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The gay marriage ruling: Endangered principles

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Much to the chagrin of the mores and folkways crowd, a federal judge has declared unconstitutional California's voter-approved ban on same-sex marriage.

U.S. District Judge Vaughn R. Walker found no legitimate state interest in treating gay and lesbian couples any differently from heterosexual couples. Simply put, such a social construct -- one that is more archaic every day -- violates the U.S. Constitution's equal protection and due process clauses.

And he's spot on.

Critics have been quick to say that the will of seven million Californians who voted for Proposition 8 has been negated by an activist liberal judge. True bigots have taken pains to note that Judge Walker is gay.

Would these same critics also have supported referenda that banned, say, interracial marriage or reversed the Emancipation Proclamation? And would these same bigots have taken umbrage if, say, the judge had been heterosexual, had upheld Proposition 8 and critics noted his sexual orientation?

As Robert Levy, chairman of the libertarian Cato Institute notes, "The principle of equality before the law transcends the left-right divide that so often defines issues in this country." Mr. Levy serves as co-chairman of the advisory board to the American Foundation for Equal Rights, which sponsored the lawsuit against the California measure.

Gay marriage opponents have vowed an appeal. And it's virtually assured the case will end up before the U.S. Supreme Court. Should the high court overturn this ruling, the Constitution truly will be a dead letter.

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