STATE OF MINNESOTA DISTRICT COURT

COUNTY OF HENNEPIN FOURTH JUDICIAL DISTRICT

Douglas Benson, Duane Gajewski, Jessica Dykjuis, Lindzi Campbell, Sean Campbell, Thomas Trisko and John Rittman,

Plaintiffs,

vs.

Jill Alverson, in her official capacity as the Hennepin County Local Registrar, and the State of Minnesota,

Defendants.

ORDER

Court File No. 27 CV 10-11697

The above-entitled matter came duly on for hearing before Judge Mary S. DuFresne on December 10, 2010.

APPEARANCES:

Peter Nikitas, Esq., appeared for Douglas Benson, Duane Gajewski, Jessica Dykjuis, Lindzi Campbell, Sean Campbell, Thomas Trisko and John Rittman.

Dan Rogan, Assistant Hennepin County Attorney, appeared for Jill Alverson.

Alan Gilbert, Solicitor General for the State of Minnesota, appeared for the State.

Based upon the evidence adduced, the argument of counsel, and all of the files, records, and proceedings herein,

IT IS ORDERED:

1. The State of Minnesota is **DISMISSED** from this lawsuit. The caption of this case shall be amended to read:

Douglas Benson, Duane Gajewski, Jessica Dykjuis, Lindzi Campbell, Sean Campbell, Thomas Trisko and John Rittman,

Plaintiffs,

vs.

Jill Alverson, in her official capacity as the Hennepin County Local Registrar,

Defendant.

---

2. Defendants' joint motion to dismiss the Complaint is **GRANTED**. The Complaint is hereby **DISMISSED WITH PREJUDICE**.

3. The attached Memorandum of Law is hereby incorporated into this Order.

LET JUDGMENT BE ENTERED ACCORDINGLY.

BY THE COURT:

Mary S. DuFresne

Dated: March 7, 2011

Mary S. DuFresne
Judge of District Court

JUDGMENT
I HEREBY CERTIFY THAT THE ABOVE ORDER CONSTITUTES THE ENTRY OF JUDGMENT OF THIS COURT
MARK S. THOMPSON, COURT ADMINISTRATOR
BY Deputy
DEPUTY
DATED 3-8-11 (SEAL)

MEMORANDUM OF LAW

FACTS

Plaintiffs are three same-sex couples and the minor child of one couple. (Cmplt. ¶ 1). The three couples each sought a marriage license from Hennepin County. The County denied the couples' applications for licenses presumably pursuant to the State's Defense of Marriage Act, which prohibits marriage between persons of the same sex. *See* Minn. Stat. §§ 517.01, 517.03, Subd. 1(4) (2010) (the State's "DOMA"). Plaintiffs filed suit against Jill Alverson, the Hennepin County Local Registrar, asking the Court to declare the State's DOMA unconstitutional. Hennepin County filed a motion to dismiss based on Plaintiffs' alleged failure to join an indispensible party, namely, the State of Minnesota. Plaintiffs then served this action on Minnesota's attorney general and joined the State as a party to the case. Defendants now jointly move for dismissal of this case on the merits. Additionally, the State argues that it is not a proper party to this suit.

ISSUES

Is the State of Minnesota a proper party to this suit? Have Plaintiffs stated a claim upon which relief may be granted in claiming that the State's DOMA violates certain constitutional principles?

ANALYSIS

I. The State is not a proper party to this lawsuit.

Plaintiffs argue that the State is a proper party, relying on three theories: 1) the State is a proper party pursuant to the Uniform Declaratory Judgments Act, 2) the local registrar is controlled by the State Registrar, and 3) the State is the creator and enforcer of all laws, including 515 separate laws that Plaintiffs allege discriminate against same-sex couples, creating a legal interest in this lawsuit.

The Uniform Declaratory Judgments Act, Minnesota Statutes Chapter 555, grants Courts the authority to declare rights, status, and other legal relations, whether or not further relief is or could be claimed. Minn. Stat. § 555.01 (2010). Thus, the defendants in this case may not object to Plaintiffs' Complaint solely on the ground that it prays for declaratory relief. *See id.* The Act is clear about which parties must be joined in an action for declaratory relief:

> When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration, and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a municipal ordinance or franchise, such municipality shall be made a party, and shall be entitled to be heard, and if the statute, ordinance or franchise is alleged to be unconstitutional, the attorney general shall also be served with a copy of the proceeding and be entitled to be heard.

Minn. Stat. § 555.11. Here, the State's Attorney General must be served with a copy of the proceeding and is entitled to be heard. The State need not and should not be a party to the case.

Plaintiffs have not demonstrated that the State has or claims any interest which would be affected by the prayed-for declaration. In *Clark v. Pawlenty*, the Petitioner sued then-Governor Tim Pawlenty and the Secretary of State seeking an election ballot correction. *See* 755 N.W.2d 293 (Minn. 2008). Specifically, the petitioner requested that the "incumbent" designation, be removed from alongside Justice Lorie Gildea's on statewide election ballots. *See id.* at 298. The *Clark* Court concluded that Governor Pawlenty was not a proper party to the lawsuit because he had no authority over the creation or preparation of the election ballots. *Id.* at 299. The Governor's role in this context was to appoint judges and justices between election periods. The Petitioner did not seek to bar the Governor from filling judicial vacancies in the future. *Id.* In contrast, the Secretary of State was a proper defendant because he provided the challenged ballot information to all 87 county auditors. *Id.* The Court also

observed that this was an office for which voting is conducted statewide and for which the secretary of State provided the challenged ballot information to all county auditors. *See id.*

In this case, the State of Minnesota, generally, is not the entity that creates or prepares marriage licenses. Minnesota Statutes Section 517.07 requires marrying couples to obtain a marriage license from the local registrar of any county within Minnesota. The local registrars maintain data on marriages and report that data to the state registrar. *See* Minn. Stat. § 144.223. This report, however, takes place *after* the marriage has been solemnized.

In sum, the relief that Plaintiffs seek would be provided by the local registrar, and not the State of Minnesota. The State is not a necessary party to this action and the Court will grant the State's motion to dismiss. The Local Registrar also seeks dismissal, arguing that it is not in a position to defy Minnesota's Defense of Marriage Act. Like the Secretary of State in *Clark*, the Local Registrar is the office that would provide the relief that Plaintiffs seek. Without a doubt, the Local Registrar is the correct Defendant in this case.

II. The law requires dismissal of this case on its merits.

Plaintiffs filed the instant case challenging the State's Defense of Marriage Act (DOMA). The State's DOMA is contained in Minnesota Statutes Sections 517.01 and 517.03. The State's DOMA provides that lawful marriage may be contracted only between persons of the opposite sex and that marriages between persons of the same sex are prohibited. *See* Minn. Stat. §§ 517.01, 517.03, Subd. 1(4)(a). Marriages entered into by persons of the same sex that are recognized in another state or foreign jurisdiction are void in this state and contractual rights granted by virtue of the marriage or its termination are unenforceable in this State. Minn. Stat. § 517.03(a)(4)(b). The DOMA became State law in 1997. Plaintiffs challenge the State law, arguing that it violates Plaintiffs' rights to due process, equal protection, religious freedom, and freedom of association. Plaintiffs also contend that the DOMA violates the

single-subject clause because the DOMA was enacted as part of a larger bill arguably encompassing many topics.

A claim is sufficient against a motion to dismiss based on failure to state a claim upon which relief can be granted if it is possible on any evidence which might be produced, consistent with the pleader's theory, to grant the relief demanded. *Northern States Power Co. v. Franklin*, 265 Minn. 391, 395, 122 N.W.2d 26, 29 (1963). The only factual information presented is that which is disclosed by the pleadings as a whole. *Id.* The Court may, however, consider an entire written contract when the complaint refers to the contract and the contract is central to the claims alleged. *In re Hennepin County 1986 Recycling Bond Litig.*, 540 N.W.2d 494, 497 (Minn. 1995). The Court must accept the facts alleged in the complaint as true and draw all reasonable inferences in favor of plaintiff. *Pullar v. Indep. Sch. Dist.* No. 701, 582 N.W.2d 273, 275-76 (Minn. Ct. App. 1998). At this stage of litigation, it is immaterial whether the plaintiff can prove the facts alleged. *See Martens v. Minnesota Mng. & Mfg.*, 616 N.W.2d 732, 739-40 (Minn. 2000). "Because of the minimal formal requirement of notice pleadings and the liberal interpretation of pleadings under the rules, a motion to dismiss for [failure to state a claim upon which relief can be granted] will rarely be granted." David F. Herr & Roger S. Haydock, *Minnesota Practice* § 12.9 (2008).

A. *Baker v. Nelson* clearly disposes of Counts I and III of the Complaint.

The first count of the Complaint alleges a violation of the due process provision of Article I, Section 7 of the Minnesota Constitution. This provision reads,

> No person shall be held to answer for a criminal offense without due process of law, and no person shall be put twice in jeopardy of punishment for the same offense, nor be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty or property without due process of law....

The third count of the Complaint alleges a violation of Article I, Section 2 of the Minnesota Constitution, which reads as follows:

> No member of this state shall be disfranchised or deprived of any rights or privileges secured to any citizen thereof, unless by the law of the land or the judgment of his peers.

The Minnesota Supreme Court held that the prohibition against same-sex marriage in Minnesota does not offend the due process or equal protection clauses of the United States Constitution in *Baker v. Nelson*, 291 Minn. 310, 191 N.W.2d 185 (1971). This, of course, is binding precedent on this Court and this Court is not free to ignore it. Plaintiffs argue that the instant lawsuit should be analyzed as though this precedent is not binding because Plaintiffs bring their lawsuit under the Minnesota State Constitution rather than Federal law. This argument is unavailing.

"It is axiomatic that a state supreme court may interpret its own state constitution to offer greater protection of individual rights than does the federal constitution." *Kahn v. Griffin*, 701 N.W.2d 815, 827 (Minn. 2005) *quoting State v. Fuller*, 374 N.W.2d 722, 727 (Minn. 1985). The highest court of this state is the "first line of defense for individual liberties within the federalist system." *Kahn*, 701 N.W.2d at 828 *citing Fuller*, 374 N.W.2d at 726. When the state Supreme Court reaches "a clear and strong conviction that there is a principled basis for greater protection of the individual civil and political rights of Minnesota's citizens under the state constitution, [the high court] does not hesitate to interpret the state constitution to independently safeguard those rights." *Kahn*, 701 N.W.2d at 828.

In *Baker v. Nelson*, a same-sex couple sued the Hennepin County Registrar after the Registrar denied the couple a marriage license on the sole basis that the individuals were of the same sex. Much the same as the Plaintiffs in this case, the *Baker* plaintiffs argued that Minnesota's law prohibiting same-sex marriage violated the couple's fundamental right to marry. The *Baker* Court discussed the effect of *Loving v. Virginia*, in which the United States Supreme Court struck down Virginia's statute prohibiting interracial marriages. In response to

Loving, the *Baker* Court stated, "But in commonsense and in constitutional sense, there is a clear distinction between a marital restriction based merely upon race and one based upon the fundamental difference in sex." 291 Minn. at 315, 191 N.W.2d at 314.

In response to *Baker*, Plaintiffs argue that thirty years have passed since *Baker* and legal issues related to sexual orientation are now "substantial federal questions." Certainly, the Minnesota Supreme Court is free to overrule its opinion in *Baker v. Nelson*. Until such time, however, *Baker* remains binding precedent on this Court. Furthermore, Plaintiffs have not demonstrated that this Court has any authority to ignore *Baker* and afford same-sex couples greater or different protections than the federal constitution provides. A fair reading of *Baker* demonstrates that the Minnesota Supreme Court was not sympathetic to the *Baker* plaintiffs' claims. The Supreme Court has not reached "a clear and strong conviction that there is a principled basis for greater protection" of same-sex couples under the State Constitution. This Court has no reason to believe that the result in *Baker* would have been different had the *Baker* plaintiffs alleged violations of the Minnesota Constitution. The law in the State of Minnesota is that a ban on same-sex marriage is constitutional and this Court "...must interpret and apply the law without regard to whether the judge approves or disapproves of the law in question." Minn. R. Jud. Conduct 2.2 at cmt. 2. Certainly, the Court cannot ignore the *Baker* opinion on the basis that "times have changed." Times may have changed, but the law has not.

B. Senate File No. 1908 encompassed a single subject.

Count II of the Complaint alleges a violation of Minnesota's single-subject constitutional provision. The relevant section reads, "No law shall embrace more than one subject, which shall be expressed in its title." Minn. Const. Art. IV, § 17. This provision has two purposes. *Johnson v. Harrison*, 47 Minn. 575, 577, 50 N.W. 923, 924 (1891). The first is to prevent so-called "log-rolling legislation" or "omnibus bills," by which a number of

different and disconnected subjects are united in one bill, and then carried through by a combination of interests. *Id.* The second is "to prevent surprise and fraud upon the people and the legislature by including provisions in a bill whose title gives no intimation of the nature of the proposed legislation, or of the interests likely to be affected by its becoming a law." *Id.* The term "subject," however, in the constitutional provision, is to be given a broad and extended meaning so as to allow the legislature full scope to include in one act all matters having a logical or natural connection. *Id.* "All that is necessary is that act should embrace some one general subject." *Id.* A common thread that is only a mere filament will still pass constitutional muster. *See Assoc. Builders and Contracters v. Ventura*, 610 N.W.2d 293, 302 (Minn. 2000). In *Associated Builders*, an amendment to the prevailing wage law providing that prevailing wages must be paid in all construction or remodeling projects of educational facilities exceeding $100,000 was found to violate the single-subject clause because the amendment bore no relation to its bill: the 1997 omnibus tax bill relating to tax relief and reform. *See, generally, id.* Yet in *Townsend v. State*, the Supreme Court held that an amendment to the Postconviction Relief Act contained in a bill entitled, "An act relating to public safety...[and] imposing criminal and civil penalties" did not violate the single-subject clause. 767 N.W.2d 11, 14 (Minn. 2009). In *Townsend*, the Petitioner challenged an amendment which added a time requirement for postconviction relief petitions and provided that petitions may not be based on grounds that could have been raised on direct appeal. *Id.* at 13. The Court concluded that the post-conviction amendment related to public safety as well as criminal and civil penalties. *Id.* "Although it is certainly a wide-ranging bill, the various sections 'fall under some one general idea.'" *Id.* at 13-14, *quoting Johnson*, 47 Minn. at 577, 50 N.W. at 924.

The challenged bill in this case is entitled:

> A bill for an act relating to human services; appropriating money; changing provisions for health care, long-term care facilities, children's programs, child support enforcement, continuing care for disabled persons; creating a demonstration project for persons with disabilities; changing provisions for marriage; accelerating state payments; making technical amendments to welfare reform....

Senate File No. 1908 (May 17, 1997). The bill takes in a number of considerations, but these considerations cannot be said to be of separate subjects in the Constitutional sense. The general subject is that of families and children. While some of the issues may be connected to the general subject by only a mere filament, this is all that is required.

Furthermore, were this Court to find otherwise and strike down the 1997 DOMA as offensive to the single subject constitutional provision, the opinion in *Baker v. Nelson* would remain and the Count could still deny same-sex couples marriage licenses. In some ways, the DOMA is duplicative of *Baker*. The Court cannot make a finding that the 1997 DOMA violates the single-subject provision of Minnesota's constitution.

C. The DOMA does not unconstitutionally interfere with or infringe upon religious freedoms.

Count IV of the Complaint alleges a violation of the freedom of conscience provision of the Minnesota Constitution. In the Complaint, Plaintiffs include three affidavits from religious leaders indicating that each church supports same-sex marriage and performs same-sex marriage ceremonies in the church. Plaintiffs argue they are not fully able to exercise their religion because even if they marry in their church, the marriage is not recognized by the State.

The relevant constitutional provision reads,

> The right of every man to worship God according to the dictates of his own conscience shall never be infringed; nor shall any man be compelled to attend, erect or support any place of worship, or to maintain any religious or ecclesiastical ministry, against his consent; nor shall any control of or interference with the rights of conscience be permitted, or any preference be given by law to any religious establishment or mode of worship; but the liberty of conscience hereby secured shall not be so construed as to excuse acts of licentiousness or justify practices inconsistent with the peace or safety of the

> state, nor shall any money be drawn from the treasury for the benefit of any religious societies or religious or theological seminaries.

Minn. Const. Art. I, § 16. Minnesota's Constitution provides greater protection of religious liberties to its citizens than the Federal Constitution. *See Hill-Murray Fed'n of Teachers v. Hill-Murray High Sch.*, 487 N.W.2d 857, 865 (Minn. 1992). "Whereas the first amendment establishes a limit on government action at the point of *prohibiting* the exercise of religion, [Minnesota's Freedom of Conscience provision] precludes even an *infringement* on or an *interference* with religious freedom." *State v. Hershberger*, 462 N.W.2d 393, 397 (Minn. 1990). "Accordingly, government actions that may not constitute an outright prohibition on religious practices (thus not violating the first amendment) could nonetheless infringe on or interfere with those practices, violating the Minnesota Constitution." *Id.* Minnesota's Constitution confers affirmative rights in the area of religious worship, while the federal provision merely attempts to restrain governmental action. *Id. quoting* Fleming & Nordby, *The Minnesota Bill of Rights: "Wrapt in the Old Miasmal Mist"*, 7 Hamline L. Rev. 51, 67 (1984).

Defendants contend that *Baker v. Nelson* disposes of Plaintiffs' Freedom of Conscience claim. This Court cannot fully agree. In *Baker*, the Minnesota Supreme Court did not address any issues concerning religious freedom. The *Baker* Court may have been referring to religious freedom issues, among other issues, in footnote two of the opinion, which reads, "We dismiss without discussion petitioners' additional contentions that the statute contravenes the First Amendment and Eighth Amendment of the United States Constitution." 291 Minn. at 312, 191 N.W.2d at 186, n.2. Considering that the Minnesota Supreme Court has not offered guidance on the issue of religious freedom as it relates to same-sex marriage, and that the Minnesota Constitution offers greater protection of religious freedom than the federal provision, this Court opines that it may not be bound by existing precedent relating to

Plaintiffs' freedom of conscience claim. The Court must still resolve the question of whether Plaintiffs have stated a claim upon which relief may be granted.

To determine whether government action violates an individual's right to religious freedom, this Court asks: (1) whether the belief is sincerely held; (2) whether the state action burdens the exercise of religious beliefs; (3) whether the state interest is overriding or compelling; and (4) whether the state uses the least restrictive means. *Hill-Murray*, 487 N.W.2d at 865.

As to the first question, for purposes of evaluating this motion to dismiss, the Court concludes that Plaintiffs have properly alleged sincerely held beliefs that same-sex marriages are allowed or encouraged within certain faiths and denominations. "It is not the province of the court to examine the reason of religious beliefs or to resolve purely religious disputes." *Hill-Murray*, 487 N.W.2d at 865 *citing Serbian & Orthodox Diocese v. Milivojevich*, 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1976). "It is, however, proper for the courts to inquire as to whether a belief is held in good faith." *Id. citing In re Jenison*, 267 Minn. 136, 125 N.W.2d 588 (1963). Plaintiffs have properly alleged that their beliefs at issue are held in good faith.

The second question asks whether state action burdens the exercise of religious beliefs. Here, Plaintiffs ask the Court to accept the allegation that the State's refusal to acknowledge a same-sex marriage infringes on or interferes with the Plaintiffs' religious freedoms. To help determine what exactly constitutes a burden on the exercise of religious beliefs, the Court will examine one of the leading, on-point cases on the subject of burdens on religious freedoms. In *Hill-Murray Federation of Teachers v. Hill-Murray High School*, the employer, a religious institution, contended it was exempt from compliance with the Minnesota Labor Relations Act, which requires the parties to endeavor in good faith to reach an agreement with respect to rates of pay, rules or working conditions in the place of employment. 487 N.W.2d at 866. The

employer argued that negotiations about conditions of employment would lead to negotiations about religion, which would compel the school to negotiate and compromise its doctrinal positions. *Id.* The Minnesota Supreme Court found this interference was "remote" and an insufficient basis to exempt the employer from regulatory laws of the State. *See id.* The Court held that matters of religious doctrine and practice at a religiously affiliated school are intrinsically inherent matters of managerial policy and therefore non-negotiable. *Id.* Terms and conditions of employment that are not doctrinally related are negotiable and the Minnesota Labor Relations Act did not excessively burden the employer's religious beliefs. *Id.* The employer retained the power to hire employees who met their religious expectations, to require compliance with religious doctrine, and to remove any person who fails to follow the religious standards set forth. *Id.* The employer did not establish that "this minimal interference excessively burden[ed] their religious beliefs." *Id.*

The situation is similar here. With the DOMA intact, Churches retain the power to perform religious ceremonies sanctioning same-sex relationships as well as the freedom to reject same-sex relationships. Plaintiffs retain the ability to participate in same-sex marriage ceremonies. Plaintiffs have the ability to fully exercise their religious freedoms, without interference or infringement. The State, on the other hand, retains its ability to withhold approval of certain religious ceremonies, without an effect on religious freedoms. For one example, the State may hold regular business hours on any number of religious holidays without running afoul of the freedom of conscience clause. The State's choice to recognize opposite-sex marriages performed in churches, but not same-sex marriages is a decision within the purview of the State's power to prohibit certain marriages without unconstitutionally interfering in religious freedoms. The Court is unable to conclude that any state action has burdened the exercise of religious beliefs through the enactment and enforcement of the State

DOMA. Plaintiffs have failed to state a claim upon which relief can be granted because they have not properly alleged that state action burdens the exercise of religious beliefs. Count IV of the Complaint must be dismissed.

D. *Baker v. Nelson* compels dismissal of Plaintiffs' freedom of association claim.

The Complaint's final count alleges the State's DOMA violates the Plaintiff's constitutional right to freedom of association. "Constitutional freedom of association protects the right of an individual to associate with others for the purpose of expressing and advancing ideas and beliefs." *Metro. Rehab. Svs., Inc. v. Westberg*, 386 N.W.2d 698, 700 (Minn. 1986) *citing NAACP v. Alabama, ex rel. Patterson*, 357 U.S. 449, 460, 78 S.Ct. 1163, 1170 2 L.Ed.2d 1488 (1958). This is referred to as "freedom of expressive association." *See Roberts v. U.S. Jaycees*, 468 U.S. 609, 618, 104 S.Ct. 3244, 3250 (1984). Freedom of association also encompasses "freedom of intimate association." *See id.* Freedom of intimate association affords "the formation and preservation of certain kinds of highly personal relationships a substantial measure of sanctuary from unjustified interference by the State." *Id.* "The personal affiliations that exemplify these considerations, and that therefore suggest some relevant limitations on the relationships that might be entitled to this sort of constitutional protection, are those relationships that attend the creation and sustenance of a family..." *Id.* One of these relationships is marriage. *Id., citing Zablocki v. Redhail*, 434 U.S. 374, 383-386, 98 S.Ct. 673, 679-681, 54 L.Ed.2d 618 (1978).

Freedom of association is not mentioned in the text of either the federal of state constitution. *Metro. Rehab. Svs.*, 386 N.W.2d at 700. In federal courts, the right has been recognized as a derivative of first amendment guarantees. *See id.* Plaintiffs bring this claim under our State Constitution. No cases indicate that the right of freedom of association is independently recognized under the State constitution. Unlike protections for religious

freedom, case law does not establish that the State provides any greater protections for freedom of association than the federal Constitution. The Court observes that in *Baker v. Nelson*, the Court summarily disposed of all first amendment claims without discussion. 291 Minn. at 312, 191 N.W.2d at 186, n.2. Freedom of Association comes under the purview of the First Amendment. Furthermore, the Court must observe that the *Baker* Court opined that marital restrictions "based upon the fundamental difference in sex," did not invoke constitutional protections. *See id.* at 315, 187. Were this Court to conclude that Plaintiffs could be entitled to relief under a freedom of association theory, this would be in direct contravention of the clear holding in *Baker*. The Court must dismiss Count Five of the Complaint.

CONCLUSION

The State of Minnesota is not a proper party to this action and is dismissed from this lawsuit. Bearing in mind that a statute is presumed constitutional, the Court has concluded that the bill which encompassed the State DOMA does not violate the single-subject clause of the State Constitution, and that Plaintiffs have failed to demonstrate that the State DOMA infringes on or interferes with religious freedoms. As to the remaining counts, this Court is compelled to dismiss the instant action on the merits based upon binding precedent set forth in *Baker v. Nelson*, 291 Minn. 310, 191 N.W.2d 185 (1971). Same-sex marriage will not exist in this State unless and until the Minnesota Supreme Court overrules its own decision in *Baker*, or the State Legislature repeals the State DOMA.

M.S.D.