SAME-SEX MARRIAGE: PRO AND CON

the subsequent congressional debate, has raised the issue to a new level among gay men and lesbians.

What follows are among the most eloquent and cogent of the arguments that have emerged over the years—from Paula Ettelbrick’s early worries to Evan Wolfson’s growing confidence and conviction. Mary Dunlap’s poem “Choosing” expresses the acute emotional conflicts many homosexuals feel about the institution as a whole. Lesbian writer E. J. Graff argues that equality in marriage is a deeply radicalizing move; Frank Browning laments its normalizing effect on gay life. Finally, Hannah Arendt—the only heterosexual writer in this chapter—asserts the centrality of marriage to any civil equality.

Since When Is Marriage a Path to Liberation?
PAULA ETTELBRICK

From OUT/LOOK National Gay and Lesbian Quarterly, no. 6, Fall 1989

A traditional leftist worries about what same-sex marriage would do to the radical agenda.

Marriage is a great institution... if you like living in institutions,” according to a bit of T-shirt philosophy I saw recently. Certainly, marriage is an institution. It is one of the most venerable, impenetrable institutions in modern society. Marriage pro-

vides the ultimate form of acceptance for personal, intimate relationships in our society, and gives those who marry an insider status of the most powerful kind.

Steepled in a patriarchal system that looks to ownership, property, and dominance of men over women as its basis, the institution of marriage has long been the focus of radical-feminist revulsion. Marriage defines certain relationships as more valid than all others. Lesbian and gay relationships, being neither legally sanctioned nor commingled by blood, are always at the bottom of the heap of social acceptance and importance.

Given the imprimatur of social and personal approval that marriage provides, it is not surprising that some lesbians and gay men among us would look to legal marriage for self-affirmation. After all, those who marry can be instantaneously transformed from “outsiders” to “insiders,” and we have a desperate need to become insiders.

It could make us feel okay about ourselves, perhaps even relieve some of the internalized homophobia that we all know so well. Society will then celebrate the birth of our children and mourn the death of our spouses. It would be easier to get health insurance for our spouses, family memberships to the local museum, and a right to inherit our spouse’s cherished collection of lesbian mystery novels even if she failed to draft a will. Never again would we have to go to a family reunion and debate about the correct term for introducing our lover/partner/significant other to Aunt Flora. Everything would be quite easy and very nice.

So why does this unlikely event so deeply disturb me? For two major reasons. First, marriage will not liberate us as lesbians and gay men. In fact, it will constrain us, make us more invisible, force our assimilation into the mainstream, and undermine the goals of gay liberation. Second, attaining the right to marry will not transform our society from one that makes narrow, but
SAME-SEX MARRIAGE: PRO AND CON

dramatic, distinctions between those who are married and those who are not married to one that respects and encourages choice of relationships and family diversity. Marriage runs contrary to two of the primary goals of the lesbian and gay movement: the affirmation of gay identity and culture and the validation of many forms of relationships.

When analyzed from the standpoint of civil rights, certainly lesbians and gay men should have a right to marry. But obtaining a right does not always result in justice. White male firefighters in Birmingham, Alabama, have been fighting for their “rights” to retain their jobs by overturning the city’s affirmative-action guidelines. If their “rights” prevail, the courts will have failed in rendering justice. The “right” fought for by the white male firefighters, as well as those who advocate strongly for the “rights” to legal marriage for gay people, will result, at best, in limited or narrowed “justice” for those closest to power at the expense of those who have been historically marginalized.

Justice for gay men and lesbians will be achieved only when we are accepted and supported in this society despite our differences from the dominant culture and the choices we make regarding our relationships. Being queer is more than setting up house, sleeping with a person of the same gender, and seeking state approval for doing so. It is an identity, a culture with many variations. It is a way of dealing with the world by diminishing the constraints of gender roles that have for so long kept women and gay people oppressed and invisible. Being queer means pushing the parameters of sex, sexuality, and family, and in the process transforming the very fabric of society. Gay liberation is inexorably linked to women’s liberation. Each is essential to the other.

The moment we argue, as some among us insist on doing, that we should be treated as equals because we are really just like married couples and hold the same values to be true, we undermine the very purpose of our movement and begin the dangerous process of silencing our different voices. As a lesbian, I am fundamentally different from nonlesbian women. That’s the point. Marriage, as it exists today, is antithetical to my liberation as a lesbian and as a woman because it mainstreams my life and voice. I do not want to be known as “Mrs. Attached-To-Somebody-Else.” Nor do I want to give the state the power to regulate my primary relationship.

By looking to our sameness and de-emphasizing our differences, we do not even place ourselves in a position of power that would allow us to transform marriage from an institution that emphasizes property and state regulation of relationships to an institution that recognizes one of many types of valid and respected relationships. Until the Constitution is interpreted to respect and encourage differences, pursuing the legalization of same-sex marriage would be leading our movement into a trap; we would be demanding access to the very institution that, in its current form, would undermine our movement to recognize many different kinds of relationships. We would be perpetuating the elevation of married relationships and of “couples” in general, and further eclipsing other relationships of choice.

Ironically, gay marriage, instead of liberating gay sex and sexuality, would further outlaw all gay and lesbian sex that is not performed in a marital context. Just as sexually active nonmarried women face stigma and double standards around sex and sexual activity, so too would nonmarried gay people. The only legitimate gay sex would be that which is cloaked in and regulated by marriage. Its legitimacy would stem not from an acceptance of gay sexuality, but because the Supreme Court and society in general fiercely protect the privacy of marital relationships. Lesbians and gay men who do not seek the state’s stamp of approval would clearly face increased sexual oppression.

Undoubtedly, whether we admit it or not, we all need to be
accepted by the broader society. That motivation fuels our work to eliminate discrimination in the workplace and elsewhere, fight for custody of our children, create our own families, and so on. The growing discussion about the right to marry may be explained in part by this need for acceptance. Those closer to the norm or to power in this country are more likely to see marriage as a principle of freedom and equality. Those who are acceptable to the mainstream because of race, gender, and economic status are more likely to want the right to marry. It is the final acceptance, the ultimate affirmation of identity.

On the other hand, more marginal members of the lesbian and gay community (women, people of color, working class, and poor) are less likely to see marriage as having relevance to our struggles for survival. After all, what good is the affirmation of our relationships (that is, marital relationships) if we are rejected as women, people of color, or working class?

The path to acceptance is much more complicated for many of us. For instance, if we choose legal marriage, we may enjoy the right to add our spouse to our health insurance policy at work, since most employment policies are defined by one’s marital status, not family relationship. However, that choice assumes that we have a job and that our employer provides us with health benefits. For women, particularly women of color who tend to occupy the low-paying jobs that do not provide health-care benefits at all, it will not matter one bit if they are able to marry their women partners. The opportunity to marry will neither get them the health benefits nor transform them from outsider to insider.

Of course, a white man who marries another white man who has a full-time job with benefits will certainly be able to share in those benefits and overcome the only obstacle left to full societal assimilation—the goal of many in his class. In other words, gay marriage will not topple the system that allows only the privi-

leged few to obtain decent health care. Nor will it close the privilege gap between those who are married and those who are not.

Marriage creates a two-tier system that allows the state to regulate relationships. It has become a facile mechanism for employers to dole out benefits, for businesses to provide special deals and incentives, and for the law to make distinctions in distributing meager public funds. None of these entities bothers to consider the relationship among people; the love, respect, and need to protect that exists among all kinds of family members. Rather, a simple certificate of the state, regardless of whether the spouses love, respect, or even see each other on a regular basis, dominates and is supported. None of this dynamic will change if gay men and lesbians are given the option of marriage.

If the laws changed tomorrow and lesbians and gay men were allowed to marry, where would we find the incentive to continue the progressive movement we have started that is pushing for societal and legal recognition of all kinds of family relationships? To create other options and alternatives? To find a place in the law for the elderly couple who, for companionship and economic reasons, live together but do not marry? To recognize the right of a long-time, but unmarried, gay partner to stay in his rent-controlled apartment after the death of his lover, the only named tenant on the lease? To recognize the family relationship of the lesbian couple and the two gay men who are jointly sharing child-raising responsibilities? To get the law to acknowledge that we may have more than one relationship worthy of legal protection?

The lesbian and gay community has laid the groundwork for revolutionizing society’s views of family. The domestic-partnership movement has been an important part of this progress insofar as it validates nonmarital relationships. Because it is not limited to sexual or romantic relationships, domestic partnership
provides an important opportunity for many who are not related by blood or marriage to claim certain minimal protections.

It is crucial, though, that we avoid the pitfall of framing the push for legal recognition of domestic partners (those who share a primary residence and financial responsibilities for each other) as a stepping-stone to marriage. We must keep our eyes on the goals of providing true alternatives to marriage and of radically reordering society’s view of family. . . . We must not fool ourselves into believing that marriage will make it acceptable to be gay or lesbian. We will be liberated only when we are respected and accepted for our differences and the diversity we provide to this society. Marriage is not a path to that liberation.

Choosing
MARY C. DUNLAP


In a poetic footnote to a legal article, Mary Dunlap confronts her own conflicts about marriage as an instrument of her oppression—and liberation.

The girls I watched so closely and adoringly in fifth grade, then young women in eighth, eleventh, college, law school, life after At first, they varied so, a bright rainbow I cherished

But revolved more and more, faster and faster Around a common, central myth Of devastating, even deadly, force:

To marry Would give life, value to the life, Identity to each female Lucky enough, attractive enough To draw a man To vows.

This myth, this centrifuge of sexist conformity, Built on a vicious cycle of female inferiority Tossed, cajoled and ultimately smashed these beings into a sameness: increasingly fearful deference To the male.

Meanwhile, my sister scolded me, ‘you’ll never say, ‘yes,’ in a wedding, the most you’d yield is ‘Maybe.’”

“Or, maybe not,” I answered.

Proud and hurt, and very deeply blessed by my belief, defiant, resilient That I am valuable in my self, I escaped The centrifuge of marriage.

And now I see The vows they took have turned to blows Too often, and jokes, and infidelities
SOME-SEX MARRIAGE: PRO AND CON

Without destruction of all we have learned
Outside, feminist, heterodox lessons
About the centrifuge's crush
And the untold cost of the awful lie
For the question is not, finally,
May we marry?

It is

Can we marry?...

WHY WE SHOULD FIGHT
FOR THE FREEDOM TO MARRY
Evan Wolfson

From the Journal of Gay, Lesbian, and Bisexual Identity 1, no. 1 (1996)

Evan Wolfson was among the first advocates of same-sex marriage, and he
is now the most tireless advocate on the issue.
Here's a recent broadside against his fair-weather friends in
the lesbian and gay leadership.

Imagine if tomorrow, by act of law, lesbians and gay men were
denied the right to raise children together in a protected relationship
or to have their committed relationships recognized

and given benefits such as annuities, pension plans, Social Security, and Medicare. Or if by act of law, same-sex couples who
have lived together for the longest time were not allowed joint
filing of tax returns, joint insurance policies for home, auto, and
health, or access during dissolution or divorce to protections
such as community property and child support.

Imagine how you would feel if you and your partner were told
that, because of that act of law, you had to choose between love
and country because your same-sex relationship was not respected
for immigration and residency. Or that the act of law meant that
your partner's death left you without rights of inheritance, protec-
tion against eviction from the home you had shared, exemption
from oppressive taxation, or even bereavement leave. Imagine
that the act of law branded you as unqualified to make decisions
about your partner's health or medical treatment, or even her or
his funeral arrangements. Or that the act of law branded you as
permanent sexual outlaws, unequal citizens, and even not fully
human—because of the gender of the person you love.

In fact, that act of law has already happened; it's called
"same-sex couples can't get married." All this unequal treatment
and more is already there, because in all 50 states, lesbians and
gay men are denied the basic human right, the constitutional
freedom, to marry.

Because literally hundreds of important legal, economic,
practical, and social benefits and protections flow directly from
marriage, the exclusion from this central social institution wreaks
real harm on real-life same-sex couples every day. From lesbian
mothers denied custody of their children or the right to adopt
their partner's children (case after case), to gay men literally sepa-
rated at the INS office because they could not find a country
that would allow them to live together (case after case), to gay
people out in the cold when a relationship ended, or unable to
get an order of protection against domestic violence when the relationship went sour—the denial of marriage rights has been a stone wall against which we have run up again and again.

Although no discrimination is exactly the same, and there is no reason to get into an argument over some “hierarchy of oppression” there are many analogies to be drawn from this nation’s previous experience in excluding people from the institution of marriage. For example, Stephanie Smith of the National Center for Lesbian Rights/Lesbians of Color Project has spoken eloquently of the parallels between the “different-sex restriction” still in force against gay and lesbian people’s choice of a marital partner and the “same-race restriction” that less than 30 years ago prevented interracial couples from marrying.

Consider this law imposing a “same-race restriction” on marriage struck down (only twenty-seven years ago!) by the U.S. Supreme Court in Loving v. Virginia. “All marriages between a white person and a colored person shall be absolutely void without any decree of divorce or other legal process.” Notice how closely it resembles the equally offensive and unconstitutional bill imposing a “different-sex restriction” on marriage, recently proposed in South Dakota: “Any marriage between persons of the same gender is null and void from the beginning.”

In Loving, a black woman and a white man were criminally convicted for violating Virginia’s miscegenation law, which imposed a “same-race restriction” on marriage. Exiling (!) the Lovings from their home state for 25 years and declaring their marriage “void,” the trial judge stated,

Almighty God created the races white, black, yellow, malay, and red, and he placed them on separate continents. . . . The fact that he separated the races shows that he did not intend for the races to mix.

The Supreme Court struck down this “same-race restriction” on marital choice as a “measure . . . designed to maintain White Supremacy.” In much the same way, the “different-sex restriction” deprives gay and lesbian people of a basic human right and brands us as inferior, second-class citizens, thus justifying and reinforcing stereotypes and prejudice as well as other discrimination.

People today forget how the language now being used against same-sex couples’ equal marriage rights not so long ago was used against interracial couples—denying people’s equal human dignity and freedom to share in the rights and responsibilities of marriage. Today, you even hear some gay and lesbian people saying that the fact that marriage is today denied to same-sex couples shows that it is intrinsically heterosexual, ignoring the fact that marriage (like other social institutions we are part of or seek to make our own choices whether or not to be part of) has changed throughout history to meet the needs and values of real people.

Now imagine if the Lovings had been told that instead of challenging this discrimination and fighting for their right to marry, they should instead devote their limited resources solely to unhooking benefits and protections from marriage. Or if the lawyers working on their case from the ACLU and the Japanese-American Citizens League both of which have endorsed Lambda’s Marriage Resolution calling for equal marriage rights for gay people had said that we should not work on ending the ban on interracial marriage until we achieve universal health care.

Would anyone say that people in love should accept discrimination based on their race or religion until other injustices are rectified? Or would we say that both the discrimination and the other injustices should be combatted and that those like the Lovings are right to challenge their exclusion from a central
SAME-SEX MARRIAGE: PRO AND CON

social institution? Would we counsel the Lovings to accept unequal treatment, or even "separate-but-equal"? And if we wouldn't, why should people facing discrimination based on their gender or sexual orientation, or the gender or sexual orientation of the person they love most, have to accept it either? . . .

Why Marry?
FRANK BROWNING

From The New York Times, April 17, 1996

Browning, a leftist writer and National Public Radio contributor, prefers more diverse relationship models to marriage.

Thursday morning, and it's my turn to move our cars for street cleaning. Gene has already bribed the cats into silence with food.

So begins the day here in Windsor Terrace, a quiet Brooklyn neighborhood populated by many kinds of families: a lesbian couple next door—and beyond them an Italian widow who rents out rooms, an Irish-American grandmother who shares her house with her daughter's family, the multigenerational Korean family that owns the corner grocery.

We gay couples, of course, are not considered families under the law, a fact that the bishops and Buchananites insist will never change and that many gay activists have identified as

America's next great civil rights struggle. Indeed, a court case in Hawaii may soon lead to that state's recognition of same-sex marriage.

I suppose it's a good thing for gay adults to be offered the basic nuptial rights afforded to others. We call that equal treatment before the law. But I'm not sure the marriage contract is such a good plan for us.

The trouble with gay marriage is not its recognition of our "unnatural unions." The problem is with the shape of marriage itself. What we might be better off seeking is civic and legal support for different kinds of families that can address the emotional, physical and financial obligations of contemporary life. By rushing to embrace the standard marriage contract, we could stifle one of the richest and most creative laboratories of family experience.

We gay folk tend to organize our lives more like extended families than nuclear ones. We may love our mates one at a time, but our "primary families" are often our ex-lovers and our ex-lovers' ex-lovers.

The writer Edmund White noticed this about gay male life 20 years ago; he called it the "banyan tree" phenomenon, after the tree whose branches send off shoots that take root to form new trunks. Nowhere has the banyan-tree family proved stronger than in AIDS care, where often a large group of people—ex-mates and their friends and lovers—tend the sick and maintain the final watch.

Modern marriage, by comparison, tends to isolate couples from their larger families and sometimes from friends—especially if they are ex-lovers. And a nuclear family with working parents has often proved less than ideal in coping with daily stresses or serious illness.

The marriage model could prove especially problematic for
SAME-SEX MARRIAGE: PRO AND CON

rearing children. In a gay family, there are often three parents—a lesbian couple, say, and the biological father. Sometimes, four or five adults are committed to nurturing the children. In such cases, a marriage between two might bring second-class status to the rest of the extended family and diminish their parental roles.

(Those who think that only a father and mother can successfully raise a child should visit Italy, Japan, Greece, Thailand or American family archives, which show that before World War II, grandparents, aunts, uncles and older siblings had vital child-rearing roles.)

Precisely because homosexuals have resided outside the law, they have invented family forms that respond to late twentieth-century needs, while formulating social and moral codes that provide love, freedom and fidelity (if not always monogamy).

All I need do is look up and down Windsor Terrace to see that the family includes all sorts of relationships and obligations.

Each of us, hetero or homo, has a stake in nurturing a diverse landscape of families. Only a minority of us have marriages like Donna Reed’s or Harriet Nelson’s. Even Pat Buchanan knows that.

Retying the Knot
E. J. GRAFF

From the Nation, June 24, 1996

Lesbian intellectual E. J. Graff believes that same-sex marriage represents the most radical step of all—a way to transform one of the most powerful institutions in society.

The Debate on the Left

The right wing gets it: Same-sex marriage is a breathtakingly subversive idea. So it’s weirdly dissonant when gay neocons and feminist lesbians publicly insist—the former with enthusiasm, the latter with distaste—that same-sex marriage would be a conservative move, confining sexual free radicals inside some legal cellblock. It’s almost as odd (although more understandable) when pro-marriage liberals ply the rhetoric of fairness and love, as if no one will notice that for thousands of years marriage has meant Boy+Girl=Babies. But same-sex marriage seems fair only if you accept a philosophy of marriage that, although it’s gained ground in the past several centuries, still strikes many as radical: the idea that marriage (and therefore sex) is justified not by reproduction but by love.

Sound like old news? Not if you’re the Christian Coalition, the Pope or the Orthodox rabbinate, or if you simply live in one of many pre-industrial countries. Same-sex marriage will be a direct hit against the religious right’s goal of re-enshrining biology as destiny. Marriage is an institution that towers on our social horizon, defining how we think about one another, formalizing contact with our families, neighborhoods, employers, insurers, hospitals, governments. Allowing two people of the same sex to marry shifts that institution’s message.

That’s why the family-values crowd has trained its guns on us, from a new hate video called The Ultimate Target of the Gay Agenda: Same-Sex Marriages to the apocalyptically named Defense of Marriage Act. The right wing would much rather see outré urban queers throwing drunken kisses off bar floats than have two nice married girls move in next door, with or without papoose, demonstrating to every neighborhood kid that a good marriage is defined from the inside out, that sodomy is a sin only in the mind of the beholder.

Chilled by that coming shift, antimarriage conservatives have also been disingenuous in their arguments, which basically
come down to crying "tradition!" like a Tevye chorus. Even a quick glance at social history shows what conservatives pretend isn’t so: Very little about marriage is historically consistent enough to be "traditional." That it involves two people? Then forget the patriarch Jacob, whose two wives and two concubines produced the head of the twelve tribes. That it involves a religious blessing? Not early Christian marriages, before marriage was a sacrament. That it is recognized by law? Forget centuries of European prole "marriages" conducted outside the law, in which no property was involved. That it’s about love, not money? So much for centuries of negotiation about medieval estates, bride-price, morning gift and dowry (not to mention bride-burnings in today’s India). Those who tsk away such variety, insisting that everyone knows what marriage really is, miss the point. Marriage is—marriage always has been—variations on a theme. Each era’s marriage institutionalizes the sexual bond in a way that makes sense for that society, that economy, that class.

So what makes sense in ours? Or, to put it another way, what is contemporary marriage for? That’s the question underlying the debate as right-wing and gay activists prepare for Hawaii’s aftermath. Its answer has to fit our economic lives. In a GNP based on how well each of us plumbs our talents and desires in deciding what to make, buy or sell, we can hardly instruct those same innards to shut up about our sexual lives—as people could in a pre-industrial society where job, home and religion were all dictated by history. The right wants it both ways: Adam Smith’s economy and feudal sexual codes. If same-sex marriage becomes legal, that venerable institution will ever after stand for sexual choice, for cutting the link between sex and diapers.

Ah, but it already does. Formally, U.S. marriage hasn’t been justified solely by reproduction since 1965, when the Supreme Court batted down the last laws forbidding birth control’s sale to married couples. In Margaret Sanger’s era, contraception was charged with "perversion of natural functions,” “immorality” and “fostering egotism and enervating self-indulgence.” Dire diseases were predicated for those who indulged. Those are, almost word for word, the charges hurled by every critic of homosexuality—and for the same reasons. Once their ideologies are economically outdated, what can conservatives invoke except the threat of divine judgment?

All of which is why same-sex marriage is being considered in every postindustrial country, and why it seems simply “fair” to so many, including Hawaii’s Supreme Court. That sense of fairness also draws on the liberal idea that a pluralist democracy’s institutions should be capacious, that civic marriage should be one-size-fits-all. But same-sex marriage does more than just fit; it announces that marriage has changed shape.

As with any social change, there will be more consequences, which look pretty progressive to me. There are practical benefits: the ability to share insurance and pension benefits, care for our ill partners, inherit automatically, protect our children from desperate custody battles. And marriage will end a negative: Our sexual lives can no longer be considered felonious, which stings us in fights ranging from child custody to civil rights.

A more notable progressive shift is that, since same-sex couples will enter the existing institution, not some back-of-the-bus version called "domestic partnership" or "queer marriage," marriage law will have to become gender-blind. Once we can marry, jurists will have to decide every marriage, divorce and custody question (theoretically at least) for equal partners, neither having more historical authority. Our entrance might thus rock marriage more toward its egalitarian shore.

Some progressives, feminists and queer nationalists
nevertheless complain that instead of demanding access to the institution as it is, we should be dismantling marriage entirely. But lasting social change evolves within and alters society’s existing institutions. No one will force same-sex couples to darken the institution’s doors: we’ll merely gain the choices available to heterosexual pairs. None of this will alter a hard fact of contemporary life: Every commitment—to job, spouse, community, religion—must be invented from the inside out. Making lesbians and gay men more visible legally will insist that there is no traditional escape: that our society survives not by rote but by heart.

**Connubial Personae**

*Camille Paglia*

*From 10 Percent magazine, May–June 1995*

An interview with Camille Paglia, a writer who defies categorization. So, it seems, does her argument about same-sex marriage.

10 Percent: What’s your position on same-sex marriage?

Paglia: I think that it’s a flash point for antigay backlash. It’s the word *marriage*, coming out of the Judeo-Christian tradition, that has caused so much resistance. My problem is that I’m not so sure that Judeo-Christianity could or should honor or legitimize gay marriages. If there are going to be unions between gays, they should be outside the orthodox religious line—maybe pagan in some way. I do feel that some sort of commitment ceremony or union is in the best interest of the whole society as a way to strengthen gay relationships.

10 Percent: So what sort of alternative marriage ceremony are you envisioning for gay people?

Paglia: The truly radical position would be that there should be a separate ceremony, not just for gay marriages, but for all marriages. Gay activism has been stupid in demanding that marriages be performed in churches and synagogues. The truly radical argument would have been for us to appeal to progressive straights and say to them, *Renounce* the marriage ceremony. If you are really progressive, don’t pay lip service to gay rights. Do what people did in the ’60s: Don’t get married! It’s in our interest as gays to want to strengthen relationships, so we do want to return to the idea of ceremony and ritual again, but let’s find something that’s gender and sexual-orientation neutral. And we should invite all progressive straight people to join us in this new kind of ceremony—whatever it is.

10 Percent: What would a ceremony with you and Alison Mad- dex be like?

Paglia: If Hawaii does legalize gay marriage, Alison and I would certainly be going. The idea of travelling to a Pacific Island to have a wedding ceremony is wonderful. I love it. Pele the Volcano Goddess, presumably, would be the presiding deity of such a ceremony. I love the idea of making a voyage back to nature.
SAME-SEX MARRIAGE: PRO AND CON

10 Percent: Would other lesbian and gay couples follow suit?

Paglia: I think there will be a stampede of major proportions, but it may cause a backlash. That’s the problem: calling it a marriage. If you say to some working-class guy on the street, “Do you believe in gay marriages?” it makes him have an absolute convulsion of revulsion. Marriage was traditionally meant for male and female. It was a bond for the raising of children, so it always had a procreative meaning. It has a long, sacred tradition behind it. I hate any time that gay causes get mixed up with seeming to profane other people’s sacred traditions. The gay activist leadership has been totally clumsy about that. Rather than treating religion in a serious way and saying, “We respect the tradition of marriage,” gay activism is associated with throwing balloons full of blood at the steps of St. Patrick’s Cathedral.

10 Percent: Will the lesbian and gay divorce rate resemble the straight one?

Paglia: Who knows? My experience is that gay men’s idea of marriage or any kind of relationship is rather open. That’s why a lot of people are a little skeptical. Gay men—they’re “together for 30 years”: what does that mean? That means they go out and pick up strangers every two weeks. That’s a very sophisticated view of marriage. Lesbians aren’t like that. Lesbians nest in one big cinnamon bun where they fuse and it’s all very sweet and nice. I like the idea of marriage, but I’m not sure that gay relationships have been tested over time. If we can’t convince each other about it, I don’t know how we’re going to convince the greater world.

CROSSING THE THRESHOLD
EVAN WOLFSON

From the Review of Law and Social Change no. 3 (1994–1995)

Why, against conventional wisdom, the right to marry is widely popular among lesbians and gay men.

In an argument typical of many intra-community critics of marriage challenges, Nancy Polikoff contends: “[T]he desire to marry in the lesbian and gay community is an attempt to mimic the worst of mainstream society, an effort to fit into an inherently problematic institution that betrays the promise of both lesbian and gay liberation and radical feminism.”

There are at least two disturbing premises embedded in this argument . . .

First, why is a lesbian’s aspiration to marry “an attempt to mimic,” rather than a genuine expression of her desires? Professor Mary C. Dunlap quotes one lesbian’s observation:

[It was] strange to me when people in our community talked about commitment ceremonies as mocking heterosexual experience, because for me the creation of our Brit Ahavah [Jewish wedding ritual] was so different from a heterosexual wedding. The fact that gays and lesbians do this against all odds makes the whole process completely different.

Nor is this woman’s desire to get married unusual. In the words of one gay man, “if it is freely chosen, a marriage license is
as fine an option as sexual license. All I ask is the right to choose for myself, but that is exactly the right that society has never granted. . . .” One historian generalizes that “[g]ays and lesbians are raised in the same culture as everyone else. When they settle down they want gold bands, they want legal documents, they want kids.” Even though equal marriage rights, until recently, seemed a dream, all available evidence suggests that the vast majority of gay and non-gay people alike share such sentiments.

In a 1994 survey by The Advocate, the largest existing poll of gay men on the subject, nearly two-thirds of the respondents stated unequivocally that they would marry a man if they were legally able to; 85 percent responded “yes” or “maybe”; only 15 percent said they would not marry. A significantly smaller, earlier poll by another journal presented similar results: 83 percent of lesbians and gay men in the study said they would “definitely” get married if they could. . . .

Like non-gay people, many lesbians and gay men offer less romantic explanations of their desire for equal marriage rights. For instance, noting the difficulties that gay people experience in terminating relationships and securing legal assistance, one attorney remarks: “I used to say, ‘Why do we want to get married? It doesn’t work for straight people.’ . . . But now I say we should care: They have the privilege of divorce and we don’t. We’re left out there to twirl around in pain.” . . .

For several years now, Lambda’s intake has reflected a constant, high level of interest in marriage within our communities. During the 1987 March on Washington, thousands of lesbians and gay men participated in an event pointedly billed “The Wedding,” in which they celebrated their relationships by exchanging personal vows before an officiant in front of the Internal Revenue Service Building. In his travels across the United

The Debate on the Left

States and again around the world, Neil Miller chronicled gay person after person either seeking marriage or indeed, as far as possible, actually wedding their partners.

Consider, for example, the experience of one couple that Miller encountered:

Des was reluctant. She didn’t believe in marriage and was opposed to imitating what she viewed as the heterosexual model. “I had a women’s studies point of view,” she noted. But gradually Trinity convinced her that marriage simply represented an expression of love and commitment that was neither intrinsically heterosexual nor homosexual. . . .

The suggestion that lesbians and gay men who want equal marriage rights do not know what is best for them as gay people is not uncommon in the intra-community arguments against pursuing marriage. In the charge that the demand for equal marriage rights is insufficiently radical or liberationist, a contemptible desire to “mimic” or “emulate” the non-gay world, or a sell-out of less “assimilationist” or less “privileged” gay people, there is an inescapable whiff of imputed false consciousness. However, given the diversity and number of women and men within our communities who strongly want the equal right to marry, the imputation seems wrong, as well as unfair. . . .

What many gay people do not want is an all-or-nothing model imposed on their lesbian or gay identity; they want both to be gay and married, to be gay and part of the larger society. For these lesbians and gay men, being gay is not just about being different, it is also about being equal. Their deeply held convictions about how they want to live their lives and liberation are not mere mimicry. They are entitled to respect within our community as well as by the state. . . .
Reflections on Little Rock
HANNAH ARENDT

From Dissent 6, no. 1 (Winter 1959)

This may seem a quirky choice, but this short statement shows how marriage rights were also controversial within another civil rights movement—in the 1950s and 1960s. Here Arendt argues that ending antimiscegenation laws was more important than desegregating public schools.

The right to marry whoever one wishes is an elementary human right compared to which “the right to attend an integrated school, the right to sit where one pleases on a bus, the right to go into any hotel or recreation area or place of amusement, regardless of one’s skin or color or race” are minor indeed. Even political rights, like the right to vote, and nearly all other rights enumerated in the Constitution, are secondary to the inalienable human rights to “life, liberty and the pursuit of happiness” proclaimed in the Declaration of Independence; and to this category the right to home and marriage unquestionably belongs.

CHAPTER FIVE

How Conservative a Project?
THE DEBATE ON THE RIGHT

One of the earliest twists of the same-sex marriage debate was the argument that it was a conservative reform: it would promote stability and monogamy among homosexuals and responsibility in the society as a whole. One of the clearest statements of this argument was contained in an article I wrote in 1989 in The New Republic, entitled “Here Comes the Groom: A Conservative Case for Gay Marriage.” It subsequently formed a part of the third chapter of my book, Virtually Normal. I should apologize, perhaps, for including my own work at length, but it is, I think, still the most cited argument of its type, so it is a natural place to start.

The arguments against this position were almost immediate, specifically from Hadley Arkes in the National Review and later from James Q. Wilson in Commentary. While ceding some ground to my position, both nevertheless argued that putting an end to an exclusively heterosexual definition of marriage would have radically unconservative ramifications.
SAME-SEX MARRIAGE: PRO AND CON

Subsequently, the debate took off with Jonathan Rauch's elegant 1996 essay, also published in The New Republic, and the Economist editorial, which echoes Rauch's arguments. Two of the smartest conservative writers around have also chimed in—Richard Posner and William Safire. Both oppose same-sex marriage for quirkily different reasons. Finally, Amy Schwartz and Katha Pollitt observe this debate from outside the conservative fold—one criticizing the conservative rush toward equality between gays and straights, and another celebrating it.

The Conservative Case
ANDREW SULLIVAN

From Virtually Normal: An Argument About Homosexuality, 1995

In this excerpt from my book I try to show how every conservative argument against same-sex marriage collapses upon close examination. This passage concentrates on the conservative notion that legalizing same-sex marriage would undermine traditional heterosexual marriage.

The most common conservative argument against same-sex marriage is that the public acceptance of homosexuality subverts the stability and self-understanding of the heterosexual family. But here the conservative position undermines itself somewhat. Since most conservatives concede the presence of a number of involuntarily homosexual persons, they must also concede that these persons are already part of "heterosexual" families. They are sons and daughters, brothers and sisters, even mothers and fathers, of heterosexuals. The distinction between "families" and "homosexuals" is, to begin with, empirically false; and the stability of existing families is closely linked to how homosexuals are treated within them. Presumably, it is against the interest of heterosexual families to force homosexuals into roles they are not equipped to play and may disastrously perform. This is not an abstract matter. It is quite common that homosexual fathers and mothers who are encouraged into heterosexual marriages subsequently find the charade and dishonesty too great to bear: spouses are betrayed, children are abandoned, families are broken, and lives are ruined. It is also common that homosexual sons and daughters who are denied the love and support of their families are liable to turn against the institution of the family, to wound and destroy it, out of hurt and rejection. And that parents, inculcated in the kind of disdain of homosexuality conservatives claim is necessary to protect the family, react to the existence of gay children with unconscionable anger and pain, and actually help destroy loving families.

Still, conservatives may concede this and still say that it's worth it. The threat to the stability of the family posed by public disapproval of homosexuality is not as great as the threat posed by public approval. How does this argument work? Largely by saying that the lives saved by preventing wavering straights from becoming gay are more numerous than the lives saved by keeping gay people out of heterosexual relationships and allowing greater tolerance of gay members of families themselves; that the stability of the society is better served by the former than by the latter. Now, recall that conservatives are not attempting to assert absolute moral truths here. They are making an argument about social goods, in this case, social and familial stability. They
SAME-SEX MARRIAGE: PRO AND CON

are saying that a homosexual life is, on the face of it, worse than a heterosexual life, as far as society is concerned. In Harvard psychologist E. L. Pattullo’s words,

Though we acknowledge some influences—social and biological—beyond their control, we do not accept the idea that people of bad character had no choice. Further, we are concerned to maintain a social climate that will steer them in the direction of the good.

The issue here is bad character and the implied association of bad character with the life of homosexuals. Although many conservatives feel loath to articulate what they mean by this life, it’s clear what lies behind it. So if they won’t articulate it, allow me. They mean by “a homosexual life” one in which emotional commitments are fleeting, promiscuous sex is common, disease is rampant, social ostracism is common, and standards of public decency, propriety, and self-restraint are flaunted. They mean a way of life that deliberately subverts gender norms in order to unsettle the virtues that make family life possible, ridicules heterosexual life, and commits itself to an ethic of hedonism, loneliness, and deceit. They mean by all this “the other,” against which any norm has to be defended and any cohesive society protected. So it is clear that whatever good might be served by preventing gay people from becoming parents or healing internal wounds within existing families, it is greatly outweighed by the dangers of unleashing this kind of ethic upon the society as a whole.

But the argument, of course, begs a question. Is this kind of life, according to conservatives, what a homosexual life necessarily is? Surely not. If homosexuality is often indeed involuntary, as conservatives believe, then homosexuals are not automatically the “other”; they are sprinkled randomly throughout society,

into families that are very much like anybody else’s, with characters and bodies and minds as varied as the rest of humanity. If all human beings are, as conservatives believe, subject to social inducements to lead better or worse lives, then there is nothing inevitable at all about a homosexual leading a depraved life. In some cases, he might even be a paragon of virtue. Why then is the choice of a waverer to live a homosexual rather than a heterosexual life necessarily a bad one, from the point of view of society? Why does it lead to any necessary social harm at all?

Of course, if you simply define “homosexual” as “depraved,” you have an answer; but it’s essentially a tautologous one. And if you argue that in our society at this time, homosexual lives simply are more depraved, you are also begging a question. There are very few social incentives of the kind conservatives like for homosexuals not to be depraved: there’s little social or familial support, no institution to encourage fidelity or monogamy, precious little religious or moral outreach to guide homosexuals into more virtuous living. This is not to say that homosexuals are not responsible for their actions, merely that in a large part of homosexual subculture there is much a conservative would predict, when human beings are abandoned with extremely few social incentives for good or socially responsible behavior. But the proper conservative response to this is surely not to infer that this behavior is inevitable, or to use it as a reason to deter others from engaging in a responsible homosexual existence, if that is what they want; but rather to construct social institutions and guidelines to modify and change that behavior for the better. But that is what conservatives resolutely refuse to do.

Why? Maybe for conservatives, there is something inherent even in the most virtuous homosexual life that renders it less desirable than the virtuous heterosexual life, and therefore merits social discouragement to deter the waverers. Let’s assume, from a conservative perspective, the best-case scenario for such a
waverer: he can choose between a loving, stable, and responsible same-sex relationship and a loving, stable, and responsible opposite-sex relationship. Why should society preference the latter?

The most common response is along the lines of Hadley Arkes, the conservative commentator, who has written on this subject on occasion. It is that the heterosexual relationship is good for men not simply because it forces them to cooperate and share with other human beings on a daily basis but because it forces them into daily contact and partnership with women:

It is not marriage that domesticates men; it is women. Left to themselves, these forked creatures follow a way of life that George Gilder once recounted in its precise, chilling measures: bachelors were twenty-two times more likely than married men to be committed to hospital for mental disease (and ten times more likely to suffer chronic diseases of all kinds). Single men had nearly double the mortality rate of married men and three times the mortality rate of single women. Divorced men were three times more likely than divorced women to commit suicide or die by murder, and they were six times more likely to die of heart disease.

I will leave aside the statistical difficulties here: it's perfectly possible that many of the problems Arkes recounts were reasons why the men didn't get married, rather than consequences of their failing to do so. Let's assume, for the sake of argument, that Arkes is right: that marriage to a woman is clearly preferable to being single for an adult man; that such a man is more likely to be emotionally stable, physically healthy, psychologically in balance; and that this is good for the society as a whole. There is in this argument a belief that women are naturally more prone to be stable, nurturing, supportive of stability, fiscally prudent, and

family-oriented than men, and that their connection to as many men as possible is therefore clearly a social good. Let's assume also, for the sake of argument, that Arkes is right about that too. It's obvious, according to conservatives, that society should encourage a stable opposite-sex relationship over a stable same-sex relationship.

But the waverer has another option: he can remain single. Should society actually encourage him to do this rather than involve himself in a stable, loving same-sex relationship? Surely, even conservatives who think women are essential to the successful socialization of men would not deny that the discipline of domesticity, of shared duties and lives, of the inevitable give-and-take of cohabitation and love with anyone, even of the same sex, tends to benefit men more than the option of constant, free-wheeling, etiolating bachelordom. But this would mean creating a public moral and social climate which preferred stable gay relationships to gay or straight bachelordom. And it would require generating a notion of homosexual responsibility that would destroy the delicately balanced conservative politics of private discretion and indiscriminating public disapproval. So conservatives are stuck again: their refusal to embrace responsible public support for virtuous homosexuals runs counter to their entire social agenda.

Arkes's argument also leads to another (however ironic) possibility destabilizing to conservatism's delicate contemporary compromise on the homosexual question: that for a waverer woman, a lesbian relationship might actually be socially preferable to a heterosexual relationship. If the issue is not mere domesticity but the presence of women, why would two women not be better than one, for the sake of children's development and social stability? Since lesbianism seems to be more amenable to choice than male homosexuality in most studies and surveys, conservatism's emphasis on social encouragement of certain
behaviors over others might be seen as even more relevant here. If conservatism is about the social benefits of feminizing society, there is no reason why it should not be an integral part of the movement for women to liberate themselves completely from men. Of course, I’m being facetious; conservatives would be terrified by all the single males such a society would leave rampaging around. But it’s not inconceivable at all from conservative premises that, solely from the point of view of the wavering woman, the ascending priorities would be: remaining single, having a stable, loving opposite-sex relationship, and having a stable, loving same-sex relationship. And there is something deliciously ironic about the sensibility of Hadley Arkes and E. L. Pattullo finding its full fruition in a lesbian collective.

Still, the conservative has another option. He might argue that removing the taboo on homosexuality would unravel the entire fabric of self-understanding in the society at large that could potentially destabilize the whole system of incentives for stable family relationships. He might argue that now, of all times, when families are in an unprecedented state of collapse, is not the occasion for further tinkering with this system; that the pride of heterosexual men and women is at stake; that their self-esteem and self-understanding would be undermined if society saw them as equivalent to homosexuals. In this view, the stigmatization of homosexuals is the necessary corollary to the celebration of traditional family life.

Does this ring true? To begin with, it’s not at all clear why, if public disapproval of homosexuals is indeed necessary to keep families together, homosexuals of all people should bear the primary brunt of the task. But it’s also not clear why the corollary really works to start with. Those homosexuals who have no choice at all to be homosexual, whom conservatives do not want to be in a heterosexual family in the first place, are clearly no threat to the heterosexual family. Why would accepting that such people exist, encouraging them to live virtuous lives, incorporating their difference into society as a whole, necessarily devalue the traditional family? It is not a zero-sum game. Because they have no choice but to be homosexual, they are not choosing that option over heterosexual marriage; and so they are not sending any social signals that heterosexual family life should be denigrated.

The more difficult case, of course, pertains to Arkes’s “waverers.” Would allowing them the option of a stable same-sex relationship as a preferable social option to being single really undermine the institution of the family? Is it inconceivable that a society can be subtle in its public indications of what is and what is not socially preferable? Surely, society can offer a hierarchy of choices, which, while preferencing one, does not necessarily denigrate the others, but accords them some degree of calibrated respect. It does this in many other areas. Why not in sexual arrangements?

You see this already in many families with homosexual members. While some parents are disappointed that their son or daughter will not marry someone of the opposite sex, provide grandchildren and sustain the family line for another generation, they still prefer to see that child find someone to love and live with and share his or her life with. That child’s siblings, who may be heterosexual, need feel no disapproval attached to their own marriage by the simple fact of their sibling’s difference. Why should society as a whole find it an impossible task to share in the same maturity? Even in the most homosexualized culture, conservatives would still expect over eighty percent of couples to be heterosexual: why is their self-esteem likely to be threatened by a paltry twenty percent—especially when, according to conservatives, the homosexual life is so self-evidently inferior?

In fact, it’s perfectly possible to combine a celebration of the traditional family with the celebration of a stable homosexual relationship. The one, after all, is modeled on the other. If
SAME-SEX MARRIAGE: PRO AND CON

constructed carefully as a conservative social ideology, the notion of stable gay relationships might even serve to buttress the ethic of heterosexual marriage, by showing how even those excluded from it can wish to model themselves on its shape and structure. This very truth, of course, is why liberationists are so hostile to the entire notion. Rather than liberating society from asphyxiating conventions it actually harnesses one minority group—homosexuals—and enlists them in the conservative structures that liberationists find so inimical. One can indeed see the liberationists’ reasons for opposing such a move. But why should conservatives oppose it?

The Closet Straight
HADLEY ARKES

From National Review, July 5, 1993

This early response to the arguments outlined in “The Politics of Homosexuality,” an essay I wrote for The New Republic in May 1993 and elaborated in Virtually Normal, hit on several subsequent conservative themes. But the most important is the inherently heterosexual nature of the marriage bond. Arkes believes that homosexuals who want the right to marry essentially want the right to be straight.

What Andrew Sullivan wants, most of all, is marriage. And he wants it for reasons that could not have been stated more powerfully by any heterosexual who had been raised, as Sullivan was, in the Catholic tradition and schooled in political philosophy. “The apex of emotional life,” says Sullivan, “is found in the marital bond.” The erotic interest may seek out copulation, but the fulfillment of eros depends on the integrity of a bond woven of sentiment and confirmed by law. Marriage is more than a private contract; it is “the highest public recognition of our personal integrity.” Its equivalent will not be supplied by a string of sensual nights, accumulated over many years of “living together.” The very existence of marriage “premises the core of our emotional development. It is the architectonic institution that frames our emotional life.”

No one could doubt for a moment: as much as any of the “guys” in the Damon Runyon stories, the man who wrote those lines is headed, irresistibly, for marriage. What he craves—homosexual marriage—would indeed require the approval conferred by law. It would also require a benediction conferred by straight people, who would have to consent to that vast, new modeling of our laws. That project will not be undertaken readily, and it may not be undertaken at all. Still, there is something, rooted in the nature of Andrew Sullivan, that must needs marriage.

But as Mona Charen pointed out, in an encounter with Sullivan at the National Review Institute conference this winter (NR, March 29), it is not marriage that domesticates men; it is women.

I had the chance to see my own younger son, settled with three of his closest friends in a townhouse in Georgetown during his college years. The labors of the kitchen and the household were divided with a concern for domestic order, and the abrasions of living together were softened by the ties of friendship. And yet, no one, entering that house, could doubt for a moment that he was in a camp occupied for a while by young males, with their hormones flowing.

This is not to deny, of course, that men may truly love men,
or commit themselves to a life of steady friendship. But many of us have continued to wonder just why any of these relations would be enhanced in any way by adding to them the ingredients of penetration—or marriage. The purpose of this alliance, after all, could not be the generation of children, and a marriage would not be needed then as the stable framework for welcoming and sheltering children. For gays, the ceremony of marriage could have the function of proclaiming to the world an exclusive love; a special dedication, which comes along with a solemn promise to forgo all other, competing loves. In short, it would draw its power from the romance of monogamy. But is that the vision that drives the movement for “gay rights”? An excruciating yearning for monogamy?

That may indeed be Andrew Sullivan’s own yearning, but his position is already marked him as a curious figure in the camp of gay activists. When Sullivan commends the ideal of marriage for gays, he would seem to be pleading merely for the inclusion of gay “couples” in an institution that is indeed confined to pairs, of adults, in monogamous unions. But that is not exactly the vision of gay sex.

For many activists and connoisseurs, Sullivan would represent a rather wimpish, constricted view of the world they would open to themselves through sexual liberation. After all, the permissions for this new sexual freedom have been cast to that amorphous formula of “sexual orientation”: the demand of gay rights is that we should recede from casting moral judgments on the way that people find their pleasure in engagements they regard as “sexual.” In its strange abstraction, “sexual orientation” could take in sex with animals or the steamier versions of sadomasochism. The devotees of S&M were much in evidence during the recent march in Washington, but we may put aside for a moment these interests, to consider others which are even more exotic yet. There is, for example, the North American Man-Boy

Love Association, a contingent of gay activists who identify themselves, unashamedly, as pedophiles. They insist that nothing in their “sexual orientation” should disqualify them to work as professional counselors, say, in the schools of New York, and to counsel young boys. And since they respect themselves, they will not hold back from commending their own way of life to their young charges. If there is to be gay marriage, would it be confined then only to adults? And if men are inclined to a life of multiple partners, why should marriage be confined to two persons? Why indeed should the notion of gay marriage be scaled down to fit the notions held by Andrew Sullivan?

The sources of anguish run even deeper here than Sullivan may suspect, for his dilemma may be crystallized in this way: If he would preserve the traditional understanding of marriage and monogamy, he would not speak for much of a constituency among gays. But if the notion of “marriage” were enlarged and redefined—if it could take in a plurality of people and shifting combinations—it could hardly be the kind of marriage that Sullivan devoutly wishes as “the apex of emotional life” and “the highest public recognition of our personal integrity.”

In traditional marriage, the understanding of monogamy was originally tied to the “natural teleology” of the body—to the recognition that only two people, no more and no fewer, can generate children. To that understanding of a union, or a “marriage,” the alliance of two men would offer such an implausible want of resemblance that it would appear almost as a mocking burlesque. It would be rather like confounding, as Lincoln used to say, a “horse chestnut” and a “chestnut horse.” The mockery would be avoided if the notion of marriage could be opened, or broadened, to accommodate the varieties of sexual experience. The most notable accommodation would be the acceptance of several partners, and the change could be readily reckoned precisely because it would hardly be novel: the proposal for gay
marriage would compel us to look again—to look anew with eyes unclouded by prejudice—to the ancient appeal of polygamy. After all, there would be an Equal Protection problem now: we could scarcely confine this new “marital” arrangement only to members of one gender. But then, once the arrangement is opened simply to “consenting adults,” on what ground would we object to the mature couplings of aunts and nephews, or even fathers and daughters—couplings that show a remarkable persistence in our own age, even against the barriers of law and sentiment that have been cast up over centuries? All kinds of questions, once placed in a merciful repose, may reasonably be opened again. They become live issues once we are willing to ponder that simple question, Why should marriage be confined, after all, to couples, and to pairs drawn from different sexes?

That question, if it comes to be treated as open and problematic, will not readily be closed, or not at least on the terms that Andrew Sullivan seeks. The melancholy news then is this: We cannot deliver to him what he wants without introducing, into our laws, notions that must surely undercut the rationale and the justification for marriage. The marriage that he wants, he cannot practically have; but in seeking it, he runs the risk of weakening even further the opinion that sustains marriage as “the architectonic institution that frames our emotional life.”

Against Homosexual Marriage
JAMES O. WILSON

From Commentary, March 1996

In a rigorous point-by-point engagement with the arguments of Virtually Normal, James Q. Wilson expresses the conservative desire not to impose change against the moral sensibilities of a heterosexual majority.

Sullivan recounts three main arguments concerning homosexual marriage, two against and one for. He labels them prohibitionist, conservative, and liberal. I think it easier to grasp the origins of the three main arguments by referring to the principles on which they are based.

The prohibitionist argument is in fact a biblical one; the heart of it was stated by Dennis Prager in an essay reprinted in the Public Interest (“Homosexuality, the Bible, and Us,” Summer 1993). When the first books of the Bible were written, and for a long time thereafter, heterosexual love is what seemed at risk. In many cultures—not only in Egypt or among the Canaanite tribes surrounding ancient Israel but later in Greece, Rome, and the Arab world, to say nothing of large parts of China, Japan, and elsewhere—homosexual practices were common and widely tolerated or even exalted. The Torah reversed this, making the family the central unit of life, the obligation to marry one of the first responsibilities of man, and the linkage of sex to procreation the highest standard by which to judge sexual relations. Leviticus puts the matter sharply and apparently beyond quibble.
SAME-SEX MARRIAGE: PRO AND CON

Thou shalt not live with mankind as with womankind; it is an abomination. . . . If a man also lie with mankind, as he lieth with a woman, both of them have committed an abomination; they shall surely be put to death; their blood shall be upon them.

Sullivan acknowledges the power of Leviticus but deals with it by placing it in a relative context. What is the nature of this “abomination”? Is it like killing your mother or stealing a neighbor’s bread, or is it more like refusing to eat shellfish or having sex during menstruation? Sullivan suggests that all of these injunctions were written on the same moral level and hence can be accepted or ignored as a whole. He does not fully sustain this view, and in fact a refutation of it can be found in Prager’s essay. In Prager’s opinion and mine, people at the time of Moses, and for centuries before him, understood that there was a fundamental difference between whom you killed and what you ate, and in all likelihood people then and for centuries earlier linked whom you could marry closer to the principles that defined life than they did to the rules that defined diets.

The New Testament contains an equally vigorous attack on homosexuality by St. Paul. Sullivan partially deflects it by noting Paul’s conviction that the earth was about to end and the Second Coming was near; under these conditions, all forms of sex were suspect. But Sullivan cannot deny that Paul singled out homosexuality as deserving of special criticism. He seems to pass over this obstacle without effective retort.

Instead, he takes up a different theme, namely, that on grounds of consistency many heterosexual practices—adultery, sodomy, premarital sex, and divorce, among others—should be outlawed equally with homosexual acts of the same character. The difficulty with this is that it mistakes the distinction alive in most people’s minds between marriage as an institution and marriage as a practice. As an institution, it deserves unqualified support; as a practice, we recognize that married people are as imperfect as anyone else. Sullivan’s understanding of the prohibitionist argument suffers from his unwillingness to acknowledge this distinction.

The second argument against homosexual marriage—Sullivan’s conservative category—is based on natural law as originally set forth by Aristotle and Thomas Aquinas and more recently restated by Hadley Arkes, John Finnis, Robert George, Harry V. Jaffa, and others. How it is phrased varies a bit, but in general its advocates support a position like the following: man cannot live without the care and support of other people; natural law is the distillation of what thoughtful people have learned about the conditions of that care. The first thing they have learned is the supreme importance of marriage, for without it the newborn infant is unlikely to survive or, if he survives, to prosper. The necessary conditions of a decent family life are the acknowledgment by its members that a man will not sleep with his daughter or a woman with her son and that neither will openly choose sex outside marriage.

Now, some of these conditions are violated, but there is a penalty in each case that is supported by the moral convictions of almost all who witness the violation. On simple utilitarian grounds it may be hard to object to incest or adultery; if both parties to such an act welcome it and if it is secret, what differences does it make? But very few people, and then only ones among the overeducated, seem to care much about mounting a utilitarian assault on the family. To this assault, natural-law theorists respond much as would the average citizen—never mind “utility,” what counts is what is right. In particular, homosexual uses of the reproductive organs violate the
condition that sex serve solely as the basis of heterosexual marriage.

To Sullivan, what is defective about the natural-law thesis is that it assumes different purposes in heterosexual and homosexual love: moral consummation in the first case and pure utility or pleasure alone in the second. But in fact, Sullivan suggests, homosexual love can be as consummatory as heterosexual. He notes that as the Roman Catholic Church has deepened its understanding of the involuntary—that is, in some sense genetic—basis of homosexuality, it has attempted to keep homosexuals in the church as objects of affection and nurture, while banning homosexual acts as perverse.

But this, though better than nothing, will not work, Sullivan writes. To show why, he adduces an analogy to a sterile person. Such a person is permitted to serve in the military or enter an unproductive marriage; why not homosexuals? If homosexuals marry without procreation, they are no different (he suggests) from a sterile man or woman who marries without hope of procreation. Yet people, I think, want the form observed even when the practice varies; a sterile marriage, whether from choice or necessity, remains a marriage of a man and a woman. To this Sullivan offers essentially an aesthetic response. Just as albinos remind us of the brilliance of color and genius teaches us about moderation, homosexuals are a “natural foil” to the heterosexual union, “a variation that does not eclipse the theme.” Moreover, the threat posed by the foil to the theme is slight as compared to the threats posed by adultery, divorce, and prostitution. To be consistent, Sullivan once again reminds us, society would have to ban adulterers from the military as it now bans confessed homosexuals.

But again this misses the point. It would make more sense to ask why an alternative to marriage should be invented and praised when we are having enough trouble maintaining the institution at all. Suppose that gay or lesbian marriage were authorized; rather than producing a “natural foil” that would “not eclipse the theme,” I suspect such a move would call even more seriously into question the role of marriage at a time when the threats to it, ranging from single-parent families to common divorces, have hit record highs. Kenneth Minogue recently wrote of Sullivan’s book that support for homosexual marriage would strike most people as “mere parody,” one that could further weaken an already strained institution.

To me, the chief limitation of Sullivan’s view is that it presupposes that marriage would have the same, domesticating, effect on homosexual members as it has on heterosexuals, while leaving the latter largely unaffected. Those are very large assumptions that no modern society has ever tested.

Nor does it seem plausible to me that a modern society resists homosexual marriages entirely out of irrational prejudice. Marriage is a union, sacred to most, that unites a man and woman together for life. It is a sacrament of the Catholic Church and central to every other faith. Is it out of misinformation that every modern society has embraced this view and rejected the alternative? Societies differ greatly in their attitude toward the income people may have, the relations among their various races, and the distribution of political power. But they differ scarcely at all over the distinctions between heterosexual and homosexual couples. The former are overwhelmingly preferred over the latter. The reason, I believe, is that these distinctions involve the nature of marriage and thus the very meaning—even more, the very possibility—of society.

The final argument over homosexual marriage is the liberal one, based on civil rights.

As we have seen, the Hawaiian Supreme Court ruled that any state-imposed sexual distinction would have to meet the test of strict scrutiny, a term used by the U.S. Supreme Court only
SAME-SEX MARRIAGE: PRO AND CON

for racial and similar classifications. In doing this, the Hawaiian

court distanced itself from every other state court decision—

there are several—in this area so far. A variant of the suspect-


class argument, though, has been suggested by some scholars

who contend that denying access to a marriage license by two

people of the same sex is no different from denying access to two

people of different sexes but also different races. The Hawaiian

Supreme Court embraced this argument as well, explicitly com-

paring its decision to that of the U.S. Supreme Court when it

overturned state laws banning marriages involving miscege-

nation.

But the comparison with black-white marriages is itself

suspect. Beginning around 1964, and no doubt powerfully af-

fected by the passage of the Civil Rights Act of that year, pub-

lic attitudes toward race began to change dramatically. Even

allowing for exaggerated statements to pollsters, there is little

doubt that people in fact acquired a new view of blacks. Not

so with homosexuals. Though the campaign to aid them has

been going on vigorously for about a quarter of a century, it has

produced few, if any, gains in public acceptance, and the greatest

resistance, I think, has been with respect to homosexual mar-

riages.

Consider the difference. What has been at issue in race rela-

tions is not marriage among blacks (for over a century, that right

has been universally granted) or even miscegenation (long be-

fore the civil-rights movement, many Southern states had re-

pealed such laws). Rather, it has been the routine contact

between the races in schools, jobs, and neighborhoods. Our own

history, in other words, has long made it clear that marriage is a

different issue from the issue of social integration.

There is another way, too, in which the comparison with

race is less than helpful, as Sullivan himself points out. Thanks to

the changes in public attitudes I mentioned a moment ago,

gradually race was held to be not central to decisions about hire-

ing, firing, promoting, and schooling, and blacks began to make

extraordinary advances in society. But then, in an effort to en-

force this new view, liberals came to embrace affirmative action,

a policy that said that race was central to just such issues, in

order to ensure that real mixing occurred. This move created a

crisis, for liberalism had always been based on the proposition

that a liberal political system should encourage, as John Stuart

Mill put it, “experiments in living” free of religious or political

direction. To contemporary liberals, however, being neutral

about race was tantamount to being neutral about a set of

human preferences that in such matters as neighborhood and

schooling left groups largely (but not entirely) separate.

Sullivan, who wisely sees that hardly anybody is really pre-

pared to ignore a political opportunity to change lives, is not dis-

posed to have much of this either in the area of race or in that of

sex. And he points out with great clarity that popular attitudes

toward sexuality are anyway quite different from those about

race, as is evident from the fact that wherever sexual orientation

is subject to local regulations, such regulations are rarely in-

voked. Why? Because homosexuals can “pass” or not, as they

wish; they can and do accumulate education and wealth; they ex-

ercise political power. The two things a homosexual cannot do

are join the military as an avowed homosexual or marry another

homosexual.

The result, Sullivan asserts, is a wrenching paradox. On the

one hand, society has historically tolerated the brutalization in-

flicted on people because of the color of their skin, but freely al-

lowed them to marry; on the other hand, it has given equal

opportunity to homosexuals, while denying them the right to

marry. This, indeed, is where Sullivan draws the line. A black or

Hispanic child, if heterosexual, has many friends, he writes, but

a gay child “generally has no one.” And that is why the social
SAME-SEX MARRIAGE: PRO AND CON

stigma attached to homosexuality is different from that attached to race or ethnicity—"because it attacks the very heart of what makes a human being human: the ability to love and be loved." Here is the essence of Sullivan's case. It is a powerful one, even if (as I suspect) his pro-marriage sentiments are not shared by all homosexuals.

Let us assume for the moment that a chance to live openly and legally with another homosexual is desirable. To believe that, we must set aside biblical injunctions, a difficult matter in a profoundly religious nation. But suppose we manage the diversion, perhaps on the grounds that if most Americans skip church, they can as readily avoid other errors of (possibly) equal magnitude. Then we must ask on what terms the union shall be arranged. There are two alternatives—marriage or domestic partnership.

Sullivan acknowledges the choice, but disparages the domestic-partnership laws that have evolved in some foreign countries and in some American localities. His reasons, essentially conservative ones, are that domestic partnerships are too easily formed and too easily broken. Only real marriages matter. But—aside from the fact that marriage is in serious decline, and that only slightly more than half of all marriages performed in the United States this year will be between never-before-married heterosexuals—what is distinctive about marriage is that it is an institution created to sustain child-rearing. Whatever losses it has suffered in this respect, its function remains what it has always been.

The role of raising children is entrusted in principle to married heterosexual couples because after much experimentation—several thousand years, more or less—we have found nothing else that works as well. Neither a gay nor a lesbian couple can of its own resources produce a child; another party must be involved. What do we call this third party? A friend? A sperm

or egg bank? An anonymous donor? There is no settled language for even describing, much less approving of, such persons.

Suppose we allowed homosexual couples to raise children who were created out of a prior heterosexual union or adopted from someone else's heterosexual contact. What would we think of this? There is very little research on the matter. Charlotte Patterson's famous essay, "Children of Gay and Lesbian Parents" (Journal of Child Development, 1992), begins by conceding that the existing studies focus on children born into a heterosexual union that ended in divorce or that was transformed when the mother or father "came out" as a homosexual. Hardly any research has been done on children acquired at the outset by a homosexual couple. We therefore have no way of knowing how they would behave. And even if we had such studies, they might tell us rather little unless they were conducted over a very long period of time.

But it is one thing to be born into an apparently heterosexual family and then many years later to learn that one of your parents is homosexual. It is quite another to be acquired as an infant from an adoption agency or a parent-for-hire and learn from the first years of life that you are, because of your family's position, radically different from almost all other children you will meet. No one can now say how grievous this would be. We know that young children tease one another unmercifully; adding this dimension does not seem to be a step in the right direction.

Of course, homosexual "families," with or without children, might be rather few in number. Just how few, it is hard to say. Perhaps Sullivan himself would marry, but, given the great tendency of homosexual males to be promiscuous, many more like him would not, or if they did, would not marry with as much seriousness.

The courts in Hawaií and in the nation's capital must struggle
with all these issues under the added encumbrance of a contemporary outlook that makes law the search for rights, and responsibility the recognition of rights. Indeed, thinking of laws about marriage as documents that confer or withhold rights is itself an error of fundamental importance—one that the highest court in Hawaii has already committed. “Marriage,” it wrote, “is a state-conferred legal-partnership status, the existence of which gives rise to a multiplicity of rights and benefits...” A state-conferred legal partnership? To lawyers, perhaps; to mankind, I think not. The Hawaiian court has thus set itself on the same course of action as the misguided Supreme Court in 1973 when it thought that laws about abortion were merely an assertion of the rights of a living mother and an unborn fetus.

I have few favorable things to say about the political systems of other modern nations, but on these fundamental matters—abortion, marriage, military service—they often do better by allowing legislatures to operate than we do by deferring to courts. Our challenge is to find a way of formulating a policy with respect to homosexual unions that is not the result of a reflexive act of judicial rights-conferring, but is instead a considered expression of the moral convictions of a people.

**For Better or Worse?**

**JONATHAN RAUCH**

*From The New Republic, May 6, 1996*

Rauch delivers an almost Jesuitical analysis of why same-sex marriage makes sense for conservatives. He is particularly acute in making a social as well as a political argument for the virtues that marriage inculcates—especially in gay men. He is quite comfortable about using the threat of stigma to bring more social order into gay men’s lives.

Whether gay marriage makes sense—and whether straight marriage makes sense—depends on what marriage is actually for. Current secular thinking on this question is shockingly sketchy. Gay activists say: marriage is for love, and we love each other, therefore we should be able to marry. Traditionalists say: marriage is for children, and homosexuals do not (or should not) have children, therefore you should not be able to marry. That, unfortunately, pretty well covers the spectrum. I say “unfortunately” because both views are wrong. They misunderstand and impoverish the social meaning of marriage.

So what is marriage for? Modern marriage is, of course, based upon traditions that religion helped to codify and enforce. But religious doctrine has no special standing in the world of secular law and policy (the “Christian nation” crowd notwithstanding). If we want to know what and whom marriage is for in modern America, we need a sensible secular doctrine.

At one point, marriage in secular society was largely a matter of business: cementing family ties, providing social status for
exchange each spouse commits to being the other’s nurse, social worker and policeman of first resort. Each marriage is its own little society within society. Any step that weakens the deal by granting the legal benefits of marriage without also requiring the public commitment is begging for trouble.

So gay marriage makes sense for several of the same reasons that straight marriage makes sense. That would seem a natural place to stop. But the logic of the argument compels one to go a twist further. If it is good for society to have people attached, then it is not enough just to make marriage available. Marriage should also be expected. This, too, is just as true for homosexuals as for heterosexuals. So, if homosexuals are justified in expecting access to marriage, society is equally justified in expecting them to use it. I’m not saying that out-of-wedlock sex should be scandalous or that people should be coerced into marrying. The mechanisms of expectation are more subtle. When grandma cluck-clucks over a still-unmarried young man, or when mom says she wishes her little girl would settle down, she is expressing a strong and well-justified preference: one that is quietly echoed in a thousand ways throughout society and that produces subtle but important pressure to form and sustain unions. This is a good and necessary thing, and it will be as necessary for homosexuals as heterosexuals. If gay marriage is recognized, single gay people over a certain age should not be surprised when they are disapproved of or pitied. That is a vital part of what makes marriage work. It’s stigma as social policy.

If marriage is to work it cannot be merely a “lifestyle option.” It must be privileged. That is, it must be understood to be better, on average, than other ways of living. Not mandatory, not good where everything else is bad, but better: a general norm, rather than a personal taste. The biggest worry about gay marriage, I think is, is that homosexuals might get it but then mostly not use it. Gay neglect of marriage wouldn’t greatly erode the bonding power of heterosexual marriage (remember, homosexuals are only a tiny fraction of the population)—but it would certainly not help. And heterosexual society would rightly feel betrayed if, after legalization, homosexuals treated marriage as a minority taste rather than as a core institution of life. It is not enough, I think, for gay people to say we want the right to marry. If we do not use it, shame on us.

Let Them Wed
THE EDITORS

From the Economist, January 6, 1996

The sober, unsentimental, free market conservative British magazine weighs in—for the gay rights movement.

Marriage may be for the ages—but it changes by the year. And never, perhaps, has it changed as quickly as since the 1960s. In western law, wives are now equal rather than subordinate partners; interracial marriage is now widely accepted both in statute and in society; marital failure itself, rather than the fault of one partner, may be grounds for a split. With change, alas, has come strain. In the twenty-five years from 1960, divorce rates soared throughout the West—more than sextupled in Britain, where divorce appears inevitable for the world’s most celebrated
SAME-SEX MARRIAGE: PRO AND CON

marriage, that of Charles and Diana Windsor. Struggling to keep law apace with reality, Britain’s Tory government is even now advancing another marriage reform, seeking, on the whole sensibly, to make quick or impulsive divorce harder but no-fault divorce easier.

That, however, is not the kind of reform which some decidedly un-Tory people are seeking—and have begun to achieve. Denmark, Norway and Sweden now allow homosexual partners to register with the state and to claim many (though not all) of the prerogatives of marriage. The Dutch are moving in the same direction. In France and Belgium, cities and local governments have begun recognising gay partnerships. And, in the American state of Hawaii, a court case may legalise homosexual marriage itself.

As of today, however, there is no country which gives homosexuals the full right of marriage. And that is what gay activists in more and more places are seeking. Marriage, one might think, is in turbulent enough waters already. Can gay marriage be a good idea—now?

To understand why the answer is yes, first set aside a view whose appealing simplicity is its undoing. “Governments are not elected to arrange nuptial liaisons, much less to untangle them,” writes Joe Rogaly in the Financial Times. “It is a purely private matter.” On this libertarian view, the terms of a marriage contract should be the partners’ business, not the state’s. With the help of lawyers and sympathetic churchmen, homosexuals can create for themselves what is in all practical respects a marriage; if they lack a government licence, so what?

The government-limiting impulse motivating this view is admirable. But, in truth, the state’s involvement in marriage is both inevitable and indispensable. Although many kinds of human pairings are possible, state-sanctioned marriage is, tautologically, the only one which binds couples together in the eyes of the law.

By doing so it confers upon partners unique rights to make life-or-death medical decisions, rights to inheritance, rights to share pensions and medical benefits; just as important, it confers upon each the legal responsibilities of guardianship and care of the other. Far from being frills, these benefits and duties go to the very core of the marriage contract; no church or employer or “commitment ceremony” can bestow them at one blow. If marriage is to do all the things that society demands of it, then the state must set some rules.

Just so, say traditionalists: and those rules should exclude homosexuals. Gay marriage, goes the argument, is both frivolous and dangerous: frivolous because it blesses unions in which society has no particular interest; dangerous because anything which trivialises marriage undermines this most basic of institutions. Traditionalists are right about the importance of marriage. But they are wrong to see gay marriage as trivial or frivolous.

It is true that the single most important reason society cares about marriage is for the sake of children. But society’s stake in stable, long-term partnerships hardly ends there. Marriage remains an economic bulwark. Single people (especially women) are economically vulnerable, and much more likely to fall into the arms of the welfare state. Furthermore, they call sooner upon public support when they need care—and, indeed, are likelier to fall ill (married people, the numbers show, are not only happier but considerably healthier). Not least important, marriage is a great social stabiliser of men.

Homosexuals need emotional and economic stability no less than heterosexuals—and society surely benefits when they have it. “Then let them ‘unchoose’ homosexuality and marry someone of the opposite sex,” was the old answer. Today that reply is untenable. Homosexuals do not choose their condition; indeed, they often try desperately hard, sometimes to the point of suicide, to avoid it. However, they are less and less willing either to
SAME-SEX MARRIAGE: PRO AND CON

hide or to lead lives of celibacy. For society, the real choice is between homosexual marriage and homosexual alienation. No social interest is served by choosing the latter.

To this principle of social policy, add a principle of government. Barring a compelling reason, governments should not discriminate between classes of citizens. As recently as 1967, blacks and whites in some American states could not wed. No one but a crude racist would defend such a rule now. Even granting that the case of homosexuals is more complex than the case of miscegenation, the state should presume against discriminating—which especially when handing out something as important as a marriage licence. Thus the question becomes: is there a compelling reason to bar homosexuals from marriage?

One objection is simply that both would-be spouses are of the same sex. That is no answer; it merely repeats the question. Perhaps, then, once homosexuals can marry, marital anarchy will follow? That might be true if homosexual unions were arbitrary configurations, mere parodies of “real” marriage. But the truth is that countless homosexual couples, especially lesbian ones, have shown that they are as capable of fidelity, responsibility and devotion as are heterosexual couples—and this despite having to keep their unions secret, at least until recently. Would gay marriage weaken the standard variety? There is little reason to think so. Indeed, the opposite seems at least as likely: permitting gay marriage could reaffirm society’s hope that people of all kinds settle down into stable unions.

The question of children in homosexual households—adoption, especially—is thorny. That question, however, is mainly separate from the matter of marriage as such. In settling a child with guardians who are not the natural parents, the courts and adoption agencies will consider a variety of factors, just as they do now; a couple’s homosexuality may be one such factor (though it need not, by itself, be decisive).

The Debate on the Right

In the end, leaving aside (as secular governments should) objections that may be held by particular religions, the case against homosexual marriage is this: people are unaccustomed to it. It is strange and radical. That is a sound argument for not pushing change along precipitously. Certainly it is an argument for legalising homosexual marriage through consensual politics (as in Denmark), rather than by court order (as may happen in America). But the direction of change is clear. If marriage is to fulfill its aspirations, it must be defined by the commitment of one to another for richer for poorer, in sickness and in health—not by the people it excludes.

Homosexuality: The Policy Questions

RICHARD A. POSNER

From Sex and Reason, by Richard A. Posner, 1992

Posner, a legal theorist best known for his pioneering work in law and economics, makes a case for limited tolerance—abolishing sodomy laws but retaining marriage rights as exclusively heterosexual. Even so, Posner is tentative in opposing marriage rights, and he puts great store by the settled instincts of a conservative populace.

There are three differences between punishing sodomy and confining the right to marry to heterosexuals. The first is that permitting homosexual marriage would be widely interpreted as
unit for mutual care and the bearing and rearing of children. Tax and inheritance incentives have long been offered to bolster these “family values,” which are under great strain, and nothing should be done now to further weaken the traditional family.

Underlying this disagreement, and giving the debate its bitterness, is the belief that what is at stake is not just tax and pension fairness (in the works for domestic partners who take contractual vows) but the reach for unequivocal social and theological approbation. Gays understandably want not just equal economic treatment but equal moral status; most Americans are not ready to go beyond toleration to active approval. That division is not in dispute.

Will S.S.M. be a political issue? Hawaii, dominated by Democrats, has shown it already is. In the national campaign, Republicans will oppose gay marriage, perhaps in a platform plank; if Bill Clinton ever holds a press conference and is asked about this, he can be expected to straddle, saying he “personally” opposes same-gender legal liaison, but it is a state issue and he’s for states’ rights.

The nation and its gay minority would be best served by the compromise Hawaii just scorned.

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Gay Marriages and the Affirmation of an Ideal
AMY E. SCHWARTZ

From the Washington Post, June 3, 1996

A straight woman argues that gay marriage would be far more likely to make homosexuals like heterosexuals than the other way around.

When the Joe Camel character first started appearing on cigarette packs, along with mischievous rumors as to what the picture really showed, I yielded to prurient curiosity and bought a pack. Holding it in my hand, I discovered something peculiar: Though I had never in my life smoked a cigarette, let alone bought any, the sight of my own fingers clasped around a pack of Camels touched off an incredible wash of cultural familiarity, of rightness, that was utterly at odds with anything I’d heard about smoking in at least a decade.

Talk about a lesson in the workings of cultural pressure. Without knowing it, I had soaked up over the years—from ads, movies, who knows?—a terrific subconscious sense that the society around me supported this purchase, that I was doing what people do. It was ridiculous, of course; the feeling went away when I put the cigarettes out of sight in a drawer. But it left me with a healthy respect for the anti-tobacco people’s arguments about the cumulative beneath-the-surface power of advertising (who knew that this, of all things, was still sloshing around in the zeitgeist?) and in general for the proposition that you can be unaware of a powerful, mostly invisible undertow of social
SAME-SEX MARRIAGE: PRO AND CON

it, we did it, everyone should do it, go for it!—then it is hard to see anything but destructiveness in substituting the message: Some people must never be allowed to do this.

Better, surely, to cheer the common denominator, to think what helped this rushing river of support might give gay couples in the struggle for serious goals like monogamy and fidelity—and also what their achievement of those goals might give back to the rest of us. The evidence of a gay couple’s desire to leap into lifelong commitment seems to me yet another bridge to that couple’s humanity, an affirmation for the ideal of marriage that underlines a previously unnoticed kinship. Doesn’t every successfully, publicly monogamous couple committed for life bolster the resolve of every other couple that aspires to that achievement?

Don’t Say I Didn’t Warn You
KATHA POLLITT

From the Nation, April 29, 1996

Why the stigmatization of the unmarried in conservative ideology could hurt gays—as well as straights.

When gay friends argue in favor of same-sex marriage, I always agree and offer them the one my husband and I are leaving. Why should straights be the “only” ones to have their unenforceable promise to love, honor and cherish trap them like houseflies in the web of law? Marriage will not only open up to gay men and lesbians whole new vistas of guilt, frustration, claustrophobia, bewilderment, declining self-esteem, unfairness and sorrow, it will offer them the opportunity to prolong this misery by tormenting each other in court. I know one pair of exes who spent in legal fees the entire value of the property in dispute, and another who took five years and six lawyers to untie the knot. Had these couples merely lived together they would have thrown each other’s record collections out the window and called it a day. Clearly something about marriage drives a lot of people round the bend. Why shouldn’t some of those people be gay?

Legalizing gay marriage would be a good idea even if all it did was to chasten conservative enthusiasts like Andrew Sullivan and Bruce Bawer, who imagine that wedlock would do for gays what it is less and less able to do for straights—encourage monogamy, sobriety and settled habits. Gay conservatives are quick to criticize hetero offenders against the socio-marital order, like divorced and single parents and poor women who nonetheless have children. Legalizing gay marriage will do a lot to open these men’s eyes: Soon they’ll be divorcing, single parenting and bankrupting each other like the rest of us. Maybe we’ll hear less about restoring the stigma of “illegitimacy” and divorce over at The New Republic when gay men find themselves raising kids with no help from a deadbeat co-dad.

I’m for same-sex marriage because I’d be a hypocrite not to be: I married, after all, for reasons that apply to gay couples—a mix of love, convention and a practical concern for safeguarding children, property, my husband and myself from unforeseen circumstances and strange legal quirks. I don’t see why gays shouldn’t be able to make the same choice, and I’ve yet to see an argument on the other side that doesn’t dissolve into bias and prejudice and thinly disguised religious folderol. In a recent New York Times Op-Ed, former Quayle speechwriter Lisa