that in 1960, there were 9.6 forcible rapes per 100,000 inhabitants, but by 2007, there were 30 per 100,000 inhabitants.

Total crime rates (including violent and nonviolent crime) have risen from 1,887.2 per 100,000 inhabitants in 1960 to 3,730.4 per 100,000 inhabitants in 2007. There can be little doubt that interrupting the latency period of development has had a catastrophic impact on society as a whole.



Basic data from the Department of Health and Human Services, Statistical Abstracts of the United States, the Centers for Disease Control, and the Department of Commerce

The encouragement of vice

The problem with public sex education programs is that they are unnatural and unnecessary. Worse yet, that their aim is not merely to inform, but to indoctrinate children with a particular philosophy of human sexuality that ascribes to loose sexual morals, broad use of birth control and recourse to abortion. Simply put, sex education is the introduction of sexual curiosity to children and the encouragement of the same. Couched in terms such as "hygiene" and "health," sex education courses trivialize the genitals, mechanize intercourse, and focus on how *not* to get pregnant and what to do if pregnancy results.

Barring the moral ramifications of such instructional courses for a moment, the negative social effects are staggering! Drastically increased rates of teenage pregnancy, use of birth control, abortion, divorce, infidelity and sexually transmitted diseases are but a few of the social problems that have arisen as a result. According to data obtained from the U.S. Department of Health and Human Services, pregnancies (live births plus reported abortions) among unwed girls aged 15-19 skyrocketed from 100,000 in 1963 to nearly 750,000 by 1991.

The problem is clear: Comprehensive sex education breaks down the mental barriers of developing children, thereby undermining their academic development and damaging their natural sexual restraint, and the statistical data proves it. Sex education proponents have seen the same data, but they assert that the problem is that sex education is not comprehensive enough or there simply is not enough funding to make it widely available.

The fact of the matter, however, is that current sex education programs cannot possibly be more comprehensive than they already are, and they are already readily available in almost every state in the country. Increased funding and expanded sex education programs only line the pockets of those hoping to generate future customers for manufacturers of pornography as well as birth control and abortion providers.

There simply is no substitute for the guidance and trust a parent provides in such delicate matters. Only a parent can determine the maturity and readiness of their children for information on human sexuality. Each child is unique and will ask certain questions at different ages, such as "Where do babies come from?" or "How did a baby get in mommy's tummy?" More often than not, parents will find that the simplest answer suffices.

As a former teacher of grades 7-12, I observed, firsthand, the psychological damage that sex education causes in children. To put it briefly, I saw children become obsessed with sex and saw their grades drop as soon as they became interested in sex. And I saw children of an easy-going nature become wildly emotional as a result of this obsession.

The facts speak for themselves: Sex education is designed to create generations of kids who are mentally and emotionally fixated on sex, and is promoted by individuals and entities aiming to create a need for their "services." The result is a morally decrepit society with a predilection for violence. It is therefore essential to protect future generations from such brainwashing by establishing sex education-free schools. While a sex education-free school will not be the final solution to the problem, it must be the starting point for ridding our society of the sex education plague.

Michael Hichborn is a researcher for American Life League and former teacher. He received an M.A. in Education in 2004.

E-mail this article from our web site www.clmagazine.org.

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Connecticut Sexual Assault Crisis Services, Inc.

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www.connsacs.org

Testimony of Connecticut Sexual Assault Crisis Services, Inc.
SB 899 An Act Implementing The Guarantee Of Equal Protection Under The Constitution Of The State For Same Sex Couples
Elizabeth Cafarella, Director of Public Policy and Communication
Submitted to the Judiciary Committee
Public Hearing, March 6, 2009

Good morning Senator MacDonald, Representative Lawlor, and members of the Committee, my name is Elizabeth Cafarella, and I am the Director of Public Policy and Communication at Connecticut Sexual Assault Crisis Services, Inc. (CONNSACS).

CONNSACS is the statewide association of nine community-based rape crisis centers in Connecticut. Our mission is to end sexual violence and ensure high quality, comprehensive and culturally competent sexual assault victim services.

CONNSACS submits this testimony in support of SB 899 An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same Sex Couples. CONNSACS has a long history of anti-oppression work. We feel strongly that discrimination in any form is unacceptable. We serve victims of sexual assault from all segments of the population—all ages, demographics, and orientations.

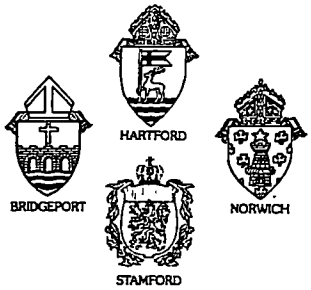
Victims of sexual assault who are gay, lesbian, bisexual or transgendered may have particular fears and concerns specifically related to their sexual orientation. These concerns may be not only about the assault, but about how they will be treated by health professionals, law enforcement, the legal system, their friends and family and/or their partner. Violence against gays and lesbians occurs everywhere: in schools, the workplace, public places and in the home. In many cases when lesbians are assaulted, it happens simply because they are female.

When sexual assaults are perpetrated against people who are gay, lesbian, bisexual or transgendered as a way of "punishing" them because of their sexual orientation, these assaults tend to be more violent and often cause more injuries than other sexual assaults. These acts are hate crimes.

Just as everyone has the right to nonjudgmental services, everyone should have the right to marry the person of their choosing. Aligning our state statutes with the *Kerrigan* ruling will go a long way toward enshrining in law the full citizenship that same-sex couples deserve.

We would be happy to answer any questions you may have regarding our position or services. Please feel free to contact me by email (ecafarella@connsacs.org)or by phone (860.282.9881).

Thank you for your consideration.



CONNECTICUT CATHOLIC CONFERENCE
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MICHAEL C. CULHANE
EXECUTIVE DIRECTOR

DEACON DAVID W. REYNOLDS
LEGISLATIVE LIAISON

Testimony before the
Judiciary Committee
on
S.B. 899 An Act Implementing the Guarantee of Equal Protection Under The Constitution of the State for Same-Sex Couples
March 6, 2009

The Connecticut Catholic Conference, the public policy office of Connecticut's Catholic Bishops, has for many years come before this committee to express its profound opposition to the legal recognition of same-sex civil unions and marriages within our state. The Conference's opposition to legal recognition of these forms of relationship was based not only on the religious teachings of the Catholic Church, but also out of the church's concern for the potentially negative sociological impact such relationships may eventually have on society.

Despite the October 2008 Connecticut Supreme Court ruling legalizing same-sex marriage, the Catholic Church in Connecticut still holds firm to its opposition to such unions. The State Supreme Court may have provided the advocates of same-sex marriage a civil victory, but it did not provide a victory over the hearts and minds of many people within our state who, in obedience to their religious beliefs, will never fully accept this civil institution. This committee, in codifying the Kerrigan ruling through S.B. 899, needs to address this profound conflict between civil law and the deeply held religious beliefs of many of the citizens within our state.

The Catholic Conference encourages this committee not to view this conflict as one driven by hate, but by sincere and faith driven beliefs held by many good people within our state. Even the Supreme Court recognized this in the Kerrigan decision when they stated " same-sex marriage is a subject about which persons of good will reasonably and sincerely disagree." (footnote 79 of majority decision) This committee should uphold the proud tradition our state has in protecting religious liberty as reflected in the state Constitution and numerous areas within our state statutes. The state should not force individuals or certain organizations, through punitive or coercive actions, to violate a deeply held religious belief.

To this end, the Conference recommends that Section 7 of this proposed legislation, which exempts clergy members from the necessity to perform same-sex marriages, be expanded and be made more inclusive. Any person, not just clergy, authorized to perform marriages under state statute 46b-22 should not be required to perform a marriage in violation of their free exercise of religion. For example, a Catholic Justice of the Peace should not be forced to relinquish their office because they will not perform a same-sex marriage in direct violation of their faith. Especially, when there is a significant number of other Justices of the Peace who would provide this service.

In addition, Section 7 should prohibit any person, such as a wedding photographer, or religious affiliated organizations and charities, from being coerced to comply or cooperate with the new public policy of the state recognizing marriage between persons of the same sex, if it would violate their religious tenets.

A situation has been created by the Kerrigan decision where state policy seriously conflicts with the religious beliefs of a large number of the citizens of the state. The Catholic Conference asks this committee to recognize and address this conflict as it moves to consider S.B.899. It asks this committee to respect our state's proud history of protecting religious freedom

Deacon David Reynolds
Legislative Liaison

Testimony of Beth Kerrigan & Joanne Mock
Judiciary Committee
March 6, 2009

PLEASE SUPPORT SB 899

It is indeed a pleasure to come before you to continue the discussion of same sex marriage.

My name is Beth Kerrigan, my partner of 15 years is Joanne Mock.
Together we are raising our two beautiful energetic seven years old twin sons Fernando and Carlos who attend first grade at Whiting Lane School in West Hartford. Jody has been working for the Hartford insurance company for last 27 years and is involved in several volunteer opportunities including her favorite as the director of the reading/mentoring program within the Hartford school system. I have been selling long term care health insurance for the past 20 years as well as volunteering at Whiting Lane School.

I proudly stand before you as one of the plaintiff couples who are thankful to have been a part of the supreme court case which was successful in winning the right for same sex couples to marry in the state of Connecticut.

During our 15 years as a couple we have celebrated innumerable marriages, among them sisters, nieces, nephews, close friends as well as my parents' 50 and 60 wedding anniversary. While all the time longing in our hearts to have them attend our wedding.

Being able to marry is important to us because it gives us a sense of being part of our community, belonging, it is what two people do who love each other and what to commit to spend their lives together.

So the morning when we got word the decision was going to be announced we discussed not telling our sons if it was not in our favor realizing what a disappointment it would be for them. How could we possibly explain to them why their parents could not share in the tradition of marriage.

Together Jody and I frantically read the decision on the computer, not knowing what the outcome would be, we called GLAD who confirmed we had won. Immediately we embraced and cried ecstatic that finally our family had gained the recognition, the status that all the families we knew enjoyed.

We were also relieved not to have to explain to our boys why their parents who love and commit their lives to their well-being and happiness couldn't be married.

We walked into the front office of Whiting Lane School to pick up the boys and share the good news with them. The staff including the principal showered us with heart-felt

congratulations. The boys were overjoyed and asked if they were going to go get dressed in their " wedding suits" thinking the wedding was that day.

We headed to Hartford to celebrate.

When asked after the days' events if we needed our parking lot ticket validated, I had responded we had just been validated, the supreme court said we were equal and deserving of the right to marry.

Words cannot express the overwhelming feelings of gratitude and joy we felt the day we witnessed Judge Silbert signing his name to a document that would allow Jody and I to join in marriage for the first time in our lives.

Later that day our boys accompanied us to West Hartford Town Hall to apply for our marriage license. A day we will never ever forget. We are both proud and thankful to live in the state of Connecticut where equality also lives.

As a committed same sex couple raising children, we urge the legislature to support this bill in order to tie together the lose ends remaining from the decision supreme court decision. Thank you.

LOVE MAKES A FAMILY

576 Farmington Ave.
Hartford, CT 06105
www.lmfct.org

PLEASE SUPPORT: SB 899
An Act Implementing the Guarantee of Equal Protections Under the Constitution of the State for Same-Sex Couples

Testimony of Anne Stanback, Executive Director, Love Makes a Family Judiciary Committee, March 6, 2009

Senator McDonald, Representative Lawlor and members of the Judiciary Committee. My name is Anne Stanback, and I am the Executive Director of Love Makes a Family, the Connecticut organization whose mission has been to change our state laws so that loving, committed same-sex couples could legally marry.

After eight years, that day finally arrived on November 12th with the Supreme Court's ruling in *Kerrigan.*

Today I am here to speak in support SB 899, *An Act Implementing the Guarantee of Equal Protections Under the Constitution of the State for Same-Sex Couples.*

There are lawyers testifying who can speak to this bill's technical elements better than I can. My role today is a simpler one. I am here to say thank you to this committee for moving the dialogue around marriage equality forward in our state. I am also here to speak on behalf of the 20,000+ members of Love Makes a Family who support the *Kerrigan* decision. I can sum up their sentiments using the words from my favorite sign at the "Decision Day" victory rally in October: "PROUD OF MY STATE."

Because that *is* the feeling. People are proud. And people are supportive. When same-sex couples began to marry in Connecticut in November, there were no major protests. There was no backlash. That fact—combined with the results of two independent statewide polls* that indicated clear majority support for the Court's ruling—shows that this issue is settled in Connecticut. The bill being heard today will close this final chapter on the effort to end legal discrimination based on sexual orientation.

Marriage equality is the law in Connecticut and this bill won't make it any more legal. What it will do, however, is conform our state statutes to the *Kerrigan* ruling and clear up confusion that exists because of Connecticut's civil union law. It will also clarify issues related to recognition and remove demeaning language that was added as a compromise to ensure passage of the so-called "gay rights bill."

That language was insulting to many of us when it was added 18 years ago, and today it is simply unacceptable. The language made some legislators feel comfortable back in 1991, but all its talk of "not condoning homosexuality" and "not requiring the teaching of homosexuality as an acceptable lifestyle" had no legal impact then—and repealing it will have no legal impact now.

So why repeal the section at all? Because words matter, and the only thing the words referenced in Section 17 do is to demean gay people and our families. Our state has moved beyond that. The Court's majority in *Kerrigan* said as much, citing this language as an example of prejudice and "state-sponsored disapproval" of gay and lesbian people that is no longer acceptable.

In preparation for today's hearing, I looked back at my testimony from the first hearing the Judiciary Committee held on this issue back on March 16, 2001. I closed my remarks then with words which are just as appropriate today as they were 8 years and 10 days ago:

> "What could possibly be wrong with making it easier for me take care of and be responsible for the person I have made a lifelong commitment to? What could possibly be wrong with allowing the same thing for the other couples here today? Marriage is about building stronger families. Building stronger families builds stronger communities, and that is a good thing for all of us."

Thank you.

* PUBLIC SUPPORT FOR MARRIAGE EQUALITY: A UCONN/Hartford Courant poll conducted the weekend following the *Kerrigan* court decision showed that a clear majority **(53% to 42%)** of Connecticut residents support letting same-sex couples marry. A second independent poll on December 17th by Quinnipiac University confirmed that majority support **(52% to 39%)**.

TESTIMONY OF JAMES HANLEY IN SUPPORT OF SB 899
MARCH 6, 2009

I am here to support SB 899 to implement the guarantees of equal protections for same sex couples.

I also want to thank the many people who have worked so hard to bring legal fairness to same sex couples in Connecticut.

Thanks to the citizens of Connecticut who have supported fairness, to community organizations like Love Makes a Family and to the tireless champions of constitutional equality in our state government. Their dedication has already changed our lives.

I have known I am gay since my earliest childhood memories, an awareness that I have always celebrated. But that identity as a gay human being meant I have had to fight hard all my life to be treated fairly. Sometimes I thought I would not live to see the coming of real equality for same sex partners in Connecticut, but I always hoped that in the end people would come to recognize that every citizen benefits from equality before the law.

We are weakened as a society when there are protected classes who are treated better than others. This is a step forward that will bring new strength to Connecticut.

My husband and I got married on November 12, the first day it was possible to walk into our town hall in Mansfield and be treated as equal members of the community who could show their commitment to each other in exactly the same legal way as could any other couple in Connecticut, straight or gay. It hard to describe the exquisite combination of simple and profound this experience was to us; the folks in the town offices were wonderful and welcoming. Two good friends happened to be there on other business and immediately joined us in celebrating our marriage on the spot.

This simple matter of filing a civil contract of marriage came after decades of demonstrations and political activism with some of the most dedicated people we have ever known. People who never gave up the struggle to be treated fairly and equally in the community.

There is still a long way to go. I am immensely proud that Connecticut is among the first of the states to aim to truly eliminate unfair discrimination against same sex couples and all the language that goes with it. Our partners and children need the same protections that everyone else takes for granted every day.

Our family just had a sharp reminder of the very real nature of what these changes mean. Just in the few months since my husband and I were married, I needed emergency medical services, an experience that showed us the crucial importance of the state legal protections we have finally achieved. At every step of the way, our responsibility for each other was assumed; the hospital treated our relationship and need to care for each other with absolute respect. At a trying time, it was reassuring to know at last we would not have any doubt that our state constitutional rights had already become part of everyday life in Connecticut.

Now the fight must tum to the unfair, unequal and discriminatory laws at the federal level. The list is more than a thousand long, from the insulting absurdity of the Defense of Marriage Act to Don't Ask, Don't Tell, to the fact that same sex couples routinely have to pay more Federal tax than heterosexual couples. I believe that eventually, as in Connecticut, the issue will simply come to equal treatment before the law, a concept even some members the current Supreme Court will not be able to avoid much longer.

Connecticut is a beacon of progress, equality and responsibility to our nation. Now we need to take the final step to eliminate all discriminatory language from our state statutes,

Thank You

Testimony of Obadiah Ballinger and Javen Swanson
Judiciary Committee, March 6, 2009

PLEASE SUPPORT: SB 899, An Act Implementing the Guarantee of Equal Protections Under the Constitution of the State for Same-Sex Couples

Senator McDonald, Representative Lawlor, and members of the Judiciary Committee: Our names are Obadiah Ballinger and Javen Swanson. We live in New Haven and are engaged to be married. We strongly urge your support of Senate Bill 899, implementing marriage equality for same-sex couples.

We met at Yale Divinity School in 2006 and discovered that we have much in common. Both of us grew up in rural Minnesota communities, attended church-affiliated colleges, and went to seminary with the full support of our families and faith communities. We are both pursuing ordination and ministry in Christian congregations. Our life together reflects this pastoral preparation: we first met while studying biblical Greek, we practice our sermons with each other on Saturday nights, and we plan for a big church wedding this May in the divinity school chapel.

As people of faith, we believe in the importance of marriage and family life. We understand marriage to be a sacred covenant between two people, blessed by God and recognized by the community. We know also that marriage has a secular dimension; it is supported with special benefits according to civil law. These are designed to weave together a social network that supports a couple and whatever

children grow up in their care. These governmental privileges and responsibilities, which you oversee as legislators, help to hold families together.

Though we happen to be gay, we ask to be treated like every heterosexual couple also preparing for their wedding day. We are delighted to know that our marriage will have true equality in Connecticut. Civil unions have been a helpful attempt to extend governmental benefits and responsibilities to same-sex couples, but they have at the same time denied true equality. "Civil unions" cannot hope to capture the centuries of culture and tradition wrapped up in the word "marriage," however identical the legislative provisions might be. We are pleased that this bill will end the division between the two categories and consider "married" all loving couples that enter into covenant together.

We have been called by God into relationship with each other, and will marry before God and a supportive community. Recognizing that some religious communities will choose not to lend their support to full marriage equality, we appreciate the freedom of religion recognized in the bill, permitting some faith communities to dissent. With this legislation, which treats us as full and equal citizens, our religious covenant will carry with it the complete rights and responsibilities of the law. We ask you to support this bill to implement equal protections, and make our joy complete.

Thank you.

3/6/09

SB 899

Honorable Chairman, Honorable Committee, Ladies & Gentlemen:

I am here as an historian and a grandfather to remind us of the obvious. We must beware in this winter of our discontent, lest in building a room for a disadvantaged minority we knock down the house that shelters us all. First, heterosexual marriage is essential to the long-term health of society. Second, Connecticut needs children who have learned to tune their desires to their morals, not their morals to their desires. Third, freedom of conscience and of expression must be preserved for those who defend traditional moral teachings - and for their children - if democracy in Connecticut is to survive. We would urge that this bill be rejected. If exceptions must be provided for, then Section 17 should be amended to reaffirm our commitment as a State to heterosexual marriage, including the freedom of citizens to defend it and to protect their minor children from instruction they deem immoral–in a manner that the courts cannot misinterpret.

Heterosexual marriage is not the property of any one faith or nation, but of all mankind from earliest times. Any alternative models became extinct so long ago that there is no memory of them. Historic societies that devalued marriage soon collapsed under the weight of social pathology, falling birthrates, and loss of civic patriotism. The long term health of any society has been shown to depend on the health of its marriages. Put bluntly, we all came into this world as the result of a heterosexual act. If that act did not take place in the context of a healthy permanent marriage, we have a just grievance against life and a disadvantage that follows us to the grave. This is a risk factor in all social pathologies from child abuse to crime to suicide.

Moral principles matter–as the current financial meltdown demonstrates. Healthy families teach their children to develop and govern their desires under the discipline of morality–not the reverse. This encourages the next generation to build successful marriages and a healthy society. The alternative view seems to be that children should select and develop their moral principles in accord with their desires. Or that there is no such thing as sexual morality at all. Such a paradigm is hardly conducive to healthy, permanent marriages or effective parenting–or a healthy society.

Will freedom survive? In effect, it has been determined that a troubled minority has the right to do what the majority believes to be morally wrong. Still, reasonable people believe this and similar legislation threatens the right of society to defend itself–to call any sort of sexual behavior wrong under any circumstances, to refuse to participate in what we believe to be wrong, to teach our children any sort of sexual morality or to shield them from alternative role models. This legislation needs to be redrawn in such a way that in giving rights to one segment of society it does not take away the rights–and moral foundations–of all the rest.

David W. Heughins, PhD
Manchester, CT

STATE OF CONNECTICUT

DEPARTMENT OF PUBLIC HEALTH

TESTIMONY PRESENTED BEFORE THE JUDICIARY COMMITTE
March 3, 2009

Meg Hooper, Branch Chief, Planning Branch/Office of Vital Records 509-7128

Senate Bill 899 - An Act Implementing the Guarantee of Equal Protection Under the Constitution of the State for Same Sex Couples

The Department of Public Health provides the following information with regard to Senate Bill 899.

The Department would like to bring the following three technical problems to the attention of the Judiciary Committee.

1. Section 4 of the bill allows for parties to a marriage or civil union to legally re-marry without dissolving the first relationship. We recommend that the language be revised, allowing only those couples who are currently in a civil union or other similar relationship, to enter into a marriage. To allow persons already married to remarry serves no state purpose, and will likely lead to duplication of records and administrative burdens. We recommend that the language in subdivision (2) of section 4 of the bill be changed to the following:

   "Not a party to another relationship that provides substantially the same rights, benefits and responsibilities as a marriage entered into in this state or another state or jurisdiction, unless the parties to the marriage will be the same as the parties to such other relationship;"

2. Section 5 of the bill, which amends Connecticut General Statute § 46b-25, should include the applicant's sex as one of the data elements collected for the marriage license.

3. Subsection (b) of section 11 of the bill should be clarified. As it currently reads, it is difficult to decipher whether the effective date of the marriage is the date that the marriage was entered into, or the date of the civil union. We recommend the following language to provide clarification:

   "(b) After the celebration of such marriage, the license or notarized affidavit shall be filed with the registrar of vital statistics in accordance with section 46b-34 of the general statutes. As of the date of the marriage, the civil union shall be considered a marriage by operation of law, and the effective date of the marriage shall be the date of the civil union.

Thank you for your consideration of the Department's views on this bill.

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Affirmative Action / An Equal Opportunity Employer

TESTIMONY for Judiciary hearing – March 6, 2009

YES to bills 899 and 1056
NO to bills 6573 and 6381

I am proud to live in a state like Connecticut that recognizes the rights of all loving couples to demonstrate their commitment to each other by marrying. Same gender marriages in no way diminish the unions between a man and a woman, and every committed couple should have the same rights, responsibilities and benefits as every other couple. **SB 899** clarifies some important situations concerning conversion of civil unions to marriages, recognition of unions & marriages of people who move to CT and of CT couples who go to other states. I congratulate the CT General Assembly for ending discrimination and respecting the rights of all, and ask that you pass this clarifying legislation.

* * * * *

Raised bill **1056**--- YES! One of the great things about the USA is our freedom of speech rights. This needs to extend to students as well as adults. Just because students are under the jurisdiction of teachers and administrators in many other respects does not mean that rights to free speech and expression do not apply to them. Let Connecticut be a leader (again) in affirming students' rights.

* * * * *

I ask you, on the other hand NOT to pass **bill 6573,** which would compel DNA samples from individuals arrested for sexual offenses and offences committed against minors. People are arrested all the time for offenses that it turns out they did not commit, and in addition, charges are often made and then dropped in order to extract a plea bargain from the arrestee. Why should arrest be grounds for DNA testing? I thought that legislation was passed in 2008 to provide for DNA testing after conviction, rather than either at the arrest stage or at the time of release. If not, then it is covered by **SB 542,** which would include many types of crimes in which DNA evidence might convict or exonerate. Post-conviction timing preserves individual rights while helping to solve both cold and current cases. I do question, however, why A and B Misdemeanors are included. Moreover, I question whether Connecticut can handle the filing of all this information, which definitely would limit its usefulness.

HB 6381 should be opposed because it allows for "reasonable force" to be used in collecting DNA samples; I'd like to know what is the definition of "reasonable force". You should never pass legislation containing such vague language that could allow for physical abuse.

Sally Joughin

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