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111TH CONGRESS
2D SESSION

# H. RES. 1607

Disapproving Judge Walker's Proposition 8 Decision on Same-Sex Marriage.

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IN THE HOUSE OF REPRESENTATIVES

AUGUST 10, 2010

Mr. SMITH of Texas (for himself, Mr. FRANKS of Arizona, Mr. JORDAN of Ohio, Mr. KING of Iowa, Mr. AKIN, Mr. CHAFFETZ, Mr. LAMBORN, Mr. LATTA, Mr. SENSENBRENNER, Mr. PITTS, Mr. JONES, Mrs. BACHMANN, Mr. FLEMING, Mr. GINGREY of Georgia, Mr. BACHUS, Mr. HOEKSTRA, Mr. MARCHANT, and Mr. ADERHOLT) submitted the following resolution; which was referred to the Committee on the Judiciary

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# RESOLUTION

Disapproving Judge Walker's Proposition 8 Decision on Same-Sex Marriage.

Whereas 45 States protect traditional marriage as the union of one man and one woman;

Whereas every State whose voters have considered the issue prohibits same-sex marriage;

Whereas 3 States have redefined traditional marriage only because the redefinition has been ordered by a court;

Whereas, since 2004, over half the States have codified in their State Constitutions the legal definition of marriage as the union of one man and one woman;

Whereas attempts by judges to rewrite the Constitution in order to amend the definition of traditional marriage to fit their personal views constitutes improper judicial activism;

Whereas, on August 4, 2010, Chief United States District Judge Vaughn R. Walker, in Hollingsworth v. Perry, ruled that California's Proposition 8, enacted by popular referendum in 2008, is unconstitutional, thereby redefining traditional marriage such that it is no longer a union between one man and one woman;

Whereas Judge Walker failed to conduct himself in an impartial manner during the course of the proceedings that resulted in such ruling;

Whereas Judge Walker attempted to illegally broadcast the trial in disregard of the harassment such broadcast would invite on witnesses supporting Proposition 8;

Whereas such attempt was ultimately denied by an extraordinary stay order by the United States Supreme Court issued on January 13, 2010, in which the Supreme Court held Judge Walker ''did not follow the appropriate procedures set forth in federal law'';

Whereas the United State Supreme Court further held that ''The District Court attempted to change its rules at the eleventh hour to treat this case differently than other trials in the district'' and that Judge Walker ''ignore[d] the federal statute that establishes the procedures by which its rules may be amended'';

Whereas Judge Walker refused to decide the case as a matter of law, as other courts have done;

Whereas Judge Walker's decision instead to address irrelevant factual issues resulted in his ruling to authorize in-

trusive discovery of the internal communications of supporters of Proposition 8;

Whereas, on January 4, 2010, such ruling was overturned, in part, by an extraordinary writ of mandamus issued by a panel of the United States Court of Appeals for the Ninth Circuit;

Whereas the Ninth Circuit panel held that Judge Walker's ruling failed to protect the First Amendment associational rights of Proposition 8 supporters and that, as a result, ''the exceptional circumstances presented by this case warrant issuance of a writ of mandamus'';

Whereas Judge Walker's decision illegitimately inquired into the personal and religious motivations of the more than 7 million Californians, including large majorities of African-Americans, who voted for Proposition 8;

Whereas, in America, we respect and uphold the right of a free people to make policy choices through the democratic process;

Whereas more than 7 million Californians decided that marriage should be preserved, not fundamentally changed;

Whereas California voters simply affirmed the definition of marriage that predates our Nation and every other nation and form of government;

Whereas, if a handful of activists are allowed to void a constitutional amendment protecting marriage, we have eliminated the core of the American democratic system and will deny more children the mom and the dad they deserve;

Whereas the most important issue in the Perry case is whether our Government is of, by, and for the people; and

Whereas a handful of activists have put on trial the right of California voters to simply affirm a common-sense, historic public policy position: Now, therefore, be it

*Resolved,* That it is the sense of the House of Representatives that—

(1) Chief United States District Judge Vaughn R. Walker failed to conduct himself in an impartial manner before striking down California's popularly enacted Proposition 8 and thereby redefined traditional marriage to include same-sex relationships; and

(2) Chief United States District Judge Vaughn R. Walker's decision to strike down California's popularly enacted Proposition 8 is wrong.

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