



“Adam and Steve” in Judge Walker’s America

A question on many Americans’ minds now is whether and when the Supreme Court of the United States will overturn a federal court’s ruling that the California law defining marriage as a union between one



man and one woman is unconstitutional. Opponents of same-sex marriage are hoping the answer is "yes" and "soon."

But this puts conservatives and others (by whatever label or name) who believe in the principles of self-government and constitutional law on the horns of a "can't win" dilemma. If we have to rely on a court to undo the damage done by Judge Vaughn R. Walker’s usurpation, the principle of self-government is already defeated.

The people of California did, after all, consider and debate this issue quite thoroughly before it came before the voters in November of 2008. And the same California voters who heavily endorsed Barack Obama for President endorsed, by a vote of 52-48 percent, the law that Judge Walker has ruled unconstitutional. Yet the Judge has denied there was a rational basis for doing so. In other words, "We the People" don't know what we are doing when we enact such laws.

And lest one think the ruling is a slur on the people of the Golden State, it is, by extension, a judgment on the collective wisdom of the people of more than 30 states who have voted again and again and again that marriage must be, by definition, heterosexual. The record is still perfect on these referenda. In every one of them the traditional definition of marriage has won. In none of them has the more "broadminded" view prevailed. Applying Judge Walker’s logic to each of those votes, every one of them lacked rational basis. Americans, apparently, are not yet — or perhaps are no longer — ready for self-government.

That is a lot to swallow. Yet we must not despair. The fact that the votes have gone the way they have, despite heavily financed campaigns in favor of "gay marriage," despite a public education system that instills and reinforces notions of "marriage equality," the traditional definition prevails. There are some things too obvious to deny or explain away with highly selective judicial logic chopping. In a nation founded on both "a decent respect to the opinions of mankind" and a deference to "the Laws of Nature and of Nature’s God," the nature of marriage is still seen as rooted in the very order of a universe that may not, in Judge Walker’s mind, pass the "rational basis" test. That test was intended to uphold fundamental notions of law and justice on which men of good faith and sound mind agree. That a union between two partners of the same gender may constitute a marriage entitled to the legal standing as every heterosexual union since Adam took Eve to wife fails spectacularly as a rational proposition with which men and women of good will must agree and which no mere statute may supersede.

A good many Americans are angry today over the judge’s ruling. "How can you sit there and take it?" roared Michael Savage on his nationally syndicated radio program last evening. But if this battle is lost, it will be because we have allowed our system of government to become so judge-ridden over the years that we have, in fact, ceased to be a self-governing people. If the U.S. Supreme Court rights this particular wrong, it will be, at best, a partial victory for the people. It will simply reaffirm, most likely by a 5-4 vote, that a government of the left-wing lawyers, for the left-wing lawyers and by the whims of



Written by [Jack Kenny](#) on August 5, 2010

judges can occasionally get something right.



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