

GAY MARRIAGE LEGALIZED; RELIGIOUS LIBERTY IMPERILED

In a 5-4 decision, the U.S. Supreme Court ruled that gay marriage is a constitutional right that must be observed by all 50 states. Instead of allowing the states the right to make decisions about marriage, these judges elected to impose their will on the nation.

The five justices cited the 14th Amendment as their rationale. But that amendment was passed in 1868, three years after the Civil War ended: it made it illegal to have one law for whites, and another for blacks. It said absolutely nothing about marriage. The justices reasoned that equal protection under the law, mentioned in the 14th Amendment, was sufficient grounds to legalize the right of two men to marry.

Bill Donohue not only questioned the constitutional basis for this decision, he maintained that the reasoning of Justice Anthony Kennedy, who wrote the majority opinion, was sociologically illiterate. "The idea that marriage is a matter of individual autonomy—and not a social institution—is the most profound flaw in their ruling," he said. "In their mind, society is composed of monads."

Far and away the worst part about this decision is its implications for religious liberty. Indeed, they are ominous. The majority declared that religious Americans "may continue to advocate with utmost, sincere conviction that, by divine precepts, same-sex marriage should not be condoned." But, of course, our First Amendment right to freedom of speech is inalienable, so the justices really weren't giving us anything we didn't already possess.

"The First Amendment," the five justices said, "ensures that religious organizations and persons are given proper

protection as they seek to teach the principles that are so fulfilling and so central to their lives....” Donohue questioned, “That’s the best they can do?” Justice Clarence Thomas, in his dissent, rightly criticized this genuflection to religious rights. “Religious liberty,” he said, “is about freedom of action in matters of religion generally”—it is not confined to advocacy.

Two days after this ruling was reached, Mark Oppenheimer, a columnist for the *New York Times*, called upon the IRS to revoke the tax-exempt status of churches. Look for such demands to mount. It is not likely that lawmakers will introduce legislation to deny the tax-exempt status of religious institutions, but it is likely that the IRS, an unelected federal agency, will someday take up the cause.

“In order to stop the IRS from revoking the tax-exempt status of religious institutions that refuse to marry two men or two women,” Donohue said, “Congress needs to pass the First Amendment Defense Act. Nothing less is acceptable.”