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## Gay Marriage: Live and Let Live?

By HAL GORDON / Published: JULY 1, 2011



Original photo by Bev Sykes

In a remarkably astute June 30 [opinion piece in the \*Wall Street Journal\*](#), author and libertarian commentator Walter Olson expounded on a little-noted aspect of New York's new law permitting gay marriage: namely, religious exemptions. The New York law, notes Mr. Olson, takes pains to shield churches and religious organizations from

lawsuits if they decline to assist in same-sex marriages.

Mr. Olson finds it commendable that the legislature should offer these protections. In his view, "pluralism and liberty can and should advance together as allies."

I concur. I also think it's good politics. Opponents of gay marriage have shrieked that if gay marriages should (shudder) become lawful, churches will become "public accommodations" and will be forced by government fiat to host gay marriages, even if such marriages violate the basic tenets of their religion. Opponents have also suggested that even private citizens might be similarly coerced – an evangelical baker sued for refusing to bake a cake for a lesbian wedding, for example.

These concerns are exaggerated. When was the last time you heard of a Catholic priest being compelled by law to marry a divorced person? Or an evangelical Protestant minister being forced to marry a couple that cohabited before marriage? Or an Orthodox rabbi being required to officiate at the marriage of a Jew and a non-Jew?

The First Amendment affords broad protection to those who object to gay marriage on religious grounds. And yet, the scare stories cannot be dismissed out of hand.

In his piece, Mr. Olson cites the case of the New Mexico Human Rights Commission fining a wedding photographer who refused on religious grounds to record a union of two women. Also an instance where the New Jersey Division of Civil Rights ruled that by routinely renting out a pavilion, a Methodist group had turned it into a public accommodation, and therefore could not refuse it to two women who wanted to use it for a civil union ceremony. And also an instance ten years ago where New York's highest court

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"The time has come to make the difficult decision. Charity begins at home. We can no longer afford to rebuild Afghanistan and America. We must choose. And I choose America."

- Senator Joe Manchin (D-WV), in Senate floor speech, June 22, 2011

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ordered Yeshiva University, an Orthodox Jewish institution of higher learning, to admit same-sex couples to married student housing.

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What is significant in each of these cases, notes Mr. Olson, is that legalizing gay marriage was not to blame for the outcome. The Yeshiva ruling came a full decade before New York legalized gay marriage and neither New Mexico nor New Jersey recognize such unions today. In each case, the legal ruling was the result of what conservative columnist M. Stanton Evans once piquantly described as “Rousseau-gone-bananas liberalism.” In other words, a public policy relentlessly determined to exalt equality over all other rights – including individual conscience and freedom of association.

Can't we all just get along?

Iconoclastic journalist **H.L. Mencken** used to respond to critical letters with a pre-printed post card. It read: “You have a right to your wrong opinion.” Proponents and opponents of gay marriage will never agree on the issue. But perhaps they can agree to live and let live. I suspect that society as a whole would breathe easier if they could call a truce. <sup>RW</sup>



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