

# MARCH FOR MARRIAGE WILL YOU STAND?

Thursday, June 19, 2014 • U.S. Capitol • Washington DC

# Traditional Marriage Proponents Fight On

By **CHERYL WETZSTEIN**  
THE WASHINGTON TIMES

## Movement undeterred by court rulings

With stunning swiftness, the legal landscape for same-sex marriage has been reshaped in less than a year after the Supreme Court struck down part of the federal Defense of Marriage Act.

What some thought would be a state-by-state political trickle instead has been a legal tsunami.

“There is now marriage equality or marriage equality litigation in every state. ... Momentum is clearly on our side,” Kevin Cathcart, executive director of Lambda Legal, told a sold-out event for legal allies June 10.

Still, opponents of same-sex marriage are undeterred.

The National Organization for Marriage and other groups are rallying like-minded activists to attend a national March for Marriage on Thursday and sharpening their arguments for the inevitable showdown in the Supreme Court.

“It’s 1972 for marriage,” said National Organization for Marriage President Brian S. Brown, referring to the year before the Supreme Court legalized abortion nationwide in *Roe v. Wade*.

Declarations about the inevitability of same-sex marriage are also dismissed.

Advocates of same-sex marriage “are trying to quit while they’re ahead, but there’s still a lot left in this battle. ... It’s only the fourth inning,” said Carrie Severino, chief counsel of the Judicial Crisis Network, which follows federalism issues in major lawsuits.

“It’s by no means clear exactly what the [Supreme] Court will do. ... It’s very much in play,” she said.

### Legal lockstep

In the year since the Supreme Court issued rulings in two same-sex marriage cases — which opened federal recognition of same-sex marriages and led to the reopened gay marriages in California — gay rights supporters have had an avalanche of victories, including one more in Wisconsin on June 6.

The result: a transformed national landscape on same-sex marriage that has taken even supporters by surprise.

“This is for everybody, so congratulations,” said a jubilant Lindsay Vandermay, who married Ashley Wilson at the stroke of midnight May 23 in Philadelphia — in possibly the first same-sex

nuptial in Pennsylvania’s history. Their wedding reflected Pennsylvania’s status as the 19th state to permit same-sex marriage, up from a dozen states a year ago.

More rulings are on their way: With the filings of two lawsuits in North Dakota this month, every “holdout” state has legal action related to same-sex marriage.

Every recent political vote and court ruling, including in Illinois and Utah, has favored same-sex marriage advocates in decisions that, at times, resorted to passionate prose. As part of his May 20 ruling overturning Pennsylvania’s traditional man-woman marriage laws, U.S. District Judge John E. Jones III urged the nation to drop all legal bans on same-sex marriage “into the ash heap of history.”

In a May 19 ruling in Oregon, U.S. District Judge Michael McShane advised people not to worry about same-sex marriage leading to “a slippery slope” with no moral boundaries. “Let us look less to the sky to see what might fall; rather, let us look to each other ... and rise,” the openly gay judge wrote.

Traditional-marriage supporters are unmoved by such pleas

or by polls showing rising acceptance of such unions.

“Ash heaps” aside, “history leaves no doubt that marriage exists to connect children to their mother and father,” said Jim Campbell, legal counsel at the Alliance Defending Freedom. Many people of good will still want to preserve marriage as a man-woman union to further that vital social good, and “we believe they have that right ... that the question of marriage is reserved to the people,” he said.

### Clock ticking

No one knows when the Supreme Court will answer the question of whether voter-passed state amendments banning same-sex marriage are constitutional, but the clock is ticking.

A split among the circuit courts is virtually assured: A 2006 ruling in the 8th U.S. Circuit Court of Appeals said Nebraska’s man-woman marriage amendment did not violate the 14th Amendment’s equal protection clause. A contrary ruling could come down in the six other regional circuit court cases.

Hundreds of busloads of people who want to keep marriage a

man-woman union are expected to descend on Capitol Hill for the March for Marriage.

Former Arkansas Gov. Mike Huckabee and former Sen. Rick Santorum are among the scheduled speakers at the event, which will start near the west side of the Capitol and end at the Supreme Court, not unlike the annual March for Life.

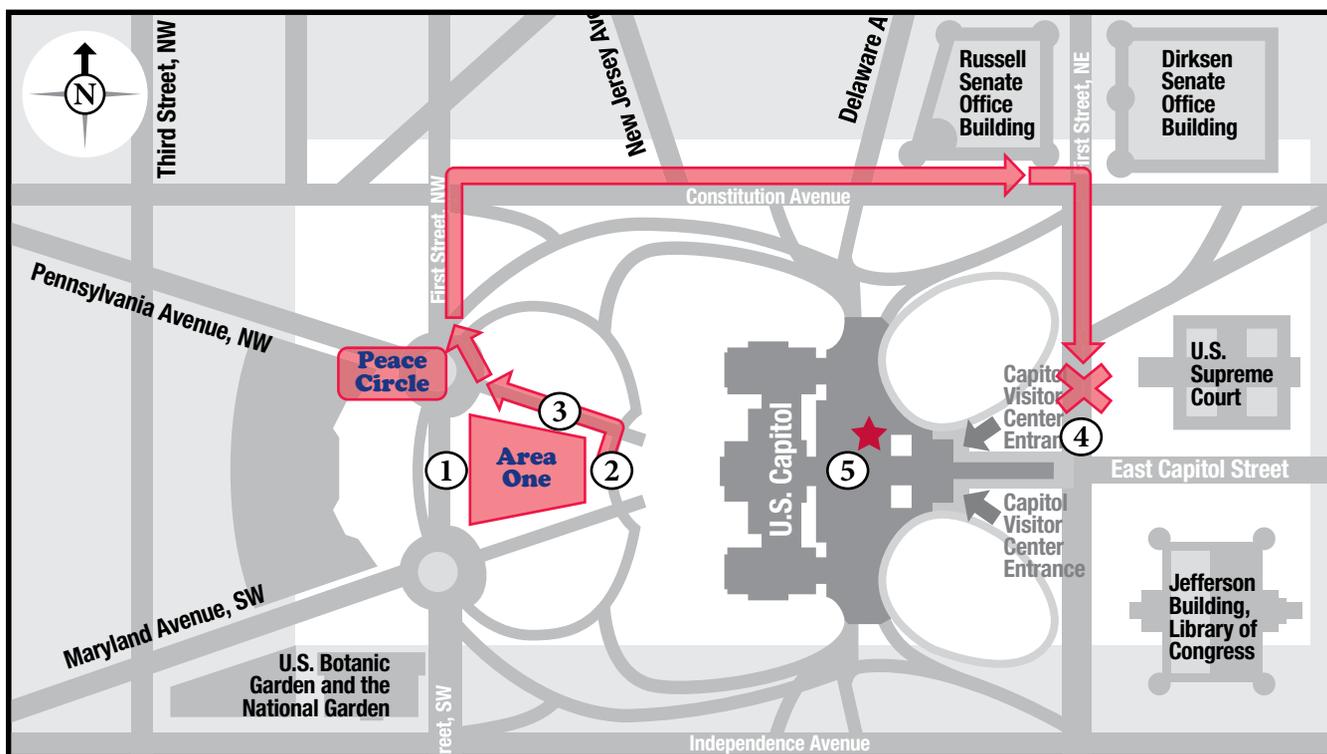
As for the arguments, many legal scholars agree with the rulings in support of same-sex marriage. Federal judges “seem to be coalescing around a view that these laws are facially unconstitutional,” George Washington University Law School professor Jonathan Turley wrote recently.

Ms. Severino of the Judicial Crisis Network is among those who are not convinced that the lower courts have it right.

The core questions are “What does the U.S. Constitution say?” and “What does the U.S. Constitution require?” Ms. Severino said.

Voters may want — and choose — to enact same-sex marriage, but having a court rule it mandatory is a different question, she said. “I think that to argue that the Constitution requires something that until the last decade or so has been completely unheard of in the history of humanity is really a stretch.”

## 2014 March for Marriage Event Schedule & Map



### June 19, 2014 Washington, D.C. Capitol Grounds

- 1. 10:30 AM**  
Begin Gathering at Area One for the rally program.
- 2. 11:00 AM**  
Rally program begins.
- 3. 1:00 PM**  
End of rally; March to Supreme Court commences.
- 4. 2:00 PM**  
March arrives at Supreme Court and Marchers disperse.
- 5. 2:30 PM**  
Participants in Lobby Day ★ report to appropriate locations.

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-Fisher Ames  
(Member of Congress)  
Author of First Amendment (1789)

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# Polling on Marriage:

The American people continue to support preserving marriage as the union of one man and one woman

By Frank Schubert

It's become an article of faith in media reporting that there has been a massive shift in public opinion in favor of same-sex 'marriage.' Reporters point to a series of surveys that purport to show growing support for this idea. And it's certainly what those who wish to redefine marriage want people to believe. However, it's wrong to suggest that the American people have changed their minds, and there is very strong evidence to show that they haven't. The definition of marriage remains one of the most hotly contested issues in the country.

Let me point to four polls since Election Day 2012 that look at these issues.

On Election Day 2012, NOM commissioned a survey of randomly selected people who had actually cast ballots in the 2012 elections. We asked them this basic question: "Do you agree or disagree that marriage is between one man and one woman." Sixty percent (60%) of respondents said they agreed, while only thirty-four percent (34%) disagreed.

The liberal website Politico sponsored a survey in May of this year of likely voters in competitive US House and Senate races. They asked if these voters "support or oppose allowing same-sex couples to marry" and found that 52% of those voters opposed allowing same-sex couples to marry. Among those who felt strongly about the issue, opponents of same-sex marriage enjoyed an 11 point lead, 33% to 22%.

A survey last month in Michigan found a four point drop in support for same-sex marriage in that state over the past year, along with a five point increase in opposition over that same period. This equates to a shift of nearly 10% in voter support for same-sex marriage. The issue of same-sex marriage in that key state stood at 47% in favor and 46% opposed.

Finally, a very interesting study on attitudes regarding same-sex marriage was published by Rice University in June 2013. Rice looked at the responses of 1,294 Americans surveyed in 2006 on same-sex marriage, and then re-surveyed those same people in 2012. This is the only survey I am aware of that has actually tracked people over time. And what the Rice survey found was that overall attitudes about same-sex marriage were essentially unchanged between 2006 and 2012. Moreover, of those who did change their views, more of them moved to oppose same-sex marriage than moved to support it. The researchers wrote, "What is surprising in light of other polls and the dominant media reports that Americans are moving in droves from defining marriage as one man

and one woman to an expanded definition is the movement of people in the other direction as well, a fact missed by surveys that do not follow the same people over time."

It may not surprise you that the Rice University study received very little coverage in the mainstream media. Neither does, it seems, any survey showing that traditional marriage enjoys strong support ever get much media exposure. Why might that be?

One answer to the question might be found in a different type of study, one conducted by researchers at the Pew Center's Project for Excellence in Journalism. Pew looked at nearly 500 news stories on same-sex marriage published over a two-

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month period in 2013 and found that those stories with more statements supporting same-sex 'marriage' outweighed those with more statements opposing it by a margin of roughly 5-to-1.

Aside from media bias, what other factors might account for seemingly widely differing polling results?

I've been managing issue campaigns for the better part of thirty years, and have been involved in hundreds of surveys designed to understand how voters feel about an issue. I have seen the good, the bad and the ugly of polling instruments. There is a lot of the "bad" and "ugly" when it comes to surveys on same-sex marriage.

One factor that can influence polling results is something researchers call "priming." Priming occurs when a preceding question, or a series of preceding questions, essentially "tees up" an answer to a subsequent question. For example, one of the best-known polling organizations, Gallup, "primes" its question on same-sex marriage by first asking whether respondents "think gay or lesbian relations between consenting adults should or should not be legal." It's such an odd question, because gay relationships have been legal in every state for decades. Its purpose, one can assume, is to predispose the answer to the next question asking, "do you think marriages between same-sex couples should or should not be recognized by the law as valid, with the same rights as traditional marriages?" Having just told

Gallup that gays relationships should be legal, some poll respondents will now be loathe to tell them that same-sex couples should not be able to marry and obtain "rights." This may explain why Gallup consistently shows high support for same-sex marriage in its surveys.

In a 2013 article at National Review Online, sociologist Mark Regnerus examined Gallup's practice of priming its questions on same-sex marriage, and found that the company did not always do this. Interestingly, when it varied its practice — priming on some surveys and not others — support for same-sex marriage varied. When Gallup did not prime, support for gay marriage totaled,

on average, 6 to 7 percentage points less than when it did. Regnerus goes on to report that Gallup now primes on every survey related to same-sex marriage.

A major factor that impacts results on an issue like gay marriage is called "social desirability bias." Many survey respondents are willing to alter their answers to give what they perceive to be the socially desirable answer. That's why, for example, when asked if they voted in a particular election, a significantly higher percentage of survey respondents will say "yes" than those who actually voted. In the case of same-sex marriage, the politically correct answer has become to say you favor it. This may help explain why polls in campaigns where traditional marriage measures were on the ballot have consistently underestimated support for traditional marriage by 6-7 points compared to the actual results of the elections.

Another factor that can impact results is question wording. For example, many surveys including those for media outlets like CBS and the New York Times ask whether same-sex marriages should be "legal or not legal." That wording could easily bias results since the concept of making something illegal conjures up notions of punishment and consequences.

An additional factor in polling is the psychology of response preferences. People have a natural tendency to prefer to be "for" something rather than "against"

something. In virtually every media poll I have seen, the positive response is to be supportive of same-sex marriage, while the negative response is associated with traditional marriage. This is compounded by including words such as "allow," "rights" and "recognize" in the question language. The Rice University survey is the only one that associated a positive response with traditional marriage. NOM's survey also associated a positive "agree" with support for traditional marriage.

Another important factor to consider in assessing polling results is the universe being studied. A survey or voters is likely to produce different results than a survey of "adults" or "Americans." Voters tend to be somewhat older and a bit more conservative than the general population. "Likely voters" will tend to be even more so. Other sampling factors also can skew results on an issue like this by, for example, including too many young people, or too few churchgoers.

Lastly, polling is both art and science. Mathematical probabilities mean that some polls will simply be off with results falling outside the stated margin of error. There's no way of knowing if any given poll is on the money, or an outlier. Yet every poll that shows support for same-sex marriage is treated as valid, and those that do not are questioned, or just ignored.

I raise these issues with polling on the same-sex marriage issue not to pretend that there has not been movement among the population to be more accepting of same-sex marriage. Surely, there has been. My main point is that the issue remains a hotly-divided one with the country essentially split right down the middle.

Those who favor redefining marriage do not have "destiny" or "history" on their side; they have roughly half the country. We have the other half on our side, and a large percentage (60% according to the NOM Election Day Survey) who agree that marriage is the union of one man and one woman.

In sum, there is nothing about the outcome of this battle that is "inevitable" except that if one side gives up, the other side will win. So, let's not give up!

*Frank Schubert is the political director of the National Organization for Marriage.*



I stand for traditional marriage. Sign the petition at [www.washingtontimes.com/petitions/nom-marriage/](http://www.washingtontimes.com/petitions/nom-marriage/)

*A Special Report Prepared By The Washington Times Advocacy Department.*



*“If my dad married a man  
who would be my mom?”*



## NATIONAL ORGANIZATION FOR MARRIAGE

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[www.NationForMarriage.org](http://www.NationForMarriage.org)

# Biblical Marriage is Beautiful

By Dr. Mark A. Smith,  
OCU President

I stand for traditional marriage (one man and one woman for life). I love marriage with my beautiful wife of 28 years and my two sons from the United States and Guatemala. What a privilege to enjoy this God-designed institution called marriage. The traditional family unit has made America great and brings so much peace to my life. As the debate on marriage rages, many elected officials on both sides of the aisle render comments in support of or opposition to the definition of marriage, with some sending news-breaking statements while both political pundits and peasant commoners discuss the implications. While using caution when remarking about the actions of others, I have often wondered what is their guideline for truth?

Current society finds many citizens deciding critical issues based on polls or humanistic thinking- which views humans as the decision makers or as “gods” of their own lives. I, in turn, take a biblical view of allowing my belief system to be shaped by biblical foundation principles. These principles have been the foundational tenets of America and, in my opinion, are why we have been so blessed as a nation. Psalms 33:12 reminds us, “Blessed is the nation whose God is the LORD, the people he chose for his inheritance” (NIV). America’s embrace of these principles have been essential in structuring the moral fabric of society for over two hundred years. In fact, in the book of Genesis, God established the beauty of the traditional marriage when creating Adam and Eve and then asked them to “be fruitful and multiply the earth.” This view of marriage was not conceived from some human mind, but from God. Today, not only has this view of God been attacked, but self has been elevated to “god” as the great moral authority causing many to abandon truth. The abandonment of truth, however, does not alter the societal implications with regard to marriage.

America has been great because of its reliance on a Supreme Being, and its honoring of biblical principles. George Washington, the nation’s first president, stood with his hand on the Bible and said these words as he was inaugurated, “It would be improper to omit, in this first official act, my fervent supplications to that Almighty Being who rules over the universe.”

We must continue as a nation to follow these truths from scripture, and here are a few with regard to marriage:

- Male and female are God’s creation for purposes of his glory.

- Marriage is ordained of God to protect our lives, give peace, and multiply the earth.
- God forbids sexual sins of all types.
- The family is the societal fabric upon which cultures are built.

that the traditional marriage has its issues, it is still the designed plan for the good life. Sin is what has caused hurt and pain, greed and lust, but the beauty of traditional marriage continues to be the best plan when enjoyed alongside

unit through sexual sins and inappropriate relationships. From a sociological point of view, Pitirim Sorokin, Harvard founding sociologist, suggests that civilization is only possible when marriage is normative and mother and father accept responsibility for their offspring. Humankind, left to its own devices, is quite adept at destroying culture. Do we Americans understand that our society is creating many problems by embracing a culture that destroys the traditional family unit?

From financial perspective, the pure economics of a societal breakdown are staggering. As the meaning of the traditional family unit disintegrates, history shows that social needs will be increased, costing millions to society. Multiple studies show children need the established family unit, and that when it breaks down, there are negative consequences. Children become confused, requiring additional counseling services, healthcare services, medications, etc. Families struggle economically when a mother and father are not present to provide their roles of love and protection for the family unit.

In conclusion, David Popenoe and Barbara Whitehead are on target when sharing, “Marriage is a fundamental social institution – the ‘social glue’ that reliably attaches fathers and mothers to their children. It contributes to the physical, emotional, and economic health of men, women, and children, and thus to the nation as a whole. It is also one of the most highly prized of all human relationships and a central life goal of most Americans.”

**I believe in God’s original design for marriage, and I call for America to embrace the beauty of the family.**

Timothy Keener, in *The Meaning of Marriage*, said, “Marriage is glorious, but hard. It is a burning joy and strength, and yet it is also blood, sweat, and tears, humbling defeats, and exhausting victories ... there is no relationship between beings that is greater or more important than marriage.” It is useless to be malicious toward those who oppose this viewpoint, but it is imperative to remain bold while refusing to bow to those who desire to destroy the intrinsic human beauty of biblical American culture.

I believe in the beauty of life created with intentionality, and firmly embrace God’s love which reaches all humankind. I love every man and woman, and I am convinced life will be full of joy and peace when God, not self, is God and we observe His guidelines for living. Again, I love biblical marriage.



ILLUSTRATION BY HUNTER

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From these guidelines, it is evident God ordained a beautiful life for all to enjoy. Through sin, that perfect life was destroyed and replaced by chaos. The only way to have a restored life is to experience the forgiving grace of our loving Savior. While some would argue

the love of God.

Additionally, a study of history correlates traditional marriage and biblical principles with a nation’s well-being. One does not need to look far to discover that the destruction of civilizations has followed the corruption of the family

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**Thomas G. Walsh, Ph.D.,  
President, Universal Peace  
Federation International**

The family has stood for millennia as the center of social, psychological and intellectual, spiritual and moral development of children; the place where children learn the core virtues, principles and values that are necessary if they are to develop and lead happy, healthy and productive lives.

Throughout the ages, the world's great religions---Hinduism, Jainism, Judaism, Buddhism, Christianity, Islam, Sikhism, indigenous traditions, and many others--have affirmed the family, and its basis in marriage between a man and a woman.

At the same time, we note that sociological and anthropological research reveals consistent evidence of traditional marriage, family and parenting, in virtually all civilizations.

While a variety of alternative visions of the family have been advocated and practiced over many years, few have taken root; these include Plato's ideas on family, Marx and Engels' views, and other utopians and idealists. Such efforts to restructure the family have often led to unhappy consequences.

While the family is pivotal to the building of healthy, stable and prosperous societies, it is often taken for granted. As a consequence, all the heavy lifting being done by families, and especially parents,

becomes invisible to many, and, in the process, the social capital that families create is unappreciated, lost or squandered. In its wake comes crime, alienation, moral confusion, and a variety of socially unbeneficial behaviors and practices. Lose our families, and society may lose its soul.

We live at a time when the family is facing enormous challenges, linked to a wide range of factors, including poverty, divorce, distant, absent or abusive fathers, a grossly over-sexualized and promiscuous popular culture, selfish individualism, and moral relativism. Even those who strongly advocate for and believe in traditional family values are often disheartened by widespread failures found in many, if not most families. Indeed, fatherless families, divorce, alienated children, and failed relationships often appear to be the "new normal."

And yet, despite the unflattering empirical reality of so many of our families, we also must ponder the alternatives. But the alternatives aren't very attractive, and are only likely to make things worse. Therefore, rather than abandoning the family, we must work to strengthen the family, rooting out corruption and recognizing it's unique value as an irreplaceable social asset. The well-being of our children depends on our efforts.

Research shows that children need committed, attentive, caring parents; ideally two committed partners, a husband

and wife, who are ready to work at loving each other and, as importantly, loving their children. Children need to bond with their parents, as a foundation for their own healthy relationships throughout the life cycle. Children need to experience secure, loving attachment to their parents. Parents, in turn, are called to love and respect each other, and to dedicate themselves to making sure their children know they are loved and affirmed beyond all measure.

Good families require good marriages and good parenting skills. Of course, we recognize that in many respects we all fall short of the ideal. As fathers and mothers, as husbands and wives, we have often fallen short of our own aspirations. All around us we see many troubling social trends, including high rates of divorce, low fertility rates, sexual normlessness, infidelity, fatherlessness, and rampant promiscuity.

Can a civilization prosper when its family foundation is crumbling? Can a society that forsakes age-old traditions of marriage, family and parenting thrive, or even survive? It is unlikely.

We are living at a time of crisis for liberal, individualistic, democratic societies. Freedom has often given license to moral relativism. We slide down the slippery slope, while continually reaching out for the hand brake, but to no avail. How long can this continue?

Family is the root of society, and the

basis for the intergenerational transmission of language, culture, ethnic identity, moral worldview, religion, and our basic virtues and dispositions. Let us not throw the baby out with the bathwater. Rather let us strengthen marriage and family.

Our affirmation is not presented with spite, accusation or moral arrogance. After all, we can all admit that we have fallen short of the ideals we honor. There is too much divorce; too much domestic violence; too much in-group chauvinism, ethnocentrism, and tribalism. These vices and corruptions of the ideal are not, however, the necessary consequences of traditional marriage and family. Therefore, let us work to strengthen families, to support and mentor married couples, and single-parents as well. Our children need for all of us to be dedicated and loving parents.

Faith-based organizations---churches, temples, mosques, synagogues---must lead the way in strengthening marriage, family and parenting. It is an essential part of each of our spiritual traditions and sacred texts.

The family is the school of love and peace.

The Universal Peace Federation and its chapters around the world honor marriage, family and parents, and encourage you to support the annual National Parents Day in the USA, and the United Nations' Global Day of Parents (June 1), and the International Day of Families (May 25).

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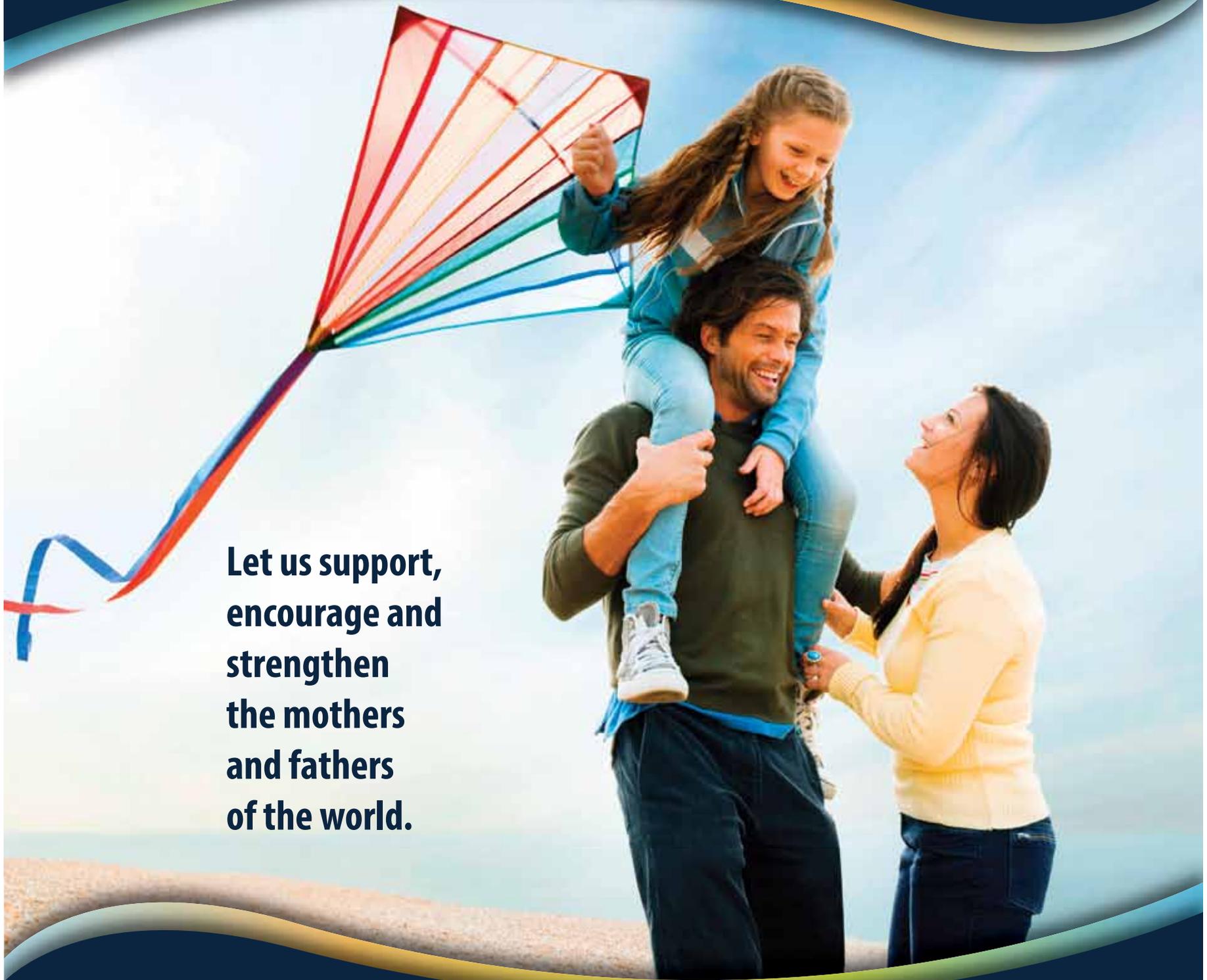
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# The Supreme Court's Other Shoe

By John C. Eastman

**W**hen the Supreme Court ruled last year in *United States v. Windsor* that Section 3 of the federal Defense of Marriage Act was unconstitutional, it announced that its “opinion and its holding are confined” to those couples “joined in same-sex marriages made lawful by the State.” Because the definition and regulation of marriage has almost exclusively been within the province of the States, the Court noted repeatedly, it violated equal protection for the federal government not to give the same recognition to same-sex marriages sanctioned by a particular state that it gave to heterosexual marriages. On that reasoning, States that choose a different policy judgment about marriage, one that would preserve marriage as an institution between one man and one woman, should remain free to do so.

So why has there been a steady stream of lower court decisions in the year since *Windsor* was decided that have rejected that reasoning and the Court’s explicit statement that the holding in *Windsor* was confined to same-sex marriages made lawful in a particular State? Justice Scalia’s dissenting opinion provides some insight (and, quite frankly, much ammunition for lower courts bent on redefining marriage). The majority of the Court, led by Justice Kennedy, will let the other shoe drop—holding that the Constitution requires every state to redefine marriage to encompass same-sex relationships—if it thinks it can get away with it.

There are several encouraging signs that lead me to be cautiously optimistic that the Court will not take such a radical step, and that the dozen or so lower courts that have boldly anticipated otherwise will be overruled. First, the Supreme Court itself already addressed the identical question more than forty years ago, in the case of *Baker v. Nelson*, which held in a summary disposition that a challenge to a state’s one-man/one-woman definition of marriage did not even raise a substantial federal constitutional question. However much the lower courts try to write that decision out of the books, it remains binding precedent, and the Supreme Court has been unbelievably clear about how lower courts are to treat such precedent: “the lower courts are bound by summary decisions by this Court ‘until such time as the Court informs (them) that (they) are not.’”

Second, when the federal district

court in Utah struck down Utah’s marriage law a few days before Christmas last December, and the State’s request for a stay was denied by both the district court and the court of appeals, the Supreme Court unanimously issued a stay, blocking the district court’s judgment. It is quite rare for the Supreme Court to issue a stay when both lower courts have refused to do so, and the standard that it applies is whether the state had demonstrated a likelihood of success on the merits. The stay issued by the Supreme Court in the Utah case therefore outweighs all of the district court

constitutional provision like those in Utah, Virginia, and elsewhere currently making their way to the high court. The majority in the case held that the proponents of Proposition 8 did not have standing to take the case up on appeal when the Attorney General of the state refused to do so. Justice Kennedy dissenting, expressing his view that initiative proponents did have standing and that the Court should have considered the merits of the constitutional challenge. Two of the Justices who voted to deny standing (Justices Ginsburg and Kagan) are widely believed to be strong

not about how the debate about racial preferences should be resolved. It is about who may resolve it. There is no authority in the Constitution of the United States or in this Court’s precedents for the Judiciary to set aside Michigan laws that commit this policy determination to the voters... Deliberative debate on sensitive issues such as racial preferences all too often may shade into rancor. But that does not justify removing certain court-determined issues from the voters’ reach. Democracy does not presume that some subjects are either too divisive or too profound for public debate.” Substitute “same-sex marriage” for “racial preferences” in that passage, and you can see why I am cautiously optimistic that the Court in general, and Justice Kennedy in particular, will not invent a new constitutional right and pretend that the Constitution already settled back in 1868 when the Fourteenth Amendment was adopted the contentious policy debate in which we find ourselves about the very definition and purpose of marriage.

The March for Marriage is designed to keep the Court on notice that the American people do not want such basic policy judgments taken away from them, lest, as Abraham Lincoln warned a century and a half ago, we cease to be our own rulers, having to that extent practically resigned out Government into the hands of the Supreme Court. The “other shoe” that the Court will hear from the thousands of people marching on the Supreme Court is not the other shoe Justice Scalia predicted of the Court constitutionalizing same-sex marriage, but the soles of the millions of Americans who have voted over the past decade to reaffirm the basic truth about marriage and the benefits it provides to parents, to society, and especially to children.

*Dr. Eastman is the Henry Salvatori Professor of Law & Community Service at Chapman University’s Fowler School of Law (though the views expressed here are his own), the founding director of the Claremont Institute’s Center for Constitutional Jurisprudence, and Chairman of the Board of the National Organization for Marriage.*

**The “other shoe” that the Court will hear from the thousands of people marching on the Supreme Court is not the other shoe Justice Scalia predicted of the Court constitutionalizing same-sex marriage, but the soles of the millions of Americans who have voted over the past decade to reaffirm the basic truth about marriage and the benefits it provides to parents, to society, and especially to children.**

decisions that have recent invalidate state marriage laws combined.

Third, Justice Kennedy’s own opinion in *Windsor* offers powerful defenses of true marriage, defenses upon which States who adhere to the long-standing view should be able to rely. “For marriage between a man and a woman no doubt had been thought of by most people as essential to the very definition of that term and to its role and function throughout the history of civilization,” Justice Kennedy wrote. This understanding has for centuries “been deemed both necessary and fundamental” to the institution’s purpose, he added. As long as men and women remain uniquely capable of begetting children from their sexual union, the State has a perfectly legitimate—indeed, compelling—interest in fostering the institution that, throughout history, has proved most conducive to the welfare of the children that result and, hence, to civil society as well. A large majority of States continue to adhere to this common-sense understanding of marriage, rooted as it is in basic biology. It would be an extraordinary exercise of raw political power for the Court to negate the considered judgments of such a large portion of the nation.

Fourth, Justice Kennedy himself authored the dissenting opinion in the parallel case decided last June addressing the constitutionality of California’s Proposition 8, which was a state

supporters of finding a right to same-sex marriage in the Constitution. If Justice Kennedy was really prepared to be the fifth vote striking down Proposition 8 (and therefore the marriage laws of more than 30 other states), does anyone really believe that one or the other of those two Justices would not have found a way to recognize standing by the Prop. 8 proponents so that the case would have become the *Roe v. Wade* of same-sex marriage?

Which brings me to my final reason for being cautiously optimistic. We are now more than forty years past the Supreme Court’s decision “legalizing” abortion on demand as a constitutional right, and it remains one of the two or three most controversial decisions ever rendered by the Court. It has infected our politics for decades, in races from the Presidency down to dog catcher. It has politicized the judicial nomination and confirmation process in a way that threatens our very institutions of government. It is hard to imagine that the Court is keen on opening up another similarly-contentious front in the culture wars. Much better to let this issue be settled by the give and take of the political process. Indeed, less than two months ago, Justice Kennedy weighed in on the importance of letting the political process decide controversial social issues. In upholding Michigan’s ban on race-based affirmative action, he wrote for the Court’s majority: “This case is



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*A Special Report Prepared By The Washington Times Advocacy Department.*



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# Hubris in High Places

## Another day, another federal judge overturning a state marriage law

By Robert Knight

On May 19, it happened in Oregon. The next day, it was Pennsylvania's turn.

In Oregon, U.S. District Judge Michael J. McShane said the state's marriage amendment, which the people of Oregon enacted via referendum in 2004, had no "rationally related government purpose." Democratic Attorney General Ellen Rosenblum announced in February that she would not bother defending the law. Take that, voters.

Meanwhile, in Pennsylvania, U.S. District Judge John E. Jones III decided that he, too, was smarter than God, plus all previous generations and major religions that believe the defining essence of natural marriage is the union of male and female.

Listen to Judge Jones' assessment of the ethos behind marriage laws: "We are a better people than what these laws represent." The hubris here is truly stunning, but Judge Jones was not finished. "It is time to discard them into the ash heap of history."

The latter is an interesting turn of phrase. It is most often associated with Ronald Reagan's defeat of communism and the Soviet empire — an unalloyed victory of good over evil that lends itself to moral language. Does trashing a marriage law rise to that level?

By using that phrase, Judge Jones, a George W. Bush appointee, has signaled that Pennsylvania lawmakers who voted 177-16 in the House and 43 to 5 in the Senate to pass the measure in 1996 were deluded or perhaps even as evil as communists. So, too, are billions of people who now

believe and have believed in marriage as the union of a man and a woman. If this is not so — that all these people were and are morally deficient — why are we now a "better people" for radically redefining marriage?

More alarming is Republican Gov. Tom Corbett's refusal to appeal the ruling. He issued a statement saying that lawyers told him the appeal had little chance of success.

Earlier this month, the governor refused to appeal a ruling by a federal judge striking down Pennsylvania's voter photo-ID law. According to the Associated Press, "state lawyers acknowledged they couldn't produce examples of in-person voter fraud."

Really? Maybe they should look harder. In Philadelphia, baton-wielding New Black Panthers members physically threatened voters at a polling place on Election Day in 2008, and dozens of precincts in 2012 reported not even a single vote for Mitt Romney.

When you're paying lawyers to get

results and they tell you something is impossible, perhaps it's time to look for new legal talent. Governors, attorneys general and other lawmakers take an oath to uphold the law, not cower before judges.

Given the media's numbingly jubilant coverage of left-wing activists and lawmakers

"hailing" every new corrosive episode of judicial activism, plus the popular culture pouring out propaganda, most conservative lawmakers have stayed in

the tall grass, hoping it will blow over.

It won't. Lawlessness breeds more lawlessness, and a feckless response to bullying invites more of the same. Ever since the U.S. Supreme Court struck down much of the federal Defense of Marriage Act, federal judges have overturned marriage laws in 13 straight cases. Unlike millions of voters, they apparently think natural marriage is unworthy of legal protection.

How did we come to a place where judges think that marriage certificates don't need a bride and groom, and that it's racist to ask someone to prove who they say they are before they cast a ballot?

Beginning in the 1950s, America began changing rapidly from a Christian-based "ideational" culture — one defined by

pursuit of virtue informed by religious values — into a "sensate" culture, in which individuals seek pleasure at the expense of family, community and, ultimately, country.

Harvard sociologist Pitirim Sorokin saw the trend in America beginning even earlier, and wrote about it in his book "The Crisis of Our Age," in 1941:

"Our culture simultaneously is a culture of man's glorification and of man's degradation. On the one hand, it boundlessly glorifies man and extols man-made culture and society. On the other, it utterly degrades the human being and all his cultural and social values."

In such a culture, there is little respect for the words of Jesus, who quoted Genesis: "[F]rom the beginning of the creation, God 'made them male and female. For this reason a man shall leave his father and mother and be joined to his wife, and the two shall become one flesh.'"

When man — instead of God — becomes the measure of all things, morality becomes muddled. The left casts unwanted, unborn children, timeless institutions such as natural marriage, and even election-integrity laws as impediments to personal happiness.

They have amply demonstrated that they will stop at nothing to shape the legal and political culture to fit their worldview and punish those who disagree.

Every day, we learn anew that elections have consequences.

Robert Knight is a senior fellow for the American Civil Rights Union and a columnist for *The Washington Times*.

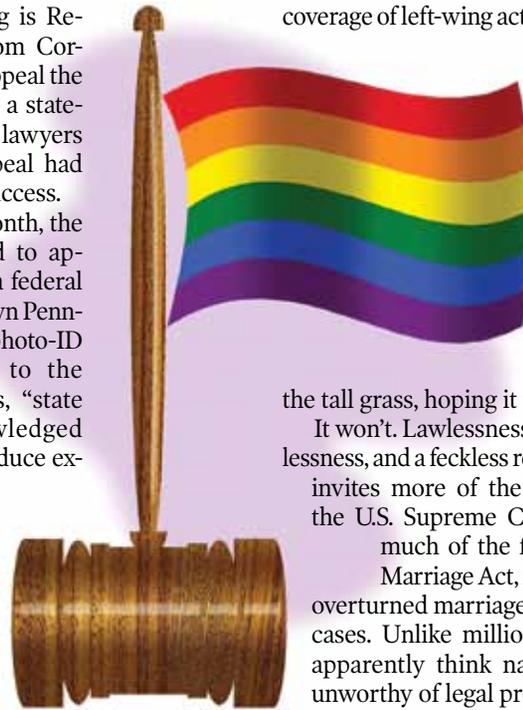


ILLUSTRATION BY HUNTER

# Legislating 'Morality'

## Another federal judge ignores the 10th Amendment to redefine marriage

THE WASHINGTON TIMES

Not so long ago the Constitution got respect. But now, not so much. President Obama is on his way to repealing the separation of powers, and the 10th Amendment is on life-support, ignored by federal judges who know better than the legislatures of Utah, Oklahoma, Kentucky and Virginia. Mischief-makers in black robes insist on redefining marriage to suit their peculiar fancy.

U.S. District Court Judge Judge Arenda L. Wright Allen last week nullified an amendment to their state constitution as ratified by Virginia voters. "Tradition is revered in the Commonwealth, and often rightly so," wrote Judge Wright Allen, "However, tradition alone cannot justify denying same-sex couples the right to

marry, any more than it could justify Virginia's ban on interracial marriage." That's a reference to a 1967 case, *Loving v. Virginia*, in which the U.S. Supreme Court struck down state anti-miscegenation laws. It's a particularly false analogy since the plaintiffs in the case, Richard and Mildred Loving, were a man and a woman whose union didn't challenge marriage itself.

The ruling by Judge Wright Allen, appointed to the court by President Obama, proves again that elections have consequences. The Founding Fathers insisted on the 10th Amendment as a firewall to protect the states from the federal leviathan, as the Founders suspected it would one day attempt to trample on the prerogatives of the states. The 14th Amendment's Equal Protection Clause, cited by the

judge as the basis of her ruling, was never meant to invalidate the 10th Amendment decree that powers the Constitution does not assign to the federal government "are reserved to the States respectively, or to the people."

Judge Wright Allen doesn't care much for close textual analysis. The very first page of her opinion says the Constitution declares that "all men are created equal," which is, of course, taken from the the Declaration of Independence. (One of her clerks should tell her those are two separate documents.) Like many of the judges Mr. Obama appoints to the federal bench, Judge Wright Allen is interested only in the outcome of a case, not how to get there.

She stayed her ruling, recognizing that wiser counsel may reach a different opinion. An appeal may require defenders of

marriage to hire their own lawyers, since Mark R. Herring, the new Virginia attorney general, won't. He was elected last November by the narrowest of margins, and had never let on that he intended to argue against Virginia's voters. Many might have pulled a different lever had they known exactly who Mr. Herring is.

Ken Cuccinelli, Mr. Herring's predecessor, thinks the Supreme Court "is probably going to say, '[The state's ban on same-sex marriage] is not an offense to the 14th Amendment, and it is the province of the states to decide this.'" We hope so, but whether the 10th Amendment survives or becomes a dead letter, could come down to the vote of one man, the Supreme Court's perennial swing justice, Anthony M. Kennedy. Everything depends on which way Justice Kennedy swings.

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Since the days of Adam and Eve, people's attention has been directed to wanted results; some nobly right, some ignobly wrong. But results have causes so that attention goes now to causes.

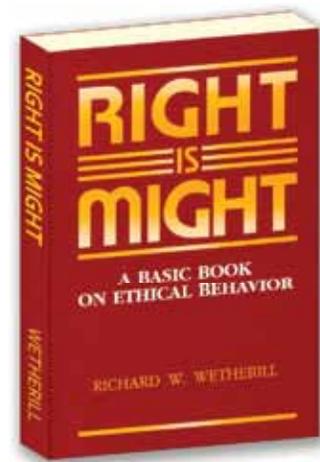
There is an ancient cause-and-result described in scripture: *"Of every tree of the garden thou may freely eat, but of the tree of the knowledge of good and evil, thou shalt not eat of it. For in the day that thou eatest thereof, thou shall surely die."*

Have you ever asked yourself, what causes people to be born into this life with a result of eventual death? Is it the cause-and-result sequence quoted above?

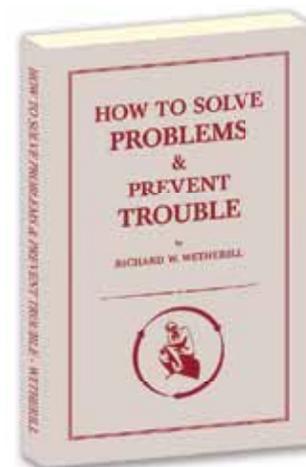
Consider this: Natural laws, we call laws of physics, cause safe and productive results when obeyed. In the last century, Richard Wetherill identified a natural law of right behavior. He called it the *Law of Right Action*. Its cause is to create a rational, honest, right-behaving population, with results that completely abolish the result quoted above *"thou shall surely die."*

Many persons view this Law of Right Action as a rather difficult, new way to meet the requirements of life. But clearly it describes a cause that supports people's existence, and then it provides the Creator's promised result in a concept given to the prophet Ezekiel: *"turn yourselves and live ye."*

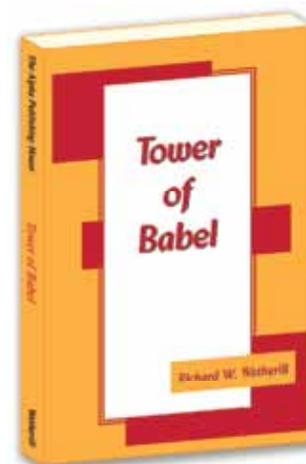
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# Recovering the Meaning of Marriage

By Robert Knight

The stage is being set for the U.S. Supreme Court to manufacture a “right” to homosexual “marriage” in the Constitution. That’s the document written by the same American Founders whose minds the court read in 1973 to include fever dreams of unlimited abortions.

This time around, the court might desist. We can only hope.

Meanwhile, the Orwellian juggernaut of intolerance in the name of tolerance rolls on, with Mozilla Firefox CEO Brendan Eich the latest victim. Mr. Eich resigned Thursday for the crime of donating \$1,000 in 2008 to support Proposition 8. He was in good company. California’s marriage amendment was widely approved by the electorate — including 70 percent of black California voters.

I guess they should all be fired from whatever jobs they have.

Marriage is not just any relationship. It predates the law and the Constitution, and is an anthropological reality, not primarily a legal one. No civilization can survive without it, and those societies that allowed it to become irrelevant have faded into history.

It’s one thing to have the idea that a cow is now a horse. It’s another to use the power of the law to impose this delusion on everybody else. Same-sex “marriage” is a direct attack on freedom of conscience for millions of people.

Marriage is the union of the two sexes, not just two people. It is the binding of two families, and the foundation for establishing kinship patterns and family names, passing on property and providing the optimal environment for raising children.

Marriage is the only type of coupling capable of natural reproduction of the human race — a man and a woman. Children need mothers and fathers, and marriage is society’s way of obtaining them.

Even childless marriages are a social anchor for children, who observe adults as role models. Children learn crucial things about family life by seeing relationships up close: interactions between

men and women, husbands and wives, mothers and fathers, and parents to children of the same and opposite sexes.

Human experience and a vast body of social science research show that children do best in married, mother-father households. Junk science can’t change that, nor can it prove that people are “born gay” with no hope of change.

After Massachusetts legalized homosexual “marriage” in 2004,

the Catholic Church had to shut down its large adoption agency, and later in the District of Columbia. This denies orphans one of the best chances of being adopted in an intact household with a mother and father. Collateral damage. Shrug.

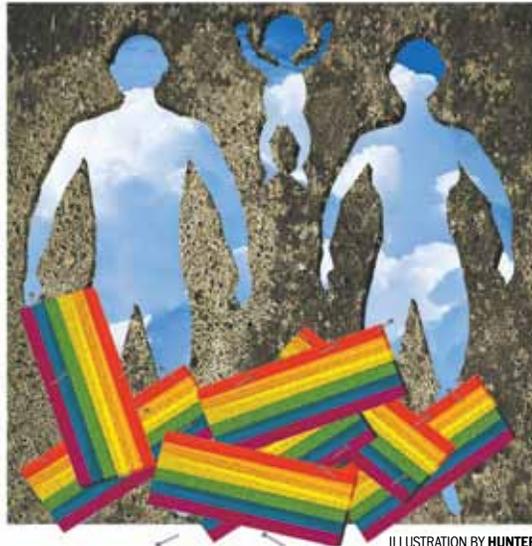


ILLUSTRATION BY HUNTER

Marriage laws have been part of the cultural and legal structures for thousands of years in all societies long before the modern “gay” movement became active in the 1970s. It is profoundly misleading for media to refer to marriage laws as “gay-marriage bans,” as if the laws never had any purpose other than excluding same-sex couples.

Citing laws in some states that once barred interracial marriage is also misleading. The very essence of

marriage — the joining of the two sexes — was never at issue when the Supreme Court in *Loving v. Virginia* (1967) struck down Virginia’s law barring interracial marriage.

Hijacking the moral capital of the black civil rights movement to turn a wrong into a “right” is part of a detailed strategy in the 1989 book “After the Ball,” by public relations experts Marshall Kirk and Hunter Madsen, who advised: “In any campaign to win over the public, gays must be portrayed as victims in need of protection so that straights will be inclined by reflex to adopt the role of protector.”

They suggested branding people with traditional values as “haters” and “bigots.”

That PR strategy has worked like magic, pounded into the American psyche over and over via the media, Hollywood, the educational establishment and liberal corporations that have become willing accomplices. Many well-intentioned people, such as students in “gay-straight alliances,” unknowingly aid what is fast becoming a totalitarian movement.

Businesses that decline to recognize nonmarital relationships are being punished through loss of contracts. Christian-owned firms

have been fined or ruined in New Mexico, Oregon and elsewhere for declining to service homosexual ceremonies. People are being fired or denied credentials.

In 1994, writer Michelangelo Signorile urged activists to “fight for same-sex marriage and its benefits and then, once granted, redefine the institution of marriage completely, to demand the right to marry not as a way of adhering to society’s moral codes but rather to debunk a myth and radically alter an archaic institution.”

Contrast that with what Jesus said about marriage, reiterating God’s directive in Genesis: “From the beginning of creation, God made them male and female. For this reason a man shall leave his father and mother, and the two shall become one flesh.”

People need not burn bridges with friends and loved ones who differ on this issue. All people are precious, created in God’s image, and all are subject to various temptations — and hope for change — during our lifetimes.

We must speak the truth in love, and never, never surrender to the demand that we lie to our Creator, to ourselves and to our children about what is right and wrong — and what constitutes a marriage.

Robert Knight is a columnist for *The Washington Times*.

## Unappealing Rulings

### Republican officials must redeem the law stolen by partisan judges

THE WASHINGTON TIMES

Judicial activism is back, and with a vengeance. Unelected judges with personal agendas felt the rush of power that came from making public policy with the school-prayer cases in the 1960s and school busing in the 1970s. Today many judges are rewriting the definition of marriage that has served civilization well for thousands of years.

Legislators of principle and common sense must remind judges that theirs is the duty to interpret law, not to rewrite it. One judge in particular need of correction is U.S. District Court Judge John E. Jones III of Harrisburg, who decided last week that he didn’t like the Pennsylvania statute which says: “It is hereby declared to be the strong and long-standing public policy of this Commonwealth that marriage shall

be between one man and one woman.” He cast it aside.

Unless reversed on appeal, the decision will require the state to recognize homosexual marriages. Gov. Tom Corbett, a Republican, decided he wouldn’t do anything about the ruling. Though he says he opposes same-sex marriage, the governor further said his lawyers told him it was “extremely unlikely” the state would win on appeal.

Since the U.S. Supreme Court canceled the Defense of Marriage Act and California’s Proposition 8, federal judges have taken the question, and the answers of majorities of voters, away from the people. There’s surely no shortage of laws that deserve to be repealed, but whether to repeal the many bans of same-sex marriage is a decision for the people — by referendum or through their elected representatives, not by a single federal judge acting as a superlegislator,

imposing his view that the long-standing meaning of marriage should be assigned to “the ash heap of history.”

In Michigan, state Attorney General Bill Schuette is weighing whether to appeal a federal judge’s ruling May 23 that enabled Rep. John Conyers Jr. to appear on the Aug. 5 Democratic primary ballot despite his failure to submit the 1,000 valid signatures required by law. A primary rival succeeded in having hundreds of signatures invalidated because the Conyers campaign violated the law requiring such signatures to be collected only by registered voters.

U.S. District Court Judge Matthew Leitman, an appointee of President Obama, said his decision was based on what he regarded as the “substantial likelihood of success” of Mr. Conyers’ challenge to the constitutionality of the law’s requirement that signature collectors be registered voters.

No novice at understanding the consequences of flouting or manipulating the law, Mr. Conyers has been in Congress since 1965, and his failure to comply with the law was his own fault. He should have known better and deserves no mulligan by a sympathetic federal judge.

Alexander Hamilton in *Federalist No. 78* envisioned the judiciary as “the least dangerous” branch of the federal government. It has since become the most dangerous. Mr. Schuette and Mr. Corbett must appeal these federal rulings to restore the balance between the branches of government, and between the federal government and the states. Fighting back against the dangers of justice by whim and resisting judicial activism is the logical and safe course if we are to remain the “nation of laws” that we say we are.

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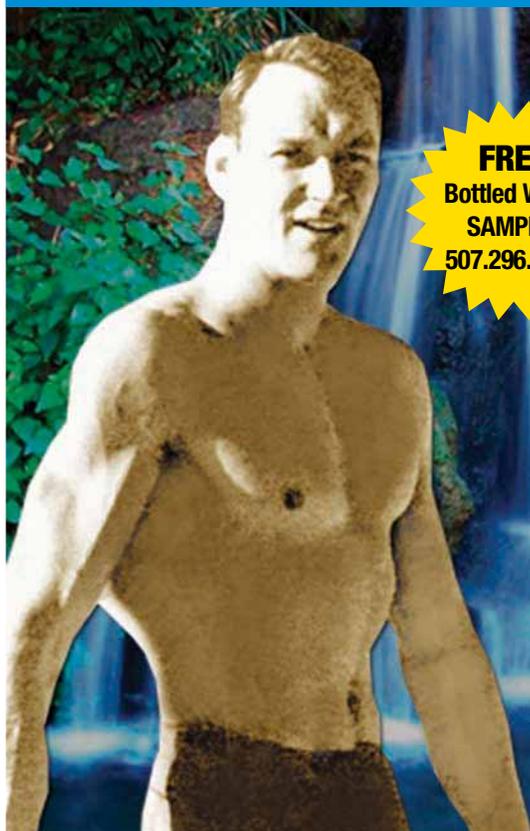
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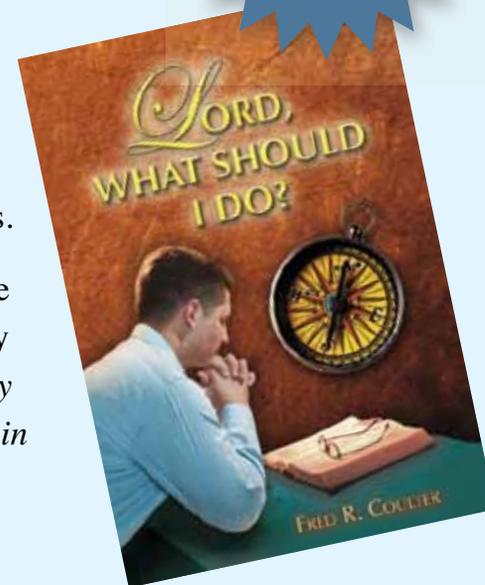
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