

Scotus Rides Again

By Dennis Howard

The Supreme Court decision in the same sex marriage case (*Obergefell v. Hodges*) represents the most serious attack on states' rights and the democratic process since *Roe v. Wade* reversed existing laws that had been on the books for over 100 years.

In this case, the Court overrode democratic votes in 32 out of 35 states where the issue had already been decided by the voters. That's a 91% margin of victory, which is enough to make a majority in Communist Russia, but apparently not here. Over there, 90% majorities are honored, but here they can be overridden by a decision of five Supreme Court Justices.

In fact, there is no way that either *Obergefell* or *Roe* could have been become law through the normal legislative process. For the Court to so cavalierly override the will of the people is the kind of tyranny Americans once had a revolution over.

Even today, 42 years later, *Roe v. Wade* could not be passed by legislative process in all but a handful of the most liberal states in the country. The same holds true for the same sex marriage decision. But Scotus says "So what!" and may yet get away with it.

Welcome to a permanently divided America

Both decisions overrode the deeply held convictions of the vast majority of the American people in order to pander to a small minority. How wide the gap between minority and majority views can be seen in the demographics. According to the U.S. Statistical Abstract, a mere 0.5% of all U.S. households were made up of committed gay and lesbian couples in 2008, while 50.5% were traditional married couples living together.

Yet the Court chose to redefine marriage for the vast majority of Americans who are heterosexual by nature, faith and long tradition, and impose its own definition out of the clear blue sky.

Marriage for the procreation, education and protection of children is now legally obsolete. Scotus has rewritten every dictionary in the land. The word "marriage" no longer means the lifetime commitment of a man and a woman for the primary purpose of raising a family. Indeed, the very words "husband" and "wife" have been rendered obsolete.

"Married" folks will now be "spouse #1" or "spouse #2." Take your pick.

Tolerance of same sex relationships to ensure the public tranquility is one thing. I can understand why the small minority of committed gay couples might want their status given legal recognition, but to accomplish that by changing the very meaning of marriage for the vast majority of married Americans is quite another.

In effect, what the Scotus majority did was undo the definition of marriage for the heterosexual majority and impose on them a new definition that excludes the procreation of children as a core element in that definition.

Obergefell represents the final triumph of the new era of recreational sex that began with the sexual revolution and with the popularization of pornography by the likes of Alfred Kinsey and Hugh Hefner in the 1950's. It continued into the 1960's with the invention of The Pill and the rise of "you can have it all" feminism.

The subsequent killing of 56 million unborn innocents under the rubric of *Roe v. Wade* was just a byproduct of that same revolution. Even today, 88% of all abortions occur to young single women under 35. Promiscuity exacts a very high price.

On the other hand, marriage is the great protector of the unborn. Three out of four American women have never had an abortion and would never choose one. Fewer than 1 out of 6 abortions happen to married women.

Fortunately, some beliefs die hard. Scotus can rewrite the law of the land, but it can't rewrite what is in the hearts, minds and souls of those Americans who still believe in the sacred meaning of marriage and family.

Yet, at a time when the nation most needs healing from divisive wounds, this decision inflicts new divisions that no edict will ever heal. *Obergefell* panders to a small but powerful minority over and against the interests of America's married majority who bear the responsibility for raising the next generation of America's children. No matter how you slice it, procreation is not the primary purpose of same sex marriage.

In his dissent, Justice Alito recognizes this when he writes, "For millennia, marriage was inextricably linked to the one thing that only an opposite-sex couple can do: procreate ... If this traditional understanding of the purpose of marriage does not ring true to all ears today, that is probably because the tie between marriage and procreation has frayed."

The social history of the last 60 years certainly confirms Alito's view. In the '50's, men like Alfred Kinsey and Hugh Hefner helped launch the sexual revolution. Feminism and the Pill took off in the '60's. The pop psychologists explained away guilt in the '60's and '70's, and the divorce rate doubled. Recreational sex was in and procreational sex was out, leading to today's new Viagra generation.

You can see it in the unavoidable TV commercials for Viagra and Cialis that move across every television screen in the land at dinner time (what we once called “the children’s hour.”) Balding, grey-haired, pill-popping males can’t wait to get out of the swimming pool before getting it on with their much younger sweethearts.

And obviously they are not listening to the subliminal warnings of everything from a 4-hour terminal you-know-what to an instant heart attack. If you ask me, these guys shouldn’t be doing anything more dangerous than taking a long walk on the beach.

Meanwhile, in the black community, the truly poor are experiencing a near total breakdown in normal family life, which has contributed to a huge increase in black on black crime and to the kind of violence and social disorder seen in Ferguson, Mo., and Baltimore, Md. Instead of taking responsibility for it, many so-called leaders simply blame it on the cops – a much more popular target than free condoms in public schools. It’s another example of the high social and economic cost of recreational sex.

But today, we have a culture that caters to anyone who yells, “victim!” which gives pandering politicians and judges the opportunity to play hero to self-identified victims, regardless of their real circumstances. Meanwhile, the real victims – like the millions of families struggling under the weight of social breakdown – go right on suffering economically and socially. *Obergefell* has nothing to offer them.

Economic advantages of being gay

Meanwhile, homosexuals have become a privileged class. As a group, they enjoy higher income levels – 9.3% more when both partners work, according to a recent study -- \$94,000 a year for gays compared to \$88,000 a year for heterosexual. Meanwhile, heterosexuals bear the burden of much higher child rearing and education costs.

And if Mom stays home to take care of her kids, heterosexual family incomes drop by another \$30,000 – to \$58,000 a year. Meanwhile, single Moms with children make up the majority of families at the bottom of the income barrel.

Heterosexuals suffer career-wise, too. A gay couple without children is free to devote all the energies of both partners to career advancement, while heterosexual couples must divide their energies between family obligations and work. And women in same-sex coupledness, on average, earn 26.7% more a year than married heterosexual women -- \$38,000 year versus \$30,000.

Labor participation rates are higher for gay couples, too – 82% in 2011 compared to 69% for heterosexual couples. Meanwhile, the family with 2, 3 or more children faces an annual childcare cost averaging \$12,000 a year per child. Any average income family with 3 or more kids is almost by definition broke.

Gays are also often much better connected politically than the average family with children to raise. They can lobby aggressively for their causes, and they do, while the average heterosexual couple is home taking care of the kids and paying the bills.

How the Supreme Court can still see same sex couples as a disadvantaged group in need of unconstitutional remedies is beyond belief. The Court simply ignores the facts. In a great many high-paying industries -- like entertainment, advertising, the press, Hollywood, television, publishing, and now politics -- being gay is in fact a significant networking advantage.

The real question: What happens next?

Like President Obama, Scotus can read the polls. Being gay is now quite sporty. Certainly there has been a dramatic shift in attitudes toward same-sex marriage over the last decade. According to the latest Pew Research Poll, nearly twice as many Americans favor same sex marriage today (57%) than in 2004 (30%).

Surprisingly, Catholics fit that profile almost exactly with 56% approving same sex marriage. Ditto for mainline Protestants at 62%. Only black Protestants and white Evangelicals resist the trend with roughly 30% approving.

That compares to an 85% approval among those not affiliated with any church. Clearly, religion makes a difference in people's views, but not all that much. Other groups favoring same-sex marriage include 73% of Millennials; 79% of Liberals; 65% of Democrats; 60% of Women; and 59% of white non-Hispanics.

How much of this represents greater tolerance, and how much genuine approval is hard to assess. But do these results suggest any change in future behavior?

As noted earlier, a mere 0.5% of all households were composed of committed gay and lesbian couples in 2008. Right now, there is a rush of LGBT folks coming out to celebrate the *Obergefell* decision. Some will marry, but how many more will follow?

The big test will be if there is a sharp rise in the 0.5% of all households who make up committed same-sex couples. If that tiny percentage doubles or triples, the economic and social impact may be minimal. But if it becomes a flood based on the polls, the demographic effect will be enormous.

An increase over the next 20 years to 10% or 20% or more of all households will send American population growth -- which is now fairly static -- into a nosedive. If that happens, we can kiss America's economic future -- and indeed its future as a world leader -- goodbye. By contrast, the Muslim world -- with a rate of natural increase five times higher than ours used to be -- can simply walk all over the West. And they will be able to do so without firing a shot by outpacing us population-wise.