

In The
Supreme Court of the United States

—◆—
UNITED STATES,

Petitioner,

v.

EDITH SCHLAIN WINDSOR, ET AL.,

Respondents.

—◆—
**On Writ Of Certiorari To The
United States Court Of Appeals
For The Second Circuit**

—◆—
**BRIEF OF WESTBORO BAPTIST CHURCH
AS *AMICUS CURIAE* IN SUPPORT OF NEITHER
PARTY SUGGESTING REVERSAL
(ON MERITS ISSUE)**

—◆—
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The Westboro Baptist Church of Topeka, Kansas, respectfully submits this *amicus curiae* brief in support of no party, but in favor of reversal.



**STATEMENT OF INTEREST
OF *AMICUS CURIAE*¹**

The Westboro Baptist Church (WBC) is a small nondenominational independent Bible-believing flock in Topeka, Kansas (since 1955), which has engaged this nation in a robust debate about its policies of sin and the consequence of such pervasive proud sin to the country and its people. WBC began picketing over 20 years ago, warning that homosexuality was going to be the destruction of America. After the tragic events of September 11, 2001, WBC increased its street and social-media ministry, urging Americans to put away policies of proud sin, mourn, repent, and obey God. Today the number one moral issue facing this nation is same-sex marriage. Westboro has testified to the world about this issue:

The Westboro Baptists may be on the right track after all, although gay marriage,

¹ Pursuant to S. Ct. R. 37.6, the *amicus* states that no counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus curiae*, its members, or its counsel made a monetary contribution to its preparation or submission. The parties have consented to the filing of this brief.

not just homosexuality, could be the catalyst for the consummation.

With several states ratifying gay marriage and movements afoot to extend it elsewhere, it could become general. The Babylonian Talmud reveals that until now only one society in all of history practiced it, the Antediluvian.

The Babylonian Talmud also says the practice was the reason for Noah's flood. The risk of retribution is real.

Interestingly, Jesus said the time of his coming would resemble those far off days. He even mentioned "marriage and giving in marriage."

We in Australia have just had our first such wedding. It's a worry.

Ken Hood, Clifton, Australia²

As this Honorable Court sets out to consider whether to protect same-sex marriage – to give the imprimatur of the government to marriages between same-sex couples – WBC has a vested interest in speaking up. WBC members have toiled in the American vineyard, entreating Americans to get right with God. Like every citizen of this land, WBC members have an everlasting and non-delegable duty to warn our fellow citizens – and especially our leaders – of

² Letter to the editor, *Topeka Capital Journal*, December 15, 2009, available Online at <http://bit.ly/13fPkhi>.

the consequence of continuing down this path toward same-sex marriage as a permanent fixture in the culture and mores of the United States.



SUMMARY OF THE ARGUMENT

The government has responsibility to protect the health, safety and welfare of the people. Of all the harms that a society can face, none are worse than incurring the wrath of God by a blatant policy of defiance of and disobedience to His plain standard. This nation was founded on Bible principles, and the laws of America arose from Scriptural precepts. America has erred in making fornication, adultery, divorce, remarriage, abortion-for-convenience-on-demand and sodomy, standard fare in this country. It is time to reverse that course, and for this Court to squarely hold that the governments of America have a compelling interest in upholding traditional opposite-sex marriage, and further in *protecting the people* from the devastating effects of same-sex marriage. Separation of church and state, while prohibiting government from interfering in issues of doctrine or church governance, does not prohibit the government from promulgating laws that institute the standards of God on moral issues. Just as the government is empowered to outlaw murder, the government is empowered to outlaw same-sex marriage. This nation that God blessed and built into a super power is going to perish if this Court and the governments of this land bless

same-sex marriage through government license. WBC pleads for reversal.

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ARGUMENT

I. THE GOVERNMENT HAS A COMPELLING INTEREST IN PROTECTING THE PEOPLE FROM THE DESTRUCTIVE EFFECTS OF SAME-SEX MARRIAGE.

“[G]overnment is vested with the responsibility of protecting the health, safety, and welfare of its citizens. See *Metropolitan Life Ins. Co. v. Massachusetts*, 471 U.S. 724, 756, 105 S. Ct. 2380, 85 L. Ed. 2d 728 (1985) (“The States traditionally have had great latitude under their police powers to legislate as to the protection of the lives, limbs, health, comfort, and quiet of all persons’ (internal quotation marks omitted),” *United Haulers Association v. Oneida-Herkimer Solid Waste Management Authority*, 550 U.S. 330, 342-343, 127 S. Ct. 1786, 1795, 167 L. Ed. 2d 655, 667 (2007)).

Sister Teresa of Calcutta once addressed this Court, urging it not to make abortion the law of the land, and told the Court: “A nation founded on these principles [of the Declaration of Independence] holds a sacred trust: to stand as an example to the rest of the world . . . ” and that “America has kept faith.”³

³ “Brief *Amicus Curiae* of Mother Teresa of Calcutta, in Support of Petitioners’ Petitions for a Writ of Certiorari,”
(Continued on following page)

The whole world is now watching to see if the Highest Court in the Land – truly the most powerful court in the world – referred to as the conscience of the nation – is going to set in motion the most ruinous of all sins, to the great harm and detriment of the citizens of this land.

Nothing is more harmful to the health and welfare than sin. In his best known sermon, “Sinners in the Hands of an Angry God,” expounding Deuteronomy 32:35, *Holy Bible*, “Their foot shall slide in due time,” American theologian Jonathan Edwards said this:

Sin is the ruin and misery of the soul; it is destructive in its nature; and if God should leave it without restraint, there would need nothing else to make the soul perfectly miserable. The corruption of the heart of man is a thing that is immoderate and boundless in its fury; and while wicked men live here, it is like fire pent up by God’s restraints, whereas if it were let loose it would set on fire the course of nature; and as the heart is now a sink of sin, so, if sin was not restrained, it would immediately turn the soul into a fiery oven, or a furnace of fire and brimstone.⁴

Human Life Review, Spring, 2001, Vol. 27, Issue 2, pp. 97-100, found Online at <http://bit.ly/Wl1wHv>.

⁴ This sermon can be found Online at <http://bit.ly/Secdkc>. Jonathan Edwards’ (1703-1758) biography can also be found Online at <http://bit.ly/VEhsIW>, as part of a full collection of information and sermons at the Online Jonathan Edwards
(Continued on following page)

Nothing is more destructive to a nation than wholesale rejection of the plain standard of God. “The wicked shall be turned into hell, and all the nations that forget God.”⁵ Adam Clarke: “They will not live in his fear. There are both *nations* and *individuals* who, though they *know* God, *forget* him, that is, are *unmindful* of him, do not *acknowledge* him in their designs, ways, and works. These are all to be *thrust down into hell*” (emphasis in original).⁶

Center at Yale University. This revivalist, theologian, pastor, philosopher and (briefly before his death) president of the College of New Jersey (later Princeton University), represents the kind of preacher found in this nation over two hundred years ago. Such preaching was observed by Alexis de Tocqueville when he toured America in 1831, and reported back to France.

[B]ut there is no country in the whole world in which the Christian religion retains a greater influence over the souls of men than in America; and there can be no greater proof of its utility, and of its conformity to human nature, than that its influence is most powerfully felt over the most enlightened and free nation of the earth

Alexis de Tocqueville, *Democracy in America*, 3rd ed., David Campbell Publishers Ltd., 1994, at 303-304. President Dwight D. Eisenhower characterized Tocqueville’s words in a campaign address in Boston, Massachusetts on November 3, 1952, thusly: “Not until I went into the churches of America and heard her pulpits flame with righteousness did I understand the secret of [America’s] genius and power. America is great because she is good, and if America ever ceases to be good, America will cease to be great.” See Online at <http://bit.ly/RAyU0r>.

⁵ Psalm 9:17, *Holy Bible*.

⁶ This commentary by British Methodist theologian and biblical scholar Adam Clarke (1762-1832) can be found Online at <http://bit.ly/VEndpW>.

“Righteousness exalteth a nation: but sin is a reproach to any people.”⁷ “But in every nation he that feareth him, and worketh righteousness, is accepted with him.”⁸

It is no small matter for a nation to accept the sin of sodomy, and the lifestyle or agenda⁹ that it entails. The description of the utter annihilation of Sodom and Gomorrah and three nearby cities is stark, and directly tied to homosexuality. This historical event described in Genesis 19:1-28, *Holy Bible*, must be considered at this hour:

And there came two angels to Sodom at even; and Lot sat in the gate of Sodom: and Lot seeing them rose up to meet them; and he bowed himself with his face toward the ground;

⁷ Proverbs 14:34, *Holy Bible*.

⁸ Acts 10:35, *Holy Bible*.

⁹ We use the term “agenda” advisedly. Justice Scalia in his dissent in *Lawrence v. Texas*, 539 U.S. 558, 123 S. Ct. 2472, 156 L. Ed. 2d 508 (2003), said: “Today’s opinion is the product of a Court, which is the product of a law-profession culture, that has largely signed on to the so-called homosexual agenda, by which I mean the agenda promoted by some homosexual activists directed at eliminating the moral opprobrium that has traditionally attached to homosexual conduct,” 539 U.S. at 602, 123 S. Ct. at 2496, 156 L. Ed. 2d at 541. An essential part of this agenda is the government’s blessing on these unscriptural unions in the form of a marriage license, which as the Ninth Circuit recently noted has unique meaning, see *Perry v. Brown*, 681 F.3d 1065, 1075, 1078 (9th Cir. 2012), *cert. granted*, *Hollingsworth v. Perry*, 2012 U.S. LEXIS 9416 (Dec. 7, 2012).

And he said, Behold now, my lords, turn in, I pray you, into your servant's house, and tarry all night, and wash your feet, and ye shall rise up early, and go on your ways. And they said, Nay; but we will abide in the street all night.

And he pressed upon them greatly; and they turned in unto him, and entered into his house; and he made them a feast, and did bake unleavened bread, and they did eat.

But before they lay down, the men of the city, even the men of Sodom, compassed the house round, both old and young, all the people from every quarter:

And they called unto Lot, and said unto him, Where are the men which came in to thee this night? bring them out unto us, that we may know them.

And Lot went out at the door unto them, and shut the door after him,

And said, I pray you, brethren, do not so wickedly.

Behold now, I have two daughters which have not known man; let me, I pray you, bring them out unto you, and do ye to them as is good in your eyes: only unto these men do nothing; for therefore came they under the shadow of my roof.

And they said, Stand back. And they said again, This one fellow came in to sojourn, and he will needs be a judge: now will

we deal worse with thee, than with them. And they pressed sore upon the man, even Lot, and came near to break the door.

But the men put forth their hand, and pulled Lot into the house to them, and shut to the door.

And they smote the men that were at the door of the house with blindness, both small and great: so that they wearied themselves to find the door.

And the men said unto Lot, Hast thou here any besides? son in law, and thy sons, and thy daughters, and whatsoever thou hast in the city, bring them out of this place:

For we will destroy this place, because the cry of them is waxen great before the face of the LORD; and the LORD hath sent us to destroy it.

And Lot went out, and spake unto his sons in law, which married his daughters, and said, Up, get you out of this place; for the LORD will destroy this city. But he seemed as one that mocked unto his sons in law.

And when the morning arose, then the angels hastened Lot, saying, Arise, take thy wife, and thy two daughters, which are here; lest thou be consumed in the iniquity of the city.

And while he lingered, the men laid hold upon his hand, and upon the hand of his

wife, and upon the hand of his two daughters; the LORD being merciful unto him: and they brought him forth, and set him without the city.

And it came to pass, when they had brought them forth abroad, that he said, Escape for thy life; look not behind thee, neither stay thou in all the plain; escape to the mountain, lest thou be consumed.

And Lot said unto them, Oh, not so, my Lord:

Behold now, thy servant hath found grace in thy sight, and thou hast magnified thy mercy, which thou hast shewed unto me in saving my life; and I cannot escape to the mountain, lest some evil take me, and I die:

Behold now, this city is near to flee unto, and it is a little one: Oh, let me escape thither, (is it not a little one?) and my soul shall live.

And he said unto him, See, I have accepted thee concerning this thing also, that I will not overthrow this city, for the which thou hast spoken.

Haste thee, escape thither; for I cannot do any thing till thou be come thither. Therefore the name of the city was called Zoar.

The sun was risen upon the earth when Lot entered into Zoar.

Then the LORD rained upon Sodom and upon Gomorrah brimstone and fire from the LORD out of heaven;

And he overthrew those cities, and all the plain, and all the inhabitants of the cities, and that which grew upon the ground.

But his wife looked back from behind him, and she became a pillar of salt.

And Abraham gat up early in the morning to the place where he stood before the LORD:

And he looked toward Sodom and Gomorrah, and toward all the land of the plain, and beheld, and, lo, the smoke of the country went up as the smoke of a furnace.

Every adult, child, suckling and animal – utterly destroyed. Sodom is held forth as an example in the New Testament, for instance: “Even as Sodom and Gomorrah, and the cities about them in like manner, giving themselves over to fornication, and going after strange flesh, are set forth for an example, suffering the vengeance of eternal fire.”¹⁰

Concerning this event, Christ said, “Remember Lot’s wife,”¹¹ because she looked back on a people God judged to be sinful to the point of destruction, with fondness and longing. Dr. John Gill on this passage:

¹⁰ Jude 1:7, *Holy Bible*.

¹¹ Luke 17:32, *Holy Bible*.

“[T]he reason of her looking was either to see what would be the end of her father’s house and family; or as others, because her heart yearned after her daughters, and she looked back to see if they followed her.”¹² Jamieson, Fausset, Brown: “Her heart was in Sodom still.”¹³ Space does not permit recounting the horrific historical description of the civil war that erupted in ancient Israel after sodomites of the tribe of Benjamin raped a woman to death, and the men of that tribe fought for that sin. The tribe of Benjamin was nearly wiped out, as you can read in the book of Judges, chapters 19-21, *Holy Bible*. It is not a small thing in God’s eyes for a nation to embrace proud sin, let alone the sin of homosexuality.¹⁴

¹² This commentary by theologian, English Baptist preacher and biblical scholar Dr. John Gill (1697-1771) can be found Online at <http://bit.ly/VTT56Q>.

¹³ This commentary by theologian, Scotland preacher and biblical scholar Robert Jamieson (1802-1880); theologian, England preacher and biblical scholar A. R. Fausset (1821-1910); and Scotland preacher, professor of theology and biblical scholar David Brown (1803-1897); published in 1871, can be found Online at <http://bit.ly/11hJDkp>.

¹⁴ Many more passages are found in the Scriptures condemning homosexuality, including the Mosaic code forbidding and calling for the death penalty for homosexuality, Leviticus 18:22 and Leviticus 20:13, *Holy Bible*, reiterated in the New Testament at Romans 1:32, *Holy Bible*, as a crescendo at the end of an exhaustive description of men with men and women with women, calling it “uncleanness” and “vile affections,” Romans 1:21-31, *Holy Bible*. The Bible refers to practicing homosexuals as dogs because of their nature, see Philippians 3:2 and Matthew 7:6, *Holy Bible*; and they are described as being “without”

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Worse still is same-sex marriage, in its destructive effect on society. The old Jewish writings report that the final offense that brought Noah's Flood was the making of marriage contracts between men. Here it is described in *A Spiritual and Ethical Compendium to the Torah and Talmud* by Rabbi Arthur Segal with Frank Dunne, Jr., 2008, at 46-48:

[Genesis] Verse 6:11 says that the world was corrupt and filled with robbery. God was going to destroy the world for this corruption and robbery. This seems awfully harsh, especially in today's world where corruption and theft seems commonplace. Rashi (Rabbi Shlomo Yitzhaki, 1040, France) says a better translation of corruption is immorality and idol worship. The Midrash¹⁵ says that adultery, incest and stealing were all part of man's daily schedule. Powerful men would take any

heaven in the end, Revelation 22:15, *Holy Bible*. The Apostle Peter describes them as "natural brute beasts made to be taken and destroyed," 2 Peter 2:7-12, *Holy Bible*; and Christ describes the conditions in the last days – at the time of his Second Coming to earth in power and glory – as like the days of Lot and Noah, with men marrying "wives" (divorce/remarriage) and men being "given in marriage," Luke 17:27, *Holy Bible* (traditionally the woman is *given* in marriage). The inescapable conclusion is that the Bible condemns and prohibits homosexuality and same-sex marriage.

¹⁵ According to JewishEncyclopedia.com, Midrash means "to study," or "to investigate," and is a term "denoting 'exposition,' 'exegesis,' especially that of the Scriptures." See Online at <http://bit.ly/WlrjiK>.

women that they chose. The Midrash also says that a major sin of this generation was sexual relations purely for lascivious gratification. Talmud Tractate Sanhedrin 57A says that the world was immersed in jealousy, greed, theft, violence, lying, impatience, intolerance, deception and fraud. The worst of all the transgressions according to both Rashi and Ibn Ezra was that people exploited each other sexually. Sounds rather familiar, doesn't it? Hold on, there's more.

The Midrash Vayikra Rabbah says: "Everyone and everything became amoral. Even animals became so morally corrupt and decadent that one species mated with another species – dogs with wolves, horses with donkeys, snakes with birds. ***The generation of the Flood was finally wiped away when they started writing songs extolling cohabitation of males with males and males with animals.***" ***Another Midrash says that males just didn't sodomize other males, but that they signed ketobot (marriage contracts) legalizing these relationships.*** (Emphasis added.)

Since the Generation of the Flood, all generations have known of Noah's flood. It bears attending to the details briefly here. Noah preached to his generation for 120 years. None attended to his words, and only he, his wife, his three sons, and their wives, boarded the ark. The description of the complete destruction of all mankind – a population as or bigger than

today's population¹⁶ – is starkly described in Genesis 7:11-23, *Holy Bible*:

In the six hundredth year of Noah's life, in the second month, the seventeenth day of the month, the same day were all the fountains of the great deep broken up, and the windows of heaven were opened.

And the rain was upon the earth forty days and forty nights.

In the selfsame day entered Noah, and Shem, and Ham, and Japheth, the sons of Noah, and Noah's wife, and the three wives of his sons with them, into the ark;

¹⁶ May this suffice on the subject of the physical world before the Flood. Much more could be said. What has been said is sufficient to show that the world of Adam, Methuselah, of Enoch and Noah, was a wondrous world. A world rich in plant and animal life. A world which yielded food of every kind for man and beast without any great effort on the part of either, a world which could therefore support a population many times greater than our present population. * * * It is reasonable to assume that the population was at least equal to the population of the world today.

Alfred M. Rehwinkel, *The Flood in the Light of the Bible, Geology and Archaeology*, Concordia Publishing House, St. Louis, 8th ed., 1962, at pp. 15, 19, available Online at <http://bit.ly/109Pt8h>. A recent ABC special by Christiane Amanpour, "Back to the Beginning," included a segment, "Noah's Biblical Flood: New Evidence Suggests It Happened," with information about archeological finds by Robert Ballard (founder of the Titanic), in the Black Sea in Turkey that support the account in Genesis, available Online at <http://abcn.ws/TYwIyr>.

They, and every beast after his kind, and all the cattle after their kind, and every creeping thing that creepeth upon the earth after his kind, and every fowl after his kind, every bird of every sort.

And they went in unto Noah into the ark, two and two of all flesh, wherein is the breath of life.

And they that went in, went in male and female of all flesh, as God had commanded him: and the LORD shut him in.

And the flood was forty days upon the earth; and the waters increased, and bare up the ark, and it was lift up above the earth.

And the waters prevailed, and were increased greatly upon the earth; and the ark went upon the face of the waters.

And the waters prevailed exceedingly upon the earth; and all the high hills, that were under the whole heaven, were covered.

Fifteen cubits upward did the waters prevail; and the mountains were covered.

And all flesh died that moved upon the earth, both of fowl, and of cattle, and of beast, and of every creeping thing that creepeth upon the earth, and every man:

All in whose nostrils was the breath of life, of all that was in the dry land, died.

And every living substance was destroyed which was upon the face of the ground, both man, and cattle, and the creeping things, and the fowl of the heaven; and they were destroyed from the earth: and Noah only remained alive, and they that were with him in the ark. (Emphasis added.)

When this Honorable Court sits in judgment on a matter, not only is the whole world watching, but God is watching. “God standeth in the congregation of the mighty; he judgeth among the gods,” Psalm 82:1, *Holy Bible*. Dr. John Gill says, “. . . civil magistrates are meant, the rulers and judges of the people, who . . . are so called because they are the powers ordained of God, and representatives of him, are his vicegerents and deputies under him; should act in his name, according to his law, and for his glory, and are clothed with great power and authority from and under him.”¹⁷ Charles Spurgeon expounds: “He lends them his name, and this is their authority for acting as judges, but they must take care that they do not misuse the power entrusted to them, for the Judge of judges is in session among them.”¹⁸

¹⁷ This commentary by Dr. Gill can be found Online at <http://bit.ly/UubQxv>.

¹⁸ This commentary by Charles Haddon Spurgeon (1834-92), England’s best-known preacher for most of the second half of the nineteenth century, pastor of London’s New Park Street Church can be found Online at <http://bit.ly/UZDkP9>.

The standard of God for marriage is one man, one woman, for life. Christ speaking in Matthew 19:3-8, *Holy Bible*:

The Pharisees also came unto him, tempting him, and saying unto him, Is it lawful for a man to put away his wife for every cause?

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 to 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.

They say unto him, Why did Moses then command to give a writing of divorcement, and to put her away?

He saith unto them, Moses because of the hardness of your hearts suffered you to put away your wives: but from the beginning it was not so.

The Apostle Paul in his epistle to the church at Ephesus, in Ephesians 5:31-32, *Holy Bible*:

For this cause shall a man leave his father and mother, and shall be joined unto his wife, and they two shall be one flesh.

This is a great mystery: but I speak concerning Christ and the church.

When this nation tampers with marriage as properly defined in the Scriptures, it is tampering with the very symbol of Christ and His Bride, the Church.¹⁹ It is a very serious matter; same-sex marriage is totally contrary to the standard of God.

The parties and *amici* will spend considerable time on the issue of whether or not the government has a legitimate interest in steering procreation into opposite-sex marriages; whether the law at issue here properly carries out such an interest; and all of the legal issues pertaining thereto. Unquestionably it is best for the health, safety and welfare to follow God's standard on marriage, and the benefits of a proper scriptural opposite-sex, one-man-one-woman-for-life marriage are enumerable, that being a lovely symbol

¹⁹ The Bible also says no divorce, and no remarriage. See, e.g., Malachi 2:16, *Holy Bible* (The Lord hates a man putting away his wife); Mark 10:11, *Holy Bible* (whosoever shall put away his wife, and marry another, committeth adultery against her); Romans 7:2 and 1 Corinthians 7:39, *Holy Bible* (the woman is bound to her husband as long as he lives). Divorce rates in America are still above 30%, <http://bit.ly/Vvwj60>, and a 2008 Gallup Values and Beliefs survey found that 70% of Americans believe divorce is morally acceptable, see poll results Online at <http://bit.ly/VKyjHk>. That is an unfortunate fact to be faced by some of the parties and *amici* in this and similar legal proceedings. Never mind. The standard of God has not changed, nor has the responsibility of government to protect the health, welfare and safety of the people – first and foremost by upholding the standards of God on critical moral issues.

of Christ and His Bride,²⁰ and being a great blessing from God.²¹

But of far greater importance is the fact that the government has no greater responsibility than to protect the people from such grievous sin that the inevitable result will be the outpouring of the wrath of God on the land, being great mayhem, carnage and destruction. Nothing is better for the health, safety and welfare of the people than to obey God. When a critical moral issue becomes the centerpiece of the discussion, and is put squarely before this Honorable Court, or before any governmental body, the duty is to follow the standard of God. Not invent a multitude of sociological, pseudo-scientific, historical or any other theory or reasoning that leads to ignoring and disobeying the plain standard of God. The highest interest of government is to follow the standard of God; appeal to the people to follow the standard of God; and establish policies and laws that follow the standard of God. This nation has gone astray,

²⁰ E.g., “Let us be glad and rejoice, and give honour to him; for the marriage of the Lamb is come, and his wife hath made herself ready,” Revelation 19:7, *Holy Bible*. “For the husband is the head of the wife, even as Christ is the head of the church: and he is the savior of the body,” Ephesians 5:23, *Holy Bible*.

²¹ E.g., “Marriage is honourable in all, and the bed undefiled: but whoremongers and adulterers God will judge,” Hebrews 13:4, *Holy Bible*. “Whoso findeth a wife findeth a good thing, and obtaineth favour of the LORD,” Proverbs 18:22, *Holy Bible*. “Who can find a virtuous woman? For her price is far above rubies,” Proverbs 31:10, *Holy Bible*.

letting fornication, adultery, abortion-for-convenience-on-demand, divorce, remarriage and sodomy become the norm. It may not be too late. The prophet Jonah feared it was too late for the thriving city of Nineveh, whose repentance (starting with the King) turned back God's wrath, and spared that nation for another one hundred years.²² Homosexuality is destructive in every way, to the individual and to the nation. Government should not put its seal of approval on that unholy union by issuing a marriage license. Government's interest is in doing the opposite, for the good of the people and the nation.

²² Compare the book of Jonah to the book of Nahum. Matthew Henry's commentary on Nahum 1:1, *Holy Bible*:

About 100 years before this Jonah had, in God's name, foretold the speedy overthrow of this great city; but then the Ninevites repented and were spared, and that decree did not *bring forth*. The Ninevites then saw clearly how much it was to their advantage to turn from their evil way; it was the saving of their city; and yet, soon after, they returned to it again; it became worse than ever, *a bloody city*, and *full of lies* and *robbery*. They repented of their repentance, returned with the dog to his vomit, and at length grew worse than ever they had been. Then God sent them not this prophet, as Jonah, but this prophecy, to read them their doom, which was now irreversible. Note, The relieve will not be continued if the repentance be not continued in. If men turn from the good they began to do, they can expect no other than that God should turn from the favour he began to show, Jer. 18:10.

This commentary by nonconformist puritan preacher and expositor Matthew Henry (1662-1714) can be found Online at <http://bit.ly/XeRaMg>.

This is a nation that was built on Bible principles.

[T]his is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation. * * * If we examine the constitutions of the various States we find in them a constant recognition of religious obligations. * * * There is a universal language [pervading], having one meaning: they affirm and reaffirm that this is a religious nation.

Church of the Holy Trinity v. United States, 143 U.S. 457, 465-472, 12 S. Ct. 511, 514-517, 36 L. Ed. 226, 230-232 (1892).

It seems to me rather obvious, when we get back to the early expression of those ideas [which found expression in the Declaration of Independence and the Preamble of the Constitution] and consider the general historical situation out of which the older colonies arose, that one chief source of these ideas was the popular knowledge of the Bible in the Protestant countries of that time.²³

The Bible was nothing short of the underlying fabric upon which American society was founded. . . . The rule of law began, not with the rules of man but with the rules

²³ Henry Thatcher Fowler, "Influence of the Bible in American Democracy," *Christian Education*, Vol. 3, No. 1, October 1919, pp. 22-25.

of God. * * * To find [social] sails and helm, [Americans] turned first to the Bible. . . . The emergent collaboration between church and state (even if these two arms remain separate while at the same time working together) has remained a fundamental axiom embedded in the nature of American policy ever since. * * * [T]he influence of biblical law continued to be felt in American jurisprudence well into the twentieth century. * * * To the extent that a modern system is derived from biblical social precepts or even unwittingly presupposes that such precepts are operational in society, the lack of any of the essential elements of that constitutive system may give rise to serious problems in the resultant system. * * * Democracy in America has succeeded because its society has possessed an underlying moral order, and historically that order has been informed largely by basic ideals supplied by the Bible. . . .²⁴

Neither this Court nor all governments in this nation are precluded from making decisions based on the standard of God. “What Baptists and other dissenters wanted, in [Philip] Hamburger’s assessment, was a political voice for their own religious views, unconstrained by establishment; *neither they nor the establishment clause of the First Amendment*

²⁴ John W. Welch, “Biblical Law in America: Historical Perspectives and Potentials for Reform,” 2002 *Brigham Young University Law Review* 611, at 619, 630-631, 636-637, available Online at <http://bit.ly/VEBX8j>.

ever intended to keep Christian conviction out of American governance, as secularists today insist” (emphasis added).²⁵ “[T]he separation of church and state has not denied the political realm a religious dimension.”²⁶

As we explained in *Lynch v. Donnelly*, 465 U.S. 668, 79 L.Ed.2d 604, 104 S.Ct. 1355 (1984): There is an unbroken history of official acknowledgement by all three branches of government of the role of religion in American life from at least 1789. * * * Recognition of the role of God in our Nation’s heritage has also been reflected in our decisions.

Van Orden v. Perry, 545 U.S. 677, 686, 687, 125 S. Ct. 2854, 2861, 162 L. Ed. 2d 607, 616, 617 (2005).

“[W]e find no constitutional requirement which makes it necessary for government to be hostile to religion and to throw its weight against efforts to widen the effective scope of religious influence.” *Zorach v. Clauson*, 343 U.S. 306, 313-314, 96 L.Ed. 954, 72 S.Ct. 679 (1952).

Id., 545 U.S. at 684, 125 S. Ct. at 2859, 162 L. Ed. 2d at 615.

²⁵ Tracy Fessenden, “The Nineteenth-Century Bible Wars and the Separation of Church and State,” *Church History*, Vol. 74, No. 4 (Dec. 2005), pp. 784-811, at 809, available Online at <http://bit.ly/UBefrF>.

²⁶ Robert N. Bellah, “Biblical Religion and Civil Religion in America,” *Journal of the American Academy of Arts and Sciences*, Winter, 1967, Vol. 96, No. 1, pp. 1-21, Online at <http://bit.ly/13cLjuc>.

Separation of church and state has become a battle cry for enabling sin. That was never the intention of the forefathers, but rather they intended to let each member of the new union serve God according to his or her conscience, not according to the dictates of an official state church.²⁷

The principle of church-state separation – from the time of Becket, to Blackstone, to Benjamin Franklin, to today – has long meant, among other things, that religious communities and institutions enjoy meaningful autonomy and independence with respect to their governance, teachings, and doctrines. This independence, recognized and vindicated in a long line and wide array of decisions by the Supreme Court, is entirely consistent with the appropriate powers of civil authorities.²⁸

²⁷ [B]ut it was reserved for the people and governments of this last settled among the lands to announce the religious equality of all men and all creeds before the law, without preference and without distinction or disqualification. Here, among all the benefits to mankind to which this soil has given rise, this pure religious liberty may be justly rated as the great gift of America to civilization and the world, having among principles of governmental policy no equal for moral insight, and for recognition both of the dignity of the human soul and the spiritual majesty of the Church of God.

Sanford Hoadley Cobb, *The Rise of Religious Liberty in America*, p. 2, available Online at <http://bit.ly/UCAUaP>.

²⁸ Berg, Colby, Esbeck & Garnett, “Religious Freedom, Church-State Separation, and the Ministerial Exception,” 106

(Continued on following page)

The fact that issues of doctrine and church governance are beyond the jurisdiction of civil government is not the equivalent of civil government abrogating its duty to protect the health, safety and welfare of the people by promulgating laws and policies consistent with the standards of God and the dictates of Holy Scripture.

No form of government will ever survive if it rejects and casts away as rubbish the standards of God. On no issue is this more apparent than the issue of same-sex marriage. Many laws in this nation are based on Bible standards. This Court should not hold that the government is prohibited from setting a proper moral standard in the matter of marriage, any more than it should so hold regarding murder. The fact that polls reflect over half the nation favors same-sex marriage changes nothing. Indeed it *underscores* the need to legislate against such devastating immoral behavior. The Court would eagerly uphold a law that protected the majority from a propensity to abuse mind-altering drugs, in spite of their preference to use such drugs, clearly seeing that such is in favor of the health, safety and welfare of the people. The damage done to the minds, bodies and social welfare of this nation by drugs is *nothing* compared to the damage same-sex marriage will do to this nation and its people.



Nw. U. L. Rev. Colloquy 175 (2011), available Online at <http://bit.ly/XF4X2C>.

CONCLUSION

“If the United States wants to continue as a superpower, it should heed the words of the Bible.”²⁹ If there had been ten righteous souls, who would have feared and obeyed God, in Sodom, that city (and four neighboring ones) would have been spared.³⁰ When the prophet Jonah appeared on the streets of ancient Nineveh – then the largest city in the world³¹ – saying, “Yet forty days, and Nineveh shall be overthrown,”³² the King of Nineveh declared a fast, and told the people to “cry mightily unto God, yeah, let them turn every one from his evil way, and from the violence that is in their hands. Who can tell if God will turn and repent, and turn away from his fierce anger, that we perish not?”³³ That is not to suppose that everyone in the land agreed; but the King set a national policy of obedience to God.³⁴ And God spared

²⁹ Hershey H. Friedman, Ph.D., and James Lynch, J.D., “Preventing the Decline and Fall of America: Messages from the Bible,” *Journal of Business Systems, Governance and Ethics*, Vol. 7, No. 1 (August 2012), at 1, available Online at <http://bit.ly/13a4c1G>.

³⁰ Genesis 18:32, *Holy Bible*.

³¹ You can read of the grandeur of Nineveh, and its sudden and complete destruction, in these encyclopedic articles Online at <http://bit.ly/Sg9IDw> and at <http://bit.ly/Zhr6zu>. Also see Online at <http://bit.ly/VGgDPN> for a list of the largest cities through history.

³² Jonah 3:4, *Holy Bible*.

³³ Jonah 3:6-9, *Holy Bible*.

³⁴ On March 30, 1863, facing the awful destruction of the Civil War on the country, President Abraham Lincoln signed
(Continued on following page)

Nineveh. “And God saw their works, that they turned from their evil way; and God repented of the evil, that

Proclamation 97 – Appointing a Day of National Humiliation, Fasting, and Prayer.

Whereas it is the duty of nations as well as of men to own their dependence upon the overruling power of God, to confess their sins and transgressions in humble sorrow, yet with assured hope that genuine repentance will lead to mercy and pardon, and to recognize the sublime truth, announced in the Holy Scriptures and proven by all history, that those nations only are blessed whose God is the Lord. * * * It behooves us, then, to humble ourselves before the offended Power, to confess our national sins, and to pray for clemency and forgiveness.

. . . . We have been the recipients of the choicest bounties of Heaven; we have been preserved these many years in peace and prosperity; we have grown in numbers, wealth, and power as no other nation has ever grown. But we have forgotten God. . . .

. . . . [I] do hereby request all the people to abstain on [the 30th day of April, 1863] from their ordinary secular pursuits, and to unite at their several places of public worship and their respective homes in keeping the day holy to the Lord and devoted to the humble discharge of the religious duties proper to that solemn occasion.

. . . . [Let] us then rest humbly in the hope . . . that the united cry of the nation will be heard on high and answered with blessings no less than the pardon of our national sins and the restoration of our now divided and suffering country. . . .

This Proclamation can be found in full Online at <http://bit.ly/13BvVbU>.

he had said that he would do unto them; and he did it not.”³⁵

Same-sex marriage will destroy this nation. If the leaders of this country treat what God has called abominable as something to be respected, revered, and blessed with the seal of approval of the government, that will cross a final line with God. The harm that will befall this nation, when the condign destructive wrath of God pours out on a nation that purposefully, in a calculating manner, institutionalizes marriage licenses for same-sex unions, is the ultimate harm to the health, welfare and safety of the people. The government is duty bound – in this Christian nation – to institute the standard of God on marriage, and pass and uphold laws that forbid same-sex marriage.

“Behold, I set before you this day a blessing and a curse; A blessing, if ye obey the commandments of the LORD your God, which I command you this day: And a curse, if ye will not obey the commandments of the LORD your God.”³⁶ What interest could be more compelling for the government than to seek the blessings of God on this nation, by obeying His commandments and following His standards?

Blessed is the nation whose God is the LORD; and the people whom he hath chosen for his own inheritance.

³⁵ Jonah 3:10, *Holy Bible*.

³⁶ Deuteronomy 11:26-28, *Holy Bible*.

The LORD looketh from heaven; he
beholdeth all the sons of men.

From the place of his habitation he
looketh upon all the inhabitants of the earth.

He fashioneth their hearts alike; he
considereth all their works.³⁷

We respectfully request that this Court find
that the government has a compelling interest in
fashioning laws by any means that prohibit same-sex
marriage, and reverse.

Respectfully submitted,

MARGIE J. PHELPS, ESQ.

Counsel of Record

³⁷ Psalm 33:12-15, *Holy Bible*.