

The Case against Same-Sex Marriage

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The battle over same-sex marriage in America is shaping up as one of the defining political and moral controversies of this decade. The issue has been the subject of numerous legislative debates, initiative measures, and court cases. On October 18, 2004, the First Presidency of the Church of Jesus Christ of Latter-day Saints issued the following statement regarding the issue:

We of The Church of Jesus Christ of Latter-day Saints reach out with understanding and respect for individuals who are attracted to those of the same gender. We realize there may be great loneliness in their lives but there must also be recognition of what is right before the Lord.

As a doctrinal principle, based on sacred scripture, we affirm that marriage between a man and a woman is essential to the Creator's plan for the eternal destiny of His children. The powers of procreation are to be exercised only between a man and a woman lawfully wedded as husband and wife.

Any other sexual relations, including those between persons of the same gender, undermine the divinely created institution of the family. The Church accordingly favors measures that define marriage as the union of a man and a woman and that do not confer legal status on any other sexual relationship.¹

This is a hard doctrine for many Latter-day Saints. Many of us have family members or loved ones who have endured great suffering because of their sexual orientation. Often they are among the most talented, trustworthy, and goodhearted people we know. I have two homosexual cousins. One of them began living a homosexual lifestyle in the 1970s and recently died of AIDS. The other married and had children before publicly acknowledging his sexual orientation but continues to provide financial and emotional support to his ex-wife and children. Wouldn't it have been better

for my cousins had society and the Church been more understanding of their condition and permitted them to aspire to marriage with compatible partners, rather than condemning them to lives of secrecy, shame, discrimination, excommunication, and, in one case, early death?

During my lifetime, homosexuals and other minorities and oppressed groups of many kinds (e.g., racial minorities, religious minorities, women, the aged, and the disabled) have fought for and achieved greater social acceptance and legal protection. Probably most Americans would view the social and legislative accomplishments of the various civil rights movements as among the most important achievements of American society during the last fifty years.

Already the gay rights movement has achieved much. Laws outlawing sodomy between consenting adults have been declared unconstitutional by the U.S. Supreme Court;² laws have been enacted in many states protecting gays and lesbians from hate crimes and employment discrimination; and gays and lesbians have achieved greater acceptance in the media and in society in general. Some Latter-day Saints view the approval of same-sex marriage as a logical and inevitable next step in the battle for civil rights and are dismayed to see the Church they love on the wrong side of history.

Thus, the case for same-sex marriage seems compelling, particularly from the perspective of those who either have a homosexual orientation or who care deeply about someone who does, or of those who care about protecting the rights and dignity of minorities who suffer from persecution because of their sexual or marriage practices. (Our Mormon forebears could tell us something about that.) Nonetheless, I believe that the case against same-sex marriage is more compelling and that, as Latter-day Saints, we will likely be called upon to articulate and support that case in the ongoing culture wars.

The battle over same-sex marriage is fought on several fronts: constitutional, scriptural, and sociological. I will briefly discuss some of the constitutional and scriptural arguments before turning to the sociological arguments, which will take up the bulk of the article.

The Constitutional Arguments

Although legislation permitting same-sex marriage has been enacted in a number of foreign countries³ and legislation permitting same-sex civil unions or domestic partnerships has been enacted in several U.S. states,⁴

to date, no U.S. state has enacted legislation approving same-sex marriage.⁵ To date, the principal victories achieved by advocates of same-sex marriage in the United States have been in the courts. The first key victory was in the 1993 decision of *Baehr v. Lewin*,⁶ in which the Hawaii Supreme Court interpreted the Hawaii ban on same-sex marriage as violating the Hawaii constitution. A lower state court in Alaska followed with a similar ruling⁷ and, in 2003, so did the Supreme Judicial Court of Massachusetts.⁸ In Vermont, the state's highest court ruled that the state legislature must either approve same-sex marriage or adopt legislation that affords same-sex couples who enter into civil unions the same rights under state law as married couples.⁹ The court rulings in both Hawaii and Alaska were invalidated by legislative initiatives amending their respective constitutions before any same-sex marriages were actually performed, and a similar initiative challenge has been mounted in Massachusetts. In the meantime, however, same-sex marriages have been performed in Massachusetts since 2004.

In general, the legal argument that prohibiting same-sex marriage is unconstitutional goes something like this:

1. State prohibitions of same-sex marriage are classifications based on sex, and/or are governmental actions that impinge upon the fundamental privacy and due process rights of individuals.

2. Classifications or governmental actions of this type may be upheld only if they can be justified by a sufficiently strong governmental interest.

3. The justifications that are put forth by the state (e.g., promoting procreation, ensuring an optimal setting for child rearing, preserving state resources) are not sufficiently compelling.

The opinions mandating same-sex marriage are eloquently, even poetically, written and, at least on the surface, appear to be logical extensions of prior constitutional decisions. But constitutional interpretation is more an art than a science and can never be a merely deductive process. While constitutional provisions are often written in unconditional terms (e.g., freedom of speech, freedom of the press, free exercise of religion, nonestablishment of religion), in practice, no constitutional freedom is absolute, and judges must decide cases based upon competing constitutional considerations, custom, precedent, and practical considerations, not on logic alone. For example, while the U.S. Constitution guarantees freedom of speech, that freedom does not extend to shouting "fire" in a

crowded theater or to malicious defamation of a public figure. So it is often neither reasonable nor advisable to carry a particular constitutional principle to its logical conclusion in a particular case.

Legal scholars generally agree that, in deciding constitutional cases, it is important that judges give great weight to the intent of the framers of the constitutional provisions and to judicial precedents. Otherwise, it would be difficult to know what the law is. On the other hand, many legal scholars grant the judiciary some freedom to depart from original intent and precedent in deciding constitutional cases as circumstances change, new technologies develop, and societal notions of key constitutional principles (such as free speech, cruel and unusual punishment, and privacy) evolve.

How, then, is a judge to know whether to extend a particular constitutional principle to a given situation (such as same-sex marriage) where an extension would be logically permissible but has never been done before? I leave the comprehensive consideration of this question to constitutional scholars and instead advance a modest rule of thumb: Wherever the line of judicial restraint may lie, a court has surely crossed it if (1) the framers of the Constitution that the court is interpreting would likely “roll over in their graves” if they knew the interpretation the court is giving to their language, and (2) the decision is likely to outrage a significant portion of the population. Decisions that violate this rule of thumb tend to bring the judiciary into disrepute, overly politicize the judicial selection process, and make the nation less a nation ruled by laws and majorities, and more a nation ruled by judges.¹⁰

It is clear that the framers of the Hawaii, Alaska, Vermont, and Massachusetts constitutions were not thinking about same-sex marriage when they drafted the constitutions of those states. Granted the societal attitudes of their times, it also seems fair to assume that, had the framers known that at a future time a court would construe their language as mandating same-sex marriage, they would have redrafted the constitutions to preclude that construction. Also, while public support of same-sex marriage is growing in the United States, it remains highly controversial, with recent nation-wide polls indicating that a majority of Americans oppose it.¹¹ Thus, the court decisions that mandate same-sex marriage violate my rule of thumb test and were wrongly decided.

Moreover, the court decisions mandating same-sex marriage set a dangerous precedent: If constitutional principles of privacy, equal protec-

tion, and the like are to be read broadly enough to require same-sex marriage, why should they not be extended to require state sanctioning of polygamy,¹² group marriages, brother-sister marriages (assuming one party agrees to be sterilized), or any other nontraditional family/sexual arrangement that consenting adults may propose?

Of course, my argument for judicial restraint says nothing about the merits of same-sex marriage: it says only that the legislatures or the people, and not the courts, should decide. Also, while court decisions will continue to be important in the same-sex marriage debate, the ultimate decision will be made in the court of public opinion. Any court decision will eventually be overturned, by constitutional amendment if necessary, if public opinion is sufficiently opposed.

The Scriptural Arguments

For Christians who interpret the Bible literally, the case against same-sex marriage might go something like this:

1. Marriage between a man and a woman is ordained of God.

And he answered and said unto them, Have ye not read, that he which made them at the beginning made them male and female,

And said, for this cause shall a man leave father and mother, and shall cleave unto his wife: and they twain shall be one flesh?

Wherefore they are no more twain, but one flesh. What therefore God hath joined together, let not man put asunder. (Matt. 19:4-6; quoting Gen. 2:24)

Nevertheless neither is the man without the woman, neither the woman without the man, in the Lord. (1 Cor. 11:11)

2. Sexual relations between members of the same sex are forbidden by God.

Neither shalt thou lie with mankind, as with womankind: it is abomination. (Lev. 18:22)

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. (Lev. 20:13)

For this cause God gave them up unto vile affections: for even their women did change the natural use into that which is against nature:

And likewise also the men, leaving the natural use of the woman, burned in their lust one toward another; men with men working that which is unseemly, and receiving in themselves that recompense of their error which was meet. (Rom. 1:26-27; see also 1 Cor. 6:9-11; 1 Tim. 1:10)

3. God will not hold guiltless a nation or society that purports to sanctify, through the God-given covenant of marriage, sexual relationships that God has declared to be an abomination: “Be not deceived; God is not mocked” (Gal. 6:7). Thus, the biblical case against same-sex marriage is straightforward; and since the relevant texts come from both testaments, can be used by both Christians and Jews.¹³

Nonetheless, some have argued that the biblical texts referenced above should not be interpreted as prohibiting homosexual relations. Some have argued, for example, that Leviticus 18:22 should be taken as a ritual prohibition, like the prohibition of eating pork, binding only on the Jews.¹⁴ Regarding this argument, Louis Crompton points out that, unlike rules relating to ritual, this law was deemed to apply to non-Jews as well as Jews: “Leviticus 18:26 specifically extends the prohibition to ‘any stranger that sojourneth among you.’ Such a law was one of the so-called Noachid precepts, binding on all the descendants of Noah—that is, on all humanity.”¹⁵

Others have argued that the biblical prohibitions do not apply to individuals who live together in a committed, same-sex marriage relationship. However, I can find no “same-sex marriage” exception in the Bible to the prohibition of homosexual relations. Moreover, interpreting the Bible in this way would go against two thousand years of Christian tradition.¹⁶

Thus, the scriptural arguments against same-sex marriage are strong and will likely resonate with Christian and Jewish Americans who hold a conservative, literalist view of the Bible, and others who do not wish to offend the conservative Christians and Jews in our midst. The scriptural arguments may also resonate to some extent with those Americans who, although not religious conservatives, are concerned about the perceived erosion of America’s traditional Judeo-Christian ethical values and would, all else being equal, prefer not to extend governmental sponsorship to practices that run contrary to those values.

However, many American Christians and Jews, while retaining much of the Judeo-Christian tradition, disregard or deemphasize those portions of the Bible (such as the prohibition of homosexual relations) that they find primitive or inconsistent with modern scientific or ethical thinking. These Christians and Jews, along with many Americans of other faiths and those who profess no faith, are unlikely to be convinced by the scriptural arguments against same-sex marriage. It is therefore incumbent

upon those who oppose same-sex marriage to develop convincing secular, or sociological, arguments.

The Sociological Arguments

In my view, the main sociological arguments against same-sex marriage are that its adoption would likely (1) damage the institution of traditional marriage, and (2) increase the numbers of people who adopt a homosexual lifestyle.

Of course, not everyone would agree that these results would be bad. Some academics and activists hold that traditional marriage is a relic of an oppressive patriarchal past that should be dismantled as quickly as possible and would applaud an increase in the numbers of individuals who adopt a homosexual lifestyle as another victory in the war for sexual liberation. Individuals who hold these views are unlikely to be swayed by any of my arguments against same-sex marriage.

But I believe that people who hold these views are still in the minority in America. I suspect, for example, that most Americans are concerned about the perceived decline in traditional marriage. Also, I suspect that while most Americans are in favor of treating homosexuals with dignity and respect and protecting them from hate crimes and employment discrimination, they would prefer, all else being equal, that their children not adopt a homosexual lifestyle and that there not be a dramatic increase in the numbers of homosexuals generally. I believe that there is good sense in these common attitudes.

Although causality is difficult to prove in the social sciences, there is a strong correlation between traditional marriage and a number of societal goods. On average, married people drink and smoke less, do better at avoiding risky behaviors, live longer and healthier lives, have more satisfying sex lives, have larger incomes, and accumulate more wealth than single people or divorced people. Further, on average, children who are raised by their biological parents in intact, two-parent families are more likely to finish high school, stay out of jail, avoid becoming teenage parents, live a healthy life, have a good relationship with their parents, and become gainfully employed than children who are raised by single parents.¹⁷

Also, it is becoming increasingly clear that, in a majority of cases, the breakup of a traditional marriage is a bad thing, not just for any children involved, but also for the divorcing parties. Most people divorce today not because of physical or emotional abuse, alcoholism, or infidelity, but be-

cause they are lonely, bored, depressed, or dissatisfied. And although some people seem to do better after a divorce, probably a majority of divorced people would have been better off in the long run had they stayed married.¹⁸ If, then, traditional marriage is good for society, and the breakup of traditional marriage is bad for society, damaging the institution of traditional marriage is likely to be bad for society.

Increasing the numbers of individuals who adopt a homosexual lifestyle would also likely be bad for society. For each individual who adopts a homosexual lifestyle, the pool of individuals eligible to enter into or maintain a traditional marriage is reduced by one. Even though the percentage of individuals in the United States today who have a same-gender sexual orientation is relatively low—perhaps on the order of 5 percent for males and half that for females¹⁹—the current impact is not negligible, particularly at a time when the birth rate has fallen below the replacement level²⁰ and the demographic possibilities of traditional marriage for certain groups of people (e.g., black women, and college-educated women age thirty and older) are limited.²¹ Were significantly larger numbers of individuals to adopt a homosexual lifestyle, the negative consequences to society could be dramatic.

And, of course, the male homosexual lifestyle has had serious negative health consequences to society. Although AIDS can be spread through a variety of mechanisms, the most common mechanism for the spread of AIDS in the United States continues to be men having sex with men.²² If the adoption of same-sex marriage increased the number of males who adopt a homosexual lifestyle, it could potentially increase the spread of AIDS.²³

I will now discuss why I believe that the adoption of same-sex marriage would probably have the dual effects of damaging the institution of traditional marriage and increasing the numbers of individuals who adopt a homosexual lifestyle.

Damage to Traditional Marriage

With a single minor exception, every known society has practiced heterosexual marriage in either a monogamous or polygamous form.²⁴ Although marriage practices differ from society to society, marriage between a man and a woman has traditionally been considered the foundation of society, vital for the procreation and rearing of children, vital to the physical and emotional welfare of the spouses, and (at least for women) the only

legitimate context for sexual expression. Moreover, for much of recorded Western history, marriage was the way the ruling classes cemented political alliances, the rich transmitted property, and the poor found their main working partners. Marriage facilitated a division of labor that was beneficial to both spouses and enabled couples to produce legitimate children who could work on the farm or in the home or workshop, take care of their parents when they got old, and inherit their parents' property when they died.²⁵ Until perhaps fifty years ago, one could have argued that traditional marriage is the natural human condition and will grow and flourish by itself, irrespective of other societal influences.

We have since learned that, while traditional marriage may have been ordained of God and may bring many benefits to society, it is not inevitable; and the fact that every major society we know about has practiced traditional marriage may be more an indication that traditional marriage is vital to the survival of society than that traditional marriage is somehow "natural."

The decline of traditional marriage in the United States is well documented. The first-time marriage rate is presently at an all-time low, and the divorce rate has increased nearly sixfold since the 1960s. The percentage of children living with married biological parents declined from 73 percent in 1972 to 52 percent in 1998. By 1980, the divorce rate stood at 50 percent. After 1981, the divorce rate leveled off and began to decline slightly, but the percentage of divorced individuals who remarried declined sharply. In the 1950s, two-thirds of divorced women remarried within five years; by 2000, only half of divorced women were married or even living with partners five years after divorce. People are now waiting longer to get married. In 1960, only 10 percent of American women between ages twenty-five and twenty-nine were unmarried; in 1998, the percentage was almost 40 percent. Between 1970 and 1999 the number of unmarried couples living together increased sevenfold. Now, more than 50 percent of marriages are preceded by a period of cohabitation. In the 1950s, more than 80 percent of households included married couples; by 2000, the number was less than 51 percent, and married couples with children constituted just 25 percent of households. In 1950, only one child in twenty was born to an unwed mother; by 2000, it was one in three.²⁶

Satisfaction within marriage is also declining. In 2001, just 38 percent of married Americans considered themselves happy with their marriages, as opposed to 53 percent twenty-five years earlier.²⁷ Only one third

of the couples in a recent study who were in their first seven years of marriage were very happily married, compared to more than half of their parents at the same stage of their lives; and 38 percent reported facing a serious marital problem, compared to 20 percent of their parents at that stage. Apparently something about modern culture makes it more difficult than in the past to achieve a successful marriage.²⁸

Undoubtedly a number of factors have contributed to the decline of traditional marriage. One factor, which developed over several centuries, was the increasing tendency of individuals to choose their marriage partners themselves, with little or no consideration of the wishes of their parents or other authority figures, and to base their choices on love, rather than on money, social class, business connections, compatibility of skills, or other more practical considerations. Love and personal emotional fulfillment came to be viewed as the primary purposes of marriage, rather than as hoped-for, but nonessential, benefits. Once it became the societal norm to marry for love, it was probably inevitable that the societal norm would eventually permit divorce when either or both of the marriage partners should cease to love.²⁹

Modernization and economic development have also affected traditional marriage. As the United States became more urban and less rural, as the economy became more industrialized and less dependent on the family farm or workshop, as private insurance and retirement plans and social welfare programs for the aged and infirm expanded, as public primary and secondary education became universal, and as American society became more mobile, children became more liabilities than assets, the roles of marriage and the family as insurance for old age and hard times became less important, the need for husbands and wives to work together as an economic team lessened, and the role of parents in educating their children and providing their economic start in life declined. No doubt these developments contributed to decreases in marriage and fertility rates, increases in divorce rates, and the weakening of ties between parents and children.

With the coming of the women's movement, greater educational and employment opportunities opened up for women, and wives became less dependent on their husbands and more able to leave abusive marriages or husbands they no longer loved. The expansion of the welfare state had similar consequences for women. Conversely, the societal opprobrium that attached to a man's abandonment of his wife and children

decreased, since they were now better able to shift for themselves or became eligible for government assistance.

The sexual revolution of the 1960s undoubtedly had a negative impact on traditional marriage. No longer was it necessary to marry to have sex, and no longer did infidelity result in social ostracism. So people married later, strayed more after marriage, and/or divorced.

Changes in the law also weakened traditional marriage, including the adoption of laws giving illegitimate children all of the rights of legitimate children and the enactment of no-fault divorce laws in most states, beginning with California in 1969.³⁰ Since illegitimate children had the same rights as legitimate children, fewer unmarried prospective parents bothered to get married; and since divorce was easy and unfaithful spouses were not penalized in divorce property settlements, more spouses strayed and/or sought divorces.

The increase in the divorce rate itself has probably had a vicious-circle effect, in that it has made married couples less willing to make the sacrifices, compromises, and emotional commitments that are essential for a long-term, happy marriage because they know that there is a 50 percent chance the marriage will break up. Consequently, they are less satisfied with their marriages and more likely to divorce.³¹ Also, as more people have divorced or remained single and as more children have been born out of wedlock, the societal pressures to marry and avoid divorce and to avoid bearing children out of wedlock have lessened, exacerbating the vicious-circle effect.

Although marriage in the United States is a civil institution controlled and administered by the government, for many Americans it is also a religious covenant. Also, for most of our history, American laws relating to marriage and divorce supported biblical principles, in that marriage was favored and divorce was difficult. Even today, the religious nature of marriage is recognized in the United States, in that marriages performed by religious authorities are recognized by the state. However, with the adoption of no-fault divorce laws, the nexus between the civil and religious concepts of marriage was weakened, and marriage became less an unbreakable covenant with conditions ordained by God and more a civil contract with negotiable conditions that can be terminated at will. No doubt the movement from God-ordained to human-made, and from covenant to contract, weakened the institution of traditional marriage.

Although I have a hard time finding anything good to say about the

sexual revolution, I don't wish to condemn romantic love, modernization, economic development, the women's movement, or equal treatment under the law for illegitimate children. And while it now appears that the legislators who approved no-fault divorce laws may have acted hastily, they probably acted from the best of intentions: They didn't want to undermine traditional marriage; they only wanted to avoid clogging the courts with fault-based divorce cases and to improve the lot of those who really needed a divorce. But their actions (along with other factors) had the unintended consequence of damaging the institution of traditional marriage.

They didn't know then what we know now: that of every hundred potential traditional marriages, some (say, twenty) are "made in heaven"; and no matter what society says, the spouses will marry and never part. Others (say, ten) are "made in hell," and the spouses, and society, will be best served if these marriages never happen, or are ended as quickly and as easily as possible and with as little social stigma as possible (at least for any innocent spouse). As for the rest (say, seventy), it will benefit society if the marriages are entered into and survive, but whether that happens will depend on the strength of the societal props that support traditional marriage.

In sum, traditional marriage is in trouble because over the past several hundred years, and especially during the last fifty years, we, as a society, have been kicking out the props that support the institution. Most of these actions have been unintentional, of course, but the effects have been devastating.

So how would the adoption of same-sex marriage affect the already seriously weakened institution of traditional marriage? Some supporters of same-sex marriage argue that extending the benefits of marriage to the homosexual community would not only benefit those homosexuals who choose to marry but would also strengthen the institution of marriage by making it available to all members of society.³² However, the disastrous effects of past tinkering with the institution of marriage should teach us to be cautious. At a minimum, the adoption of same-sex marriage would further two trends that have contributed to the weakening of traditional marriage in the past: First, it would further disassociate marriage from one of its traditional vital roles, in this case, procreation and child-rearing, thereby making the institution less important and more dispensable. And second, since same-sex marriage is anathema to biblical tradition and to

America's conservative churches, it would move marriage further from the irrevocable, God-ordained covenant model and closer to the human-made, revocable-at-will, contract model.

How dramatic an effect would the adoption of same-sex marriage have on the institution of traditional marriage? Nobody knows. Probably those heterosexuals who argue today that approving same-sex marriage would not threaten their individual marriages are right. Perhaps the effect would be felt only by their children and grandchildren, and perhaps future investigators studying the final demise of traditional marriage would have difficulty disentangling this particular effect from the effects of the many other challenges that confront traditional marriage today. But there would undoubtedly be an effect, and it seems naive to expect that the effect would be small or salutary.³³

Promoting a Homosexual Lifestyle

The received wisdom today is that, with few exceptions, people are born either heterosexual or homosexual, and nothing society or an individual can do can change his or her basic orientation.³⁴ This view is based on what is sometimes called an "essentialist" approach to sex, which Jeffrey Weeks describes as:

a method which attempts to explain the properties of a complex whole by reference to a supposed inner truth or essence, the assumption "that in all sexological matters there must be a single, basic, uniform pattern ordained by nature itself." . . . That is, in the language of modern critical science, a *reductionist* method in that it reduces the complexity of the world to the imagined simplicities of its contingent units; and it is *deterministic* in that it seeks to explain individuals as automatic products of inner compulsions, whether of genes, the instinct, the hormones, or the mysterious workings of the dynamic unconscious.³⁵

The essentialist approach has often been favored by geneticists, psychologists, and medical doctors, probably because it lends itself to the types of investigations these professions are skilled at conducting. There is also a nonessentialist approach, which, in Weeks's words, holds: "The meanings we give to 'sexuality' are socially organized, sustained by a variety of languages, which seek to tell us what sex is, what it ought to be—and what it could be. Existing languages of sex, embedded in moral treatises, laws, educational practices, psychological theories, medical definitions, social rituals, pornographic or romantic fictions, popular music, as well as

in commonsense assumptions (most of which disagree) set the horizon of the possible.”³⁶

In other words, nonessentialists believe that, while what we might broadly call “nature” may have a role in defining the sexuality (including sexual orientation) of an individual, other influences, which we might broadly call “culture,” also have an important role, particularly in determining the options available to the individual. The nonessentialist approach is often favored by anthropologists, sociologists, and historians, again probably because it lends itself to the types of investigations these professions are skilled at conducting.

Michel Foucault, a French philosopher and probably the most influential sex theorist of the 1970s and 1980s, was a strong exponent of the nonessentialist view. According to Foucault:

Sexuality must not be described as a stubborn drive, by nature alien and of necessity disobedient to a power which exhausts itself trying to subdue it and often fails to control it entirely. It appears rather as an especially dense transfer point for relations of power: between men and women, young people and old people, parents and offspring, teachers and students, priests and laity, an administration and a population. Sexuality is not the most intractable element in power relations, but rather one of those endowed with the greatest instrumentality: useful for the greatest number of maneuvers and capable of serving as a point of support, as a linchpin, for the most varied strategies.³⁷

Foucault then discusses four “strategies” that he considers to have dominated the discussion of sexuality beginning in the eighteenth century, including a “hysterization of women’s bodies,” a “pedagogization of children’s sex,” a “socialization of procreative behavior,” and a “psychiatrization of perverse pleasure”:³⁸

What was at issue in these strategies? A struggle against sexuality? Or were they part of an effort to gain control of it? An attempt to regulate it more effectively and mask its more indiscreet, conspicuous, and intractable aspects? A way of formulating only that measure of knowledge about it that was acceptable or useful? In actual fact, what was involved, rather, was the very production of sexuality. Sexuality must not be thought of as a kind of natural given which power tries to hold in check, or as an obscure domain which knowledge tries gradually to uncover. It is the name that can be given to a historical construct.³⁹

Foucault is a bit heavy going for someone who is neither French nor a philosopher, and I am not certain that I understand completely

what he means when he says that sexuality is a historical construct. Presumably he would concede that humans have been engaging in sexual acts from the beginning of the race but would argue that the types of acts they engage in, the frequency of those acts, and the psychological, moral, and societal meanings that are given to those acts are cultural and societal products. He also takes the position that “homosexual” is a societal construct and that, in an important sense, there were no “homosexuals” until homosexuality was scientifically characterized in the late nineteenth century.⁴⁰

The essentialist/nonessentialist argument is important for the discussion of same-sex marriage because, if the essentialists are right, there is little danger that the adoption of same-sex marriage will have a material impact on the numbers of individuals who adopt a homosexual lifestyle, except that it might have the salutary effect of encouraging some homosexuals to emerge from the closet to enjoy the fuller lives that nature intended for them. But if the nonessentialists are right, the adoption of same-sex marriage would signal that the homosexual lifestyle has truly become mainstream and acceptable—even admirable—and would therefore likely lead more individuals to adopt the lifestyle.⁴¹

Evidence for Essentialism/Nonessentialism

Subjective Evidence. The subjective evidence for the essentialist approach to homosexuality is that it seems right to many homosexuals (particularly male homosexuals) because it conforms with their life experiences. According to Eric Marcus, a popular writer on homosexual issues:

No one becomes a homosexual any more than a man or woman becomes a heterosexual. Feelings of attraction for one gender or the other are something we become aware of as we grow up. . . .

Gay and lesbian people don't choose their feelings of sexual attraction, just as heterosexual people don't choose theirs. All of us become aware of our feelings of attraction as we grow, whether those feelings are for someone of the same gender, the opposite gender, or both genders. For gay and lesbian people, the only real choice is between suppressing those feelings of same-gender attraction—and pretending to be asexual or heterosexual—and living the full emotional and physical life of a gay man or woman.⁴²

According to geneticist Dean Hamer:

Men on average stay pretty much the same, whether gay or straight,

during their entire lives. Although men usually don't acknowledge to others, or even to themselves, that they have a homosexual orientation until late adolescence or early adulthood, once that has occurred they are unlikely to change. Moreover, both gay and straight men can usually trace back their attractions to early childhood, even as early as four or five years of age. Early crushes or puppy love for gay boys are often with other boys or men.⁴³

In other words, particularly to a man, being homosexual often seems like being blue-eyed, bald, or middle-aged—it's not something he does or can change; it's something he is. Thus, what I will call the subjective, or anecdotal, evidence for the essentialist approach to sexual orientation is strong, particularly for men.

Scientific Evidence. However, the objective, or scientific, evidence for the essentialist approach to homosexuality is surprisingly weak. Despite more than a hundred years of effort, scientists and theorists have been unable to devise a satisfactory scientific or medical theory that explains homosexuality as wholly a result of genes, germs, accidents, or other factors that are independent of culture. Indeed, the scientific theory of homosexuality that is currently most popular allows a major role for culture and environment.

The first major theorist who proposed a scientific explanation for homosexuality was Karl Heinrich Ulrichs, who authored a series of writings in the 1860s and 1870s positing the existence of a third sex whose nature is inborn. This third sex had the body of a man, but the feelings of a woman. This female essence manifested itself early in childhood through partiality for girlish activities such as playing with dolls. When confronted with men who loved both men and women, he expanded his theory to accommodate them, eventually coming up with sixteen different in-born sexual natures.⁴⁴

Later in the nineteenth century, a number of medical investigators, both in the United States and in Europe, theorized that homosexuals had hermaphroditic characteristics and reported physical differences (particularly in the sizes and shapes of sex organs) between homosexuals and heterosexuals.⁴⁵

In the early twentieth century, Magnus Hirshfeld, a German physician, elaborated on the theory of sexual intermediacy, claiming that intermediacy was possible along four different lines: (1) the sex organs (i.e., hermaphroditism), (2) other body qualities (i.e., androgeny), (3) the sexual drive (i.e., homosexuality or bisexuality), and (4) other psychologi-

cal qualities (i.e., transvestism). In Hirshfeld's view, there is no such thing as a pure heterosexual: All people are only more or less strongly developed intermediates.⁴⁶

During the late nineteenth and early twentieth centuries, the German psychiatrist Richard von Krafft-Ebing compiled hundreds of case histories of what were termed sexual perversions, including fetishism, sadism, masochism, and homosexuality. In general, he believed that these various perversions should be treated as diseases rather than as sins or crimes and hypothesized that they were generally caused by degeneration and heredity.⁴⁷ Similarly, Havelock Ellis, a sexologist who flourished during the early twentieth century, viewed modern marriage (as practiced by middle-class Anglo Saxons) as the evolutionary pinnacle of sexual development and sexual perversions such as homosexuality, fetishism, sadism, and masochism, as evolutionary throw-backs.⁴⁸

Beginning in the late 1930s, Clifford A. Wright, an American physician, published a series of articles in which he attributed homosexuality to hormonal imbalances.⁴⁹

For perhaps the thirty years between Freud's death in 1939 and the Stonewall riots in 1969, psychoanalysis provided the most popular explanations for homosexuality. In general, homosexuality was thought to be "psychogenic," or caused by unfortunate experiences earlier in life, such as a detached and hostile father or a seductive, overwhelming mother.⁵⁰

All of these theories—the "third sex" theory, the "sexual intermediacy" theory, the "throw-back" or "atavistic" theory, the "hormonal imbalance" theory, and the "psychogenesis" theory—have now generally fallen out of favor. It appears that homosexuals are not consistently different from heterosexuals in physical appearance, masculinity or femininity, hormones, or life experiences.⁵¹ These theories have largely been supplanted by the theory of a genetic link to sexual orientation. This theory, like all theories that link human behavior to genes, is highly controversial.⁵² (You may recall the controversy that surrounded the publication of *The Bell Curve*.⁵³) Also, the theory is unattractive to many feminist theorists, who for a generation have argued that essentially all gender-linked behavioral differences are cultural, and not genetic, in origin.⁵⁴ However, for the purposes of this article, I will assume that the theory, as advanced by its most prominent current champion, Dean Hamer, is correct in its essentials.

The theory received a significant boost in 1993 with the discovery of

the so-called “gay gene” on the X chromosome by Hamer and his research team at the National Institutes of Health. (Men have one X chromosome and one Y chromosome, and women have two X chromosomes. Accordingly, a man always inherits his X chromosome from his mother.) Hamer describes his findings as follows: “Looking at 40 pairs of gay brothers with 22 different markers, we found linkage in a region called Xq28, located at the very tip of the long arm of the X chromosome. In that region, 33 out of the 40 pairs were concordant, or the same, for a series of five closely spaced markers. That showed 83 percent sharing, which was significantly higher than the 50 percent level that would have been expected if there were no connection to sexual orientation.”⁵⁵

Hamer’s group repeated its experiment with thirty-two different pairs of gay brothers; and this time, twenty-two of the thirty-two pairs, or 67 percent, shared markers. In the second study, the group also included the heterosexual brothers of gay men and estimated that the degree of DNA sharing of the straight brothers with their gay brothers was 22 percent, significantly less than the 50 percent that would be predicted by chance.⁵⁶ Based on these studies, Hamer concluded that “the evidence is compelling that there is *some* gene or genes at Xq28 related to male sexual orientation.”⁵⁷

Although Hamer’s specific conclusion (i.e., that there is a gene or genes in the Xq28 region of the X chromosome that relates to male sexual orientation) was not immediately corroborated by other laboratories, many other studies suggest that there is a genetic link of one kind or another for male sexual orientation. Hamer summarizes the research as follows:

The research showed that male sexual orientation had many of the characteristics of a genetically influenced trait: It was consistent, stable, and dichotomous, meaning men were either gay or straight. By contrast, female sexual orientation looked more soft and fuzzy, less hard-wired: [I]t was variable, changeable, and continuous, meaning lots of women were somewhere between gay and straight. Just because a trait looks genetic, however, doesn’t mean it is. We needed to look at twins, families, and DNA.

During the past 40 years, more than a dozen twin studies of male sexual orientation have been described, and the pattern is the same. The genetically identical twin of a gay man has a greatly increased chance—though not a 100 percent chance—of also being gay, which is higher than the rate for fraternal twins, which is still higher than the rate for unrelated people. This is just the pattern for a trait that is influenced—but not strictly determined by—genes. Averaging all the studies to date, the heritability of

male sexual orientation is 50 percent. That means that being gay is about 50 percent genetic and 50 percent from other influences, a ratio found in many other behavioral traits.

So what about the missing 50 percent? Why can one man be gay even if his identical twin is not? The answer is not yet clear; but it could be biological, such as different hormonal exposure in the womb or because of unique life experiences. One thing that is *not* terribly important is how the boys are raised, specifically the shared environment provided by parents.⁵⁸

Interestingly, according to Hamer, the evidence suggests that there is not a genetic linkage for female sexual orientation:

For women, the degree of genetic influence is more mysterious, partly because there have been fewer studies but also because sexual orientation is more fluid. The best recent study suggests that female sexual identification is more a matter of environment than of heredity. . . . The rate of lesbianism was higher in the twins of lesbians than in the twins of heterosexual women, but there was no difference between identical twins and fraternal twins, meaning genes were not a factor. The results showed that for women the main influence on sexual orientation was the shared environment—being raised in the same household by the same parents—while genes seemed hardly to count at all.⁵⁹

Although the evidence for a genetic link for male homosexuality seems strong, there is a serious theoretical difficulty: How can a gene that leads men to have sex with other men, and not with women, avoid being bred out of the human race? It is true, of course, that some male homosexuals have children and at least some heterosexual men may carry the presumptive “gay gene.” However, even if the gene caused only a slight decrease in average reproductivity, it would eventually die out unless something else acted to keep it in the gene pool. Hamer addresses this difficulty as follows:

This paradox has led to many theories of how a “gay gene” might actually be adaptive. One theory, although not a good one, is that it might be useful to the species because it prevents overpopulation. This is a poor theory because genes act at the level of individuals not groups. Others have suggested the gene might be passed along indirectly because homosexuals help their heterosexual relatives to raise children.

The simplest explanation comes directly from one of the most interesting results of the research itself: the gene only works in men, not women. We wondered whether the gene might have a different role in women, so we compared the mothers and sisters of our research subjects who were either linked or unlinked for Xq28. There was no difference in the number of children or in how often they had sex, but the women with the gay ver-

sion of Xq28 did have one intriguing difference: [T]hey had begun puberty on average of six months earlier than the other mothers. Although the result is highly preliminary, it will be interesting to see if the gene somehow lengthens the reproductive span in women, allowing them time to have more children.⁶⁰

Hamer is grasping at straws—needlessly, I think, because a better explanation is suggested by his own work. In *Living with Our Genes*, he considers the influence of genes on eight different human behavioral characteristics: novelty seeking (e.g., risk taking, experience seeking, disinhibition, and impulsiveness), harm avoidance (e.g., anxiety, fear, inhibition, shyness, depression, tiredness, and hostility), anger, addiction, intelligence, obesity, longevity, and sexual behavior (including sexual orientation). In each case, he contends that genes are more or less predictive of human behavior. For example, he (or studies he cites) estimates that novelty-seeking is 58 percent inherited, shyness is 50–60 percent inherited, the tendency towards anti-social behavior among adult males is 43 percent inherited, smoking is 53 percent hereditary, IQ is at least 48 percent hereditary, and body weight is 70 percent inherited.

He notes, however, that in each case, environmental factors also have a role. For example, although body weight is 70 percent hereditary, Americans are becoming increasingly more obese. While our genes on average are the same as our grandparents' genes, we are fatter because our food supply is richer in calories and more abundant and our lifestyles are more sedentary. In other words, while our grandparents carried the same “fat genes” we have, those genes did not manifest themselves in obesity until the environmental and cultural factors were right for such manifestation. Likewise, although smoking is 53 percent hereditary, there were no smokers in Europe before tobacco was brought there from the New World, and smoking rates in America have declined in recent years, due, presumably, to anti-smoking laws, high taxes on tobacco, health warnings on tobacco products, and other societal influences.

Similarly, it seems likely that the “gay gene” has been able to survive over the generations because in the past, cultural and environmental factors did not permit it to manifest itself in ways that affect reproduction. Perhaps it manifested itself in bisexual behavior or in a greater ability to form nonsexual friendships with other men. Perhaps it manifested itself in a greater tendency to join minority religious, social, or political movements. Or perhaps it did not manifest itself at all.

In sum, the scientific evidence suggests that the essentialist view of sexual orientation is wrong because sexual orientation, unlike race, disability, or age, is not wholly determined by genes, germs, the passage of time, or other uncontrollable factors. Rather, male sexual orientation, like obesity, smoking, intelligence, longevity, and many other behavior-related human characteristics, is determined by a combination of genetic and cultural factors, plus, unless you are a strict determinist (you have to go to college a long time to be a strict determinist), some element of human choice. Presumably female sexual orientation is determined by the same types of factors, although it would appear that genetic factors have a lesser role.

The Historical Evidence. It is clear from the historical record that sexual attitudes, preferences, and practices among heterosexuals have varied widely over time and from place to place. Virtually every imaginable variety of personal appearance or style of clothing has been considered “sexy” at one time and place or another. Tattoos, body piercings, decorative scarring, skull flattening, foot binding, thin, fat, curvy, flat, long hair, short hair, nudity, clothing, long skirts, short skirts, wide ties, narrow ties, bell-bottoms, peg-legs, high waists, hip-huggers, and, yes, even polyester leisure suits with top stitching have all had their day and will probably have their day again. Also, types of sexual practices that heterosexuals engage in vary widely over time and among social and economic classes.⁶¹

In particular, sexual attitudes and behavior among heterosexuals have undergone a revolution in the United States over the last century. To take a simple example: in 1900, the percentage of nineteen-year-old unmarried white women with sexual experience was around 6 percent. By 1991, the percentage had risen to around 74 percent.⁶² Hence, although premarital sex has always been with us, it seems fair to conclude that the likelihood that any particular woman will engage in premarital sex is determined more by cultural influences than by genetics or any other form of predisposition.

Since the recognition of gay and lesbian studies as a legitimate scholarly pursuit, a mountain of studies has been produced considering the history of homosexuality.⁶³ These studies suggest that sexual attitudes, preferences, and practices among homosexuals have, if anything, varied even more widely over time and place than have sexual attitudes, preferences, and practices among heterosexuals. In *Homosexuality and Civilization*, from which I have drawn most of the historical information regarding homo-

sexuality in this part of the article, Louis Crompton summarizes most of what historians have discovered (or speculated) about human homosexuality through 1810. Although Crompton rejects Foucault's view that the homosexual did not exist "as a person" before the term was coined in 1864 and asserts that modern gays and lesbians may claim brotherhood and sisterhood with the homosexuals of the past,⁶⁴ his book shows that, for the most part, the homosexuality of earlier times was very different from the homosexuality of today.⁶⁵

In the first place, it appears that there were very few lesbians in earlier times:

Anyone who attempts to tell the story of homosexuality faces a frustrating reality, however. Apart from Sappho and some brief references in Lucian and Martial, lesbians hardly appear in the literature of the classical world. Though they become objects of theological opprobrium in the Middle Ages, only in the seventeenth century are full-length portraits possible, as in the case of Queen Christina, and not until the end of the eighteenth century do social groups come into view. Indeed, only in the last three decades have lesbians occupied the stage in numbers approximating their male counterparts.⁶⁶

Second, male homosexuality was apparently rare in many ancient societies; and in the societies in which it was common, most of the male homosexuals we read about (particularly during ancient times or in non-European cultures) would, using modern terminology, be classified as bisexuals, pedophiles, and/or transvestites, or partners of the same—not groups that most modern gays would identify with.

Crompton comments:

The ancient Greeks had no word that corresponded to our word "homosexual." *Paidierastia*, the closest they came to it, meant literally "boy love," that is, a relation between an older male and someone younger, usually a youth between the ages of fourteen and twenty. The older man was called the *erastes* or lover. Ideally, it was his duty to be the boy's teacher and protector and serve as a model of courage, virtue, and wisdom to his beloved, or *eromenos*, whose attraction lay in his beauty, his youth, and his promise of future moral, intellectual, and physical excellence.⁶⁷

Among the Spartans, pedophilia was apparently almost universal. A boy was taken from his family at age seven and lived in a military barracks until he was thirty. During this time, he was expected to accept an older male lover and mentor; and when he got older, to choose a boy himself to love and mentor.⁶⁸ Pedophilia was also widespread in Athens. According

to John Boswell, a late professor of history at Yale: “The vast amount of homoerotic cultural paraphernalia at Athens—sculpture, painting, vase inscriptions, graffiti, terminology, law, literature, etc.—makes it seem that a majority (if not almost the whole) of the adult male population was involved in homosexual relationships and feelings.”⁶⁹

Man-boy love among the Greeks was associated with military valor, and one of the most famous military units in Greek history, the sacred band of Thebes, was made up of experienced soldiers and their younger lovers. While sex between adult males was not unknown, it was considered a shame for an adult man to take the “passive” role in sexual relations with another man, and effeminacy was despised. Moreover, although exclusive homosexuality among the Greeks was not unknown, probably most Greeks who loved boys also married women and had children.⁷⁰

Since man-boy love is not clearly evident in Homer, scholars have wondered how it was introduced to the Greeks. One popular hypothesis is that pederasty was part of the culture of the Dorian tribes who conquered much of the Peloponnesus and a number of Greek islands in the twelfth and eleventh centuries B.C. The Dorians drove many of the original inhabitants, the Ionians, eastward to Asia Minor, but left intact certain Ionian settlements. This hypothesis is bolstered by the fact that man-boy love played a more central role in the cultures of Dorian communities such as Sparta and Crete than it did in some other Greek communities.⁷¹

The only kinds of homosexual relationships the Romans accepted without reservation were relationships between masters and slaves, with the masters taking the “dominant” role. It was considered a great dishonor for a free man to take the “passive” role. The Romans, like the Greeks, generally showed a preference for boys, and most Romans who had sex with boys probably also had sex with women.⁷²

The ancient Jews were hostile to homosexuality, and there are few references to its practice in the Old Testament. However, the Old Testament refers some half-dozen times to *kadesh* (plural *kedeshim*), which literally means “consecrated one” or “holy one,” but which is translated in the King James Version as “sodomite.”⁷³ Crompton speculates that the *kedeshim* were transvestite priest/prostitutes similar to those who served in the temples of various Mediterranean and Middle Eastern cults during classical times. If Crompton is right, that would have associated male homosexuality with pagan religious practices, which (according to

Crompton) would help to explain the draconian penalty for male homosexual acts set forth in Leviticus 20:13.⁷⁴

Classical Chinese emperors and noblemen often took male (mostly young) lovers, but the idea of a homosexual identity was rare in China, where marriage was considered a sacred duty. In ancient China, male love affairs were generally considered to be elegant diversions, rather than the ennobling experiences associated with Greek pederasty.⁷⁵

A culture of boy love developed in pre-twentieth-century Japan that mirrors Greek pedophilia in some respects. Boy love was apparently common among monks (who were forbidden sexual relations with women) and also among the samurai. In some cases, an adult samurai would take a young male lover and assume responsibility for his education and training. Boy prostitution was apparently widespread, particularly in connection with certain types of theater; and some men became so attached to boy prostitutes that they shunned sexual contact with women.⁷⁶

Among some Native American tribes, it was common for some men to dress as females, take on female roles, and, in some cases, “marry” other men, who took the male role. The men who took the female role are called *berdaches*. However, many Native American tribes were hostile to homosexuality and did not have a *berdache* tradition.⁷⁷

In pre-Islamic times, homosexuality was apparently little in evidence among the Bedouins of Arabia. However, once the Arabs settled down in Spain, a substantial literature of man-boy love developed. Authors wrote romantic poetry openly expressing their love for boys, while at the same time (since the Qur’an prohibits sexual relations between persons of the same gender) loudly protesting their chastity.⁷⁸

David Halperin, a gay activist, classics scholar, and professor of English at the University of Michigan, describes four distinct “discursive traditions” in the history of premodern male sexual classification: (1) effeminacy (which involved gender deviance but not necessarily same-sex contact; many effeminates preferred sexual relations with women); (2) pedophilia, or active sodomy (which was sometimes a sexual preference but was not considered a sexual orientation and was often considered normal and manly); (3) inversion, or a desire for passive sexual contact with other men (which, in an adult, was generally considered shameful); and (4) male friendship and love (which, though often expressed in very romantic terms, did not ordinarily involve sexual contact). None of these traditions corresponds very closely with the modern “discursive tradition”

of homosexuality (which is considered to be a sexual orientation, can involve both active and passive sexual contact, and does not necessarily involve effeminacy).⁷⁹

Once Christianity came to power in the fourth century A.D., Christian rulers began enacting laws to suppress homosexuality, and detailed descriptions of the attitudes and practices of homosexuals in Western societies became less common. In 342, the Roman co-emperors Constantius and Constans adopted a law that punished passive male homosexuals. In the sixth century, the Byzantine emperor Justinian adopted legislation that punished both active and passive male homosexuals and carried out the first verified executions of homosexuals in the Christian Greek world.⁸⁰

In medieval Europe, draconian laws were enacted in many countries punishing male homosexuality, bestiality, and, later, lesbianism. Eventually some executions were carried out under these laws. Since torture was routinely used to elicit confessions and since the properties of convicted "sodomites" were often forfeited to the state, no doubt innocent victims were executed. For example, in the fourteenth century, Philip IV of France used the sodomy laws to bring down the Knights Templar and to appropriate their vast holdings.⁸¹

Many executions for sodomy were carried out in Italy during the Renaissance. However, man-boy love was rediscovered in Florence, where enforcement of anti-sodomy laws was sporadic. Many of the most important Italian Renaissance artists, including Donatello, Botticelli, Leonardo, Michelangelo, Cellini, and Caravaggio, are rumored to have loved boys.⁸²

During the sixteenth and seventeenth centuries, several hundred men, many of them priests, were executed in Spain for sodomy. Many of the victims were tried by the Spanish Inquisition. The Spanish carried their attitudes about homosexuality with them to the New World, where they exterminated many Native Americans who were suspected of sodomy.⁸³

Crompton estimates that about 150 people were executed for sodomy in France during the sixteenth and seventeenth centuries. However, during that period, a significant bisexual/homosexual subculture developed in France among the noble classes.⁸⁴

In the meantime, homosexuality was much less evident in England than in France. A law against "buggery" was passed by Henry VIII in 1533, but very few charges were brought under the law until the eigh-

teenth and nineteenth centuries. England did, however, have at least two apparently bisexual kings during the seventeenth century (James I and William II), one great poet-dramatist who was rumored to be homosexual (Christopher Marlowe), and another great poet-dramatist who wrote love poetry addressed to both sexes (Shakespeare).⁸⁵

By the beginning of the eighteenth century, a significant homosexual subculture had developed in Paris, which was not limited to the aristocratic classes. Although many arrests were made for sodomy, there were few executions; and, in 1791, sodomy was decriminalized in France.⁸⁶ In Prussia, Frederick the Great, himself probably a homosexual, encouraged the moderation of laws against sodomy.⁸⁷ In England, however, the discovery of a significant homosexual subculture in London led to a number of executions.⁸⁸ The Dutch also executed at least seventy-five convicted sodomites during the eighteenth century. However, sodomy was decriminalized in the Netherlands when it was annexed by France in 1810.⁸⁹

As previously discussed, the modern essentialist concept of homosexuality was developed during the second half of the nineteenth century through the work of Richard von Krafft-Ebing and others. Homosexuals, it was decided, were not simply people who, for whatever reason, engaged in sexual acts with others of the same gender; they were different, in essence, from heterosexuals.

At the beginning of the twentieth century, many homosexuals in the United States were presumably “in the closet.” With the sexual revolution and the gay rights movement, homosexuals became more open in their behavior, established gay neighborhoods, and invented a gay culture. Initially, that culture involved considerable flamboyant gender inversion; later, gender inversion was deemphasized, and many homosexuals today consider themselves identical to heterosexuals in every way except for sexual orientation. During the 1970s and early 1980s, the culture included, for many male homosexuals, a promiscuous lifestyle. After the coming of the AIDS epidemic, safer sex practices were adopted by many, promiscuity probably declined, and homosexuals began talking about same-sex marriage.

My mother, who was born in 1928, first heard the word “homosexual” when she was about twenty and feels certain that nobody she knew in high school ever adopted a homosexual lifestyle. I never knew any homosexuals in high school but later found out that at least three of the people I knew in high school had subsequently adopted a homosexual lifestyle. My

younger children, who are now in high school, can name several classmates who openly identify themselves as homosexual. According to a number of studies reviewed by Ritch Savin-Williams, chair of Cornell University's Human Development Department, in the 1960s gay men first remembered desiring other males at an average age of fourteen; it was seventeen for lesbians. But by the 1990s, the average had dropped to ten for gays and twelve for lesbians.⁹⁰

The vast diversity of homosexual expression in the historical record poses certain conceptual difficulties for the essentialists. The first is a definitional problem: What counts as homosexuality, and what doesn't? Then once that question is answered, why does homosexuality seem to appear in some cultures and time periods, and not in others, or more frequently in some cultures and time periods than in others?

Some essentialists deal with the definitional difficulty by claiming that everybody (particularly everybody famous) who ever had (or wanted) a sexual relationship with another individual of the same gender was homosexual. Others, more sensitive to the modern legal and cultural distaste for pedophilia, claim that the Greek and Roman pedophiles were not "true homosexuals"; the "true homosexuals," presumably, were largely omitted from the historical record. At least one essentialist (Boswell) claims that the ancient records have been misunderstood—that when the text says "boy," it really means "beautiful man."⁹¹

As to the frequency difficulty, an essentialist could argue that the historical record is incomplete—that true homosexuals have existed in all societies at all times but that, due to prejudice and persecution, their identities have been repressed and/or their stories unrecorded. Or one could argue that the gene (or other natural cause for homosexuality) is more prevalent in some societies than in others. I can only respond that these arguments are based on faith or politics, not on evidence.

The nonessentialist position, on the other hand, provides a simple explanation for the vast diversity of sexual expression, both heterosexual and homosexual, that we find in the historical record: Although a desire for sexual expression may develop naturally in most people (particularly males), what we find sexually attractive and how we channel our desires for sexual expression are largely determined by culture; and the categories of heterosexuality and homosexuality themselves are cultural constructs.⁹²

In sum, both the scientific and the historical evidence for the

nonessentialist view of sex in general, and sexual orientation in particular, are convincing. While there have probably always been some males who have had sex with other males, the percentages of the male population who engaged in such activities, the ages at which they engaged in such activities, the cultural and psychological meanings they attached to such activities, and also, possibly, the types of males who were attracted to such activities, have varied widely over time and from culture to culture. Lesbianism, on the other hand, appears to be mostly a cultural product of the last century.

The Subjective Evidence Reconsidered

How, then, do we account for the subjective evidence for the essentialist view—for the fact that most homosexuals, both male and female, feel that their sexual orientation is more part of their essence than, say, their weight, their tendency to take risks, or their tendency to smoke? I by no means question their sincerity, nor do I wish to suggest that a homosexual orientation is always (or often) consciously chosen, or, once it is established, that it can easily be changed.⁹³ Also, I don't intend to question the validity of all self-knowledge that is derived from experience or reflection. We all, at one time or another, accept a certain view of truth, ourselves, and our relationships with God and each other on the basis of experience and reflection.

I must point out, however, that even our deepest insights are influenced by culture and the environment. Even our memories are subject to manipulation—sometimes with tragic results, as in the case of individuals who, by the power of suggestion, have “recovered” vivid memories of being abducted by aliens or molested for years in Satanic rituals.⁹⁴ Very few among us are true prophets or revolutionaries; in fashioning our political and religious views and in deciding who we are, we generally end up following one or more of the patterns available to us in the culture of our times. Thus, every time a new medical or psychological condition is named, a certain number of individuals suddenly “discover” that they have the condition.

Carl Elliott, in an *Atlantic Monthly* cover story,⁹⁵ discussed two relatively new psychological conditions, “apotemnophilia,” or an attraction to the idea of being an amputee, and “acrotomophilia,” or a sexual attraction to amputees. According to Elliott, these conditions have spread in recent years, fueled by the internet. Individuals who have apotemnophilia often

claim that they have always wanted to be amputees, that inside, they are amputees, and that they need to have one or more limbs amputated to achieve emotional or sexual fulfillment. Elliott compares these phenomena with fugue state (a psychological condition involving a loss of identity and a need to travel that was much written about in the early 1900s but which is now less discussed) and multiple personality disorder (a condition that was popular during the 1970s but which has since fallen out of favor). Regarding the spread of psychological phenomena, Elliott postulates:

I am simplifying a very complex and subtle argument, but the basic idea should be clear. By regarding a phenomenon as a psychiatric diagnosis—treating it, reifying it in psychiatric diagnostic manuals, developing instruments to measure it, inventing scales to rate its severity, establishing ways to reimburse the costs of its treatment, encouraging pharmaceutical companies to search for effective drugs, directing patients to support groups, writing about possible causes in journals—psychiatrists may be unwittingly colluding with broader cultural forces to contribute to the spread of a mental disorder.

Suppose doctors started amputating the limbs of apotemnophiles. Would that contribute to the spread of the desire? Could we be faced with an epidemic of people wanting their limbs cut off? Most people would say, Clearly not. Most people do not want their limbs cut off. It is a horrible thought. The fact that others are getting their limbs cut off is no more likely to make these people want to lose their own than state executions are to make people want to be executed. And if by some strange chance more people did ask to have their limbs amputated, that would be simply because more people with the desire were encouraged to “come out” rather than suffer in silence.

I’m not so sure. Clinicians and patients alike often suggest that apotemnophilia is like gender-identity disorder, and that amputation is like sex-reassignment surgery. Let us suppose they are right. Fifty years ago the suggestion that tens of thousands of people would someday want their genitals surgically altered so that they could change their sex would have been ludicrous. But it has happened. The question is why. One answer would have it that this is an ancient condition, that there have always been people who fall outside the traditional sex classifications, but that only during the past forty years or so have we developed the surgical and endocrinological tools to fix the problem.

But it is possible to imagine another story: that our cultural and historical conditions have not just revealed transsexuals but created them. That is, once “transsexual” and “gender-identity disorder” and “sex-reassignment surgery” became common linguistic currency, more people began conceptualizing and interpreting their experience in these terms. They be-

gan to make sense of their lives in a way that hadn't been available to them before, and to some degree they actually became the kinds of people described by these terms.⁹⁶

Although Elliott does not do so (he is, after all, writing for the *Atlantic Monthly*), it would seem logical to extend his postulate to homosexuality, as well as to transsexuality. People at all times and in all cultures develop feelings of attraction for other people, some of whom may be of the same gender. Whether those feelings are interpreted as sexual and how people act on those feelings may depend largely on the cultural environment in which they live.

But I digress. My point is that the scientific and historical evidence for the nonessentialist view of sexual orientation is strong, and the subjective evidence for the essentialist view is not conclusive. And the fact that it may be difficult to change homosexual orientation once it has been established is not dispositive either; many patterns of human thought and behavior are difficult to change once they have been established. (I can personally attest to the difficulty of changing my patterns of eating and exercise sufficiently to bring my level of body fat within the range that was normal for my grandparents.)

If the nonessentialist view is correct, then it seems likely that the adoption of same-sex marriage would tend to increase the numbers of individuals who adopt a homosexual lifestyle. How dramatic would this effect be? Nobody knows. Perhaps we have already reached the point of saturation in the United States. But it is also possible that the effect would be significant, if only because the adoption of same-sex marriage would signal that, once and for all, society has accepted homosexuality as legally and morally the equivalent of heterosexuality.

Conclusion

To sum up:

1. While existing constitutional principles might logically be extended to mandate same-sex marriage, the courts should refrain from doing so because such an extension would do violence to the intentions of the constitutional framers and outrage a significant portion of the population, thereby tending to bring the judiciary into disrepute, overly politicize the judicial selection process, and make the nation less one ruled by laws and majorities and more one ruled by judges.

2. The Bible clearly sanctifies traditional marriage and condemns

sexual relations between individuals of the same gender, so the adoption of same-sex marriage would be a sacrilege to many conservative Christians and Jews.

3. Adopting same-sex marriage would likely further weaken the institution of traditional marriage and increase the numbers of individuals who adopt a homosexual lifestyle, both of which would be bad for society.

Fortunately, American society has, for the most part, moved beyond hating, fearing, and persecuting homosexuals. Must we now move beyond sympathy, tolerance, and understanding, and take the final step of embracing homosexuality by approving same-sex marriage? I hope that we will have the wisdom not to do so.

Also, I hope that our discussions of same-sex marriage can be characterized on both sides by greater honesty and willingness to confront uncomfortable facts, and less of a tendency to demonize persons with an opposing view. Just as I would hope that we who oppose same-sex marriage will follow the admonition of the First Presidency to “reach out with understanding and respect for individuals who are attracted to those of the same gender,”⁹⁷ I would hope that those who support same-sex marriage will recognize that there are many intelligent, honest people of good will who have a differing view.

And finally, in the process of researching and writing this article, I have been struck by the influence that culture has on our lives. Although I believe that traditional marriage and sexual attraction between a man and a woman are ordained by God, they are not inevitable or “natural”⁹⁸ but are subject to impairment or destruction by cultural forces—including, I believe, highly symbolic cultural decisions like the adoption of same-sex marriage. And although I believe that, in an ultimate sense, we are all free agents, it is clear that our choices and our children’s choices are very much influenced by the culture around us. Therefore, the culture wars are not just a political sideshow, but the main show, and we should all be fighting the good fight.

Notes

1. “First Presidency Statement on Same-Gender Marriage,” October 20, 2004, Church of Jesus Christ of Latter-day Saints Newsroom, www.lds.org/ldsnewsroom/v/index.jsp?vnextoid=a1312e636369f010VgnVCM100000176f620aRCRD&vgnnextchannel=9ae411154963d010VgnVCM1000004e94610aRCRD (accessed March 18, 2007).

2. *Lawrence v. Texas*, 539 U.S. 558 (2003).

3. The Netherlands, Belgium, Canada, Spain and South Africa have all enacted legislation permitting same-sex marriage. Denmark, Norway, Sweden, Iceland, France, Germany, Finland, Luxembourg, Britain, and various other countries (or parts of other countries) all allow same-sex civil unions or registered partnerships.

4. Vermont, California, New Jersey, Connecticut, Hawaii, Maine, and Washington, D.C., Oregon, and Washington all have some kind of domestic partnership or civil union legislation.

5. In 2005, the California legislature enacted a bill legalizing same-sex marriage, which was vetoed by the governor.

6. 852 P.2d 44 (Haw. 1993).

7. *Brause & Dugan v. Bureau of Vital Statistics*, Alaska Superior Court, Third Judicial District at Anchorage, Case No. 3AN-95-6562 CI (1998).

8. *Goodrich v. Dept. of Public Health*, 440 Mass. 309, 798 N.E.2d 1941 (2003). See also *In re Opinions of the Justices to the Senate*, 803 N.E. 2d 565 (Mass. 2004), in which the Court advised the Massachusetts State Senate that adopting a civil union alternative to same-sex marriage would not pass constitutional muster.

9. *Baker v. Vermont*, 170 Vt. 194, 744 A.2d 864 (1999).

10. The U.S. Supreme Court's decision in *Roe v. Wade*, 410 U.S. 113 (1973), which in my view violated this rule of thumb, has had the effect of overpoliticizing the judicial selection process (witness the Senate confirmation proceedings for Justices John Roberts and Samuel Alito), and has brought the judiciary into disrepute among large segments of American society. The Court's decision in *Brown v. Board of Education*, 347 U.S. 483 (1953), on the other hand, did not violate this rule of thumb because, although controversial at the time it was decided, it was consistent with the views of at least some of the framers of the constitutional provision it applied—specifically, the Fourteenth Amendment, which was adopted in 1868 as part of the Reconstruction effort to abolish slavery and afford equal rights to former slaves.

11. See results collected at Polling Report, Inc., "Law and Civil Rights" (2007), www.pollingreport.com/civil.htm (accessed March 18, 2007).

12. I believe that *Reynolds v. U.S.*, 98 U.S. 145 (1878), which upheld the constitutionality of federal legislation outlawing the Mormon practice of polygamy, was wrongly decided. However, it is important to note that the case turned on freedom of religion, not on equal protection or privacy issues.

13. Muslims can make a similar argument against same-sex marriage using passages from the Qur'an. For example, Sura [Chapter] 4:15-16 states: "If

any of your women is guilty of unnatural offence, bring four of your witnesses to give evidence; if they testify against them, retain them in the houses until death, or until God provide some other way for them. If two men among you are guilty of such acts then punish both of them. But if they repent and reform, let them be, for God accepts repentance and is merciful." Also, Sura 7:80–81 states: "And we sent Lot, who said to his people: 'Why do you commit this lecherous act which none in the world has committed before? In preference to women you satisfy your lust with men. Indeed you are a people who are guilty of excess.'" *Islam: The Qur'an: A Contemporary Translation*, Vol. 3 of *Sacred Writings*, trans. by Ahmed Ali (New York: Book-of-the-Month Club, 1992).

14. John Boswell, *Christianity, Social Tolerance, and Homosexuality* (Chicago: University of Chicago Press, 1980), 100–106; Eric Marcus, *Is It a Choice? Answers to 300 of the Most Frequently Asked Questions about Gay and Lesbian People* (New York: HarperCollins Publishers, 1999), 133–35.

15. Louis Crompton, *Homosexuality and Civilization* (Cambridge, Mass.: Belnap Press of Harvard University Press, 2003), 33. Crompton is professor of English emeritus at the University of Nebraska and co-founder of the Gay and Lesbian Caucus of the Modern Language Association. *Homosexuality and Civilization* was a 2004 Independent Publisher Book Awards Finalist in the Gay/Lesbian Category and a 2005 *Choice Magazine* Outstanding Academic Title.

16. *Ibid.*, chaps. 2, 5–7, 9–10, 12, 14.

17. James Q. Wilson, *The Marriage Problem: How Culture Has Weakened Families* (New York: HarperCollins Publishers, 2002), 1–21; also see Linda J. Waite, "The Importance of Marriage Is Being Overlooked," *USA Today*, January 1999, 46–47.

18. Maggie Gallagher, "Third Thoughts on Divorce," *National Review*, March 25, 2002, 50.

19. Marcus, *Is It a Choice?*, 10.

20. Phillip Longman, *The Empty Cradle: How Falling Birthrates Threaten World Prosperity* (New York: Basic Books, 2004), 15–27.

21. Wilson, *The Marriage Problem*, 43–63.

22. Centers for Disease Control, *HIV/AIDS Surveillance Report, 2004*, Vol. 16 (Atlanta: U.S. Department of Health and Human Services, Centers for Disease Control, 2005), 1–46.

23. Some commentators have argued that the adoption of same-sex marriage might convince more male homosexuals to live in monogamous, or semi-monogamous, relationships, and therefore be less likely to spread the

AIDS virus. Jonathan Rauch, *Gay Marriage: Why It Is Good for Gays, Good for Straights, and Good for America* (New York: Henry Holt, 2004), chap. 8. This sounds like wishful thinking. Homosexuals who wish to live a monogamous lifestyle can do so, with or without same-sex marriage, and those who do not wish to live a monogamous lifestyle are unlikely to change unless and until society imposes heavier legal or societal penalties on nonmonogamous homosexual activity, and I don't see a groundswell of support for that development among the advocates of same-sex marriage. Also, the Massachusetts experience suggests that U.S. lesbians are far more likely than gays to marry. Even though gays presumably outnumber lesbians by a considerable margin, of the total number of same-sex marriages performed in Massachusetts during 2004 and 2005, 64% involved women. Dan Ring, "8,100 Gay, Lesbian Couples Marry after 2004 Decision," *Springfield Republican*, May 17, 2006, 222. masslive.com/metrowest/republican/index.ssf/base/news-0/114787085559880.xml&coll=1 (accessed March 18, 2007).

24. Stephanie Coontz, *Marriage: A History* (New York: Viking Penguin, 2005), 33–34. The exception is the Na people, a society of approximately 30,000 people living in the Yunan province of southwestern China. Among the Na, the basic family unit is comprised of brothers and sisters, and the children of the sisters.

25. *Ibid.*, chaps. 1–8.

26. *Ibid.*, 263–64; also see Auriana Ojeda, ed., Preface, *The Family* (Farmington Hills, Mo.: Greenhaven Press, 2003), 17.

27. Barbara LeBey, "American Families Are Drifting Apart," *USA Today*, September 2001, 20–22, quoted in Ojeda, *The Family*, 20.

28. Gallagher, "Third Thoughts on Divorce," quoted in Ojeda, *The Family*, 37–38.

29. Coontz, *Marriage: A History*, chaps. 9–14.

30. Wilson, *The Marriage Problem*, 175–77.

31. *Ibid.*, 173–74.

32. Rauch, *Gay Marriage*, 86–103.

33. In 1989, Denmark adopted the first legislation in the world granting same-sex registered partners rights similar to those of married couples. Norway followed with similar legislation in 1993, and Sweden in 1994. Between 1989 and 2004, the percentage of births outside marriage in Denmark stayed about the same—between 44.6% and 46.9%. Between 1993 and 2004, the percent of births outside marriage in Norway grew from 44.4% to 51.3%, and between 1994 and 2002, the percent of births outside marriage in Sweden grew from 52% to 56%. Opponents of same-sex marriage point to the

Scandinavian example as evidence of the possible negative impact same-sex marriage could have on traditional marriage in the United States, while advocates of same-sex marriage argue that, since the adoption of registered partner laws in Scandinavia, the decline of traditional marriage has slowed, or, by some measures, been slightly reversed there. See William Eskridge Jr. and Darren Spedale, *Gay Marriage: For Better or Worse? What We've Learned from the Evidence* (New York: Oxford University Press, 2006), especially the demographic information in Appendices 4–6. While traditional marriage is in decline in the United States, it is in greater decline in Scandinavia and has been since before these laws were adopted. By way of comparison, the percentage of total births in the United States to unwed mothers rose to 37 percent in 2005, an all-time high. Associated Press, “Nearly 4 in 10 U.S. Babies Born Out of Wedlock,” posted November 21, 2006, www.msnbc.com/id/15835429 (accessed March 18, 2007). It may be appropriate to view the adoption of the registered partner laws in Scandinavia more as a symptom than as a cause of traditional marriage’s decline there. The extent to which the Scandinavian experience is useful in predicting the possible effects of the adoption of same-sex marriage in the United States is not clear.

34. Marcus, *Is It a Choice?*, 11–19. I take Marcus, whose book features an endorsement from “Dear Abby” on the front cover, to be an accurate purveyor of the received wisdom.

35. Jeffrey Weeks, *Sexuality*, 2d ed. (London: Routledge, 2003), 7. Weeks is a gay activist and executive dean of the Faculty of Arts and Human Sciences at London South Bank University. The embedded quotation is Irving Singer, *The Goals of Human Sexuality* (London: Wildwood House, 1973), 15.

36. *Ibid.*

37. Michel Foucault, *The History of Sexuality. Volume 1: An Introduction*, translated by Robert Hurley (New York: Vintage Books, 1990), 103. Foucault died of AIDS in 1984.

38. *Ibid.*, 103–5.

39. *Ibid.*, 103.

40. *Ibid.*, 43. The term “homosexuality” first appeared in print in 1864. David Halperin, *How to Do the History of Homosexuality* (Chicago: University of Chicago Press, 2002), 106.

41. The essentialist/nonessentialist argument is also important to the constitutional arguments surrounding homosexuality and same-sex marriage. If the essentialists are right and homosexuality is an immutable trait like race or gender that individuals are locked into by accident of birth or other uncon-

trollable factors, then legal classifications based on sexual orientation should arguably be submitted to heightened judicial scrutiny, just as classifications based on race or gender are.

42. Marcus, *Is It a Choice?*, 11.

43. Dean Hamer and Peter Copeland, *Living with Our Genes* (New York: Anchor Books, 1998), 186. Hamer is the discoverer of the “gay gene.” I discuss his scientific work below.

44. Hubert Kennedy, “Karl Heinrich Ulrich: First Theorist of Homosexuality” in *Science and Homosexualities*, edited by Vernon A. Rosario (New York: Routledge, 1997), 26–45.

45. Alice Dreger, “Hermaphrodites in Love: The Truth of the Gonads,” in *Science and Homosexualities*, 46–66; Margaret Gibson, “Clitoral Corruption: Body Metaphors and American Doctors, Constructions of Female Homosexuality, 1870-1900,” in *ibid.*, 108–32.

46. James D. Steakley, “*Per scientiam adjusitiam*: Magnus Hirshfeld and the Sexual Politics of Innate Homosexuality,” in *Science and Homosexualities*, 133–54.

47. Harry Oosterhuis, “Richard von Krafft-Ebing’s ‘Step-Children of Nature’: Psychiatry and the Making of Homosexual Identity,” in *Science and Homosexualities*, 67–88.

48. Julian Carter, “Normality, Whiteness, Authorship: Evolutionary Sexology and the Primitive Pervert,” in *Science and Homosexualities*, 155–76.

49. Stephanie H. Kenan, “Who Counts When You’re Counting Homosexuals? Hormones and Homosexuality in Mid-Twentieth-Century America,” in *Science and Homosexualities*, 197–218.

50. Richard C. Pillard, “The Search for a Genetic Influence on Sexual Orientation,” in *Science and Homosexualities*, 226–29.

51. Marcus, *Is It a Choice?*, 16–21.

52. Garland E. Allen, “The Double-Edged Sword of Genetic Determinism: Social and Political Agendas in Genetic Studies of Homosexuality, 1940–1994,” in *Science and Homosexualities*, 242–70.

53. Richard Herrnstein and Charles Murray, *The Bell Curve: Intelligence and Class Structure in American Life* (New York: Free Press, 1994).

54. Jennifer Terry, “The Seductive Power of Science,” in *Science and Homosexualities*, 271–95.

55. Hamer and Copeland, *Living with Our Genes*, 194–95.

56. *Ibid.*, 196–97.

57. *Ibid.*, 197.

58. *Ibid.*, 187–88.

59. *Ibid.*, 188–89.

60. *Ibid.*, 198–99.

61. For an exhaustive survey of the varieties of sexual attitudes and practices among mid-twentieth-century Americans of different ages and social classes, see Alfred Kinsey, Wardell Pomeroy, and Clyde Martin, *Sexual Behavior in the Human Male* (Philadelphia: W. B. Saunders Company, 1948); and Alfred Kinsey, Wardell Pomeroy, Clyde Martin, and Paul Gebhard, *Sexual Behavior in the Human Female* (Philadelphia: W. B. Saunders Company, 1953).

62. Ben Wattenberg et al., “The Family,” Online Book, Sec. 4.2, “The First Measured Century: An Illustrated Guide to Trends in America, 1900–2000,” PBS Programs, www.pbs.org/fmc/book/4family2.htm (accessed January 16, 2006).

63. See Boswell, *Christianity, Social Tolerance, and Homosexuality*, David Halperin, *One Hundred Years of Homosexuality and Other Essays on Greek Love* (New York: Routledge, 1990), his *How to Do the History of Homosexuality*, Crompton, *Homosexuality and Civilization*, and the multiple sources cited in these books.

64. Crompton, *Homosexuality and Civilization*, xiv.

65. In this article, I generally use *homosexual*, *gay*, and *lesbian* to describe both modern and ancient forms of sexual expression between individuals of the same gender, even though, from a nonessentialist point of view, it is technically improper to use modern terms to describe ancient practices or classifications.

66. Crompton, *Homosexuality and Civilization*, xiii. Also, the few ancient writers who discuss women who are sexually attracted to other women generally refer not to “lesbians” as that term is commonly used today, but instead to “tribades,” or women who assume a masculine identity, appearance, and sexual style in their relations with other women. See Halperin, *How to Do the History of Homosexuality*, 51–53.

67. Crompton, *Homosexuality and Civilization*, 3–4.

68. Will Durant, *The Story of Civilization: Vol. 2, The Life of Greece* (New York: Simon and Schuster, 1939), 81–85.

69. Boswell, *Christianity, Social Tolerance, and Homosexuality*, 54.

70. Crompton, *Homosexuality and Civilization*, 1–31, 49–78.

71. *Ibid.*, 6–7.

72. *Ibid.*, 79–110. See also Boswell, *Christianity, Social Tolerance, and Homosexuality*, 61–87.

73. Crompton, *Homosexuality and Civilization*, 39.
74. *Ibid.*, 32–48.
75. *Ibid.*, 213–44.
76. *Ibid.*, 411–43.
77. *Ibid.*, 41, 314–20.
78. *Ibid.*, 161–72.
79. Halperin, *How to Do the History of Homosexuality*, 104–37.
80. Crompton, *Homosexuality and Civilization*, 131–49.
81. *Ibid.*, 178–212.
82. *Ibid.*, 245–90.
83. *Ibid.*, 291–320.
84. *Ibid.*, 321–60.
85. *Ibid.*, 361–410.
86. *Ibid.*, 444–51, 501.
87. *Ibid.*, 504–12.
88. *Ibid.*, 451–62.
89. *Ibid.*, 462–71.
90. John Cloud, “The Battle over Gay Teens,” *Time*, October 10, 2005, 44.
91. Boswell, *Christianity, Social Tolerance, and Homosexuality*, 28–30.
92. The fact that Halperin, Foucault, and certain other historians of homosexuality support the nonessentialist position should not be taken as an indication that they would oppose same-sex marriage. On the contrary, I suspect that they would support it. The essentialist-nonessentialist debate is mostly carried on within the gay and lesbian intellectual communities; and from a political perspective, it is probably more a debate about means than ends. I suspect that essentialists generally want gays and lesbians to be viewed as vulnerable minorities in need of special legal protections, while non-essentialists generally believe that, in the long run, gays and lesbians will be better served by trying to deconstruct the categories of homosexuality and heterosexuality, leaving us all free to pursue love and pleasure as we see fit.
93. Nor do I wish to suggest that it is impossible to change. The National Association for Research and Therapy of Homosexuality (NARTH) website (www.narth.com; accessed March 19, 2007) summarizes scientific research suggesting that, in many cases, it is possible for highly motivated homosexuals to change sexual orientation. Of particular note is Robert Spitzer, “Can Some Gay Men and Lesbians Change Their Sexual Orientation? 200 Participants Reporting a Change from Homosexual to Heterosexual Orienta-

tion," *Archives of Sexual Behavior* 32, no. 5 (October 2003): 403–17. Spitzer is a professor of psychiatry at Columbia University. However, I have not read the research and advance no policy recommendations regarding attempts to change established homosexual orientation; my article focuses only on same-sex marriage.

94. Elizabeth Loftus, "Make-Believe Memories," *American Psychologist*, November 2003, 867–73. Loftus is a professor at the University of California, Irvine, in the departments of Psychology and Social Behavior, Criminology, Law and Society, and Cognitive Sciences.

95. Carl Elliott, "A New Way to Be Mad," *Atlantic Monthly*, December 2000, 72–84. Elliott is a professor at the Center for Bioethics, Department of Pediatrics, University of Minnesota Medical School, and a professor in the Department of Philosophy at the University of Minnesota.

96. *Ibid.*

97. "First Presidency Statement on Same-Gender Marriage."

98. As King Benjamin teaches in the Book of Mormon, "the natural man is an enemy to God" (Mosiah 3:19).