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The great divider

Thursday, February 26, 2004

When he ran for office in 2000, President Bush promised voters he would be "...a uniter, not a divider."

We're not sure how that vow squares with his call to write gay couples out of the Constitution.

Mr. Bush, on Tuesday, warmly endorsed a proposed constitutional amendment that would reserve marriage for heterosexuals.

Recognizing the potential firestorm from the political gasoline he was about to ignite, Mr. Bush smugly urged Americans to "conduct this difficult debate in a manner worthy of our country, without bitterness or anger."

In other words: We're going to abridge your rights. Now don't get all angry or upset about it.

Call us cynical, but it seems a safe bet Mr. Bush is less interested in

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changing the Constitution than he is in energizing his backers among the evangelicals and social conservatives with a red-meat issue as his re-election campaign gets under way.

Such an amendment, after all, would have to be approved by Congress and ratified by the legislatures of at least 38 states. The process is likely to take years -- probably many more years than a second Bush term would encompass.

Then the protracted legal challenges will begin.

The debate, some of which is certain to be rancorous and divisive, will take place in Congress and on the local political playing fields in each state.

Since the president plays no direct role in the ratification process, the White House will have the luxury of staying serenely above the fray until the unlikely day this political turkey returns home to roost.

If Mr. Bush was really interested in resolving the volatile issue of same-sex marriage (doing the statesman thing, as he might say), he would have taken a more practical path.

Mr. Bush did not do that, of course, because statecraft on difficult social matters requires quiet, low-profile patience, accommodation and deep thinking -- things he has neither need nor talent for.

A "uniter" might have suggested government simply get out of the marriage business: Cede the sacred to the churches. That portion of marriage involves public profession of a personal commitment and, in some views, is largely a state of mind anyway.

The legal aspects of a marriage certificate could be handled at the state level by declarations of civil union -- legally binding agreements not entirely unlike business partnerships.

All couples could achieve marriage in churches that choose to offer them marriage; and all couples could be granted civil union from the municipalities that offer it to them.

Civil union agreements would resolve the myriad legal matters that inevitably result when two people share domicile, property and parenthood. It would clear up such practical issues as who owns the house, or has the right to the apartment; who should qualify for health benefits; and what happens to property and child custody if the partnership is dissolved by mutual agreement or death.

These are real, costly and unnecessarily complicated legal questions that courts all across America are routinely asked to deal with.

You don't have to agree with the practice to recognize that same-sex partnerships are a fact. They exist, whether the law countenances them or not. Mutilating the Constitution with ill-advised modifications will not make them go away.

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