

## Sanctity of Union an Article of Faith

By Meir Soloveichik

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In a rare instance of agreement, the liberal New York Times editorial page agreed with renowned conservative Supreme Court Justice Antonin Scalia — both found last week's Supreme Court decision legalizing sodomy to be inconsistent.

The brilliant and ornery Scalia, in dissenting from Justice Anthony Kennedy's majority opinion, noted that the court had hastened to emphasize that the decision was unrelated to whether gays ought to be allowed to marry.

“Do not believe it,” scoffed Scalia, noting that Kennedy had already waxed poetic about how gay sex can be “but one element in a personal bond that is more enduring.” Once the court sees homosexual relationships as meaningful, Scalia argued, on what basis can it justifiably argue against marriage equality? This majority's decision, Scalia concluded tauntingly, does not involve homosexual marriage “only if one entertains the belief that... principles and logic have nothing to do with the decisions of the court.”

The Times agreed, albeit from the other side of the political spectrum, arguing that there is no reason why the court could not also endorse marriage rights for homosexuals, as the Canadian Supreme Court did two weeks ago. Indeed, the U.S. Supreme Court's wary disclaimer that its decision had nothing to do with gay marriage — when there is every indication that it does — is intriguing.

Kennedy's reluctance to endorse gay marriage can be found among other public figures who are generally sympathetic to what Scalia termed “the homosexual agenda.” Al Gore, for example, refused to endorse marriage rights for homosexuals while running for president in 2000: last week, so did 2004 Democratic presidential candidate

Howard Dean, who signed the first civil union law in the country as the governor of Vermont.

Most strikingly, then-president Bill Clinton — who appointed the first openly gay American ambassador — signed the “Defense of Marriage Act,” which allowed states to refuse marriage rights to homosexuals. If Kennedy, Clinton, Gore and Dean clearly believe that homosexuals can have lasting and meaningful relationships, why would they deny gays recognition of these relationships through the medium of marriage? Why not follow the example of Canada and some European countries in allowing gays to marry?

The answer appears to be that these public figures know that while tolerance for homosexuality has increased, Americans, unlike Canadians and Europeans, would not take kindly to the legalization of gay marriage in the United States. This opposition seems to stem from the intensely religious nature of American society. Adherents of some of the fastest-growing, and more traditional, religions in the United States — Evangelical Protestants, Roman Catholics, Orthodox Jews and Mormons — deny ordination to openly gay individuals and believe “homosexual marriage” to be a contradiction in terms.

Even some of America’s more liberal religious denominations harbor views strongly opposed to what Scalia termed the “homosexual agenda.” For example, Rabbi Ismar Schorch, chancellor of the Jewish Theological Seminary and the titular head of Conservative Judaism, has fretted that the ordination of homosexuals could divide the movement.

The same conflicts exist in many of America’s liberal Protestant denominations. In 1996, the General Assembly of the American Presbyterian Church bucked pressure from its national leadership and voted to require of its ordained clergy “fidelity within the covenant of marriage of a man and a women, or chastity in singleness.” As influential pundit William Safire observed last week in his New York Times column, “not just fundamentalists, but many churchgoers and

congregants see [gay marriage] as a perversion of the institution of marriage and an assault on our standards of morality.”

We have witnessed during the last year growing divisions between the United States and its Western allies over the war in Iraq. Yet the difference between the recent American and Canadian court decisions reveals that the deeper divide between the United States and the rest of the West lies not in the realm of the political, but in the cultural and moral — a gap that no amount of multilateralism will bridge. Europe is no longer a Christian continent; few Europeans attend religious services on Sunday, and the European Union recently refused to refer to Europe’s religious heritage in its fledgling constitution. Nor is “our neighbor to the north” an intensely religious nation.

The United States, by contrast, while increasingly and blessedly religiously tolerant and diverse, remains, in the words of author G. K. Chesterton, “a nation with the soul of a church.” Religion’s prominent place in American society was made manifest recently when senators of every partisan stripe rushed to the Senate floor to decry a court decision striking “God” from the Pledge of Allegiance. It is this same traditional religiosity that drives American opposition to gay marriage. While Americans have no interest in imprisoning someone for consensual sexual behavior, many Americans still see homosexual behavior as sinful, and therefore refuse to place this lifestyle on the same moral pedestal as marriage.

During the 2002 congressional elections, Nevada voters approved an amendment to their state constitution preemptively outlawing homosexual marriage before their state court could legalize it. It was the 36th state to do so. Now a similar amendment to our national constitution has been introduced in the House of Representatives, stating that “marriage in the United States shall consist only of the union of a man and woman.” Were this amendment to pass in Congress, it would require the ratification of 38 states — only two more than have already banned gay marriage within their own respective borders.

Once ratified, the amendment would effectively stop the gay marriage movement in its tracks. Meanwhile, the Massachusetts Supreme Court is expected this summer to legalize gay marriage in one of the most secularist states in the country, intensifying thereby the congressional debate over a constitutional amendment.

Presidential endorsement could, of course, be crucial to the amendment's passage. As such, it appears that despite terrorism and recession, a cultural question will once again be front and center during the upcoming election: How in touch are the candidates with the deeply held religious convictions of the American people?

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