

Framing the Same Sex Marriage Decisions: The Context and the Possibilities

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Panel: “Separate but Equal: U.S. Civil Unions and Domestic Partnerships”

National Academy of Public
Administration: Social Equity Leadership
Conference, Raleigh, N.C. June 5-7,
2013

A Short History of Same Sex Marriages

- It was interesting to hear justice Samuel Alito of the U.S. Supreme Court state that same-sex marriage first came about in the year 2000, so that it was more recent than the internet and cell phones and as a result its effects could not be assessed quite yet...
- Same-sex marriages have been documented as having occurred since 867 A.D.
- John Boswell's books "The Marriage of Likeness: Same-Sex Unions in Pre-Modern Europe" and "Christianity, Social Tolerance and Homosexuality" are several of the sources on the subject. I actually attended John Boswell's lecture on same-sex marriage at Yale University, and know very well how meticulously these same sex marriage ceremonies have been documented.

A History of Same-Sex Marriages

- “...contemporary drawings of the same sex union of Byzantine Emperor Basil I (867-886) and his companion John.
- ...homosexual unions also took place in Ireland in the late 12th/early 13th century, as the chronicler Gerald of Wales (Geraldus Cambrensis) has recorded...
- One Greek 13th century ‘Order for Solemnisation of Same Sex Union’ having invoked St Serge and St Bacchus, called on God to "vouchsafe unto these thy servants [N and N] grace to love one another and to abide unhated and not a cause of scandal all the days of their lives, with the help of the Holy Mother of God and all thy saints." The ceremony concludes: "And they shall kiss the Holy Gospel and each other, and it shall be concluded."
- Another 14th century Serbian Slavonic ‘Office of Same Sex Union’, uniting two men or two women, had the couple having their right hands laid on the Gospel while having a cross placed in their left hands. Having kissed the Gospel, the couple were then required to kiss each other, after which the priest, having raised up the Eucharist, would give them both communion.

More History of Same Sex Marriages

- Boswell found records of same-sex unions in such diverse archives as those in the Vatican, in St Petersburg, in Paris, Istanbul, and in Sinai, covering a period from the 8th to the 18th centuries.
- Nor is he the first to make such a discovery. The Dominican Jacques Goar (1601-1653) includes such ceremonies in a printed collection of Greek prayer books.
- While homosexuality was technically illegal from late Roman times, it was only from about the 14th century that anti-homosexual feelings swept western Europe. Yet same sex union ceremonies continued to take place.
- At St John Lateran in Rome (traditionally the Pope's parish Church) in 1578 as many as 13 couples were 'married' at Mass with the apparent co-operation of the local clergy, 'taking Communion together, using the same nuptial Scripture, after which they slept and ate together', according to a contemporary report.
- It was the transition after that to a homophobic western society that led to efforts to ban same-sex marriages, and prosecute gay, lesbian, bisexual and transgender people." (Duffy, James, "Did the Catholic Church Ordain Gay Weddings?", <http://rense.com/general50/cath.htm>)

After George Washington, the next person responsible for winning the U.S. Revolutionary War was in a same sex relationship...

- “Prussian military genius Baron Friedrich Wilhelm von Steuben arrives at Valley Forge, Pennsylvania, in the company of a handsome...(male)... secretary. Fearing prosecution for alleged indiscretions ...back in Prussia, Steuben has signed on to train George Washington's ragtag Continental Army. Most historians consider his success at this task a major factor in the American victory. <http://www.aarongayinfo.com/timeline/ti...> Baron von Steuben: A Prussian military genius, he trained George Washington's bedraggled militia at Valley Forge, molding it into a powerful force that... fought the mighty British to a draw at the Battle of Monmouth.
- Many historians consider him to be the second-most-indispensable hero of the American Revolution after Washington. In fact, Von Steuben's ideas and techniques remained the foundation of the U.S. military for 150 years. Nonetheless, most Americans have never heard of him. You see, Baron von Steuben was gay.
- Von Steuben's homosexuality was not incidental, since it explains why he fled Europe and ended up at Valley Forge. Also, it pertains immensely to the issue of homosexuals in the U.S. military now.”
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- Answers.yahoo.com, Was Baron Von Steuben Gay?, <http://answers.yahoo.com/question/index?qid=20070704202748AAhSHEE>

And of course these relationships continued up until current times

- After the 1500's, our western culture forced same-sex relationships underground, putting them into "the closet". The difference is that since the Stonewall Revolution (June 28, 1969), people have begun to expect more than simply hiding their relationships from the state.
- In my own case, I was in a 24 year domestic partnership relationship beginning in 1983, long before the year 2000 when Justice Alito thinks that same-sex marriages began.. My former partner, Lyle Rossman, just died a few weeks ago...
- At first, LGBT people (like myself and my ex-partner) were satisfied by domestic partnerships and civil unions. But then the LGBTQIA community realized that to be equal, they should have the opportunity to marry.

This was a slow, evolving process

- Typically at first, domestic partnership arrangements would allow a couple to get a discount on their gym memberships (my current partner and I just signed up for a discount at the Minneapolis YMCA) ; or have a civil register that allowed them to be known as partners in case one of them were admitted to the hospital.
- Civil unions provided a bit more latitude, ranging from several rights to hundreds of rights; but they are definitely not the same as marriage.
- Why not? Because GAO identified 1138 Federal rights that heterosexuals in a marriage have compared to a gay or lesbian person in a relationship.

1,138 FEDERAL RIGHTS

Keep getting the feeling that you are missing something?(1)

<http://www.gao.gov/new.items/d04353r.pdf>

- **“The list includes thirteen categories of rights and benefits, including:**
- Social Security and Related Programs, Housing, and Food Stamps
- Veterans' Benefits
- [Taxation](#)
- Federal Civilian and Military Service Benefits
- Employment Benefits and Related Laws
- Immigration, Naturalization, and Aliens
- Trade, Commerce, and Intellectual Property
- Financial Disclosure and Conflict of Interest”

(1) Freedom to Marry website, “1,138 Federal Rights...”,
<http://www.marriageequality.org/1-138-federal-rights>

The “Originalist”

- It was intellectually interesting to have Justice Antonin Scalia during the U.S. Supreme Court oral arguments ask “When did this (homosexuality) become a human right?” He of course is an “Originalist” who believes if it is not in the Constitution, it is not constitutional.
- Presumably we would then designate those who were not **male Caucasian aristocrats, merchants, or farmers** as not having any human rights at all.

The “Originalist” Position Cites the U.S. Constitution...

- “Representatives and direct Taxes shall be apportioned among the several states which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to service for a Term of Years, and excluding Indians not taxed, three fifths of all other persons” Article I, United States Constitution.
- One should be aware that this language actually discusses...Involuntary servitude, Slavery, no rights for Native Americans, no recognition of rights for women, and certainly no rights for GLBT people.

Proposition 8 from California:

Shall the California Constitution be changed to eliminate the right of same-sex couples to marry providing that only marriage between a man and a woman is valid or recognized in California?

- “The *Hollingsworth v. Perry* (formerly *Perry v. Brown*) case dates back to May 2009, when the American Foundation for Equal Rights filed suit in the U.S. District Court for the Northern District of California to challenge the constitutionality of Proposition 8. AFER filed on behalf of two same-sex couples - Kris Perry & Sandy Stier and Jeff Zarrillo & Paul Katami, who filed for marriage licenses and were denied in California in 2009 because of Proposition 8.
- On August 4, 2010, Judge Vaughn Walker found Proposition 8 to be unconstitutional and discriminatory, writing, ‘California has no interest in discriminating against gay men and lesbians.’ Proponents of Prop 8 appealed the decision to the U.S. Court of Appeals for the Ninth Circuit.
- On February 7, 2012, the Court of Appeals for the Ninth Circuit affirmed Judge Walker’s ruling, stating, ‘Proposition 8 serves no purpose, and has no effect, other than to lessen the status and human dignity of gays and lesbians in California, and to officially reclassify their relationships and families as inferior to those of opposite-sex couples. ‘The case was appealed to the U.S. Supreme Court, and the Court granted certiorari in December 2012.’ Freedom to Marry, Proposition 8, <http://www.freedomtomarry.org/landscape/entry/c/proposition-8>

Defense of Marriage Statutes

- **Starting with Utah in 1995, we saw the development of statutory prohibitions against same-sex marriage. This was followed by**
- **1996 (Arizona, Delaware, Georgia, Idaho, Illinois, Missouri, Michigan, Missouri, North Carolina, Oklahoma, Pennsylvania, South Carolina, South Dakota and Tennessee); then in**
- **1997 we saw more states---Arkansas, Indiana, Maine, Minnesota, Mississippi, North Dakota, Virginia and Texas. Then in**
- **1998, the following states were added: Alabama, Hawaii, Kentucky and Washington; followed by Louisiana in 1999; and Colorado as well as West Virginia in 2000; and finally Missouri in 2001.).<"State laws prohibiting Recognition of Same-Sex Relationships", NGLTF, June 30, 2009">**

Yet another Counter-Reaction

- Once we LGBT policy wonks recognized that alternatives to this legislation might be possible, the counter-reaction began. We began to see the prohibitions against same-sex marriage take another legislative approach--with added prohibitions against domestic partners and civil unions.
- Statutes were developed with these prohibitions in 1997 (Arkansas, Florida, Montana); 2003 (Texas); and 2004 (Virginia, Ohio and Utah).
<"State laws prohibiting Recognition of Same-Sex Relationships", NGLTF, June 30, 2009">
- And, the opponents of alternative family constellations began to see that a simple statute might not be enough if a court decision reversed the legislatively devised models. And so began the assault designed to ensure that even more inequality was enshrined in constitutional amendments:
Two people of one kind were granted equal rights while two similarly situated people of another kind began to have unequal rights.

Broader Constitutional Bans

- Specific prohibitions against same-sex marriage were initiated in 1998 (Arkansas); 2002 (Nevada); 2004 (Missouri, Mississippi, Montana, and Oregon); 2006 (Colorado and Tennessee), and 2008 (Arizona and California). Broader constitutional amendments, also banning domestic partnerships and civil unions, began to be initiated in 2000 (Nebraska), 2004 (Louisiana, Arkansas, Georgia, Kentucky, Michigan, North Dakota, Ohio, Oklahoma, Utah) , 2005 (Kansas and Texas), 2006 (Alabama, Idaho, South Carolina, South Dakota, Virginia, Wisconsin), 2008 (Florida) and 2012 (North Carolina).<"State laws prohibiting Recognition of Same-Sex Relationships", NGLTF, June 30, 2009">.

Federal “Defense of Marriage Act”

- “H.R.3396
- ***One Hundred Fourth Congress***
- ***of the***
- ***United States of America***
- *AT THE SECOND SESSION* Begun and held at the City of Washington on Wednesday,
- the third day of January, one thousand nine hundred and ninety-six
- An Act
- To define and protect the institution of marriage.
- *Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*
- **SECTION 1. SHORT TITLE.**
- This Act may be cited as the ‘Defense of Marriage Act’.
- **SEC. 2. POWERS RESERVED TO THE STATES.**
- (a) IN GENERAL- Chapter 115 of title 28, United States Code, is amended by adding after section 1738B the following:
- ‘**Sec. 1738C. Certain acts, records, and proceedings and the effect thereof**
- ‘No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship.’.
- (b) CLERICAL AMENDMENT- The table of sections at the beginning of chapter 115 of title 28, United States Code, is amended by inserting after the item relating to section 1738B the following new item:
- ‘1738C. Certain acts, records, and proceedings and the effect thereof.’.

Federal Defense of Marriage (cont.)

- **SEC. 3. DEFINITION OF MARRIAGE.**
- (a) IN GENERAL- Chapter 1 of title 1, United States Code, is amended by adding at the end the following:
 - **`Sec. 7. Definition of `marriage' and `spouse'**
 - `In determining the meaning of any Act of Congress, or of any ruling, regulation, or interpretation of the various administrative bureaus and agencies of the United States, the word `marriage' means only a legal union between one man and one woman as husband and wife, and the word `spouse' refers only to a person of the opposite sex who is a husband or a wife.'.
- (b) CLERICAL AMENDMENT- The table of sections at the beginning of chapter 1 of title 1, United States Code, is amended by inserting after the item relating to section 6 the following new item:
 - `7. Definition of `marriage' and `spouse'.'. . .
 - Speaker of the House of Representatives.
 - Vice President of the United States and
 - President of the Senate.”
- -----
- The Library of Congress, Thomas, **Bill Text, 104th Congress (1995-1996) H.R.3396.ENR**, <http://thomas.loc.gov/cgi-bin/query/C?c104:./temp/~c104wiFRs9>

Federal Defense of Marriage Cases

- With the sterling example of that champion of human rights, President Bill Clinton, the Federal Defense of Marriage Act was signed into law at midnight...on September 21, 1996, after having been passed by a vote of 342-67 in the House of Representatives and a vote of 84-14 in the Senate.”
http://www.glbtc.com/social-sciences/defense_of_marriage_act.html.
And yes, the author is aware that President Clinton *recently (2013)* said he supported same-sex marriages...
- It was noted in the GAO study that anti-same-sex marriage provisions in federal law included hundreds of cruel items such as precluding a same-sex surviving partner of a government employee from receiving the social security benefits of their deceased partner (as opposed to a heterosexual couple, where the social security benefits are passed on to the partner). The federal law was enacted at about the same time as almost all of the 40 state DOMA laws that were equally cruel.
- People who were severely damaged by these laws then began to bring them to court throughout the United States.

And so two of the cases ended up in the United States Supreme Court

- First came the landslide of amicus curiae briefs from both sides in the Proposition 8 case.
- hollingsworth v perry
<http://supremecourtreview.com/case/12-144>
- Then came the landslide of amicus curiae briefs in the Defense of Marriage Act (Windsor) case.
- windsor:
<http://www.scotusblog.com/case-files/cases/windsor-v-united-states-2/>

In the press, we seem to lose something in translation

- The first Oral arguments on Proposition 8 seemed to indicate a reluctance on the part of justices to draw any conclusions about same-sex marriage except for California.
- The second set of Oral arguments seemed to indicate the Federal Defense of Marriage act might have some problems.
- We must recognize that Oral arguments are not necessarily the way in which U.S. Supreme Court justices might rule...
- They might rule Proposition 8 illegal and apply that ruling not only to California but to all of the states where there is a Defense of Marriage Act; they might rule D.O.M.A. to be unconstitutional as well; they might make Proposition 8 unconstitutional only in California leaving people in other states without a remedy ; they might find technical reasons to not rule on either Proposition 8 and/or D.O.M.A. There are a myriad of possibilities all detailed in an article by Dylan Scott in Governing.com entitled “Supreme Court Takes Up Gay Marriage: What State and Cities Need to Know”, March 25, 2013, <http://www.governing.com/blogs/fedwatch/gov-what-will-the-supreme-court-ask-about-gay-marriage-html>

The problem is that the two cases are inextricably linked

- One major problem is that the two sets of statutes are intricately linked: There are almost 600,000 same-sex couple households in the 2010 U.S.Census. For example my friend the late Senator Allan Spear (President of the Minnesota Senate) was eligible for social security, state of Minnesota pension, and University of Minnesota pension; but his partner could not receive any of them because of a state Defense of Marriage Act, and the Federal Defense of Marriage Act. **Repealing the Federal Defense of Marriage Act would be fine, but his partner could not receive 1138 federal benefits because Minnesota does not have same-sex marriage; and he could not receive 515 Minnesota benefits because Minnesota has a state Defense of Marriage Act.**
- Perhaps only 35.6% of same-sex couples would receive Federal Benefits if D.O.M.A. were repealed, because the marital partners must be married in order to qualify...

California and the Rest

- So if the Supreme Court limits its decision to repealing the Federal Defense of Marriage Act, and Repealing Proposition 8 for California, the net effect for the remainder of the couples in the vast majority of the states is that...
- To gain federal benefits one must be married, and then notify the federal agencies that one qualifies. People in 40 of the states will not be allowed to be married and thus will not have access to those benefits. People in 9 states (plus California) will have full federal/state benefits.
- By repeal, we will have created a two-tiered system of (a) Equality for 10 states, and (b) Inequality for 40 states. Even worse than “Separate but Equal” one could call them “Separate and Unequal”...

Oh well, the repeal of State Defense of Marriage Statutes will be Swift!

- This is what that Justice Kennedy seemed to be thinking about in the U.S. Supreme Court oral arguments, because of his belief in states' rights. We would just let democracy reign in state by state repeals of the Defense of Marriage statutes. The other four progressive justices appeared to be concerned about a broad action to reverse all state Defense of Marriage acts because of the U.S. Supreme Court experience with Roe v. Wade ...and fear of a perception of Supreme Court over-reach.
- **Let us all sing the praises of states' rights...and remember that after the Emancipation Proclamation in 1863, it took until 1964 to pass the Civil Rights Act because state-by-state does not work.**
- There are two or more analyses floating around in cyber-space that lead one toward the state-by- approach. The arguments are found in ...
- (a) Karen Tumult and Tom Hamburger, "Opposition to Same Sex Marriage Narrows, Concentrated", Washington Post, 3/5/13 as cited in HeraldNet.com "Opposition to Same-Sex Marriage Narrows", March 7, 2013.

“Opposition to Same Sex Marriage Narrows, Concentrated”

- “Exit polls and other surveys from last year's election suggest that resistance to same-sex marriage is shrinking and mainly concentrated among certain segments of the population: older people, white evangelical Christians and non-college-educated whites. That is the analysis of a new study of the data by two pollsters, one a Democrat and the other a Republican. ‘Significant opposition to the freedom to marry is increasingly isolated within narrow demographic groups while a much broader and more diverse majority are ready to let same-sex couples marry,’ wrote Joel Benenson, who led President Barack Obama's polling operation in 2008 and 2012, and Jan van Lohuizen, who did the same job for former president George W. Bush. Their research, which will be released today, was commissioned by Freedom to Marry...”
- One writer in the LGBT press characterized the remaining opposition as “The Old, Religious Fundamentalists, and the Ignorant”; which ought to tell you a lot about this argument; as should the fact that it was commissioned by Freedom to Marry...

A Much More Sophisticated Study

- Nate Silver, New York Times, March 26, 2013, who wrote an article entitled “How Opinion on Same-Sex Marriage is Changing and What It Means”:
- This is a sophisticated argument asserting that: “An average of 33 percent of Americans said they supported same-sex marriage among 19 polls conducted in 2004, the same as the previous year. Support for same-sex marriage then began to rise at a rate of about 2 percentage points a year, growing to an average of 37 percent in polls conducted in 2006, and 41 percent in polls conducted in 2008. It has continued to increase at about the same rate since then. At some point in 2010 or 2011, support [began to outweigh opposition in the polls](#). Among the 37 polls conducted since 2012, all but four have shown more Americans supporting same-sex marriage than opposed to it. Nevertheless, this seems to reflect a steady gain in support for same-sex marriage rather than there having been any one inflection point. The linear trend line implies that support for same-sex marriage should be 50 percent right now, not meaningfully different from the average of 51 percent among the eight polls conducted so far this year. The steadiness of the trend seems consistent with the idea that the shifts are partly generational, with younger Americans gradually replacing older ones in the electorate. However, some voters have also changed their opinion to favor same-sex marriage while fewer have done the reverse, as can be seen in surveys that [track generational cohorts over time](#). As a rule of thumb, perhaps about half of the increase in support for same sex-marriage is attributable to generational turnover, while the other half is because of the net change in opinion among Americans who have remained in the electorate.”
- The data is then analyzed in such a way as to show that as the 2% trend increases continues, eventually most states will see a majority in favor of same-sex marriage over a number of years. By linking variables relating to “religiosity”, adding an indicator including either civil unions or same-sex marriage, assuming of linearity in support for same-sex marriage, and a trend line from national polls, the polls will ensure that opposition to same-sex marriage disappears over time.
- Since this author (Dr. Swan) studied philosophy, took a course in historical trends, and more recently taught Public Fiscal Management (and learned about the “Black Swan effect”), he learned to be a bit cautious about assumptions of linearity. Will that 2 percent increase actually result in the state D.O.M.A. laws going away?

The “Momentum” that is occurring now...

- ...Is being generated in a limited number of states (Minnesota, Illinois, Delaware, New Jersey, Rhode Island, Hawaii) resulting from a New York Times article by Evan Wolfson that laid out the strategy...(Evan Wolfson, “For Marriage Equality, the Work’s Not Just in Court”,
<http://www.nytimes.com/2012/12/11/opinion/for-marriage-equality-the-works-not-just-in-court.html?pagewanted=all&r=0>
- If one relies upon that strategy, once the states that tend to be supportive of LGBT rights have passed same-sex marriage laws, then what happens?

The Momentum then stops...

The real challenge is the hard-core D.O.M.A. states:

- South---Mississippi, Florida, North Carolina, Georgia, South Carolina, Kentucky, West Virginia, Tennessee, Louisiana,
- Mountain/West---Utah, Montana, Alaska, Arizona, New Mexico
- Rust belt Industrial---Ohio, Pennsylvania, Indiana
- Conservative Midwest---Nebraska, North Dakota, South Dakota, Missouri, Kansas, Wisconsin

Let's Take Louisiana As an Example

- I was just in New Orleans for the American Society for Public Administration conference in March 2013 and I was struck by the high level of opposition to same-sex marriage (59%).
- Let's look at some recent Pew Foundation data:
- “People in the South express greater opposition. A majority (56%) in the central Southern states such as Alabama, Kentucky, Louisiana, Oklahoma and Texas oppose same-sex marriage, while about a third (35%) favors it. The divide is more narrow in the South Atlantic states such as Florida, Georgia, Virginia and the Carolinas (48% oppose, 42% favor). Pew Research Center for the People and the Press, “Behind Gay Marriage Momentum, Regional Gaps Persist”, November 9, 2012, <http://www.people-press.org/2012/11/09/behind-gay-marriage-momentum-regional-gaps-persist/>

I think we have seen these trends someplace else before...

- Let's look at the most recent polling data on marriage: "While national polls show a majority of Americans now favor same-sex marriage, a February (2013) poll by Public Policy found 59 percent of respondents in Louisiana are opposed, with only 29 percent in support. " Bruce Alpert, "Mary Landrieu is one of 9 Senate Democrats not to endorse gay marriage", nola.com, http://www.nola.com/politics/index.ssf/2013/03/landrieu_just_one_of_nine_demo.html
- Let's just tease this out a bit, and see what happens when we look at a continuation of that 2% increase in support. It appears that it is going to be long, long time before Louisiana moves in support of same-sex marriage... Sometime around 2022, if we assume linearity as well as a 2% polling data increase each year...And in 2030, if we are lucky, Mississippi will grant same-sex couples the right to marry...
- In addition to public opinion, there are other factors that condition political behavior. Let's look at just one of them...The process to revise a Constitution (and especially to eliminate a Constitutional Amendment) is complicated...

The Constitution of Louisiana will be revised, after these conditions are met

- **Louisiana**
- *Main article: [Article XIII, Louisiana Constitution](#) and see also [Laws governing ballot measures in Louisiana](#). There are two ways to amend or revise the [Louisiana Constitution](#):*
- If 2/3rds of the members of both houses of the [Louisiana State Legislature](#) vote in the affirmative, a [legislatively-referred constitutional amendment](#) can be placed on a statewide ballot. If approved by a simple majority, it becomes part of the constitution in twenty days, unless the amendment itself has a different date that it will become effective.
- Amendments to the constitution can be proposed that directly affect voters in just part of the state. If an amendment affects five or fewer parishes it has to be approved by a majority statewide vote **and** by a majority vote in the parishes it affects. The same thing is true for an amendment that affects five or fewer municipalities in the state.
- Resolutions of the state legislature authorizing a proposed amendment to be placed on the ballot for voter ratification must specify an election. The legislature can decree a special election for this purpose.
- Proposed amendments must cover just one subject with the exception that the legislature is allowed to put an amendment on the ballot that, if approved, would alter or revise one full article of the constitution. In the case of such an amendment, it can cover multiple subjects.
- Two-thirds of the members of both houses can call for a [constitutional convention](#). The results of such a convention have to go before the state's voters for ratification. Unlike most other states that allow for constitutional conventions, the Louisiana legislature can directly order up a convention without having to submit the question of whether or not to hold one to the state's voters.

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"Amending State Constitutions", "Louisiana", Ballotpedia.org,
http://ballotpedia.org/wiki/index.php/Amending_state_constitutions

A Similar Issue is Evolving in Ohio

- Senator Rob Portman's disclosure that his son is gay, and that he supports same-sex marriage has led to a movement to repeal the constitutional amendment for that state. The organization, Freedom Ohio, will need to obtain 385,000 signatures to get onto the ballot but "...might delay a vote until 2014 to raise money in anticipation of a fierce public fight...."
- Phil Burress, president of Citizens for Community Values, said that he would now oppose Mr. Portman's re-election 'tooth and nail' and that without the support of the 40 percent of evangelical voters in the Republican base, Mr. Portman, who will be a candidate again in 2016 'cannot win, he will not win.'... Mr. Burress, who supports discredited therapies aimed at changing sexual orientation (said)... 'I spent four and a half years on the board of an organization that helped people walk away from homosexuality. It is not innate; you're not born that way.'
- 'That devastated me, that he embraced his son's behavior.' "
- Gabriel, Trip, "Doubts and Downloads in Ohio After Portman's Shift on Gay Marriage", New York Times, April 4, 2013, <http://www.nytimes.com/2013/04/05/us/politics/senator-portman-ohio-fallout-shift-same-sex-marriage.html?pagewanted=all&r=0>

So, what percentage of gay and lesbian couples will have to wait for marriage for another 1-20 years (or more) in their states, in order to claim their Federal benefits? Answer---
64.4%

- Total same-sex couple households593,324
- States performing same-sex marriages. 42,195
- Domestic partnership/Civil unions.....169,205
- California.90,023
- All other states 381,924
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- Source: U.S. Census 2010, “Same-Sex Couple Households: American Community Survey Briefs”, Table 1. Distribution of Same-Sex Couple Households by States Grouped by Legal Recognition of Same-Sex Couple Marriages and Unions: 2010,
<http://www.census.gov/prod/2011pubs/acsbr10-03.pdf>

If the U.S. Supreme Court supports moving in the direction of California only receiving marital rights (Proposition 8 repealed), and D.O.M.A. being repealed...

- Then we will have the equivalent of a very badly structured Plessy v. Ferguson... Instead of separate but equal railway cars, gays and lesbians will have separate and unequal state/federal rights...
- People in 10 states will have full marital rights (with full federal benefits), and the remaining 40 states will have...
- NOTHING, except of course for a gradual 2% reduction (assuming linearity) each year in the percentage of people who support same-sex marriage. Every so often, states will repeal their statutes on the subject, but this will be a slow and arduous process. It will be even harder to repeal constitutional amendments...