STATEMENT DH-261

WEDDING BELL BLUES: Understanding the Same-Sex Marriage Debate

by Francis J. Beckwith[1]

Summary

Same-sex marriage proponents defend their position by arguing that government neutrality is violated when the state allows only people of different genders to marry one another. Yet the same-sex marriage position is far from neutral. It asserts that government ought to prefer a view of human nature that sees human institutions, such as marriage and the family, as artificial social constructions ruled by personal subjective preference. Because proponents of this view try to establish marriage on the basis of adult consent and desire rather than on marriage's intrinsic value and the natural teleology (purpose) of the body (or person), numerous counterintuitive and irrational consequences result.

Although the original mission of the homosexual rights movement called for social *tolerance* rather than social *approval*, it is now demanding the latter.

It is doing this by questioning the state's partiality toward heterosexual monogamy by claiming that such partiality is inconsistent with fairness and personal autonomy. The 1996 Defense of Marriage Act (D.O.M.A.), passed by the U.S. Congress and signed by President Bill Clinton, was a legal attempt to resist this argument by doing two things: (1) allowing states not to honor same-sex marriages even if such marriages are allowed in other states; and (2) defining for the federal code that marriage "means only a legal union between one man and one woman as husband and wife."[2]

For the opponents of same-sex marriage, D.O.M.A. was passed in the nick of time, for it became law soon after the U.S. Supreme Court's *Romer v. Evans* (1996) decision (see below) and shortly before a Hawaii court ruled that forbidding same-sex marriage violated Hawaii's constitution. (The judge, however, prohibited the state from distributing marriage licenses to same-sex couples until a higher court could make a ruling.)

According to the proponents of same-sex marriage, the values of fairness and personal autonomy dictate that mere individual consent is all that is necessary for marriage, and thus our culture's preference for heterosexual monogamy is unjust. The call for state-approved same-sex marriage is therefore grounded in the two fundamental beliefs of the contemporary liberal state: *personal subjective relativism* and *personal autonomy*.

Personal subjective relativism is the view that there is no objective good, and, as a consequence, the role of the state or community should be to allow each person to decide what is good for him or herself. According to this belief, goodness, just like beauty, is in the eye of the beholder. Proponents of this view appeal to "fairness" and "personal autonomy" to justify their position. They argue that if the state or community judges one person's lifestyle choice as good and another's as bad, that is *not fair* since it violates that individual's *personal autonomy* to choose whatever he or she believes is "the good." Since there is no objective good with which human beings ought to live consistently and which the state must uphold and endorse, defenders of this view believe the role of the state is simply to make sure that the choice is neither impeded by outsiders nor directly harms others.

What I am concerned about in this article is that the appeal to state "neutrality" is accepted at face value without any critical reflection. By framing the same-sex marriage debate as a dispute between those who think the state should remain neutral and those who want to "force their views on others," the proponents of same-sex marriage are able to put their opponents on the defensive and make them appear biased, bigoted, irrational, and narrow-minded. As we shall see, however, those who defend same-sex marriage are far from neutral, for their position presupposes that a particular view of reality is correct and that other views of reality, including the views of their opponents, are incorrect. That is to say, the appeal to state neutrality, in the name of fairness and autonomy in order to support "personal choice," is not neutral at all. Rather, it presupposes a view of personal morality and social philosophy that is relativistic, anticommunitarian, and hostile to views of the human person that are not philosophically naturalistic (the belief that there is no nonphysical aspect of human nature, such as a soul, and that human beings have no transcendent purpose that human institutions ought to encourage and nurture).

I am not denying that there are issues on which the state should remain neutral. For example, I do not believe the state should take a position on infant baptism or prefer one race over another or one religion over another. There is a positive communitarian good in discouraging prejudice and encouraging free expression of one's religious tradition. But, if a religious tradition or philosophical viewpoint violates institutions and principles that are essential to nurturing public virtue, such as the traditional family or parents' obligation to care for their vulnerable children, the state is justified in prohibiting practices that are inconsistent with them, such as polygamy, same-sex marriage, incestuous marriage, and child sacrifice.

SAME-SEX MARRIAGE, RELATIVISM, AND AUTONOMY

To illustrate how personal subjective relativism and personal autonomy comprise the foundations on which the edifice of same-sex marriage is built, I refer the reader to the comments of two proponents of same-sex marriage made on the May 10, 1996 installment of the political talk show, *Think Tank*. One of them, Georgetown University law professor William Eskridge, asserted: "[Same-sex marriage is good] primarily for reasons of equality. Legal marriage entails dozens of rights, benefits and obligations which are routinely available to different-sex couples. Those same benefits, rights and obligations should be available on the same terms to lesbian and same-sex couples as a guarantee of their equal rights in our polity."[3] Echoing these comments was Torie Osborn, former executive director of the National Gay and Lesbian Task Force: "I think it's a question of fundamental fairness."[4]

Eskridge and Osborn were calling for the state to remain neutral on the question of marriage; that is, the state should not favor any particular marital arrangement. In order to understand how their position affirms a particular philosophical view of what it means to be a human person in a community, we need to make a distinction between two concepts: *social tolerance* and *social approval*. We then need to see how each applies to the question of gay rights. These two concepts carry with them certain philosophical presuppositions about the nature of society and its relation to the individual.

Social tolerance asserts that the state should be forbidden to interfere with the private consensual sex of adults if no one outside the circle of consenters "gets hurt," even though such behavior may violate the sensibilities of most people. In fact, the state may hold that the behavior is *morally wrong* and that society ought to discourage it, but because of the impracticality and expense of criminalizing the behavior, the state chooses to tolerate it. The proponent of social tolerance need not accept personal subjective relativism and personal autonomy as fundamental to his or her political and social philosophy.

The question of *social approval* is much more complex and is really at the heart of the debate over same-sex marriage: Should the state be forbidden to give legal and social preference to heterosexual monogamy while denying such to alternative lifestyles such as homosexuality? The first concept, social tolerance, is not the same as the second. In fact, for the following two reasons, one can say *yes* to the privacy rights and be tolerant as is implied in the first concept and yet say *no* to the sexual egalitarianism and social construction theory of human relationships implied in the second concept.

First, the proponents of same-sex marriage who cling to the second concept assert that those outside the circle of consenters cannot use objective moral standards to judge sexual activities between consenting adults, as long as the consenters do not coerce outsiders to participate and as long as the unions "don't hurt anybody." It is considered unfair to say that one lifestyle is better than another, since there is no objective good (and thus personal subjective relativism is true) and since a person's choices should be honored regardless of what others may think of those

choices (and thus absolute autonomy is true). To deny this is to violate "equality." Therefore, the state has no right to make judgments about which sexual lifestyle is best, ought to be encouraged, and should be provided with economic and social incentives from the state. The only state preference that should be allowed is *sexual egalitarianism* — the belief that no sexual practice is more or less good than any other as long as all the participants have exercised their personal autonomy.

Second, supporters of same-sex marriage also believe that *all* traditional notions about gender, marriage, and family result from artificial social institutions rather than from an immutable human nature endowed to us by either God or nature. This is the social construction theory of human nature and human institutions. It is a theory that is widely held in today's relativistic society.

THE U.S. SUPREME COURT INTERCEDES

Contrast the same-sex position with what opponents of same-sex marriage believe to be true. They maintain that sexual egalitarianism is false and informed consent is not a sufficient condition for an act to be legally or morally permissible. They also assert that traditional notions of gender, marriage, and family, however differently expressed throughout human history and understood as the result of moral reflection, are part of the "furniture" of the universe and that their continued existence is essential to maintaining the moral ecology of human society.

Nevertheless, the U.S. Supreme Court in the case of *Romer v. Evans* (1996) has rejected this form of reasoning. In that case the Court ruled that the state of Colorado could not prohibit the state government or any of its jurisdictions (e.g., cities, counties) from granting protected status to homosexuals. Groups that have protected status, such as African-Americans and women, are those that have suffered discrimination and whose status society has tried to rectify by the use of certain public policies such as anti-discrimination laws, affirmative action policies, and special scholarships to government schools. The Court overturned Colorado's Amendment 2, which a referendum had passed in 1992 with 54 percent of the popular vote. It appeared on the ballot in the form of a question: "Shall there be an amendment to Article II of the Colorado Constitution to prohibit the state of Colorado and any of its political subdivisions from adopting or enforcing any law or policy that provides that homosexual, lesbian, or bisexual orientation or conduct, or relationships constitutes or entitles a person to claim any minority or protected status, quota preference or discrimination?"

The Court's majority decision, written by Justice Anthony Kennedy, maintained that Amendment 2 is unconstitutional because it violates the Equal Protection Clause of the Fourteenth Amendment. He drew this conclusion from the fact that the Colorado amendment singled out homosexuals as an identifiable group and then denied them the opportunity to become recipients of special protections. Thus, homosexuals were denied equal protection under the law, while statutes and ordinances could still be enacted in behalf of other groups (e.g., racial minorities, women, and the disabled) to provide them with special protections. Because the amendment, in Kennedy's opinion, had no rational basis, it raises "the inevitable inference that the disadvantage is born of animosity toward the class of persons affected."[5]

With this decision, the Court redefined the principle of "treating people equally" to include "treating people's behavior equally." This is no better exemplified than in Justice Kennedy's citing of Justice John Marshall Harlan's famous dissent from the separate-but-equal case, *Plessy v. Ferguson* (1896): The Constitution "neither knows nor tolerates classes among citizens." Kennedy then commented: "Unheeded then, those words now are understood to state a commitment to the law's neutrality where the rights of persons are at stake."[6] It is one thing to embrace "equality of all people"; it is quite another to translate that into "equality of all lifestyles." Evidently, according to Justice Kennedy, because the law allows me to marry my female neighbor but not my sister, I am denied equal protection under the law.

The philosophical ground for this reasoning is that personal subjective relativism and personal autonomy are the primary basis for deciding a moral issue that touches on public policy. For this reason, any piece of legislation — such as the Colorado amendment — which presupposes a notion of what is morally good for human persons and the community, cannot be rational. After all, the state ought not to concern itself with "the good" (i.e., "a commitment to the law's neutrality") and such legislation would violate each person's right to pursue what each believes and chooses to be good for him or herself (i.e., personal autonomy). Thus, any moral opposition to homosexuality that is reflected in public policy is *by definition* irrational and must be born of "animosity," as Justice Kennedy put it. By implication of the legal and philosophical principles set forth by the Court, it follows that *sexual egalitarianism* has

become the exclusive constitutionally sanctioned view about the nature of human sexuality and its place in community.

Couple this conclusion with Justice Kennedy's claim that it is a religious belief to hold that "there is an ethic and morality which transcend human invention,"[7] and the Court now has another "constitutional" basis for affirming sexual egalitarianism (and thus for forbidding the prohibition of same-sex marriage). The Court may now appeal to *both* the Fourteenth Amendment and the Establishment Clause of the First Amendment, since to assert that the state ought to prefer a certain lifestyle because it is inherently good and part of the nature and order of things (e.g., hetereosexual monogamy and the begetting and raising of children) would be, according to Justice Kennedy, "transcendent" (since it is not a human invention) and thus "religious." Hence, given the Court's espousal of sexual egalitarianism and denial of transcendent ethics, do not be surprised if the debate over polygamy is reopened or debates arise over the constitutionality of incest laws and the age of sexual consent.

PROBLEMS WITH SAME-SEX MARRIAGE

In addition to being nonneutral, the same-sex marriage position is problematic. Because a full-blown critique of same-sex marriage and a defense of traditional marriage are outside the scope and purpose of this article, I will leave that task to others.[8] Yet, there are a number of counterintuitive (one may say, irrational) consequences in affirming the permissibility of same-sex unions based on a world view that maintains that traditional marriage is merely a social construction, and that whatever consenting adults choose to do is out of the purview of the state — as long as they do not "hurt anybody." Consider the following:

Granting the world view of personal subjective relativism, there is no principled reason for the state not to permit virtually any marital union. For example, marital arrangements that include two brothers, two sisters, a mother and a son, a father and a son, a mother and a daughter, or a grandfather and a grandson, are consistent with the philosophical assumptions undergirding the same-sex marriage defense. Nor is that all. A polygamous marriage of one man and numerous spouses, which may include his mother, his grandmother, his grandfather, as well as his adult daughter and son, is not inconsistent with the same-sex marriage world view. Given sexual politics today, one can easily imagine polygamy being reintroduced into American culture by appealing to the sad plight of the bisexual, a person who is incapable of fulfilling his or her marital aspirations with merely *one* spouse of *one* gender. It is not difficult to guess how the rhetorical question will be raised: Why should he or she be forbidden from marrying the *ones* he or she loves?

To be blunt, according to the same-sex marriage world view, the state and its institutions (including public schools) could not say that a heterosexual monogamous couple bringing up three young children in a traditional Christian or Jewish home is a better arrangement for the moral ecology of the community than the marital union of a father and four of his adult children (two daughters and two sons), who make their living producing and selling pornographic films of their group sexual encounters. After all, they are all adult consenters; nobody is being coerced; and the state should not prefer one sexual lifestyle over another.

Such counterintuitive results occur because most proponents of same-sex marriage presuppose that marriage, family, and all other institutions are merely matters of convention and positive law. That is, there is nothing particularly sacrosanct or normative about any family or marital arrangements; individual members of society may tinker with these in any way they please as long as they don't interfere with other people's choices to tinker. Since the state must be "neutral," it must assume there is no overarching good or *telos* (purpose) to human life, human relationships, and human communities. Unless one is willing to embrace marital and familial anarchy, one cannot ground the institution of marriage in the philosophical presuppositions of same-sex marriage proponents.

AFFIRMING THE TRADITIONAL MARRIAGE

How then should marriage be grounded? Although I can't present it in great detail here, I suggest a two-pronged approach that seems best suited both to prevent the above counterintuitive results and to provide a ground for traditional marriage: (1) the natural teleology (purpose or design) of the body (or person); and (2) the intrinsic value of traditional marriage.

1. The Natural Teleology of the Body (or Person). Although opponents of same-sex marriage do not deny that people of the same sex can love each other, nevertheless they affirm that the purpose of marriage is not *merely* to mark the presence of love. The presence of love between persons need not be thought of as less because it does not result in marital union or genital stimulation (e.g, grandparents' love for their grandchild; friends' love for each other). "But," as Hadley Arkes points out, "a marriage marks something matchless in a framework for the begetting and nurturing of children. In that respect, there is an evident connection between marriage and what has been called the 'natural teleology of the body': the inescapable fact that only two people, not three, only a man and a woman, can procreate a child. It makes a difference, after all, that a child should enter the world in a framework of lawfulness, with parents who are committed to his care for the same reason that they are committed to each other."[9]

Defenders of same-sex marriage have misunderstood this sort of argument. This is evident from their reply to it. They argue that many heterosexual couples either are sterile, choose not to have children, or are too old to procreate. Therefore, it makes no sense to distinguish between heterosexual and same-sex couples, since homosexual couples are in the same position as childless heterosexual couples. To put their argument in the form of a question: Why can't we allow homosexuals to marry each other as we do sterile hetereosexual couples, since the homosexuals, like the heterosexuals, are incapable of procreating?[10]

But the argument against same-sex marriage is based on the *nature* of human persons as gendered beings who have a purpose that is derived from that nature. That is to say, male-gendered human persons are meant for coupling with female-gendered human persons, even if their coupling does not result in procreation. This argument is *not* based on a human person's current *function*, *ability*, or *desire*, each of which could be inconsistent with how human persons ought to be by nature. For example, a person who is blind is lacking something physically, though he or she is still a human person who by nature ought to be seeing. In the same way, a sterile, aged, or willingly childless person is still a gendered human person whose purpose for marital union (if he or she does not have the gift of celibacy) can be consummated only by one-flesh communion with someone of the opposite gender. This remains true *even if* he or she has desires that are contrary to what he or she ought to desire by nature. Desires, after all, can be immoral and sometimes harmful to a person's good (e.g., desires to overeat, commit adultery, molest children, and engage in gay bashing). Arkes writes:

> But even people who are not covered with college degrees have been able to grasp the natural correspondences that establish the coherence in the design of marriage: There is a natural correspondence between the notion of marriage and the sexual coupling, the merging of bodies, in the "unitive significance" of marriage: and there is the plainest natural connection between that act of coupling and the begetting of children. Those children embody the "wedding" of the couples by combining in themselves the features of both parents.
>
> These meanings are so evident, these natural correspondences so fixed, that nothing in them is impaired if a couple happens to be incapable of begetting children. Their marital acts retain their significance in the unitive scheme of marriage. But if marriage were detached from the "natural teleology of the body," this question may be posed: On what ground of principle could the law confine marriage to "couples"? If the law permitted the marriage of people of the same sex, what is the ground on which the law would refuse to recognize a "marriage" among people who profess that their own love is not confined to a coupling of two, but connected in a larger cluster of three or four? And if that arrangement of plural partners were permitted to people of the same sex, how could it be denied in principle to ensembles of mixed sexes?[11]

Since the purpose of sexuality is derived from our natures as men and women, homosexuals in the strictest sense are no more engaging in sex if they stimulate each other to orgasm than is an ashtray "food" or the act "eating" if one consumes it. This is why Rodney Dangerfield can always count on eliciting a laugh from his audience when he says, "I was afraid the first time I had sex. I was afraid...because I was all alone." The audience recognizes that sex alone is not really sex. "It is," comments Arkes, "genital stimulation, but not __ as we instantly understand __ *really* sex. But in that event, it would not suddenly become 'sex' if two people simply replicated, in tandem, the masturbation implicit in the joke."[12]

Of course, if same-sex proponents simply deny there is such a thing as human nature by which they can derive certain goods and norms, then they undercut the objective basis on which they want to ground human rights, and more specifically, gay rights. "If natural needs were not the same for all human beings everywhere, at all times and under all circumstances," Mortimer Adler writes, "we would have no basis for a global doctrine that calls for the

protection of human rights by all the nations of the earth."[13] In other words, *human nature* is a necessary condition for the array of rights, obligations, and virtues many of us take for granted and that are not contingent upon our wanting, recognizing, or practicing them. "If all goods were merely apparent, having the aspect of the good only because this or that individual happens to want them," Adler goes on to explain, "we could not avoid the relativism and subjectivism that would reduce moral judgments to mere opinion. Having no hold on any truth about what is right and wrong, we would be left exposed to the harsh doctrine that might makes right."[14]

Moreover, same-sex marriage proponents' denial of purpose in the human person counts against there being any purpose to the human mind, since their world view asserts that there is no purpose or *telos* to human nature, which would include the human mind. Although we know of people who desire or willingly embrace ignorance, we believe these people *ought* to desire knowledge and wisdom. In fact, many gay rights activists attack their opponents by accusing them of being backward and ignorant, implying that the natural purpose of the human mind is to acquire knowledge and be wise. But if a human person is a socially constructed being with no overarching purpose or *telos*, why would ignorance be wrong if someone desired it and believed himself or herself to be "born that way"? So, if the natural teleology of the body (or person) is inadequate to convince the proponents of same-sex marriage that their position is incorrect, then they must abandon the natural teleology of the mind, which they consistently employ to scold their opposition, for the latter is as well-established philosophically as the former.

2. The Intrinsic Value of Traditional Marriage. This point can best be understood if framed in the form of a simple philosophical inquiry: Is marriage more like "justice" or is it more like the colors of traffic signals? If it is like the latter, merely a social convention, then there is no question that same-sex marriage ought to be permitted. As we have seen, however, there would be no principled reason why the state could or should forbid giving its imprimatur to polygamous or incestous love-commitments, which are attended to by penetration and genital stimulation, just as there would be no principled reason why the state should not or could not choose blue, yellow, and pink rather than green, amber, and red as its official traffic signal colors. On the other hand, if marriage is like "justice," something that is intrinsically valuable (good-in-itself), then the state cannot morally define marriage in any way it sees fit and call it "marriage," just as the state cannot engage in atrocities and by legislative fiat call it "justice." It seems that marriage is more like "justice" than like the colors of traffic signals. And this is why once one begins to think of marriage as merely a social convention, like the colors of traffic signals, counterintuitive results occur, just as they would occur if we thought of justice as merely a social convention (e.g., atrocities would become "just" because the state says so).

Since marriage is an intrinsic good, its value cannot be demonstrated in any strict sense, just as the intrinsic good of justice cannot be demonstrated to the person who insists that a life of ill-gotten gain proves to him or her that "justice doesn't pay" and therefore is "no good." Robert P. George and Gerard V. Bradley explain:

> The practical insight that marriage...has its own intelligible point, and that marriage as a one-flesh communion of persons is consummated and actualized in reproductive-type acts of spouses, cannot be attained by someone who has no idea of what these terms mean; nor can it be attained, except with strenuous efforts of imagination, by people who, due to personal or cultural circumstances, have little acquaintance with actual marriages thus understood. For this reason, we believe that whatever undermines the sound understanding and practice of marriage in a culture — including ideologies hostile to that understanding and practice — makes it difficult for people to grasp the intrinsic value of marriage and marital intercourse.[15]

George and Bradley's point is this: Just as those who are accustomed to seeing injustice pay are not likely to "see" the intrinsic value of justice, those who are not accustomed to seeing actual marriages will not "see" the point of marriage. The intrinsic value of marriage, as well as other human goods (such as knowledge and wisdom), is grasped in noninferential acts of understanding resulting from philosophical reflection on human experience, history, and the order of things. An example of this type of reflection is found in Harry V. Jaffa's comments on the family, which he writes is

> the foundation of all friendship, as it is the foundation of community...the first and most natural of all human associations.... Morality comes to sight therefore as the relationship, first of all, of husband and wife, then of parents and children, and of brothers and sisters. From this it expands to include the extended family, the clan, tribe, city, country, and at last mankind. Mankind as a whole is recognized by its generations, like a river which is one and the same while the ever-renewed

> cycles of death and birth flow on. But the generations are constituted — and can only be constituted — by the acts of generation arising from conjunction of female and male.[16]

Since marriage is an intrinsic good, just as justice is an intrinsic good, a culture that does not nourish, encourage, and protect traditional marriage will do so at its own peril, just as it would imperil itself if it no longer understood justice as an intrinsic good. A culture whose institutions do not prize intrinsic value — but instead seek justification by appealing to some instrumental value such as desire, want, pleasure, personal autonomy, or something else — helps atrophy the faculty of noninferential understanding in its citizens. It harms their souls, deprives them of something of great significance, and makes it difficult for them to understand why marriage, or anything else, has instrinsic value.

Republican (small "r") government results from good citizens civilized by the institutions of family, honest work, and good religion. If, to quote Aristotle, statecraft is soulcraft, then the end of the state should be to produce good citizens and therefore provide a privileged and protected position for these institutions. The state, consequently, should treat traditional marriage as privileged and protected in contrast to other alternatives. Since "monogamy, assuming that it is the only valuable form of marriage, cannot be practiced by an individual," writes Joseph Raz, "it requires a culture which recognizes it, and which supports it through the public's attitudes and through its formal institutions."[17] On the other hand, a state that treats all alternative lifestyles as equal does not believe that statecraft is soulcraft and is therefore not particularly interested in producing good citizens qualified to engage in republican government. Such a state denies there is any such thing as the good, the true, or the beautiful. The state is there merely to permit each autonomous individual to decide for himself or herself what is good, true, or beautiful for himself or herself. It is neutral and "nonjudgmental" when it comes to soulcraft, since all alternatives are equal. It is nihilism with a happy face.

The debate over same-sex marriage is a dispute between two different views of reality, neither of which is neutral. This dispute can best be described as a culture war between two world views whose proponents each believe their world view provides the most accurate description of reality as well as what is normative for human society. Once we understand this, then we can come to grips with what is philosophically at stake by the law's embracing of same-sex marriage.

The side that supports same-sex marriage asserts that the state ought to prefer a view of human nature that sees human institutions as artificial social constructions ruled by personal subjective preference. The side that supports traditional marriage asserts that the state ought to prefer the view of human nature that affirms that certain human institutions are natural and good and ought to be encouraged and supported by the state; personal subjective preference is secondary to what is good. In addition, if one tries philosophically to ground marriage apart from its intrinsic value and the natural teleology of the body (or person), numerous counterintuitive and irrational consequences will result.

Francis J. Beckwith, Ph.D., is Associate Professor of Philosophy, Culture, and Law and W. Howard Hoffman Scholar at Trinity Graduate School, Trinity International University (Deerfield, IL), California campus. His many books include *The Abortion Controversy 25 Years after Roe v. Wade* (Wadsworth, 1998), *Politically Correct Death: Answering the Arguments for Abortion Rights* (Baker, 1993), and *Affirmative Action: Social Justice or Reverse Discrimination?* (Prometheus, 1997).

NOTES

[1]This article is adapted from portions of the book, *Relativism: Feet Firmly Planted in Mid-Air*, by Francis J. Beckwith and Gregory Koukl (Grand Rapids: Baker, 1998).
[2]As quoted in Hadley Arkes, "Odd Couples: The Defense of Marriage Act Will Firm Up the Authority of the States to Reject Gay Marriage," *National Review* 48 (12 August 1996): 48.
[3]From the transcript of an episode of the syndicated television show, *Think Tank*, aired on 10 May 1996.
[4]Ibid.
[5]*Romer v. Evans*, 1996 WL 262293, *8 (U.S.).
[6]*Romer v. Evans*, 1996 WL 262293, *2 (U.S.).
[7]As quoted in Russell Hittinger, "A Crisis of Legitimacy," *First Things: A Monthly Journal of Religion and Public*

Life 67 (November 1996): 27.
[8]See, for example, the following works: David Orgon Coolidge, *Same-Sex Marriage?* Crossroads Monograph Series on Faith and Public Policy, vol. 1, no. 9 (Wynnewood, PA: Crossroads, 1996); Hadley Arkes, "Questions of Principle, Not Predictions: A Reply to Macedo," *The Georgetown Law Journal* 84 (1995): 321-27; and Robert P. George and Gerard V. Bradley, "Marriage and the Liberal Imagination," *The Georgetown Law Journal* 84 (1995): 301-20.
[9]Arkes, "Odd Couples," 49.
[10]Homosexual philosopher Richard Mohr has put forth a similar argument in his essay, "Gay Basics: Some Questions, Facts, and Values," in *Do the Right Thing: A Philosophical Dialogue on the Moral and Social Issues of Our Time*, ed. Francis J. Beckwith (Belmont, CA: Wadsworth, 1996), 524-26. See also Stephen Macedo, "Homosexuality and the Conservative Mind," *The Georgetown Law Journal* 84 (1995): 261-300.
[11]Arkes, "Odd Couples," 49, 60.
[12]Arkes, "Questions of Principle," 323.
[13]Mortimer Adler, *Ten Philosophical Mistakes* (New York: Macmillan, 1985), 127.
[14]Ibid.
[15]George and Bradley, 307.
[16]Harry V. Jaffa, "Sodomy and the Dissolution of Free Society," in *Do the Right Thing*, 531.
[17]Joseph Raz, *The Morality of Freedom* (1986), 162, as quoted in George and Bradley, 320. I do not know Mr. Raz's opinion on same-sex marriage, but I do know that he does not agree with my moral assessment of homosexual behavior.