

## FOUR DISSENTING SUPREME COURT JUDGES ON SAME-SEX MARRIAGE RULING

### Chief Justice John Roberts

*“Understand well what this dissent is about: It is not about whether, in my judgment, the institution of marriage should be changed to include same-sex couples. It is instead about whether, in our democratic republic, that decision should rest with the people acting through their elected representatives, or with five lawyers who happen to hold commissions authorizing them to resolve legal disputes according to law.”*

*“Supporters of same-sex marriage have achieved considerable success persuading their fellow citizens—through the democratic process—to adopt their view. That ends today. Stealing this issue from the people will for many cast a cloud over same-sex marriage, making a dramatic social change that much more difficult to accept.”*

*“Stripped of its shiny rhetorical gloss, the majority's argument is that the Due Process Clause gives same-sex couples a fundamental right to marry because it will be good for them and for society.”*

*“If I were a legislator, I would certainly consider that view as a matter of social policy. But as a judge, I find the majority's position indefensible as a matter of constitutional law.”*

*“If not having the opportunity to marry 'serves to disrespect and subordinate' gay and lesbian couples, why wouldn't the same 'imposition of this disability,' ... serve to disrespect and subordinate people who find fulfillment in polyamorous relationships?”*

*“I do not mean to equate marriage between same-sex couples with plural marriages in all respects. There may well be relevant differences that compel different legal analysis. But if there are, petitioners have not pointed to any. But do not celebrate the Constitution. It had nothing to do with it.”*

### Justice Antonin Scalia

*“But what really astounds is the hubris reflected in today's judicial Putsch.”*

*“The five Justices who compose today's majority are entirely comfortable concluding that every State violated the Constitution for all of the 135 years between the Fourteenth Amendment's ratification and Massachusetts' permitting of same-sex marriages in 2003.”*

*“When the Fourteenth Amendment was ratified in 1868, every State limited marriage to one man and one woman, and no one doubted the constitutionality of doing so,”*

*“They [the majority] have discovered in the Fourteenth Amendment a 'fundamental right' overlooked by every person alive at the time of ratification, and almost everyone else in the time since.”*

*“They are certain that the people ratified the Fourteenth Amendment to bestow on them the power to remove questions from the democratic process when that is called for by their 'reasoned judgement.”*

*“These Justices know that limiting marriage to one man and one woman is contrary to reason; they know that an institution as old as government itself, and accepted by every nation in history until 15 years ago cannot possibly be supported by anything other than ignorance or bigotry. And they are willing to say that any citizen who does not agree with that, who adheres to what was until 15 years ago, the unanimous judgment of all generations and all societies, stands against the Constitution.”*

*“Until the courts put a stop to it, public debate over same-sex marriage displayed American democracy at its best. But the Court ends this debate, in an opinion lacking even a thin veneer of law.”*

### Justice Clarence Thomas

*“At odds not only with the Constitution, but with the principles upon which our nation were built. Kennedy and the Court's liberal wing are invoking a definition of 'liberty' that the Constitution's framers 'would not have recognized, to the detriment of the liberty they sought to protect.”*

*“Along the way, it rejects the idea—captured in our Declaration of Independence—that human dignity is innate and suggests instead that it comes from the Government. This distortion of our Constitution not only ignores the text, it inverts the relationship between the individual and the state in our Republic. I cannot agree with it.”*

*“The majority is erring in its interpretation of the 14th Amendment's due-process clause; by reading it as more expansive and far-reaching than originally intended. The case lacks standing on the issue, because the plaintiff does not adequately show that a state ban on same-sex marriage constitutes a true deprivation of 'liberty' under the law.”*

*“Whether we define 'liberty' as locomotion or freedom from governmental action more broadly, petitioners have in no way been deprived of it. Petitioners cannot claim, under the most plausible definition of 'liberty,' that they have been imprisoned or physically restrained by the States for participating in same-sex relationships.”*

*“Inversion of the original meaning of liberty will likely cause collateral damage to other aspects of our constitutional order that protect liberty.”*

*“In our society, marriage is not simply a governmental institution; it is a religious institution as well. Today's decision might change the former, but it cannot change the latter. It appears all but inevitable that the two will come into conflict, particularly as individuals and churches are confronted with demands to participate in and endorse civil marriages between same-sex couples.”*

### Justice Samuel Alito

*“For today's majority, it does not matter that the right to same-sex marriage lacks deep roots or even that it is contrary to long-established tradition. The Justices in the majority claim the authority to confer constitutional protection upon that right simply because they believe that it is fundamental,”*

*“At present, no one—including social scientists, philosophers, and historians—can predict with any certainty what the long-term ramifications of widespread acceptance of same-sex marriage will be. And judges are certainly not equipped to make such an assessment.”*

*“For millennia, marriage was inextricably linked to the one thing that only an opposite-sex couple can do: procreate. Adherents to different schools of philosophy use different terms to explain why society should formalize marriage and attach special benefits and obligations to persons who marry. Their basic argument is that States formalize and promote marriage, unlike other fulfilling human relationships, in order to encourage potentially procreative conduct to take place within a lasting unit that has long been thought to provide the best atmosphere for raising children.”*

*“By imposing its own views on the entire country, the majority facilitates the marginalization of the many Americans who have traditional ideas. Recalling the harsh treatment of gays and lesbians in the past, some may think that turnabout is fair play. But if that sentiment prevails, the Nation will experience bitter and lasting wounds.”*

*“Even enthusiastic supporters of same-sex marriage should worry about the scope of the power that today's majority claims. Today's decision shows that decades of attempts to restrain this Court's abuse of its authority have failed.”*

*“Today's decision usurps the constitutional right of the people to decide whether to keep or alter the traditional understanding of marriage.”*

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