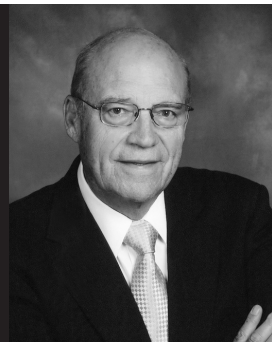




Dr. Fred Schwarz

The Schwarz Report



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The Queering of America

by William F. Jasper

The US Supreme Court's decision striking down state laws barring same-sex "marriage" is the culmination of a decades-long corrosive process, one that has been methodically guided by a strategic subversive plan. All moral people are rightly outraged by this official mockery of the natural law, the moral law, and the divine law. But we should not be shocked or surprised, as the unmistakable signs that this was coming have been ever more obvious with each and every concession to the "gay" lobby and "gay" culture. This article originally appeared in the June 8, 1998 issue of *The New American*, 17 years ago. — *The New American* editors

"I want to give you a little more evidence for my notion that this country has shifted in the 1990s and has transformed," lesbian activist Elizabeth Birch told her university audience earlier this year. "Where is the least likely place anybody would look for leadership on a social issue?" she asked. "Corporate America, right?" But therein lies a tremendous irony. Ms. Birch explains: "By 1991, almost no companies in this country, almost none, had even nondiscrimination policies. Just a handful of years later, over half of the Fortune 500 had instituted nondiscrimination policies Over 100 of the Fortune 1,500 have instituted domestic partner coverage. That means the CEO at some point says, 'I am going to take on my board, my shareholders, and my customers and do this.' And I've happened to have the privilege to work very closely with a number of these companies. These are household names like Kodak, American Express, IBM, and the Disney Corporation."

Disney, of course, epitomizes the astonishing transformation of which Ms. Birch spoke. In the past few years, the company once synonymous with wholesomeness and quality family entertainment has become a leading purveyor of perversion—and the target of repeated campaigns by churches and religious organizations offended by its scandalous productions. Who would have thought it possible that the beloved Magic Kingdom would so soon after Walt Disney's passing turn into a Wicked Empire that: hires a convicted child molester to direct a movie; recruits an open lesbian and an avowed homosexual to top executive positions; publishes openly pro-homosexual books directed toward youngsters; injects subliminal pornographic images into its animated movies; produces a children's animated epic with *sub rosa* homosexual characters; and sponsors an annual homosexual confabulation at Disney World that subjects unsuspecting families to the rowdy and raunchy activities of hordes of deviants?

In her keynote address to the 1998 University of California Lesbian, Gay, Bisexual, Transgendered Association's "Exposed!" conference, Elizabeth Birch triumphantly revealed a deep, dark secret. First, she asked furtively, "Is there any press in the room?" Then she explained: "Okay, I'm gonna tell you—'cause some of these conversations are very private—but when I said to Michael Eisner, CEO of Disney, [that] '30 percent of your employees are gay,' he said, 'You are wrong, Elizabeth, it's 40 [percent].'"

Until a very short time ago, homosexuality was known as the unmentionable vice. It was not spoken of in decent company. But that recent bygone era seems like ancient history; in "post-Christian America," one cannot open a newspaper, flip a television channel, turn on a radio, watch a movie, or pass a magazine rack without being clobbered by the "gay rights" issue du jour or the latest homosexual-themed pop entertainment offering. An incredible societal transformation—a tectonic shift of enormous magnitude—has taken place before our eyes, in less than the space of one generation. What was once universally seen for the vile abomination that it is, in a few short years has been transmuted into simply a different "lifestyle" or "orientation," protected by law and endlessly defended, glorified, and celebrated by the cultural elites.

What was once deviant, abhorrent, and criminal has been rendered by a perverse alchemy into something “polite” society now calls, simply, “gay.”

The homosexual revolution is but the latest and most viscerally repellent installment in an ongoing, much larger revolution that has been in the process of upending our entire civilization for many years. And it may yet succeed in doing so. The unimaginable success thus far of the homosexual revolution provides one of the most dreadful portents on the horizon today. For this revolution is far from over. And those “tolerant” citizens who think that, “Hey, I’m not gay, but they’re not harming me,” have a rude awakening coming. The militant sodomites have made it explicitly clear that tolerance is not sufficient; they *demand* positive “approval” from society, manifested in the enactment of laws granting them special rights, and the abolition of the residual laws that impede their full homoerotic expression and deny their full access to children. Moreover, as we shall see, they insist on the complete “conversion” of “straight” society, which involves the therapeutic cleansing of all “homophobic,” “homohating,” “anti-gay bias” attitudes.

Straight America has been asleep on a deadly battlefield with a relentless enemy that is waging total war and believes in giving no quarter. We exaggerate not. In their own words to their own troops, the apostles of perversion describe their lavender jihad as “war” and constantly invoke aggressive, military terms such as “Trojan Horse,” “deception,” “propaganda,” “war strategy,” “battle tactics,” “hand-to-hand combat,” “rage,” “fury,” “enemy,” “war conference,” “attack,” “hate,” “vilify,” “destroy,” “conquer,” “subvert,” etc.

If you are already sickened by the super-saturation of contemporary culture with “gayness” and the non-stop whining about gay victimization, get set for an acceleration of the homo “rights” agenda. The targets include:

- Legalized marriage and adoption rights.
- Mandated “domestic partner” policies for all employers, public and private.
- Vast increases in government funding for all homosexual programs.

- Explicit homosexual “education” at all levels of schooling.
- More homosexual teacher/“role models” in the schools.
- Broad dissemination of explicit homosexual literature in schools and public libraries.
- Abolition of “age of consent” laws.
- Abolition of all state and local statutes restricting homosexual behavior.
- Criminalization, prosecution, and persecution of “homophobes,” i.e., religious “bigots.”
- A dramatic increase in the visibility of provocative and “diverse” manifestations of the gay subculture.
- Admittance of homosexuals and lesbians into Boy Scouts, Girl Scouts, and other private youth groups.

How do we know? The homosexual strategists tell us so in their own books and publications. Just as they told us years ago of the impending social sea-change that has now come to pass. One of the most influential manifestos of the militant homosexuals has proven to be the 1989 bestseller by Marshall Kirk and Hunter Madsen, entitled *After the Ball: How America Will Conquer Its Fear and Hatred of Gays in the 90’s*. This theoretical and operational manual for the “overhauling of straight America” left no doubt as to the admittedly “subversive” nature of its authors’ plan for “converting” America. Kirk and Madsen state: “By conversion we actually mean something far more profoundly threatening to the American way of life. We mean conversion of the average American’s emotions, mind and will, through a planned psychological attack. We mean ‘subverting’ the mechanism of prejudice to our own ends—using the very process that made America hate us to turn their hatred into warm regard—whether they like it or not.”

And, indeed, the buggery brain trust has been wildly successful in carrying out this “planned psychological attack.” Kirk and Madsen, Harvard-trained professionals in neuropsychiatry, public persuasion, and social marketing, have shown themselves to be formidable strategists and tacticians. Their plan for “converting” America involves the systematic use of very sophisticated psychological

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techniques of desensitizing, jamming, and conditioning. Their book provided the step-by-step program that has been relentlessly employed—and is still being religiously pursued—to totally “overhaul” America. The authors describe the opening phase of their plan as “our recipe for desensitizing Ambivalent Skeptics; that is for helping straights view homosexuality with neutrality rather than keen hostility.” “At least at the outset,” say Kirk and Madsen, “we seek desensitization and nothing more. You can forget about trying up front to persuade folks that homosexuality is a good thing. But if you can get them to think that it is just another thing—meriting no more than a shrug of the shoulders—then your battle for legal and social rights is virtually won.”

And how would this be accomplished? Through a massive media, public relations, and advertising “propaganda campaign.” “Gays must launch a large-scale campaign—we’ve called it the Waging Peace campaign—to reach straights through the mainstream media,” the co-authors wrote. “We’re talking about propaganda.” They explained to their deviate cohorts that “propaganda relies more upon emotional manipulation than upon logic, since its goal is, in fact, to bring about a change in the public’s feelings.”

“The main thing,” they asserted, “is to *talk about gayness until the issue becomes thoroughly tiresome.*” (Emphasis in original.) Accordingly, they said, the “free and frequent discussion of gay rights by a variety of persons in a variety of places gives the impression that homosexuality is commonplace. That impression is essential, because . . . the acceptability of any new behavior ultimately hinges on the proportion of one’s fellows accepting or doing it.” And, the pervert pair opined, the “fastest way to convince straights that homosexuality is commonplace is to get a lot of people talking about the subject in a neutral or supportive way. Open, frank talk makes gayness seem less furtive, alien, and sinful; more aboveboard.” This strategy comprehended fully the truth of Alexander Pope’s observation that, “Vice is a monster of so frightful mien, As to be hated needs but to be seen; Yet seen too oft, familiar with her face, We first endure, then pity, then embrace.”

Even the religious “bigots” and “intransigents” who do not “embrace” gay culture, noted Kirk and Madsen, will begin to feel more and more isolated and more reticent when it comes to expressing disapproval. And the conservative “may still shake his head and think, ‘People are crazy these days,’ but in time his objections will become more reflective, more philosophical, less emotional.”

But—and this is all-important—the non-stop, desensi-

tizing talk about “gayness” was meticulously designed to be a strictly controlled *propaganda* operation, employing not only the aforementioned sophisticated psychological techniques, but the very deliberate and massive use of the Big Lie. The Big Lie technique—repeating a gross falsehood often enough that it becomes “fact”—has been a central and essential component of the long-term campaign by the queer lobby—and its allies and patrons—to “sell” the American public the fallacies that:

- Homosexuals comprise 10 percent of the population.
- Homosexuality is an innate, genetically determined orientation.
- Science, reason, and true Christian charity affirm homosexuality as natural and virtuous.
- Homosexuals are just as “normal” as the general heterosexual society and present no moral, social, or health threat to the larger community.
- Common stereotypes concerning homosexual behavior, traits, mannerisms, dress, and sexual practices are vicious and false.
- Fairness and decency demand that “good” heterosexuals defend homosexuals from the bigotry and oppression of “straight” society.
- “Anti-gay” attitudes and moral condemnations of homosexuality constitute “hate crimes” and/or mental illness, requiring either prosecution or coercive medical treatment and “reeducation.”

Has this campaign of “emotional manipulation” worked? Absolutely. The ten percent myth has been so frequently cited in popular literature that it has achieved the status of unchallenged dogma in both straight and deviant circles.

Rivaling the 10 percent myth in terms of frequency of repetition and the employment of unalloyed mendacity and bogus science is the “born gay” lie. Kirk and Madsen know this is the case, but are not about to let facts get in the way of their higher purpose. “We argue,” say the author-activists, “that, for all practical purposes, gays should be considered to have been *born gay*—even though sexual orientation, for most humans, seems to be the product of a complex interaction between innate predisposition and environmental factors during childhood and early adolescence.” It’s a simple matter of expediency. “To suggest in public that homosexuality might be chosen is to open the can of worms labeled ‘moral choice and sin’ and give the religious Intransigents a stick to beat us with,” they confess. With the help of *Time*, *Newsweek*, ABC, NBC, CBS, and the rest of the prostitute press, the homosexual propagandists have been largely successful in keeping the

moral choice/sin “can of worms” closed.

For the most part—aside from the repugnant and thuggish activities of Queer Nation and ACT-UP extremists—the Lavender Lobby has followed the Kirk and Madsen prescription to not “draw attention to the gay sex habits that provoke public revulsion.” “In the early stages of the campaign,” the deviant advisers admonished, “the public should not be shocked and repelled by premature exposure to homosexual behavior itself.” What’s more, they advised their fellow deviates to keep the “cocky mustachioed leathermen, drag queens and bull dykes,” as well as pedophiles and other “exotic” gays, as far from straights and the media as possible. “Persons featured in the media campaign should be wholesome and admirable by straight standards,” they insisted, and “indistinguishable from the straights we’d like to reach.”

Thus, the slick public relations campaigns of the perverts generally have featured as spokespersons conservative-appearing homosexuals in Brooks Brothers suits and lesbians in Liz Claiborne-style fashions. And countless news stories, commercials, and public presentations have followed the Kirk-Madsen script, which calls for presenting “conventional young people, middle-aged women, and older folks of all races,” along with “parents and friends of gays.” The endless media procession of “coming out” stories has been an integral part of this plot.

“First, coming out helps desensitize straights,” according to propagandists Kirk and Madsen. “As more and more gays emerge into everyday life, gays as a group will begin to seem more familiar and unexceptional to straights, hence less alarming and objectionable.” They elaborated further that “coming out is a critical catalyst for the all-important ‘conversion’ process. Conversion is more than merely desensitizing straights or jamming their homohatred: it entails making straights to identify with them. This becomes possible when a heterosexual learns that someone he already likes and admires, such as a friend or family member, is homosexual. The discovery leads to an internal showdown between the straight’s personal affection on the one hand and his bigotry on the other.”

And you thought that the decade-long deluge of “coming out” events was a spontaneous affair! Ha! Never has a charade been more carefully choreographed. “In order to make a Gay victim sympathetic to straights you have to portray him as Everyman,” the Kirk-Madsen script explained, confident that “the press will publicize our concerns and report our news, and our community will enjoy enhanced prestige.” It is the long-term, cumulative effect of many little steps that they seek: “After ‘meeting’

enough likable gays on television, Jane Doe may begin to feel she knows gays as a group, even if none has ever introduced himself to her personally.”

The Hollywood and media power elites have enthusiastically implemented the homosexual propaganda agenda as outlined by Kirk and Madsen. But even a cursory perusal of the homosexual press (which is about all any self-respecting “straight” can stomach) quickly reveals that the “normal,” “wholesome,” “victim” image is a monstrous lie. But don’t take our word for it. Read what homosexual author and playwright Larry Kramer, one of America’s best-known, militant gay activists, says in *The Advocate*, which bills itself as “The National Gay & Lesbian Newsmagazine.”

In his angry essay, “Sex and Sensibility,” in the May 27, 1997 issue of *The Advocate*, Kramer laments the fact that his fellow homosexuals, far from having learned their lesson from the plague of AIDS, are rushing promiscuously and obliviously into the abyss of destruction. “Nature always extracts a price for sexual promiscuity,” says Kramer, surveying the rampant debauchery of contemporary “gay” culture. AIDS and other deadly and debilitating sexual diseases comprise a major component of that price. “Tragically, not enough of us have responded to this information maturely and responsibly,” says Kramer. We cannot repeat (and have no desire to) most of Kramer’s profanity-strewn jeremiad against his fellow perverts. But he makes our case more powerfully than we—or any other straight “homophobe,” for that matter—ever could.

“We must create a new culture that is not confined and centered so tragically on our obsession with our [genitalia] and what we do with them,” Kramer declares, while almost despairing of that lofty gay ideal.

Kramer continues to dish it out, with a vengeance:

We’ve all been partners in our destruction. . . .

We have been the cause of our own victimization. I know these are grotesquely politically incorrect things to say. So be it. We knew we were playing with fire, and we continued to play with fire, and the fire consumed monstrously large numbers of us and singed the rest of us, all of us, whether we notice our burn marks or not. And we still play with fire.

Validating what religious “homophobes” and professional psychologists alike have observed, Kirk and Madsen explicate a common problem of homosexuals:

As one gains experience, vanilla sex with one partner becomes familiar, tame, and boring, and loses its capacity to arouse. At first, the

increasingly jaded gay man seeks novelty in partners, rather than practices, and becomes massively promiscuous; eventually, all bodies become boring, and only new practices will thrill. Two major avenues diverge in this yellow wood, two nerves upon which to press: that of raunch, and that of aggression. The pursuit of sexual happiness via raunch—fetishism, water sports and coprophilia, and so forth—seeks, essentially, to restore erectile thrills by restoring the “dirty,” hence forbidden, aspect of sex.

But these depravities soon fail to do the trick. “Unfortunately,” Kirk and Madsen say, “this, as with all attempts to sustain the *furor sexualis* of youth by sheer intensification of some peripheral aspect of the experience, is doomed to failure.”

Which is why so many homosexuals then “graduate” to the even more unspeakable depravities of sadomasochism and bondage sex. “Aggressive sex,” Kirk and Madsen acknowledge, “is worse than a mere dead end: in extreme cases, it’s dangerous.” No, in all cases it’s dangerous.”

This should not surprise, since, as Kirk and Madsen admit, the “trappings, expressions, and emotions [of “aggressive sex”] are those of pain and hate, and, say what you will, pain and hate are what it arouses.”

Kramer, Madsen, Kirk, and other “responsible” homosexual moralists regularly condemn the “promiscuous” sex of their more ribald confreres. But their definitions of what constitutes “promiscuous” and “responsible” are noteworthy. “By ‘promiscuous’ we mean those who have sex only with anonymous partners,” say Kirk and Madsen. Which would seem to leave wide latitude for sex with multiple partners—as long as you know their names. That would qualify as promiscuous in just about any heterosexual lexicon. Indeed, while even liberal heterosexuals would consider two or three sex partners per year to be treading the bounds of promiscuity, surveys of homosexuals repeatedly show that it is common for them to have dozens—even hundreds—of partners.

This mad pursuit of raw, gratuitous, non-stop sexual gratification provides no emotional fulfillment. “One of the major reasons the gay lifestyle doesn’t work is that, when gays form relationships at all—and they do so far less frequently than the wishful thinking of popular mythology would have it—they form them for the wrong reasons, with the wrong people, of the wrong ages,” Kirk and Madsen note. So what do these moralists offer as the “right” ages, people, reasons, and relationships? The

ideal of these then-30-something authors is the pairing of “an attractive boy—of, say, sixteen or so” and “an older, presumably more mature and established man—of, say, thirty or so.” And this they say even as they condemn the “youth obsession” of the larger homosexual community.

After the prudish public has been properly “desensitized,” “conditioned,” and “converted” to believe that decency and justice require support for “gay rights,” public hostility must be focused upon those who remain committed to traditional morality. Madsen and Kirk have delineated an insidious, Orwellian propaganda program that you undoubtedly have already witnessed in operation—perhaps without even realizing it:

The best way to make homohatred look bad is to vilify those who victimize gays. The public should be shown images of ranting homohaters whose associated traits and attitudes appall and anger Middle America. The images might include: Klansmen demanding that gays be slaughtered or castrated; Hysterical backwoods preachers, drooling with hate to a degree that looks both comical and deranged; Menacing punks, thugs, and convicts.

Whom do they advocate targeting for this vicious treatment? All those “denizens of bigotry’s darkest realm—say, 30-35% of the citizenry” who are “vehemently opposed to homosexuality.” If you fall into that category, you are considered one of “the damned.”

What is the force that motivates these revolutionaries? Kirk and Madsen offer a revealing answer in *After the Ball*. “After all,” they tell their readers, “we are asking you to change a nation under your own steam. And where, for that matter, is the steam supposed to come from? Your patriotism and sense of fair play? Your homophile zeal? . . . *Agape*? No, few are motivated over the long haul by zeal or saintliness. Yet sufficient motivation is found . . . all around you: the sustaining emotional steam that comes not from Love but from Rage.” Yes, a hellish rage and fury drives this revolution. “Fury galvanizes,” say the authors. “Now it must drive all of us to decisive action. America in the 1990s is the time and place for rage—ice-cold, controlled, directed rage.”

Unfortunately, Christians have allowed Hell’s rage, fury, and deception to wage war on our civilization virtually unchallenged and unimpeded. It is time to join the battle—not with rage, but with courage born of, yes, *agape*—love.

—*The New American*, July 20, 2015, p. 34f

Bigots Everywhere

by Supreme Court Justice Anthony Scalia

“It is one thing for the [Supreme Court] majority to conclude that the Constitution protects a right to same-sex marriage; it is something else to portray everyone who does not share the majority’s ‘better informed understanding’ as bigoted.” —John Roberts, Supreme Court Chief Justice

“The Supreme Court of the United States has descended from the disciplined legal reasoning of John Marshall and Joseph Story to the mystical aphorisms of the fortune cookie.” —Anthony Scalia, Supreme Court Justice

“And they [the five Justices who voted for same-sex marriage] are willing to say that any citizen who does not agree with that, who adheres to what was, until 15 years ago, the unanimous judgment of all generations and all societies, stands against the Constitution.” —Scalia

“The majority’s view prohibit States from defining marriage as an institution consisting of one man and one woman.” —Scalia

“But what really astounds is the hubris reflected in today’s judicial Putsch [the violent attempt to overthrow a government]. The five Justices who compose today’s majority are entirely comfortable concluding that every State violated the Constitution for all of the 135 years between the Fourteenth Amendment’s ratification and Massachusetts’ permitting of same-sex marriages in 2003.” —Scalia

“These [five] Justices know that limiting marriage to one man and one woman is contrary to reason; they know that an institution as old as government itself, and accepted by every nation in history until 15 years ago, cannot possibly be supported by anything other than ignorance and bigotry.” —Scalia

JUSTICE SCALIA, with whom JUSTICE THOMAS joins, dissenting. I join THE CHIEF JUSTICE’s opinion in full. I write separately to call attention to this Court’s threat to American democracy.

The substance of today’s decree is not of immense personal importance to me. The law can recognize as marriage whatever sexual attachments and living arrangements it wishes, and can accord them favorable civil consequences, from tax treatment to rights of inheritance. Those civil consequences—and the public approval that conferring the name of marriage evidences—can perhaps have adverse social effects, but no more adverse than the effects of many other controversial laws. So it is not of special importance to me what the law says about marriage. It is of overwhelming importance, however, who it is that rules me. Today’s decree says that my Ruler, and the Ruler of 320 million Americans coast-to-coast, is a majority of the nine lawyers on the Supreme Court. The opinion in these cases is the furthest extension in fact—and the furthest extension one can even imagine—of the Court’s claimed power to create “liberties” that

the Constitution and its Amendments neglect to mention. This practice of constitutional revision by an unelected committee of nine, always accompanied (as it is today) by extravagant praise of liberty, robs the People of the most important liberty they asserted in the Declaration of Independence and won in the Revolution of 1776: the freedom to govern themselves.

I

Until the courts put a stop to it, public debate over same-sex marriage displayed American democracy at its best. Individuals on both sides of the issue passionately, but respectfully, attempted to persuade their fellow citizens to accept their views. Americans considered the arguments and put the question to a vote. The electorates of 11 States, either directly or through their representatives, chose to expand the traditional definition of marriage. Many more decided not to. Win or lose, advocates for both sides continued pressing their cases, secure in the knowledge that an electoral loss can be negated by a later electoral win. That is exactly how our system of government is supposed to work.

The Constitution places some constraints on self-rule—constraints adopted *by the People themselves* when they ratified the Constitution and its Amendments. Forbidden are laws “impairing the Obligation of Contracts,” denying “Full Faith and Credit” to the “public Acts” of other States, prohibiting the free exercise of religion, abridging the freedom of speech, infringing the right to keep and bear arms, authorizing unreasonable searches and seizures, and so forth. Aside from these limitations, those powers “reserved to the States respectively, or to the people” can be exercised as the States or the People desire. These cases ask us to decide whether the Fourteenth Amendment contains a limitation that requires the States to license and recognize marriages between two people of the same sex. Does it remove *that* issue from the political process?

Of course not. It would be surprising to find a prescription regarding marriage in the Federal Constitution since, as the author of today’s opinion reminded us only two years ago (in an opinion joined by the same Justices who join him today):

“[R]egulation of domestic relations is an area that has long been regarded as a virtually exclusive province of the States.”

“[T]he Federal Government, through our history, has deferred to state-law policy decisions with respect to domestic relations.”

But we need not speculate. When the Fourteenth Amendment was ratified in 1868, every State limited marriage to one man and one woman, and no one doubted the constitutionality of doing so. That resolves these cases. When it comes to determining the meaning of a vague constitutional provision—such as “due process of law” or “equal protection of the laws”—it is unquestionable that the People who ratified that provision did not understand it to prohibit a practice that remained both universal and uncontroversial in the years after ratification. We have no basis for striking down a practice that is not expressly prohibited by the Fourteenth Amendment’s text, and that bears the endorsement of a long tradition of open, widespread, and unchallenged use dating back to the Amendment’s ratification. Since there is no doubt whatever that the People never decided to prohibit the limitation of marriage to opposite-sex couples, the public debate over same-sex marriage must be allowed to continue.

But the Court ends this debate, in an opinion lacking even a thin veneer of law. Buried beneath the mummeries and straining-to-be-memorable passages of the opinion is a candid and startling assertion: No matter what it was

the People ratified, the Fourteenth Amendment protects those rights that the Judiciary, in its “reasoned judgment,” thinks the Fourteenth Amendment ought to protect. That is so because “[t]he generations that wrote and ratified the Bill of Rights and the Fourteenth Amendment did not presume to know the extent of freedom in all of its dimensions” One would think that sentence would continue: “. . . and therefore they provided for a means by which the People could amend the Constitution,” or perhaps “. . . and therefore they left the creation of additional liberties, such as the freedom to marry someone of the same sex, to the People, through the never-ending process of legislation.” But no. What logically follows, in the majority’s judge empowering estimation, is: “and so they entrusted to future generations a charter protecting the right of all persons to enjoy liberty as we learn its meaning.” The “we,” needless to say, is the nine of us. “History and tradition guide and discipline [our] inquiry but do not set its outer boundaries.” Thus, rather than focusing on *the People’s* understanding of “liberty”—at the time of ratification or even today—the majority focuses on four “principles and traditions” that, *in the majority’s view*, prohibit States from defining marriage as an institution consisting of one man and one woman.

This is a naked judicial claim to legislative—indeed, *super*-legislative—power; a claim fundamentally at odds with our system of government. Except as limited by a constitutional prohibition agreed to by the People, the States are free to adopt whatever laws they like, even those that offend the esteemed Justices’ “reasoned judgment.” A system of government that makes the People subordinate to a committee of nine unelected lawyers does not deserve to be called a democracy.

Judges are selected precisely for their skill as lawyers; whether they reflect the policy views of a particular constituency is not (or should not be) relevant. Not surprisingly then, the Federal Judiciary is hardly a cross-section of America. Take, for example, this Court, which consists of only nine men and women, all of them successful lawyers who studied at Harvard or Yale Law School. Four of the nine are natives of New York City. Eight of them grew up in east- and west-coast States. Only one hails from the vast expanse in-between. Not a single Southwesterner or even, to tell the truth, a genuine Westerner (California does not count). Not a single evangelical Christian (a group that comprises about one quarter of Americans), or even a Protestant of any denomination. The strikingly unrepresentative character of the body voting on today’s social upheaval would be irrelevant

if they were functioning as *judges*, answering the legal question whether the American people had ever ratified a constitutional provision that was understood to proscribe the traditional definition of marriage. But of course the Justices in today's majority are not voting on that basis; *they say they are not*. And to allow the policy question of same-sex marriage to be considered and resolved by a select, patrician, highly unrepresentative panel of nine is to violate a principle even more fundamental than no taxation without representation: no social transformation without representation.

II

But what really astounds is the hubris reflected in today's judicial Putsch. The five Justices who compose today's majority are entirely comfortable concluding that every State violated the Constitution for all of the 135 years between the Fourteenth Amendment's ratification and Massachusetts' permitting of same-sex marriages in 2003. They have discovered in the Fourteenth Amendment a "fundamental right" overlooked by every person alive at the time of ratification, and almost everyone else in the time since. They see what lesser legal minds—minds like Thomas Cooley, John Marshall Harlan, Oliver Wendell Holmes, Jr., Learned Hand, Louis Brandeis, William Howard Taft, Benjamin Cardozo, Hugo Black, Felix Frankfurter, Robert Jackson, and Henry Friendly—could not. They are certain that the People ratified the Fourteenth Amendment to bestow on them the power to remove questions from the democratic process when that is called for by their "reasoned judgment." These Justices *know* that limiting marriage to one man and one woman is contrary to reason; they *know* that an institution as old as government itself, and accepted by every nation in history until 15 years ago, cannot possibly be supported by anything other than ignorance or bigotry. And they are willing to say that any citizen who does not agree with that, who adheres to what was, until 15 years ago, the unanimous judgment of all generations and all societies, stands against the Constitution. The opinion is couched in a style that is as pretentious as its content is egotistic. It is one thing for separate concurring or dissenting opinions to contain extravagances, even silly extravagances, of thought and expression; it is something else for the official opinion of the Court to do so. Of course the opinion's showy profundities are often profoundly incoherent. "The nature of marriage is that, through its enduring bond, two persons together can find other freedoms, such as expression, intimacy, and spirituality." (Really? Who ever thought that intimacy and spirituality [whatever that means] were

freedoms? And if intimacy is, one would think Freedom of Intimacy is abridged rather than expanded by marriage. Ask the nearest hippie. Expression, sure enough, is a freedom, but anyone in a long-lasting marriage will attest that that happy state constricts, rather than expands, what one can prudently say.) Rights, we are told, can "rise . . . from a better informed understanding of how constitutional imperatives define a liberty that remains urgent in our own era." (Huh? How can a better informed understanding of how constitutional imperatives [whatever that means] define [whatever that means] an urgent liberty [never mind], give birth to a right?) And we are told that, "[i]n any particular case," either the Equal Protection or Due Process Clause "may be thought to capture the essence of [a] right in a more accurate and comprehensive way," than the other, "even as the two Clauses may converge in the identification and definition of the right." (What say? What possible "essence" does substantive due process "capture" in an "accurate and comprehensive way"? It stands for nothing whatever, except those freedoms and entitlements that this Court *really* likes. And the Equal Protection Clause, as employed today, identifies nothing except a difference in treatment that this Court *really* dislikes. Hardly a distillation of essence. If the opinion is correct that the two clauses "converge in the identification and definition of [a] right," that is only because the majority's likes and dislikes are predictably compatible.) I could go on. The world does not expect logic and precision in poetry or inspirational pop-philosophy; it demands them in the law. The stuff contained in today's opinion has to diminish this Court's reputation for clear thinking and sober analysis.

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Hubris is sometimes defined as o'erweening pride; and pride, we know, goeth before a fall. The Judiciary is the "least dangerous" of the federal branches because it has "neither Force nor Will, but merely judgment; and must ultimately depend upon the aid of the executive arm" and the States, "even for the efficacy of its judgments." With each decision of ours that takes from the People a question properly left to them—with each decision that is unabashedly based not on law, but on the "reasoned judgment" of a bare majority of this Court—we move one step closer to being reminded of our impotence.

—Supreme Court of the United States, Dissent by Justice Scalia