

114TH CONGRESS
1ST SESSION

H. RES. 359

Providing that the House of Representatives disagrees with the majority opinion in *Obergefell et al. v. Hodges*, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 2015

Mr. KING of Iowa (for himself, Mr. FRANKS of Arizona, Mr. BABIN, Mr. HARRIS, Mr. HUELSKAMP, Mr. YOHO, and Mr. GOHMERT) submitted the following resolution; which was referred to the Committee on the Judiciary

RESOLUTION

Providing that the House of Representatives disagrees with the majority opinion in *Obergefell et al. v. Hodges*, and for other purposes.

Whereas the traditional definition of marriage is a union between one man and one woman;

Whereas the opinion of the majority of the Supreme Court in *United States v. Windsor*, written by Justice Kennedy, affirmed that “The definition of marriage is the foundation of the State’s broader authority to regulate the subject of domestic relations with respect to the ‘[p]rotection of offspring, property interests, and the enforcement of marital responsibilities.’”;

Whereas the opinion of the majority of the Supreme Court in *Obergefell et al. v. Hodges et al.* (in this resolution re-

ferred to as “Obergefell”) distorts the meaning of the word “marriage” to create an unconstitutional right to same-sex marriage;

Whereas the opinion of the majority in Obergefell distorts the word “liberty” in the Due Process Clause of the 14th amendment to the Constitution;

Whereas the dissenting opinions in Obergefell uphold the traditional definition of marriage as a union between one man and one woman;

Whereas the dissenting opinion by Chief Justice Roberts in Obergefell states that “[T]his Court is not a legislature. Whether same-sex marriage is a good idea should be of no concern to us. Under the Constitution, judges have power to say what the law is, not what it should be.”;

Whereas the dissenting opinion by Justice Scalia in Obergefell states that “With each decision of ours that takes from the People a question properly left to them—with each decision that is unabashedly based not on law, but on the ‘reasoned judgment’ of a bare majority of this Court—we move one step closer to being reminded of our impotence.”;

Whereas the dissenting opinion by Justice Thomas in Obergefell upholds the traditional interpretation of the word “liberty” in the 14th amendment to the Constitution as it was understood by the drafters upon the adoption of the 14th amendment and properly outlines the historical understanding of the word “liberty” from its understanding in the Magna Carta, through William Blackstone, to the Founders, and to the drafters of the 14th amendment;

Whereas the dissenting opinion by Justice Alito in Obergefell states that “Today’s decision usurps the constitutional right of the people to decide whether to keep or alter the traditional understanding of marriage. The decision will also have other important consequences. It will be used to vilify Americans who are unwilling to assent to the new orthodoxy.”;

Whereas the opinion of the majority in Obergefell is a clear case of judicial activism; and

Whereas the majority of the Supreme Court in Obergefell acted legislatively, which is an unconstitutional violation of the principle of separation of powers: Now, therefore, be it

1 *Resolved*, That—

2 (1) the House of Representatives—

3 (A) disagrees with the majority opinion in
4 Obergefell and its holdings that the 14th
5 amendment to the Constitution requires States
6 to license marriages between same-sex couples
7 and requires States to recognize same-sex mar-
8 riages performed out-of-State; and

9 (B) agrees with the four dissenting opin-
10 ions in Obergefell, which uphold the traditional
11 definition of marriage as a union between one
12 man and one woman and the original meaning
13 of the 14th amendment; and

14 (2) it is the sense of the House of Representa-
15 tives that—

1 (A) the traditional definition of marriage is
2 a union between one man and one woman;

3 (B) the majority opinion in Obergefell un-
4 constitutionally and indefensibly distorts the
5 definition of marriage;

6 (C) the States may refuse to be bound by
7 the holding in Obergefell;

8 (D) the States are not required to license
9 same-sex marriage or recognize same-sex mar-
10 riages performed in other States; and

11 (E) individuals, businesses, churches, reli-
12 gious groups, and other faith-based organiza-
13 tions are encouraged, empowered, and protected
14 to exercise their faith without fear of legal or
15 government interference.

○