Randy E. Barnett: Our Republican Constitution

Tiffany Jones Miller: FDR’s Revolution

Joseph Bottum: The Bible & Early America

Carol Iannone: Woman’s Work Is Never Done

James Grant: Ben Bernanke’s Crisis

Christopher Caldwell: In Praise of Putin

Andrew Roberts: Arnn on Churchill

Hadley Arkes & Robert R. Reilly: How Not to Defend Marriage

James Bowman: Alfred Hitchcock

Bruce S. Thornton: The Founding’s Common Sense
Losing the Argument


Ryan T. Anderson, a senior research fellow at the Heritage Foundation, is ubiquitous in his courageous championship of traditional marriage. He seems to be everywhere in the media, making the case in a staggering number of lectures, articles, and books. From his perch as editor of the online journal Public Discourse, sponsored by the Witherspoon Institute, he has also published some of the most powerful authors on this subject. This is all to the good, as is his new book—for the most part. First, I will applaud Truth Overruled: The Future of Marriage and Religious Freedom, for what it does so well, and then address the problem of what it fails to do altogether. If I dwell on the latter, it is not because I do not greatly appreciate the former, but because Anderson’s omission is not peculiar to him. Rather it is typical of the pro-natural family movement and is, I will contend, partially responsible for its failure thus far.

Anderson’s book is written in a popular style to appeal to a broad audience. Already a bestseller, it appears to have succeeded. He capably sets out the “conjugal” argument as to why marriage should be between a man and a woman, and what the calamitous consequences are if it is held to be otherwise. He is particularly strong on the generative nature of conjugal relations and why they belong in marriage naturally and uniquely. Anderson effectively surveys the wasted landscape left in the wake of the disastrous Obergefell v. Hodges decision (2015) in which five members of the Supreme Court made same-sex “marriage” a new civil right. In the chapter on “Judicial Tyranny,” he explicates the Obergefell decision and calls attention to the scathing dissents by Justices Antonin Scalia, Clarence Thomas, John Roberts, and Samuel Alito. He then performs the valuable service of filling out those dissents with in-depth treatments of the issues they raise. If anyone did not find the dissents convincing, they will after reading this book. Anderson then takes us through the horror stories of those whose businesses have been threatened or lost because of their conscientious objection to participating in the solemnization of same-sex “marriage.” As he points out in a separate chapter, this is an offense against religious freedom.

One of the most powerful chapters is on “The Victims,” by whom Anderson means the children trapped in, or bred for, same-sex “marriages.” He points to the evidence debunking the so-called social science purporting to prove that children in such “marriages” do as well as if not better than children in families with fathers and mothers. Not only does this contention violate common sense, but it turns out to violate the basic standards of social science. Anderson then provides the powerful personal witnesses of Robert Lopez, Doug Mainwaring, Katy Faust, and others who have lived through this. What they have to say is heartbreaking and hair-raising. Anderson is to be congratulated for having published at length the views of these men and women in Public Discourse articles, from which he draws the testimony in this book. On this basis alone, he is right to conclude that “It is not bigotry but compassion and common sense to insist on laws and public policies that maximize the likelihood that children will grow up with a mom and a dad.”

He closes with a chapter of reflections on where the pro-family cause should go from
here in terms of building a movement that can ultimately prevail. Most importantly, he calls for “restoring a sound understanding of human nature and the laws of nature” and offers an analogy to the pro-life movement’s decades-long, and increasingly successful, effort to restore sound teachings.

Now for the troubling omission. In the introduction, Anderson declares, “Nor will I be discussing the morality of same-sex sexual relationships.” When discussing anything this important, why exclude whether it is right or wrong? He never says—nor did he say in the book he co-authored with Robert George and Sherif Girgis, What Is Marriage? Man and Woman: A Defense (2012), in which the morality issue was likewise “bracketed” as extraneous to the defense of conjugal marriage. How can one challenge the supposed right to love anyone you choose, in whatever way you choose, without addressing whether this is right or wrong? In fact, Anderson never contests this right, and therein lies the problem.

This omission is troubling because one cannot say what marriage is without saying what it is not by nature. The rightness of marriage cannot be understood without a concomitant understanding of why homosexual relations are wrong. To omit consideration of the latter endangers the former—because it is precisely by excluding the wrong, the unnaturalness (and grave health risks) of sodomy from the marriage debate that proponents of homosexual “marriage” have managed to convince so many that it is harmless. Unless Anderson and the mainstream marriage movement are willing to say what precisely, is inherently disordered about homosexual acts, they’d better get used to losing the argument—because they won’t even be in it. If this question is not addressed, the case is forfeited.

Although he argues consistently for the good of traditional marriage, and for it as a public good, Anderson also occasionally weakens his stance by seemingly offhand remarks that undermine his otherwise sound case. By seeming to be tolerant of sexual freedom, he might think that he can persuade those who would not otherwise listen to his arguments. Thus, he states, “People like me argued that government can recognize the truth about marriage and leave people free to live and love as they choose” (emphasis in the original). This sounds superficially appealing but is actually naïve. The aim of the homosexual movement was never simply freedom “to live and love as they choose”; it was public approval of their choice. The legitimation of their behavior is what this is about, and has always been about.

What’s more, “the radical consent-based view of [homosexual] marriage” that Anderson deplores is actually based upon the view “that government...should leave consenting adults free to live and love as they choose,” which he approves. However, the latter view produced the former one. Anderson does not seem to see the inconsistency in his position. He insists “that sexual liberty and religious liberty need not be in tension” and that most Americans don’t wish them to be. But on what basis could such an amicable arrangement be reached, so that one side can have traditional marriage and the other its sexual freedom? The only grounds are libertarian. On such grounds, Anderson’s natural law argument would then turn out to be nothing more than a personal preference—one among many. This sinks his whole case. Also, to propose such an accommodation not only mistakes the homosexual movement’s ultimate objective, but leads others to mistake it, as well. There is no accommodation possible because of what is at risk for the other side if not everyone is forced into conformity with its views—that is what the ideological reconstitution of reality requires.

Along these same libertarian lines, Anderson claims that “[Americans] should not use the force of government to impose their sexual values on others.” Again, this sounds appealing. However, this is one of the most important things that government ineluctably does do—even if it does not, and prudentially should not, make everything that is immoral illegal. It is never a matter of if the government will impose a set of sexual values, but rather a matter of which values are imposed. For Anderson to suggest otherwise is simply unrealistic as well as anti-Aristotelian in his otherwise pro-Aristotelian argument. Political life cannot concomitantly aim at sexual freedom and traditional marriage because the two are inimical to each other. (The history of the sexual revolution during the past 50 years stands as testimony.)

That American political life was to be directed at the moral good of marriage was clear from American Founders like James Wilson and from Supreme Court decisions like Murphy v. Ramsey (1885) and Reynolds v. United States (1878), which made this goal explicit when ruling against polygamy. Murphy stated,

For certainly no legislation can be supposed more wholesome and necessary in the founding of a free, self-govern-

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The hollowness of this position was also expressed by James Yates, who got a same-sex marriage license in Kentucky on September 4, 2015, after having been denied five times previously by Rowan County Clerk Kim Davis. He said, "Civil rights are civil rights and they are not subject to belief." What is Anderson's answer to this? The new civil right to same-sex "marriage" will easily trump religious freedom unless it is shown that what it is a civil right to is wrong in itself. As Abraham Lincoln said, one "cannot logically say that anybody has a right to do wrong." Since Anderson and the mainstream pro-marriage movement are still unwilling to echo Lincoln they will lose on the religious freedom issue, as well. One can see this coming as clearly as one could see the Obergefell decision coming.

Perhaps the best way to understand the shortcomings of this approach is to transpose it to the slavery debate, which was not so much over the moral blessings of freedom, as over the wrongfulness—the immorality—of slavery. One can only imagine the contortions Lincoln would have had to go through if he had restricted himself to the beauties of freedom and eschewed the evils of slavery. "If slavery is right," said Lincoln correctly, "all words, acts, laws, and constitutions against it, are themselves wrong, and should be silenced, and swept away." He did not say, I'm for freedom, but I won't be discussing the morality of slavery. To the contrary, as Angelo Codevilla has written, Lincoln, following John Quincy Adams, pointed again and again to the slaveholders' efforts to silence debate about slavery's moral and political effects as evidence of the slaveholders' threat to the freedom of whites as well as of blacks.... Lincoln brushed away the euphemisms and legal constructs in describing the slave trade's merchandising of human beings.

The hollowness of this position was also expressed by Robert R. Reilly. He is the author of "Lincoln's stress on the evils of slavery was meant not to denigrate the slaveholder but to denigrate slaveholding and to insist that all who countenance or participate in slaveholding tend to be morally corrupted by it.

Unfortunately, the pro-natural family movement largely foresaw this sort of appeal to the conscience of the American people. Ironically, this complied with the strategy of the homosexual movement, spelled out in the 1989 book by Marshall Kirk and Hunter Madsen, After the Ball: How America Will Conquer Its Fear and Hatred of Gays in the '90s, of moving the focus off what active homosexuals actually do to the status of homosexuals as "victims." It worked. The pro-natural family movement silenced itself. If your opponents can control the way you are allowed to talk about them, you have already lost. This silence allowed homosexual activists and their allies to move onto libertarian ground, pretending that all sexual acts are forms of love. By failing to confront this lie, the mainstream of the pro-natural family movement discredited itself.
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