

September 2004

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Protecting Marriage: Is it too late?

...she is your companion And your wife by covenant. But did He not make them one, Having a remnant of the Spirit? And why one? He seeks godly offspring. —Malachi 2:14-15

For a second time in as many months, a lower court in the Puget Sound region has ruled that a 1998 law prohibiting same-sex marriage in Washington State is unconstitutional. In the opinion of Thurston County Superior Court Judge Richard Hicks, “Children of same-sex couples should not carry the stigma of coming from less than a family—a government-approved family.”

The ruling appears to set the stage for Washington to become the second state in the Union, following Massachusetts, to undergo court-ordered homosexual marriage. But the real fallout from the Hicks decision, according to court-watchers, could extend well beyond the matter of state-approved bridal showers for “girly-men.”

Judge Hicks has moved the markers—even the goal line, say observers, by opining that gays and lesbians are a “suspect class.” The term generally carries a requirement that a law treating some differently than others must be looked at very carefully, as is the case with classifications based on race, ethnicity, and other immutable characteristics. A case for “suspect class” could be made, for instance, where a freeway is open to all cars except Toyotas. Substitute horse-drawn buggies for Toyotas—case closed. It would be silly to suspect that horse-drawn buggies are equivalent to SUVs.

It also seems silly to “suspect” that a homosexual couple is equivalent to a mother and a father in the home. But Hicks thinks it’s worth investigating. And perhaps worse, by calling gays and lesbians a “suspect class,” he may be ruling into existence, something that has been vigorously resisted by the State Legislature for more than 15 years—a new “protected minority,” distinguished only by sexual interests.

Earlier this year, the “gay rights” lobby failed to persuade lawmakers to grant a special minority status to people with—well—disordered sexual appetites. A measure adding “sexual orientation” to the state’s nondiscrimination code gained the support of the Democrat controlled House, but did not get a hearing in the Republican majority Senate.

Noting that the measure defines “sexual orientation” as: *heterosexuality, homosexuality, bisexuality, and gender expression or identity*, the Christian Coalition reminded House committee members that “the Devil is in the details.”

Indeed, while most have been conditioned to think “homosexuality” when hearing the term “sexual orientation,” plainly, “sexual orientation” is an umbrella term for numerous sexual disorders. According to the therapeutic manual of the American Psychiatric Association there are at least 20 or more distinctive sexual variations of “sexual orientation.” Some of them include: Homosexuality, bisexuality, pedophilia, transsexuality, transvestitism, transvestic fetishism, autogynephilia, necrophilia, klismaphilia, urophilia, and gender identity disorder—literally dozens of “suspect classes.”

Robert Knight, Director for the Culture and Family Institute, warns that adding “sexual orientation” to a nondiscrimination code leads to only one certainty—discrimination against people who disapprove of sexual deviance. He maintains that “sexual orientation” laws hijack civil rights, ensuring the kind of persecution experienced of late by the Boy Scouts of America and the Salvation Army.

Knight also points out that the underlying concept of “sexual orientation” is that all sexual behavior is equally valid. He says, “While other human activities, such as buying and selling, remain subject to moral judgments, the concept of ‘sexual orientation’ places sex outside morality. No other human behavior with such sweeping consequences has received such a stamp of neutrality.”¹

Though Hicks declined to overturn a 1974 Court of Appeals decision that said prohibiting same-sex marriage is not a violation of equal rights, he nevertheless dismissed the 30-year-old ruling, commenting that “The community has changed.” In his mind, sexual mores are fluid, and evolve according to attitudes, changing times, and whatever the court decides at a given time.

While it would be imprudent to accuse the judge of any animus toward traditional marriage, it would be reasonable to conclude that he sees marriage as a civil right and does not believe it is in the state’s interest to support it in its existing form.

But marriage is not—and never has been—about civil rights. Marriage is about children who are created when a man comes together with a woman. Marriage is instituted to bind that man and woman to their children.

Stanley Kurtz of the Hoover Institute suggests that once marriage is treated simply as a celebration of the love adults have one for another, then there is no persuasive reason for it to happen before children are born rather than after. He further argues that if marriage could just as well happen after children are born, then it doesn’t really need to happen at all!

Comes now the Washington State Supreme Court. Where do we go from here?

Supporters of the *Defense of Marriage Act* are concerned that the State Supreme Court could fast-track the matter before people have had a chance to talk to their elected representatives. They fear that short a significant and widespread grassroots movement in the next few weeks on behalf of traditional marriage, same-sex couples could begin tying the knot sometime next year.

While many lawmakers support the notion of a marriage protection amendment to the state constitution, most confide that they will need to hear loudly and clearly from their constituents in order to give such a measure the highest legislative priority.

This week, and handful of Christian leaders will come together to inquire of the Lord about a statewide petition drive. Depending on what is sensed, much could be asked of you, me, and the Christian Coalition in a short span of time. If it’s a go, we must do the near-impossible—gather hundreds of thousands of signatures in a matter of weeks. Please stay tuned...

...and pray!

Rick Forcier

¹ Knight, Robert, “Why Nashville Should Reject the ‘Sexual Orientation’ Law,” March 4, 2003