

Representative Smizik's speech at the Constitutional Convention opposing DOMA

Mr. President I stand in opposition to this amendment.

Let me begin by stating that my political and legal formative years took place during the civil rights struggle of the 1960's. My heroes were the Judges on the Fifth Circuit Court of Appeals whose jurisdiction covered the heart of the South. The judges of this court were at risk of impeachment, at risk of life and limb, and at risk of being ostracized by their friends and neighbors yet they showed great courage and they upheld the equal protection clause of the Constitution. Much like the issue facing us today, these Judges made the decisions that were not popular to the majority of citizens in their states, but did so in order to fulfill their role in our governmental process, i.e.; to uphold the provisions of our Constitution by protecting the minority against the oppression of the majority. Thurgood Marshall, a lawyer in many of the early civil rights cases fought discrimination and unequal treatment in employment opportunities, education and public accommodation cases. As a result, he championed equal protection under the law when he became a U.S. Supreme Court justice while helping to firmly establish this important doctrine in the United States.

Today in Massachusetts we are facing an equal protection decision. Certain citizens in Massachusetts are unable to obtain marriage licenses. As a result seven gay couples went to court to seek relief in what became know as the Goodrich case. These gay couples were seeking the right to be married under existing law and the court held that a valid "case and controversy" existed as required under the Constitution. The court did not solicit the plaintiffs to file the case.

Our Supreme Judicial Court concluded in Goodrich that the Massachusetts Constitution "affirms the dignity and equality of all individuals and forbids the creation of second class citizens."

The Supreme Judicial Court concluded that by denying these same-sex couples marriage licenses while giving the right to the protections and benefits of civil marriage to opposite sex couples- the Commonwealth violates "the basic premise of individual liberty and equality under the law prohibited by the Massachusetts Constitution."

What is much misunderstood is that the Court was not usurping the legislative jurisdiction over the same-sex marriage issue. The case came to them legally and they exercised their judgment, as the courts are required to do. As I mentioned previously, courts have a long history of providing civil rights to residents who are not in the majority. If we push for a constitutional amendment today, those rights we will be trying to usurp the court's decision. I can't take that route. As a lawyer, as a person who reflects on our history I appreciate the special role that the courts' decisions have made regarding constitutional rights and cases throughout our country's history.

I have heard often in emails, letter and calls to my office that God has made us all. We all have received hundreds of e-mails, letters and calls from members of clergy of many different faiths. They fact is they are in disagreement. The beauty of our Constitution is that it makes it easy to solve this problem. All God's children should be equal under the eyes of the law.

In 1968, while I attended law school, we had one of our most exciting but tragic years Martin Luther King and Bob Kennedy were assassinated. They were fighting for equal protection for minority unions including immigrant workers and public employees. The two railed against the denial of equal protection for workers and employees. I was inspired by their words and

convinced of their correctness and their courage. At the beginning of his speech at the march in Washington in 1963, Dr. King got it right when he said:

Now is the time to make justice a reality for all of God's Children. I have a dream that one day this nation will rise up and live out the true meaning of its creed-we hold these truths to be self-evident that all men are created equal.

I would add that today this means gay couples seeking rights to be married as well as all gays seeking equal rights in many area of our society. .

Among others Kennedy and King called us to take action. Kennedy said:

Each time a person stands up for an ideal, or acts to improve the lot of others...he sends forth a tiny ripple of hope, and crossing each other from a million different centers of energy and daring, those ripples build a current that can sweep down the mightiest walls of oppression and resistance.

Today I am asking this convention to extend that ripple of hope for those who have not been given equal rights in our state.