

Supreme Court placed Idaho at the crossroads

By Marty Trillhaase/Lewiston Tribune

Friday the U.S. Supreme Court's Obergefell v. Hodges ruling recognized the constitutional rights of same-sex couples to marry - and placed Idaho at the crossroads.

Representing one path was state Sen. Cherie Buckner-Webb, D-Boise, who welcomed the ruling as the latest expansion of America's circle of liberty, which began in a bold declaration in 1776, continued in 1865 with a promise of liberty and due process for all, then again in 1920 with voting rights for women and finally in 1964 and 1965 with the Civil Rights and Voting Rights acts.

"I could not be any prouder of my country right now," she wrote.

Standing at the trailhead of the other was Gov. C.L. (Butch) Otter, who used the moment neither to lead nor heal but to maintain his defense of the 2006 Idaho constitutional amendment relegating Idaho's same-sex couples to second-class citizenship.

Otter said he found it "especially troubling that the court treated the 10th Amendment as a footnote, instead of the guiding principle our Founding Fathers intended."

One side sees the Supreme Court and the U.S. Constitution as a check against the unbridled tyranny of a majority that frequently cloaks its darkest instincts behind the banner of states' rights.

The other clings to one part of the Constitution, ignores the others and is forcibly dragged forward.

One camp remembers Idaho's troubled history. At statehood, Idaho's founders etched into the state constitution their intent to disenfranchise Mormons, Chinese, people of Mongolian descent and Indians who "had not severed their tribal relations." Never enforced, it stood out like an ugly tumor on the state charter for nearly a century, until the voters attempted to whitewash it away by repealing and erasing it.

The other shrinks from that record.

The group for whom Buckner-Webb speaks will offer, yet again, a bill to extend civil rights protections for Idaho's gays, lesbians, bisexuals and transgender people.

For nine years, lawmakers have resisted barring discrimination on the job, in housing and in public accommodations on the basis of sexual orientation and gender identity. All those legislators have done so far is give the idea a hearing before the House State Affairs Committee, which rejected it on a party-line vote.

Until now, opponents of the "add the words" bill have been able to say it would lead to a slippery slope toward same-sex marriage. Now people who exercise their constitutional right to marry risk the prospect of open - and legal - discrimination in the Gem State.

The group that rallies around states' rights may gravitate yet again toward attempts to weaponize religious freedom in the name of enabling people to mistreat others.

When state Rep. Lynn Luker, R-Boise, presented the bill in 2014, he ran into a buzz saw of public opposition. Last year, Indiana Gov. Mike Pence beat a hasty retreat after his state passed something similar and drew the ire of the corporate community.

Just the same, it's not hard to imagine the Supreme Court's same-sex ruling triggering another wave of support in Idaho to pass it.

But history sides with Buckner-Webb.

Idahoans, too, have been part of this immense national social sea change that has seen a majority of Americans rally behind the idea of same-sex marriage. How many Idahoans have asked themselves why they voted to ban it nine years ago?

And many have acted on their realigned views. In city after city, from Boise to Lewiston, from Idaho Falls to Moscow, Coeur d'Alene to Victor, from Pocatello to Sandpoint, communities have passed their own human rights ordinances.

Twenty-five years from now, Idaho's 2006 amendment will be an embarrassment - if the voters haven't already repealed it.

Discrimination will not be tolerated.

And by then, people will ask what the fuss was all about. - M.T.