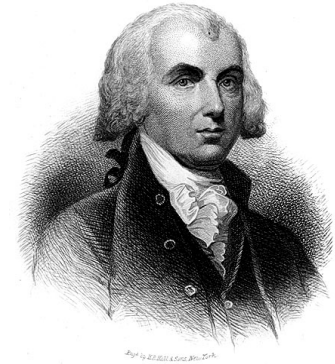




## Responding to Claims of “Judicial Tyranny”

We’ve heard a lot lately about “judicial tyranny.” But right-wing claims of judicial tyranny are no more than a straw man. Their real objection is to legal equality for gay and lesbian people. All elected officials take an oath to uphold the Constitution, including its guarantees of liberty and equality for all (not just heterosexuals), and respect for the rule of law.

Some facts: six of the seven “renegade judges” in Massachusetts were appointed by Republican governors; seven of the nine U.S. Supreme Court justices were appointed by Republican presidents; of 13 federal appeals courts, nine have majorities of Republican appointees, two have majorities of Democratic appointees, and two are split evenly between Republican and Democratic appointees.



## The *Goodridge* Ruling: America At Its Best

We don’t always agree with court rulings. The U.S. Supreme Court made George W. Bush president, even though Al Gore got more popular votes nationwide and, some believe, in Florida. Courts have struck down environmental regulations, campaign finance restrictions, gun control and even parts of the Violence Against Women Act, all policies that enjoy strong public support. Courts have a duty in our system of government to say when a law draws the wrong lines. Our system was designed that way; it’s deliberate. It’s their job to say that laws are not equitable, even if the practice has been accepted for a long time. Courts defend justice when they courageously stick with constitutional principles—as Massachusetts’ high court did in the marriage case—without regard to the politics or the popularity of their decision. This is the American system of government at its best.

**James Madison warned:**  
“...measures are too often decided not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority.”

## Let The People Decide?

We are hopeful that, with time and public education, a majority of Americans will understand why same-sex couples deserve equal protection under the law, including equal access to civil marriage. In Massachusetts and three other states, such majorities exist. However, the rights of members of a stigmatized minority should not be determined by the prejudices of the majority.

In *Federalist #10*, founding father James Madison warned that “measures are too often decided, not according to the rules of justice and the rights of the minor party, but by the superior force of an interested and overbearing majority.” In other words, majority rule, unchecked, can lapse into majority tyranny. Prejudice or ignorance should never determine public policy. Anti-gay ballot measures like that proposed for Massachusetts—in which a majority decides whether to grant or withhold individual rights in a secret ballot—violate this fundamental principle.

**Don’t Amend the Constitution. Defend It.**