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JASON KUZNICKI ON [THE NON-DEFENSE OF DOMA:](#)

Liberals: If you think declining to defend DOMA is the right decision, how will you feel when a Republican administration declines to defend in a school prayer case? Or an abortion case? Or on Obamacare itself?

There are two very, very distinct issues here. One concerns gays and lesbians. The other concerns the proper relationship among the three branches of the federal government. One is about policy; the other is about procedure. Deciding a procedural question based on what it means for a one-time policy outcome is just bad governance. The questions we should be asking are — How much power would this really give the president? Is this a particularly new power? (Arguably it's not.) And in any case, are we comfortable with the president having it, even if he or she has radically different views about policy?

When we look at it that way, there's a near-perfect parallel to the perennial debate over the filibuster. Everyone hates it when they're in the majority. Everyone loves it when they're in the minority. Politics really is the mind-killer.

Well, it's not quite the same thing, but Thomas Jefferson pardoned everyone convicted under the Sedition Acts and refunded their fines because he believed them unconstitutional, though the Supreme Court had never so held. But, as I say, this isn't quite the same thing.

Posted by Glenn Reynolds at 10:30 am