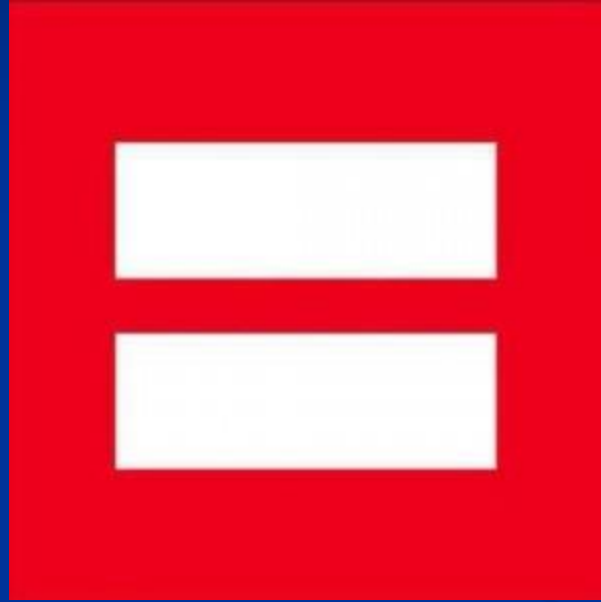


MARRIAGE EQUALITY



***RAMIFICATIONS OF THE SUPREME
COURT'S "DOMA" DECISION***

OUTLINE:

- 1. The March to Marriage Equality**
- 2. Guam's Treatment of SSMs**
- 3. Local and Private Benefits**

I.

THE MARCH TO MARRIAGE EQUALITY

1996

Defense of Marriage Act (DOMA):

1. Federal definition of Marriage: “Between one man and one woman.”
2. States may refuse to recognize SS marriages performed in other states.

1996

PUBLIC OPINION:

25%

SUPPORT SAME SEX MARRIAGES

2004

MASSACHUSETTS

2008

CALIFORNIA*
CONNECTICUT

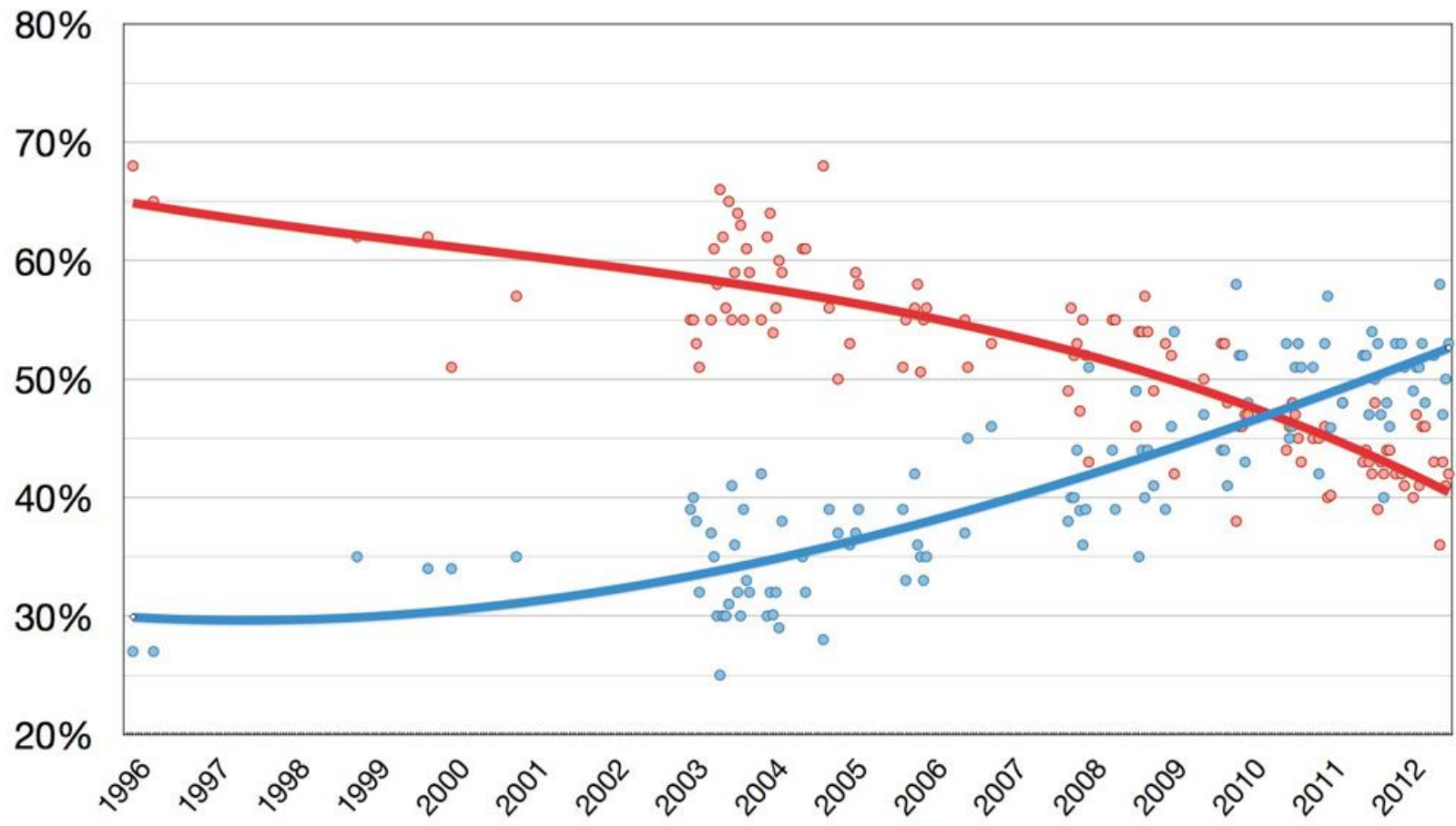
2009

**IOWA
VERMONT
NEW HAMPSHIRE
DISTRICT OF COLUMBIA**

2011

NEW YORK

Tipping Point:



2012



DOMA

“UNCONSTITUTIONAL”

Cite as: 570 U. S. ____ (2013)

1

Opinion of the Court

NOTICE: This opinion is subject to formal revision before publication in the preliminary print of the United States Reports. Readers are requested to notify the Reporter of Decisions, Supreme Court of the United States, Washington, D. C. 20543, of any typographical or other formal errors, in order that corrections may be made before the preliminary print goes to press.

SUPREME COURT OF THE UNITED STATES

No. 12–307

UNITED STATES, PETITIONER *v.* EDITH SCHLAIN
WINDSOR, IN HER CAPACITY AS EXECUTOR OF THE
ESTATE OF THEA CLARA SPYER, ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE SECOND CIRCUIT

[June 26, 2013]

JUSTICE KENNEDY delivered the opinion of the Court.

2013

**U.S. SUPREME COURT STRIKES
DOWN SECTION 3 OF DOMA:**

***OPENS FEDERAL BENEFITS TO ANYONE
LAWFULLY MARRIED***

2013

MARYLAND
RHODE ISLAND
DELAWARE
MINNESOTA
NEW JERSEY

2013

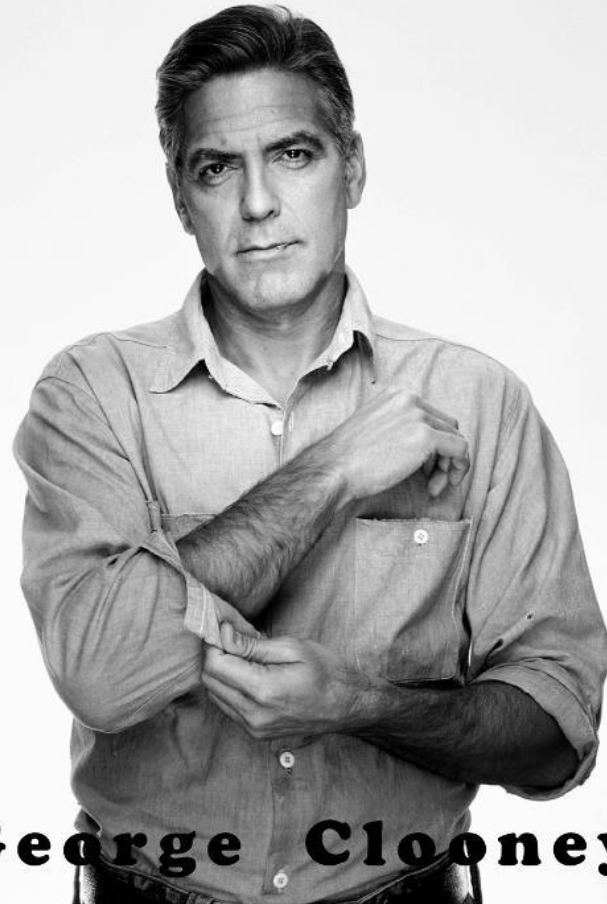


**MANY TRADITIONAL OPPONENTS
OF SAME SEX MARRIAGE
ABANDON THE FIGHT**

Inevitable?

**“At some point in
our lifetime,
gay marriage
won't be an issue,
and everyone who
stood against this
civil right will look
as outdated as
George Wallace
standing on the
school steps keeping
James Hood from
entering the
University of
Alabama because he
was black.”**

 **miss
R-EVOLUTIONARIES**



George Clooney

2013

33%+

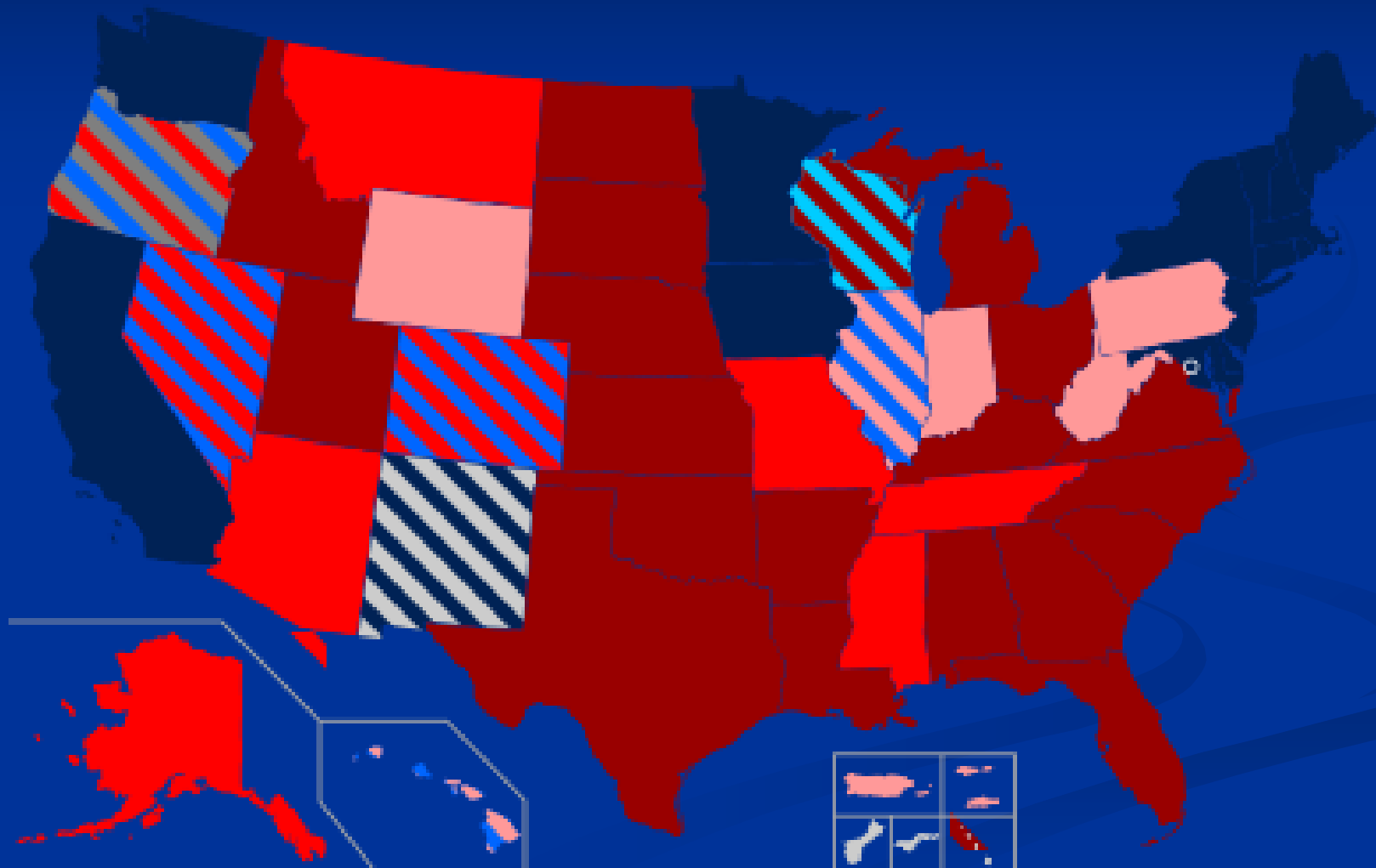
**OF U.S. POPULATION NOW RESIDES
IN “MARRIAGE EQUALITY”
STATES**

2013

66%

**OF U.S. POPULATION RESIDES IN
PLACES THAT STILL DO *NOT*
REGOGNIZE SAME SEX
MARRIAGES**

The Patchwork Nation:



2013

PUBLIC OPINION:

58%

SUPPORT SAME SEX MARRIAGES

2013

PUBLIC OPINION:

70%

**OF MILLENNIALS
SUPPORT SAME SEX MARRIAGES**

2013

WHO'S NEXT?

NEW MEXICO
HAWAII
ILLINOIS
OREGON

GUAM?

II.

GUAM'S TREATMENT OF SAME SEX MARRIAGES

Guam's Treatment of SSMs

1. Not recognized.
2. But not prohibited.
3. No court challenges to date.
4. Valid out-of-state marriages are recognized.

Guam's Treatment of SSMs

GUAM MARRIAGE LAW:

“Marriage is a personal relation arising out of a civil contract . . . followed by a solemnization authorized by this Title.”

19 GCA Section 3101.

Guam's Treatment of SSMs

BILL 185 (2009):

*PROPOSED CIVIL UNIONS BILL
DIES IN COMMITTEE:*

*ASSAILED BY
CATHOLIC CHURCH*

Guam's Treatment of SSMs

FEDERAL CONSTITUTION:

“Full faith and credit shall be given in each state to public acts, records and judicial proceedings of every other state.”

U.S. Constitution, Article IV, Section 1.

Guam's Treatment of SSMs

GUAM ORGANIC ACT:

“The following provisions . . . are hereby extended to Guam . . . Article IV, Section 1. . . .” (Full faith and credit).

Organic Act of Guam, 48 USC, Section 1421b (u).

Guam's Treatment of SSMs

GUAM MARRIAGE LAW:

“All marriages contracted outside the territory of Guam, which would be valid under the laws of the country in which the same were contracted, are valid in the territory of Guam.

19 GCA Section 3108.

III.

**LOCAL AND FEDERAL
BENEFITS**

FEDERAL BENEFITS

U.S. v. Windsor

1. Two women lawfully married in Canada.
2. One passes away in NY, leaving estate to wife.
3. Surviving spouse claims marriage exemption to federal estate tax.
4. IRS refuses, citing DOMA.
5. Surviving spouse pays \$340,000 estate tax.

FEDERAL BENEFITS

U.S. v. Windsor

1. DOMA Section 3 held Unconstitutional.
2. Disregarding lawful marriage violates equal protection of the laws.
3. Leaves to states whether to recognize SSMs for purposes of state law.

FEDERAL BENEFITS

U.S. v. Windsor

Allows SS Spouses to:

1. Obtain spousal federal tax benefits.
2. Obtain Veterans benefits.
3. Obtain spousal Social Security benefits.
4. Take advantage of FMLA benefits—if employee resides where SS marriage is legal.
5. Have spouse as default beneficiary: 401(k).
6. Sponsor spouse for citizenship.

FEDERAL BENEFITS

U.S. v. Windsor

Limitations:

1. Only applies to *MARRIED* SS couples.
2. Does NOT confer benefits to
 - a. Common law relationships
 - b. Civil unions
 - c. Domestic partners

FEDERAL BENEFITS



LEGAL SS MARRIAGES RECOGNIZED BY IRS
EVEN IF SPOUSES RESIDE IN
JURISDICTIONS THAT DO *NOT* RECOGNIZE
SS MARRIAGES

FEDERAL BENEFITS



Allows SS Spouses to:

1. Claim estate tax exemption.
2. File joint federal income tax returns.
3. Avoid tax on employer-provided spousal benefits, such as health insurance.
4. Claim other federal spousal benefits and exemptions.

FEDERAL BENEFITS



Allows SS Spouses to:

1. File amended federal tax returns for refund:
 - a. Legally married before 2013
 - b. Paid higher rate than if filing jointly
 - c. Paid estate tax for death of spouse
 - d. Paid tax for spousal employer benefits.
2. Not *required* to file amended returns.

FEDERAL BENEFITS



CAUTIONS:

1. Administrative ruling only.
2. Does not apply to civil unions.
3. Does not expressly mention territorial income taxes.

GUAM BENEFITS



SHOULD APPLY TO GUAM:

1. ORGANIC ACT: Federal income tax laws
“shall be held to be likewise in force in Guam.”
2. IRS circular uses word “jurisdiction” instead of state when discussing places where SS marriage is not recognized.

GUAM BENEFITS

If challenged, Guam courts would likely hold that:

1. Legally-married SS spouses are entitled to marriage benefits, burdens, and protections.
2. SS Marriages are not prohibited on Guam; and thus should be permitted absent further legislation.

CONCLUSION

The March to Marriage Equality

1. We are in a period of transition.
2. Marriage Equality is looking inevitable.
3. But many jurisdictions still have prohibitions.
4. SS spouses now enjoy most *federal* benefits.
5. Eligibility for state/local benefits varies widely.
6. Guam neither allows nor prohibits SS marriage.
7. SS marriages recognized for Guam Income Tax.
8. Guam generally recognizes “foreign” marriages.

THANK YOU!