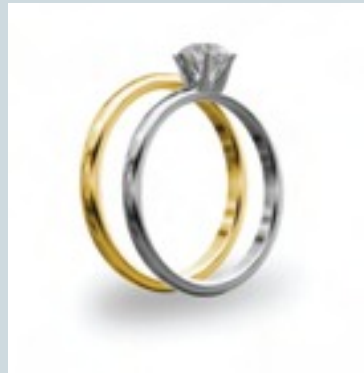


Marriage and the Law



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MARRIAGE LAW
FOUNDATION

Honey, I Shrunk the Institution of Marriage



“It is also to be observed that, whilst marriage is often termed by text writers and in decisions of courts a civil contract . . . it is something more than a mere contract. It is an institution, in the maintenance of which in its purity the public is deeply interested, for it is the foundation of the family and of society, without which there would be neither civilization nor progress.”

Maynard v. Hill, 125 U.S. 190, 210-211 (1888)

Honey, I Shrunk the Institution of Marriage



“The marital couple is not an independent entity with a mind and heart of its own, but an association of two individuals each with a separate intellectual and emotional makeup.”

Planned Parenthood v. Casey, 505 U.S. 833, 896
(1992)

Honey, I Shrunk the Institution of Marriage



“Marriage is, without dispute, one of the most significant forms of personal relationships. . . . Through the institution of marriage, individuals can publicly express their love and commitment to each other. Through this institution, society publicly recognizes expressions of love and commitment between individuals, granting them respect and legitimacy as a couple. This public recognition and sanction of marital relationships reflect society’s approbation of the personal hopes, desires and aspirations that underlie loving, committed conjugal relationships. This can only enhance an individual’s sense of self-worth and dignity.”

Halpern v. Attorney General, [2003] D.L.R. 529 (Can.)

“Waning of Belonging”



Major Themes in Modern Family Law

- Loss of independent family functions
- Contraception and abortion
- No-fault divorce revolution
- Cohabitation and erasure of married/unmarried distinction

Social Interests in Marriage



Channeling Function

- Unchosen Obligations
- Marriage and Children

Social Interests in Marriage



“Some truths are so homely as to embarrass the philosopher who ventures to speak them. First comes love, then comes marriage, and then the proverbial baby carriage. Well, it’s not such a ridiculous way of doing things, is it? The baby in that carriage has an inborn nature that joins together the nature of two adults. If those two adults are joined by love into a stable relationship—call it marriage—then they will be naturally prepared to care for it with sympathetic understanding, and to show it how to recognize and reconcile some of the qualities within itself. A child naturally comes to feel at home with itself and at home in the world by growing up in its own family.”

J. David Velleman, *Family History* 34 PHILOSOPHICAL PAPERS
357, 370-371 (November 2005).

“War of the Ring”



1970s &
1980s:
Unthinka
ble



1993:
Hawaii
Supreme
Court



2003:
Massachu
setts
Supreme



2008:
California
Propositio
n 8



2009:
Iowa
Supreme
Court

“War of the Ring”



States with Marriage Amendments

- Alabama
- Alaska
- Arizona
- Arkansas
- California
- Colorado
- Florida
- Georgia
- Hawaii
- Idaho
- Kansas
- Kentucky
- Louisiana
- Michigan
- Mississippi
- Missouri
- Montana
- Nebraska
- Nevada
- North Dakota
- Ohio
- Oklahoma
- Oregon
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Virginia
- Wisconsin

States that Have Redefined Marriage

- Massachusetts
- Connecticut
- Iowa
- Vermont
- New Hampshire
- Maine

Same-Sex Marriage and Marriage's Purpose



- Men and Women are Fungible
- Mothers or Fathers are Optional
- Marriage is Bigotry