

Statement of

# The Honorable Orrin Hatch.

United States Senator  
Utah  
March 3, 2004

Statement of Chairman Orrin G. Hatch  
Before the United States Senate Committee on the Judiciary  
Subcommittee on the Constitution, Civil Rights and Property Rights  
Hearing on

"JUDICIAL ACTIVISM V. DEMOCRACY: WHAT ARE THE NATIONAL IMPLICATIONS OF THE MASSACHUSETTS GOODRIDGE DECISION AND THE JUDICIAL INVALIDATION OF TRADITIONAL MARRIAGE LAWS?"

Thank you very much, Mr. Chairman. I am for traditional marriage. The foundation of American society is the family, and it is traditional marriage that underpins and sustains the American family. We must always act to maintain and strengthen the family.

Just a few years ago, I helped pass the Defense of Marriage Act (DOMA) to try to prevent one state from forcing another state to adopt its definition of marriage. I believed then and I continue to believe that one state should not be able to determine for another state that it must recognize same-sex marriage.

I commend Senator Cornyn for holding this important hearing today and for his leadership on the Constitution, Civil Rights and Property Rights Subcommittee. As well, I recognize and commend the Ranking Democrat on the subcommittee, Sen. Feingold, for his hard work and insight. I think the hearing which Senator Cornyn held last September clearly showed that DOMA and traditional marriage laws are under serious risk of judicial attack. The Goodridge decision in Massachusetts, which came out after the last hearing, proved this fear to be accurate. It is now clearer to me than ever that courts are usurping the role of legislatures by imposing their own definitions of marriage on the people and that we must do something about this.

The disintegration of the family in this country correlates with many serious social problems, including crime and poverty. We are seeing soaring divorce rates and out-of-wedlock birth rates that have resulted in far too many fatherless families. Weakening the legal status of marriage at this point will only exacerbate these problems.

As to how we approach the problem of courts seizing the decision-making power in this area, I think we need to consider amending the Constitution. Let me be clear: I support President Bush's conclusion that it is time to support and defend traditional marriage. The Musgrave/Allard text, which I support and will vote for, should be seriously considered. I think it would also be prudent if we look at approaches which keep the courts from forcing its definition of marriage on states, and instead let the legislatures and the citizens decide for themselves what is best for them. This is what the democratic process is all about, and there are people all across the political spectrum that share this view. I look forward to discussing the various proposed amendment alternatives in further detail at subsequent hearings.

I look forward to continuing to work on this important family issue with you in the coming weeks and months.

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