

DOWNLOAD PDF JUDICIAL USURPATION: PERENNIAL TEMPTATION, CONTEMPORARY CHALLENGE ROBERT P. GEORGE

Chapter 1 : Diligite iustitiam:

Reprinted as "Judicial Usurpation: Perennial Temptation, Contemporary Challenge," in Bradley C. S. Watson (ed.), Ourselves and Our Posterity: Essays in Constitutional Originalism (Lexington Books,).

Right-wing media personality Glenn Beck holds up The Bible and Rules for Radicals at VVS14. Some critics tend to cast the Christian Right movement as monolithic, when in actuality it has always been at just as fractious and dynamic as it has been powerful and influential. Yes, much of the public rhetoric at the Values Voter Summit was that prosaic. All of which suggests that the leaders may be more worried about their cohesion than meets the eye. But rather than deliver the main message themselves, the conference leaders left it to popular, non-evangelical co-belligerents: We are at risk here at home, and we cannot come to the point where we can truly speak the truth because political correctness has basically blinded us to that truth. We are the majority of America. And they treat us like we are some minor cult. We are not some minor cult. I think we need to fight this effort to silence us. We need to speak out. We need to stand up. We are traditional conservatives who embrace the Constitution, who embrace our heritage. This president does not—from his values to his comments to his attacks on my country—does not represent me, period! That the popular Beck was featured to deliver this sermon suggests that conference leadership recognizes they may have led their people over a hate and fear mongering bridge too far. Part of their task now seems to be to bring them back from the Neo-Confederate temptation. Pointing to the example of Martin Luther King, Jr. Like Levin, Beck sought to position the Christian Right and the conservative movement generally—not as the Right, but as ideologically middle America. He did it in a sly slam on the Tea Party at about . In fairness, Alinsky was obviously being humorous and provocative, and was not really dedicating his book to Satan. They wish to be seen not as the party of mean spiritedness—but as the standard bearers of religious freedom. Whether they can sufficiently recover to make the center hold, or whether the Christian Right has tea-partied itself into a stupor of permanent neo-Confederate division, remains to be seen.

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Chapter 2 : Christian Right | Political Research Associates | Page 3

Reprinted as "Judicial Usurpation: Perennial Temptation, Patrick Lee and Robert P. George argue that marriage is a distinctive type of community: the union of a

Published on October 18, There are some arguments that seek to advance an end that you agree with, but should be avoided because the premises are not true, or the conclusion does not follow. The verse Schreiner has in mind is 1 Corinthians. Some have argued that the particular verb with tongues as the subject is significant. On this view, many of the gifts such as tongues end when the New Testament is completed, when the canon of Scripture is completed. Spiritual gifts are no longer necessary because now that we have the New Testament we have all we need for spiritual maturity. If we look at the context of 1 Corinthians. The arguments for cessationism from 1 Corinthians. Such a claim is a rather bold assertion, for it could be read to say that we are even more spiritually mature than the apostles. A quick reading of church history and of the current evangelical landscape raises significant doubts about the assertion as well. Paul believed Jesus would return soon, and history would come to an end. The problem that immediately emerges is that there is no way that the Corinthians would have understood what Paul was talking about! Certainly, the Corinthians never imagined or dreamt of a New Testament canon. Indeed, if this is what Paul had in mind, the Corinthians would then know that Jesus could not and would not return for a number of years, and he would only come when the New Testament was finished and accepted as authoritative. Partial knowledge will give way to complete knowledge 1 Cor. Those who have the canon or those who are mature know fully. Indeed, they know more than Paul who confesses that he knows only partially! Our knowledge continues to be imperfect. We know truly but not comprehensively and exhaustively. We will only know fully when Jesus returns, when we see him face to face.

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Chapter 3 : Justin Taylor's Blog

Original meaning and responsible citizenship / Edward Whelan --'Common-sense constitutionalism': why constitutional structure matters for Justice Scalia / Ralph A. Rossum --Judicial usurpation: perennial temptation, contemporary challenge / Robert P. George --Authority doctrines and the proper judicial role: judicial supremacy, stare decisis.

His brief critique of libertarianism helped me cement my own thoughts about what is fundamentally missing from that otherwise admirable position, and his analysis of embryo research is on the mark. Nevertheless, his defense of marriage left me puzzled; though we agree totally on this critical issue, there was something about his argument I fear would smack of sophistry to the general populace. He began strongly enough, but his later development wanders into some tall grass. Heterosexuals such as myself could not be induced to consider homosexual unions were every state in the nation to grant them tax privileges, nor do I suspect there would be any fewer children born to heterosexuals. I also think we must reluctantly confess that there is no cost-benefit analysis likely to sway the masses. Nor is there a strictly logical basis for denying same-sex unions, for there are too many and varied exceptions to the norm among traditional marriages for us to single out this one class of union for special abhorrence. George seems to recognize this dilemma and attempts to counter it, but I think in the end he is unconvincing. You simply cannot on logic alone hold reproduction to be the overriding interest of the state in sanctioning unions while maintaining exclusive exemptions for sterile heterosexual families. The answer has nothing to do with costs, philosophy, or syllogisms and is the path I thought George was surely taking before he chased the lion into its lair. Yes, I realize we must ultimately join the fray in the courts, but I would pursue a more mundane strategy even there. Caligula famously declared his horse a senator, but, mad as he was, he had no delusions that his horse was not a horse. For five thousand years, the concept of marriage has been synonymous with heterosexual, though not always monogamous, union, predating government in some cases by centuries. Even in those cultures where homosexuality was rampant and generally accepted, no one until now thought of using the word marriage to describe any relationship other than that between a husband and a wife, the basic unit of civilization. Having blithely kicked away the pillars of civilization over the past century, we are now digging furiously at its foundation stone. This is not quibbling over semantics, for once we grasp its full implications we recognize a powerful argument rooted in our founding and common law. George ever so briefly alludes to this and is at his most convincing in what appears almost as a coda, where he forcefully argues the need for a national resolution on the issue. Marriage is sacred if anything is and constitutes the society that in turn legitimizes the state, which may only affirm and protect it. It simply does not own the term. We rightly charge the state to stand surety for our marriage contracts, safeguarding but one of its dimensions the legal, but there are other dimensions beyond the purview of the state, and we the people do not implicitly grant it power to destroy that ancient institution. Tragically, society may do just that through neglect or self-indulgence, but there are other repositories of authority, independent of and complementing the state, that can provide a bulwark. The article began down this path but then turned aside to what, in my mind, were far weaker arguments, diluting the full force of what might otherwise have been delivered. Perhaps we can view this moment as a golden opportunity to reeducate the public on the checks and balances between autonomous societal constructs. I trust that George will receive this light criticism as a stone on which to sharpen his indispensable pen in the ongoing battle to restore sanity before marriage is surreptitiously defined to be congress between any two humans. Or with a horse. Vincent Owens Canton, Ohio Lacking the referents, reason consumes itself. Rather, a second referent is needed, namely, what man can become. What can man become? Godlike, yes, but only at a cost that renders the prize more costly than the status quo ante. Along this path we find the natural law. Note, therefore, that while relying on reason and nature, we find only substantive law in nature for lack of purpose and positive law in human nature for purpose. Is this not inverted when one accounts for the second referent? At one time, women were prohibited from being anything other than wives and mothers. They were subject to beatings and treated

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despicably, actions sanctioned by both church and state. Today that is generally not the case. And, as George is no doubt aware, there are about , interracial couples today. This was illegal in many states until the mids. So the mere fact that marriage is changing is not an argument that change is wrong. Sex is a pleasurable act in and of itself, and there is nothing immoral in a nonmarital sexual act. I am grateful to Vincent Owens for his kind words. I hope he will agree, however, that there is no magic bullet. Much needs to be done, by many different people, making contributions of many different types, if the goal we share is to be accomplished. The rigorous philosophical explication of marriage is among the things needing to be done. It is not the only thing, nor do I pretend that it is the most important one. And that means some of us will have to shoulder the task of demonstrating that marital communion is an intrinsic and not merely instrumental human good whose contours are what they are because human persons are what they are, namely, unities of body, mind, and spirit rather than nonbodily persons minds, spirits, centers of consciousness or feeling who merely inhabit and use nonpersonal bodies. But only to partisans of the redefinition of marriage who have closed their minds to intellectual argument and are unwilling to consider the possibility that the conjugal conception of marriage as the union of husband and wife is true and good. Such people are, in my own experience of debating the marriage issue, still in the minority. A sound account of marriage, one that attends to the meaning and implications of the sexual-reproductive complementarity of men and women, will help us to understand not only why marriage is intrinsically a male-female union, but also why same-sex and polyamorous unions cannot, in truth, be marriages. We also need to grasp how it is that marriage, as a unique and uniquely valuable form of interpersonal communion, fulfills human persons and serves in various ways and indispensably the common good of the larger community. All this may sound abstruse to people who have no patience for philosophy. I fear that Owens may be such a person. If I understand Bennett correctly, however, he thinks that human purpose cannot be discovered or understood, even imperfectly, apart from the light of revelation. I would affirm, with St. Consider the case of slavery. In different times and in different places various forms of slavery and involuntary servitude have been practiced and even treated as laudable. Alas, forms of slavery exist in some places even today. Would Puharic conclude from these facts that there is no such thing as the moral truth that slavery is wrong? If so, he would be guilty of the same elementary logical fallacy he is committing in the case of marriage. But the Genealogy of Morals itself is more or less a lab experiment of ideas connected with morality. Nietzsche clearly states his moral ideal, by depicting what he considers to be a moral genius, in the final paragraphs of part two of the Genealogy: In Beyond Good and Evil , he declares: It is not clear whether Nietzsche believed this lofty state would ever be attained, but he may have thought that even approximations would make all of evolution worthwhile. In any case, the ideal state is so sui generis that not even a card-carrying relativist would be able to adopt it as a norm. We know that Nietzsche declares the Plato-Augustinian conception of life, culture, and therefore God to be exhausted, and that a revaluation is required. The following quotation might help here: And what is the competency to promise? Can such a sovereign individual be found within the ascetic ideal? Does Nietzsche think that the ancient ascetic ideal has the energy to mold modern man as it successfully did previously? The human being found his identity only through that dichotomy of metaphysical and physical. In the Christian world, it was God who saw all events, and it was he who would judge the living and the dead. This metaphysical and now religiously interpreted picture was the consolation and recompense for all those who suffered and endured pain. Just think of the parable of Lazarus and the rich man. Lazarus is given peace while the rich man is in a place of torment. But you will notice that Lazarus is compensated only through the divine mercy. Thus, he is not sovereign but dependent on someone else God to grant him justice. He does not confer justice on himself! Nietzsche decries the ascetic ideal as preventing modern man from achieving sovereignty. Might this not be what he means metaphorically by atheism? Man receives his identity by fidelity to promises and ruins himself by denying his promises. It is at this point that I would differ with Reno. Sokolowski Wolcott, Connecticut R. I wish I could write more clearly. This is all very familiar. Or read Jean-Paul Sartre in his existentialist phase. The side of Nietzsche that so passionately denounces the leveling, dehumanizing effects of inherited morality is a

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twentieth-century commonplace. It is now a dogma of postmodern philosophy. Sokolowski is quite right. So I grant the point. I thought I had granted it in the essay. Sokolowski, and armies of scholars could multiply the quotations many times. Nietzsche longed for the possibility of living without reference to truths or ideals or principles that inevitably seek to exercise authority over our inner lives. He saw that the soul is given life by the invasion of demand into the depths of the human psyche, and he suspected to his horror and dismay that a life worth living requires an ascetic submission of individuality to something higher. I never claimed that Nietzsche wanted to see this deeper truth. Nor did I argue that it accorded with his eschatological dreams. Nietzsche thought of himself as a Seer. He certainly saw the strange paradoxes of post-Christian culture: Yet, like all Seers, Nietzsche could not control what was revealed to him. This master of suspicion seems to have had suspicions about his own suspicion of the ascetic ideal. That he suppressed them should not surprise us. It is very difficult to live without lies.

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Chapter 4 : John Finnis - WikiVisually

About Robert P. George Robert P. George is McCormick Professor of Jurisprudence and Director of the James Madison Program in American Ideals and Institutions at Princeton University. He is also Professor of Politics and an associated member of the faculty of Princeton's Department of Philosophy.

In the television trade magazine *Broadcast* wrote *After Dark* defined the first 10 years of Channel 4, just as *Big Brother* did for the second. Broadcast live and with no scheduled end time, the series, the programme was hosted by a variety of presenters, and each episode had around half a dozen guests, often including a member of the public. The show ended in but a number of one-off specials, in *After Dark* was characterised as legendary by the Open University and in as the most uncensorable programme in the history of British television. Sir Jeremy Isaacs, the founding Chief Executive of Channel 4, in it he selects twenty-six programmes, including *After Dark*, which he describes as follows, Open-ended talk. From *Austrias Club 2*, it began at midnight and went on till it finished, the aim, discussion between people with burning experience of the subject, e. A participant might wait long to utter but in the end his turn came, viewers could fall asleep in front of it, wake up and find the discussion just hotting up. The programme allowed Isaacs to realise one of his longest-held ambitions, when I first started in television at Granada. Sidney Bernstein said to me that the worst words ever uttered on TV were, Im sorry, especially since they were always uttered just as someone was about to say something really interesting. *After Dark* would only end when its guests had nothing more to say, from late April in , Channel 4 screened a Nighttime strand, a mixture of films and discussion programmes that ran until 3am on Thursdays, Fridays and Saturdays. Channel 4 launched *After Dark* as an open ended format broadcast on Friday nights as a piece of programming that would be inexpensive to produce. There was no chair, simply a host, and the took place around a coffee table in a darkened studio. Due to its late-night scheduling the series was dubbed *After Closing Time* by one critic, the series was made by production company Open Media. The series editor, Sebastian Cody, talking about the programme in an interview in , *after Dark* is real in the sense that what you see is what you get, which isnt the case with something thats been edited to give the illusion of being real. Other shows wind people up with booze beforehand, then when theyre actually on the programme they give them glasses of water and we give our guests nothing until they arrive on set and then they can drink orange juice, or have a bottle of wine. And we let go to the loo. In , *The Times* wrote, *After Dark*, the closest Britain gets to a talk show, is already finding that the more serious the chat. Channel 4s market research executive Sue Clench, says that around three million saw some of *After Dark* in its first slot 2. Australia â€” Australia, officially the Commonwealth of Australia, is a country comprising the mainland of the Australian continent, the island of Tasmania and numerous smaller islands. It is the worlds sixth-largest country by total area, the neighbouring countries are Papua New Guinea, Indonesia and East Timor to the north, the Solomon Islands and Vanuatu to the north-east, and New Zealand to the south-east. Australias capital is Canberra, and its largest urban area is Sydney, for about 50, years before the first British settlement in the late 18th century, Australia was inhabited by indigenous Australians, who spoke languages classifiable into roughly groups. The population grew steadily in subsequent decades, and by the s most of the continent had been explored, on 1 January , the six colonies federated, forming the Commonwealth of Australia. Australia has since maintained a liberal democratic political system that functions as a federal parliamentary constitutional monarchy comprising six states. The population of 24 million is highly urbanised and heavily concentrated on the eastern seaboard, Australia has the worlds 13th-largest economy and ninth-highest per capita income. With the second-highest human development index globally, the country highly in quality of life, health, education, economic freedom. The name Australia is derived from the Latin *Terra Australis* a name used for putative lands in the southern hemisphere since ancient times, the Dutch adjectival form *Australische* was used in a Dutch book in Batavia in , to refer to the newly discovered lands to the south. On 12 December , Macquarie recommended to the Colonial Office that it be formally adopted, in ,

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the Admiralty agreed that the continent should be known officially as Australia. The first official published use of the term Australia came with the publication of The Australia Directory and these first inhabitants may have been ancestors of modern Indigenous Australians. The Torres Strait Islanders, ethnically Melanesian, were originally horticulturists, the northern coasts and waters of Australia were visited sporadically by fishermen from Maritime Southeast Asia. The first recorded European sighting of the Australian mainland, and the first recorded European landfall on the Australian continent, are attributed to the Dutch. The first ship and crew to chart the Australian coast and meet with Aboriginal people was the Duyfken captained by Dutch navigator, Willem Janszoon. He sighted the coast of Cape York Peninsula in early 1606, the Dutch charted the whole of the western and northern coastlines and named the island continent New Holland during the 17th century, but made no attempt at settlement. William Dampier, an English explorer and privateer, landed on the north-west coast of New Holland in 1699, in 1770, James Cook sailed along and mapped the east coast, which he named New South Wales and claimed for Great Britain. The first settlement led to the foundation of Sydney, and the exploration, a British settlement was established in Van Diemens Land, now known as Tasmania, in 1803, and it became a separate colony in 1825. The United Kingdom formally claimed the part of Western Australia in 1829. Separate colonies were carved from parts of New South Wales, South Australia in 1836, Victoria in 1851, the Northern Territory was founded in 1911 when it was excised from South Australia.³ It grew rapidly from 1945 when Henry II banned English students from attending the University of Paris, after disputes between students and Oxford townsfolk in 1133, some academics fled north-east to Cambridge where they established what became the University of Cambridge. The two ancient universities are frequently referred to as Oxbridge. The university is made up of a variety of institutions, including 38 constituent colleges, All the colleges are self-governing institutions within the university, each controlling its own membership and with its own internal structure and activities. Being a city university, it not have a main campus, instead, its buildings. Oxford is the home of the Rhodes Scholarship, one of the worlds oldest and most prestigious scholarships, the university operates the worlds oldest university museum, as well as the largest university press in the world and the largest academic library system in Britain. Oxford has educated many notable alumni, including 28 Nobel laureates,²⁷ Prime Ministers of the United Kingdom, the University of Oxford has no known foundation date. Teaching at Oxford existed in form as early as 1096. It grew quickly in 1167 when English students returned from the University of Paris, the historian Gerald of Wales lectured to such scholars in 1181 and the first known foreign scholar, Emo of Friesland, arrived in 1190. The head of the university had the title of chancellor from at least 1204, the university was granted a royal charter in 1208 during the reign of King Henry III. After disputes between students and Oxford townsfolk in 1209, some academics fled from the violence to Cambridge, the students associated together on the basis of geographical origins, into two nations, representing the North and the South. In later centuries, geographical origins continued to many students affiliations when membership of a college or hall became customary in Oxford. At about the time, private benefactors established colleges as self-contained scholarly communities. Among the earliest such founders were William of Durham, who in 1194 endowed University College, thereafter, an increasing number of students lived in colleges rather than in halls and religious houses. In 1324, an attempt by some dissatisfied Oxford scholars to found a new university at Stamford, Lincolnshire was blocked by the universities of Oxford and Cambridge petitioning King Edward III. Thereafter, until the 16th century, no new universities were allowed to be founded in England, even in London, thus, Oxford and Cambridge had a duopoly, the new learning of the Renaissance greatly influenced Oxford from the late 15th century onwards. Among university scholars of the period were William Grocyn, who contributed to the revival of Greek language studies, and John Colet, the noted biblical scholar. With the English Reformation and the breaking of communion with the Roman Catholic Church, recusant scholars from Oxford fled to continental Europe, as a centre of learning and scholarship, Oxfords reputation declined in the Age of Enlightenment, enrolments fell and teaching was neglected.⁴ Western philosophy is the philosophical thought and work of the Western world. The word philosophy itself originated from the Hellenic, philosophia, literally, the scope of philosophy in the ancient understanding, and the writings of the ancient philosophers, were all

intellectual endeavors. Western Philosophy is generally said to begin in the Greek cities of western Asia Minor with Thales of Miletus and his most noted students were respectively Anaximander and Anaximenes of Miletus. Pythagoras, from the island of Samos off the coast of Ionia, pythagoreans hold that all is number, giving formal accounts in contrast to the previous material of the Ionians. They also believe in metempsychosis, the transmigration of souls, or reincarnation, Socrates The key figure in Greek philosophy is Socrates. Socrates studied under several Sophists but transformed Greek philosophy into a unified, Socrates used a critical approach called the elenchus or Socratic method to examine peoples views. He aimed to study human things, the life, justice, beauty. Although Socrates wrote nothing himself, some of his many disciples wrote down his conversations and he was tried for corrupting the youth and impiety by the Greek democracy. He was found guilty and sentenced to death, although his friends offered to help him escape from prison, he chose to remain in Athens and abide by his principles. His execution consisting in drinking the poison hemlock and he died in B. C, Plato Socrates most important student was Plato. Plato founded the Academy of Athens and wrote a number of dialogues, some central ideas of Platos dialogues are the immortality of the soul, the benefits of being just, that evil is ignorance, and the Theory of Forms. Forms are universal properties that constitute reality and contrast with the changeable material things he called becoming. Aristotle Platos most outstanding student was Aristotle, Aristotle was perhaps the first truly systematic philosopher and scientist. He wrote books on physics, biology, zoology, metaphysics, aesthetics, poetry, theater, music, rhetoric, politics, Aristotelian logic was the first type of logic to attempt to categorize every valid syllogism. Aristotelian philosophy exercised considerable influence on almost all western philosophers, including Greek, Roman, Christian, Jewish, the Neoplatonic and Christian philosophers of Late Antiquity. Early medieval philosophy was influenced by the likes of Stoicism, neo-Platonism, but, above all, the prominent figure of this period was St. Augustinianism was the preferred starting point for most philosophers up until the 13th century. Erigena is said to have been stabbed to death by his students with their pens and his theology would today be called pantheistic, in keeping with Celtic resolutions of pagan and Christian philosophy 5. Natural law “ Natural law is a philosophy that certain rights are inherent by virtue of human nature endowed by God or another Divine source, and can be understood universally through human reason. Historically, natural law refers to the use of reason to human nature to deduce binding rules of moral behavior from Gods creation of humans. The law of nature, as determined by nature, is universal, although natural law is often confused with common law, the two are distinct. Natural law is often contrasted with the laws of a given state. In legal theory, the interpretation of a law requires some reference to natural law. On this understanding of law, natural law can be invoked to criticize judicial decisions about what the law says. Some philosophers, jurists and scholars use natural law synonymously with natural justice or natural right, modern natural law theories were further developed during the Era of Enlightenment, while combining inspiration from the Roman law, and alongside philosophies like social contract theory. The use of law, in its various incarnations, has varied widely through history. There are a number of theories of law, that differ from each other with respect to the role that morality plays in determining the authority of legal norms. This article deals with its usages separately rather than attempt to unify them into a single theory, although Plato did not have an explicit theory of natural law, his concept of nature, according to John Wild, contains some of the elements found in many natural law theories. According to Plato, we live in an orderly universe, the basis of this orderly universe or nature are the forms, most fundamentally the Form of the Good, which Plato describes as the brightest region of Being. The Form of the Good is the cause of all things, in the Symposium, the Good is closely identified with the Beautiful. In the Symposium, Plato describes how the experience of the Beautiful by Socrates enabled him to resist the temptations of wealth, in the Republic, the ideal community is. Greek philosophy emphasized the distinction between nature on the one hand and law, custom, or convention on the other, what the law commanded would be expected to vary from place to place, but what was by nature should be the same everywhere. A law of nature would therefore have the more of a paradox than something that obviously existed. Of these, Aristotle is often said to be the father of natural law, Aristotles association with natural law

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may be due to the interpretation given to his works by Thomas Aquinas. But whether Aquinas correctly read Aristotle is in dispute, according to some, Aquinas conflates natural law and natural right, the latter of which Aristotle posits in Book V of the Nicomachean Ethics. Aristotle notes that justice is a species of political justice, viz. Specifically, he quotes Sophocles and Empedocles 6. It is ranked 8th in graduates attaining federal judicial clerkships and 17th in graduates attaining Supreme Court clerkships, according to Notre Dames ABA-required disclosures, It offers the only American Bar Association-approved year-long study abroad program, the Notre Dame Law School opened in February and was the first Catholic institution of its kind. Despite its humble beginning, right from the start the Law School required law students to have completed previous education in a course in the liberal arts. This was not common at the time, when Law School applicants only had to be 18, the first faculty consisted of only four professors, with the most prominent being Lucius Tong and Timothy Howard. The first class graduated in and consisted of three students, one of the most important names in the history of the school was Colonel William Hoynes. He was born in County Kilkenny, Ireland in and emigrated with his parents at age seven and he fought for the Union Army during the American Civil War. Walsh, then the president of the University, invited Hoynes to take control of the Law School, which was in demise. Walshs offer in , and taught classes in the Main Administration Building, the course of study was extended from two to three years. Hoynes was assisted in various subjects by John Ewing and Lucius Hubbard of South Bend, under his tenure, enrollment in the law school began to rise immediately.

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Chapter 5 : Kwanini Muzungu aliwekeza sana kwa Wanasheria? - JamiiForums

Arguments over constitutional interpretation increasingly highlight the full range of political, moral, and cultural fault lines in American society. Yet all the contending parties claim fealty to the Constitution.

Law and Moral Purpose by Robert P. At first blush, this classic formulation or combination of classic formulations seems to grant vast and sweeping powers to public authority. Yet, in truth, the general welfare—the common good—requires that government be limited. In other ways, however, its role is subsidiary: Governmental respect for individual freedom and the autonomy of nongovernmental spheres of authority is, then, a requirement of political morality. The usurpation of the just authority of families, religious communities, and other institutions is unjust in principle, often seriously so, and the record of big government in the twentieth century—even when it has not degenerated into vicious totalitarianism—shows that it does little good in the long run and frequently harms those it seeks to help. The strict libertarian position, it seems to me, goes much too far in depriving government of even its subsidiary role. There is an even deeper truth—one going beyond economics—to which libertarianism responds: Law and government exist to protect human persons and secure their well-being. It is not the other way round, as communist and other forms of collectivist ideology suppose. Individuals are not cogs in a social wheel. Stringent norms of political justice forbid persons to be treated as mere servants or instrumentalities of the state. Why not subordinate the individual to the ends of the collectivity or the state? Here we see how profound is the mistake of supposing that the principle of limited government is rooted in the denial of moral truth or a putative requirement of governments to refrain from acting on the basis of judgments about moral truth. This great truth of natural law, which is at the heart of our civilizational and civic order, has its theological expression in the biblical teaching that man, unlike the brute animals, is made in the image and likeness of the divine creator and ruler of the universe. It is critical to bear this great truth in mind. We must not adopt a merely pragmatic understanding or speak only of practical considerations in addressing the pressing issues of our day. That is why we should, in my opinion, rededicate ourselves to understanding and making the moral argument for the sanctity of human life in all stages and conditions, and the dignity of marriage as the conjugal union of one man and one woman. Please do not misunderstand me. I am not saying that practical considerations should or even can be left out of the argument. The moral case for the reform of unilateral-divorce laws, for example, includes reference to the devastating, poverty-inducing, crime-promoting social consequences of the collapse of a healthy marriage culture and the role of unilateral divorce in contributing to the collapse. The moral argument for restoring legal protection to the unborn includes reference to the adverse psychological and, in some cases, physical consequences of abortion on many women who undergo the procedure. Our task should be to understand the moral truth and speak it in season and out of season. We will be told by the pure pragmatists that the public is too far gone in moral relativism or even moral delinquency to be reached by moral argument. We will be advised to frame arguments in coded language so as not to scare off the soccer moms or whoever is playing their role in the next election cycle. All of this must be resisted. We must, to be sure, practice the much-neglected and badly underrated virtue of prudence. But we must have faith that truth is luminously powerful, so that if we bear witness to the truth about, say, marriage and the sanctity of human life—lovingly, civilly, but also passionately and with determination—and if we honor the truth in advancing our positions, then even many of our fellow citizens who now find themselves on the other side of these issues will come around. To speak of truth frightens some people today. They evidently believe that people who claim to know the truth about anything—and especially about moral matters—are fundamentalists and potential totalitarians. But, as Hadley Arkes has patiently explained, those on the other side of the great debates over social issues such as abortion and marriage make truth claims—moral truth claims—all the time. They assert their positions with no less confidence and no more doubt than one finds in the advocacy of pro-lifers and defenders of conjugal marriage. They proclaim that women have a fundamental right to abortion. The

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question, then, is not whether there are truths about such things as the morality of abortion and the nature of marriage; the question in each case is, What is true? What is centrally and decisively true about human embryos and fetuses is that they are living individuals of the species *Homo sapiens*—members of the human family—at early stages of their natural development. Each of us was once an embryo, just as each of us was once an adolescent, a child, an infant, and a fetus. Each of us developed from the embryonic into and through the fetal, infant, child, and adolescent stages of our lives, and into adulthood, with his or her distinctness, unity, and identity fully intact. As modern embryology confirms beyond any possibility of doubt, we were never mere parts of our mothers; we were, from the beginning, complete, self-integrating organisms that developed to maturity by a gradual, gapless, and self-directed process. Our foundational principle of the profound, inherent, and equal dignity of every human being demands that all members of the human family be respected and protected irrespective not only of race, sex, and ethnicity but also of age, size, location, stage of development, and condition of dependency. Of course, politics is the art of the possible. And, as Frederick Douglass reminded us in his tribute to Lincoln, public opinion and other constraints sometimes limit what can be done at the moment to advance any just cause. The pro-life movement has in recent years settled on an incrementalist strategy for protecting nascent human life. So long as incrementalism is not a euphemism for surrender or neglect, it can be entirely honorable. Planting premises in the law whose logic demands, in the end, full respect for all members of the human family can be a valuable thing to do, even where those premises seem modest. Fully just law would protect all innocent human life. Yet sometimes this is not, or not yet, possible in the concrete political circumstances of the moment. Today, for example, we do not have the political strength to protect human embryos in cryopreservation units that can under prevailing law be destroyed, or donated for research in which they are destroyed to produce stem cells. The real issue, though, is not the use of cryopreserved embryos produced by in-vitro fertilization. The real issue is the practice of creating human embryos by cloning to be destroyed either in the blastocyst stage days five to six or later in gestation. There are not nearly enough cryopreserved embryos for use in the research that scientists wish to perform. If, in fact, embryonic stem cells become usable in therapies to treat major diseases—indeed, even if they prove useful in treating a single major disease type—millions of embryos will be needed in relatively short order. Moreover, in vitro embryos are all products of the genetic lottery. They are not a genetic match to the patient who would be treated. As with vital organ transplantation, this raises the likelihood of rejection and the need for immunosuppression and other medical interventions. Cloning holds out a different possibility: Since the embryonic clone would be a twin of the donor, the rejection problem would probably be very substantially reduced. Cloning has not yet been perfected, but it likely will be. Thus, we face the prospect of human life being manufactured on a massive scale in order to be destroyed in biomedical work. Stem cells of the sort we now have debates about—those obtained by destroying human embryos in the blastocyst stage—cannot currently be used in therapies and may never prove to be therapeutically useful. Despite the promises of magic cures, these stem cells—whether obtained from in-vitro embryos or from clones—are highly unstable and tend to generate tumors. That helps to explain why there is not a single embryonic stem cell therapy even in stage one of clinical trials. By contrast, there are a large number of trials in progress—indeed, some have been successfully completed—using nonembryonic cells, such as those obtained harmlessly from umbilical-cord blood, amniotic fluid and placental tissue, bone marrow, and other uncontroversial sources. Apparently, no one quite knows even how to begin thinking about the extraordinarily complex challenges of stabilizing embryonic cells so that they can be used in therapies. Legislation in several states, including my home state of New Jersey, proposes to make state funding available for the macabre practice of human fetal farming. It is difficult to imagine a more egregious abuse of governmental power. Congress, however, was persuaded to pass a preemptive ban on the practice, which President Bush signed. Most Americans are horrified by the idea of creating a human life, gestating it, and aborting it to harvest cells and tissues. Even most supporters of abortion are repulsed by this possibility—at least for now. But for those who would like to go down that path, there is always hope that the promise of miracle cures can be used to

erode public resistance. Hence the legislation in New Jersey and elsewhere, laying the groundwork for fetal farming. Although the congressional prohibition is an important achievement, it is a modest one. Our long-term goal must be a comprehensive ban on all forms of human cloning, including the creation of embryos to be destroyed in research. It is worth noting that pro-cloning forces have a long-term goal of their own: If there is a true moral nightmare in our future, it is a massive, federally funded industry in the manufacture and destruction of human beings. Assuming that fetal farming is not the goal, this research could well make embryo-destruction for biomedical-research purposes obsolete. Let me turn to the other great moral question we confront today: The institution of marriage is battered in our culture, but it is not lost. Private pro-marriage forces, such as Marriage Savers, are doing important work through churches and other institutions. Much damage was done by bad legislation and policy, almost always in the name of reform. That legislation and policy is now itself in need of reform. If we are to restore and secure the institution of marriage, we must recover a sound understanding of what marriage is and why it is in the public interest for law and policy to take cognizance of it and support it. Marriage is a prepolitical form of association—what might be called a natural institution. It is not created by law, though law recognizes and regulates it in every culture. I understand why someone would consider this idea, but it strikes me as a bad one. There is a reason that all cultures treat marriage as a matter of public concern and even recognize it in law and regulate it. The family is the fundamental unit of society. Governments rely on families to produce something that governments need—but, on their own, they could not possibly produce: And marriage is the indispensable foundation of the family. Although all marriages in all cultures have their imperfections, children flourish in an environment where they benefit from the love and care of both mother and father, and from the committed and exclusive love of their parents for each other. Anyone who believes in limited government should strongly back government support for the family. Does this sound paradoxical? In the absence of a strong marriage culture, families fail to form, and when they do form they are often unstable. Absentee fathers become a serious problem, out-of-wedlock births are common, and a train of social pathologies follows. With families failing to perform their health, education, and welfare functions, the demand for government grows, whether in the form of greater policing or as a provider of other social services. Bureaucracies must be created, and they inexorably expand—indeed they become powerful lobbyists for their own preservation and expansion. Everyone suffers, with the poorest and most vulnerable suffering most. The effective defense of marriage against the current onslaught will require an understanding of marriage as a matter of moral truth. Practical or pragmatic arguments are legitimate and important. But too few pro-marriage politicians are willing to say much about what marriage actually is.

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Chapter 6 : The Way of the Lord Jesus: Robert P. George

OURSELVES AND OUR POSTERITY Essays in Constitutional Originalism 3 Judicial Usurpation: Perennial Temptation, Contemporary Challenge 49 Robert P. George.

The first act of every Council meeting is for me to recognize Dr. Daniel Davis to my left who is the Executive Director of the Council and the official government representative. He gives us legal, I suppose, credibility and credibility of other types as well, but particularly that one we have to say. This morning we will begin the examination of the question we had started at a previous meeting of national ethics committees. This Council has been, most of it, in operation for almost eight years now and we thought it might be useful to examine our experience and to hear more about the experience of other commissions in other countries with the idea in mind perhaps of putting together a report with recommendations or at least an examination of the question. Our first speaker " and I want to say for this part of the meeting and throughout " we do not provide lengthy introductions simply because we want to give the speaker enough time to cover the subject and to open it up to consideration by the Council, so I will only read the titles. You have those on the agenda. Thank you for your so kind invitation which is for me both an honor and a real pleasure to be with you. In recent decades, ethical concerns have become the preferred spiritual nourishment of our contemporary societies, and no longer only in the most advanced of them. They are gradually gaining ground in every sector of human activity. Cosmetics must be ethical; ready-to-wear garments must be ethical. Foodstuffs must also be ethically acceptable. And the current crisis, which is changing the world as we know it, enhances this concept. The stock exchange itself will have to respond to ethical criteria. So ethics are in the process of becoming a good investment and, in such a context, the ethics committee concept is very certainly one that is heavy with promise for the future. In the area of the health and life sciences with which we are concerned today, however, such an institution has distinctive characteristics which are very specific to its field of expertise. New issues are looming in the original bioethics committee as are new challenges which we need to take on. These issues are predominant in four areas. The first one is the relationship of ethics committees with the world of science; secondly, the relationship of ethics committees with politics; thirdly, the relationship of ethics committees with society; and finally, the relationship of ethics committees on an international scale. The first ethics committees focused on health and life sciences. And when the President of the French Republic created the French National Consultative Ethics Committee in " and it was at this time the first in the world " he gave as his motive for doing so that "science moved faster than human society. When the French committee started to operate in , the issues at stake were in the area of advances in medical-assisted reproduction with the birth of the first test-tube baby, which was the source of both fascination and unease. In those early days, the difficult problems confronting us already included the status of embryos, the discovery of the genome, and tests involving human beings, and another burning issue which at that time was looming large because of the connection with surrogate motherhood " that is using the human body for commercial purposes. So the composition of ethics committees, which naturally includes scientists but also legal experts, philosophers, anthropologists, journalists, representatives of associations, et cetera, is a good reflection of the care taken to establish a bridge between scientific research and society. A few words about the situation in France. We have five personalities belonging to the main philosophical and spiritual currents. And presently we have a Catholic, a Protestant, a Jewish, a Muslim, and a laic [secular] person; then nineteen personalities chosen for their competence and interest in ethical issues; and finally, fifteen personalities from the research sector. These thirty-nine members are appointed for four years, renewable once. In this respect, bioethical reflection could be defined as an exploration, with all due modesty, of the relationship between scientific progress and social acceptability. Now, this mission of the ethics committees, which goes further than just constructing a bridge between two areas of human endeavor and dispelling public misunderstanding of scientific progress is, I think, a primary and fundamental issue. To accomplish it, ethics committees must take up a certain number of

challenges. The first of these is linked to the intrinsically fluctuating character of scientific progress, which means that we must accept the precarious nature of ethical reflection. Nothing can ever be set for eternity, and the pronouncements of ethics committees must always be open to revision in the light of new scientific developments. As regards the way in which reflection is conducted, there are some essential requirements. Ethical reflection must never be dogmatic. When the French committee was created at the beginning, its members wondered how they should go about constructing their opinions. Two methods of work were open to them: The second of these methods was selected, and that was precisely due to the very singular nature of bioethical reflection. It so happens that this evolutionary mode of operation has, in France, remained central to reflection on the appropriateness of passing from ethics to law with, as an inevitable consequence, the establishment of connections between ethics and politics. This is a second point at issue for ethics committees. In France, legislating on bioethics was not an immediately obvious way to proceed. Discussion on the subject in France was extremely sharp, in particular because it did not seem possible to immobilize scientific progress within what would seem at first sight to be necessarily rigid normative boundaries. Scientists were apprehensive and reluctant to accept such changes. And French lawmakers launched a kind of legal revolution when they introduced the concept of a revisable law, choosing five years as the lapse of time before it would be reviewed and the implementation of its decisions assessed. The societal choice is no longer much disputed, except that currently in France we are organizing the Estates General on Bioethics, which is a discussion to prepare a reexamination of the laws on bioethics, and this discussion also includes the question of whether it would be appropriate for the text of the law itself to set a time lapse. In any event, the major consequence for ethics committees is that ethics and politics are no longer two separate domains. Relations between the ethics committee and the parliament, as well as between the ethics committee and government are inevitable. As a result, the challenge to be met by ethics committees is to carry out this consultative mission in an advisory capacity while retaining their independence. This is a fundamental concern because I think that independence guarantees the credibility of the ethics committees. So for that, French legislators provided CCNE, the French committee, with a number of essential safeguards for its independence. The first one is that the law gives to the French committee the status of independent authority, with a budget appropriation run by the prime minister, but with exemption from financial audit and only a posteriori accountability to the Cour des Comptes, which is the French supreme audit authority. The law also gives the French committee power of self-referral which is another fundamental safeguard of its independence. However, prudence is still advisable since we have seen, for example, that a considerable delay on the part of the authorities in the membership renewal procedures could, de facto, paralyze the Committee and be viewed as an insidious attack on its independence. Moreover, this is one of the essentials of participative democracy. In this respect, the particularly sensitive role of an ethics committee in such a democracy on the borderline between representative and direct democracy becomes very clear. And we have present in front an illustration of this in the context of the current Estates General on Bioethics. But while this task of the ethics committees is therefore absolutely essential, it is also particularly delicate. And the difficulties arise both out of the subject itself and the nature of bioethical reflection. The subject is particularly complex and almost always requires a degree of scientific knowledge which all of our citizens do not necessarily possess. In subjects such as, for instance, genetics, nanosciences, environmental health and biodiversity, scientific expertise must be at a high level. Secondly, the nature of bioethical reflection is another difficulty. As you know, bioethics is not an exact science which is why teaching bioethics raises so many issues. There is no such thing as "bioethical truth. And obviously incorporating a complex process of questioning into an already complex domain is far from easy. In this connection, there is the matter of the way in which ethics committees work and express themselves. Should we do our utmost to arrive at a consensus or simply set out the arguments for divergent standpoints? Quite clearly, a consensus will be difficult to come by in a pluralist and multidisciplinary assembly discussing sometimes extremely sensitive subjects. And the danger here is arriving at what can be described as a "soft" consensus. It may, of course, seem surprising that a gathering of forty people in France, whose convictions are

so very different, can arrive at any form of common position. The process consists more in revealing the strongly held point of reference at the core of each belief which surprisingly emerge as shared by all when human dignity is involved, and when there is no call for being answerable to some electorate or to the issuers of voting instructions. I would say that in the French committee, all the members are present "intuit personae," but they are not strictly speaking representatives. But it happens that there is no way of arriving at a point of concurrence acceptable to everyone. Some members on such sensitive issues, for instance, the status of embryos, may be reluctant to commit themselves to an opinion. Another complicating factor for the social debate is that, of necessity, the media must be the vector for raising awareness in society. I could say, perhaps, that there is a fundamental opposition between ethical reflection and the needs of the media. And, clearly, bioethics issues and the opinions in the Committee cannot conform to such a pattern so that their mediatization "which is so essential to raising the awareness of society" their mediatization turn out to be extraordinarily difficult, unless a reductive presentation is considered acceptable. CCNE French Committee has made and continues to make a very special effort aimed at the younger generations. Every year at its annual conference, youngsters are asked to participate. High school students are invited to present the fruit of their deliberations after working on various themes with their teachers in a para-disciplinary plenary approach. Their thoughts may bear on subjects as varied as organ transplantation, anonymity for gamete donors, euthanasia, end of life, et cetera. And after each of their presentations, there is a debate with the CCNE members and the public. And our committee attaches the greatest importance to these discussions with high school students as they are very close to an ideal of ethical reflection, which does not consist in the instillation of elitist knowledge, but more in "questioning the consequences of the decisions we take that will change the lives of those who survive us. Le Coz] For the younger members of our society to claim ownership of such problems shows a readiness to anticipate ethical issue rather than allow them to intrude on us and then try to deal with them a posteriori. In this respect, ethical reflection is a preferential path to exercising the responsibilities of citizenship. The fourth point I would like to raise is the issue for an ethics committee to give its reflections in an international dimension. For quite a long time, ethical reflection was confined within national borders with, as a result, a restrictive and reductive view of the issues at stake because of the single-culture approach. In modern times, such an approach has become unacceptable. First of all, very obviously, scientific research knows nothing of frontiers, while discussion and collaboration between transnational teams is ever more frequent. Another reason is that there has been a proliferation of ethical committees or similar structures in many countries the world over. In earlier times, they were restricted to developed countries, but increasingly their creation is spreading to developing countries. This program, in which I am honored to participate, is aimed particularly at African countries. It is obviously essential when research protocols involve countries in both the north and the south, for them to be able to consult an ethical institution in each of the countries. Finally "and, of course, this is a statement of the obvious, we live in a global village and borders are increasingly open. It would be totally counterproductive to ignore this essential dimension which must be conducive to a multicultural development of ethical reflection. But opening bioethical reflection to international scrutiny has raised and continues to raise an essential query which is related to the duality between ethical universality and cultural diversity. The question is, are there universal ethical principles which can be acceptable and recognized by everyone? The discussion is ongoing, but we must be cautious. There was a time, I believe, when the dangers of setting up cultural relativity as an absolute value were underestimated and as a consequence it may have become an alibi for alignment with the lowest ethical bidders. There is indeed a challenge here arising from the internationalization of procedures.

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Chapter 7 : April Letters by Various | Articles | First Things

Judicial Usurpation: Perennial Temptation, Contemporary Challenge Chapter 7 Chapter 4. Authority Doctrines and the Proper Judicial Role: Judicial Supremacy, Stare Decisis, and the Concept of Judicial Constitutional Violations Chapter 8 Chapter 5.

June 30th, , Justice Kennedy disclaims that implication arising from his decision, but without explaining how his reasoning would bar that result. Let the Democrats have to take positions on this matter now, and many of them will not vote against polygamy or polyamory. In the call to the resistance we should have something precise to focus on, and this will do as well as anything else. Ted Cruz had signaled his willingness to make the first move to introduce a constitutional amendment. His amendment would simply deal with the fact that five lawyers have now swept away the laws on marriage in this country. But my sense right now is that it may be harder to summon the passions of the country for the passions of the Federalist Society. Neither amendment has a chance of passing this Congress, and so we should jar ourselves to recall that in a situation radically new we may need to think anew; we may need to look again at the path that has been open but rarely if ever taken: It would be easier to get a movement going from within twenty to thirty states calling for a Constitutional Convention than it would be to launch a constitutional amendment in Congress. Many of our friends have recoiled from that prospect out of a fear that such a Convention may not be confined to this subjectâ€”that it may produce novelties and harms unforeseen. But to them I would earnestly say: Wake up to the depth of the crisis before your eyes. And I beseech you earnestly to consider: What lurking dangers unforeseen could plausibly be worse than the dangers that are upon us right now, with the threat of destroying religious schools and churches, and remolding the moral understanding of everyone else, as the culture war is carried, with conviction undiminished, to its further reaches. To draw again on Lincoln, may the vast future not lament our failure to do what we still have it within our means to do. Patrick Deneen What has been most striking all along is not the division, the passion, at times the vitriol. What has been most remarkable is the insistence by same-sex marriage proponents that all dissent be silencedâ€”whether through threats of economic destruction, legal bludgeoning, and now, increasingly by appeal to the raw power of the State. The firing of Brendan Eich was a bellwether for what has now become a commonplace: But violence will serve as a last resort, merely backstopping the education system, the economic players, and even family members who will work to correct wayward thinkers the divisions in families will make what is to come like a Cold Civil War. The bolder and falser the lie, the more insistent the calls to conformity, and the elimination of dissent. But Solzhenitsyn said noâ€”even to the point of arrest and exile. Even if all is covered by lies, even if all is under their rule, let us resist in the smallest way: Let their rule hold not through me! And know that when they do, it is not a sign of their power, but their fear that the lie might be seen for what it is in the light of truth. Chief Justice John Roberts portentously warned Christians that the weak First Amendment assurances in the majority opinion would scarcely protect us. Conditions are about to get much worse for us. We must reflect soberly on this fact, and act wisely, but decisively. Just over a decade ago, Robert Louis Wilken, writing in First Things, said that the greatest danger facing the Church is forgetfulness. That is, in our post-Christian culture, we are rapidly losing memory of what it means to be a faithful Christian. Research by Notre Dame sociologist Christian Smith shows that most young American Christians have exchanged the orthodox faith, in all its iterations, for a pseudo-religion he calls Moralistic Therapeutic Deism. The culture war is no longer between the church and the world, but is now well established within the church. The pressure to apostasize under persecution from the state and within civil society we are all Brendan Eich now will be overwhelming. True, we cannot retreat from evangelizing the world, but we Christians need a radically new approach suited to these post-Christian times. If we are to endure as the Church, and to be what the world needs us to be, we have to pioneer new ways of living out our faith in community, in a chaotic and hostile culture. What else is there? George How shall we respond to a lawless decision in which the Supreme Court by the barest of majorities usurps authority

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vested by the Constitution in the people and their elected representatives? By letting Abraham Lincoln be our guide. Like the Great Emancipator, we must reject and resist an egregious act of judicial usurpation. We must, above all, tell the truth: *Hodges* is an illegitimate decision. *Wade* applies with equal force to *Obergefell*: The justices responsible for these rulings, whatever their good intentions, are substituting their own views of morality and sound public policy for those of the people and their elected representatives. They have set themselves up as superlegislators possessing a kind of plenary power to impose their judgments on the nation. What could be more unconstitutional—more anti-constitutional—than that? The rule of law is not the rule of lawyers—even lawyers who are judges. Supreme Court justices are not infallible, nor are they immune from the all-too-human temptation to unlawfully seize power that has not been granted to them. Decisions such as *Dred Scott*, *Roe v. Wade*, and *Obergefell* amply demonstrate that. In thinking about how to respond to *Obergefell*, we must bear in mind that it is not only the institution of marriage that is at stake here—it is also the principle of self-government. Colson, Professor Robert P. George, and I drafted the Manhattan Declaration which called on Christian believers of all denominations to stand fast in support of what we deemed to be the three most pressing moral issues of our time, namely: Now, in the summer of , the Supreme Court decision in *Obergefell v. Hodges* undermines marriage and threatens religious freedom. The erosion of the marriage culture has happened quickly. For example, in , newly elected President Barack Obama and then-Secretary of State Hilary Clinton both affirmed the understanding of marriage set forth in the Manhattan Declaration. The ability to decide such a fundamental matter related to the flourishing of family life and the integrity of the common good has been taken away from the people and their elected representatives in each of the fifty states. Christians who may be discouraged by this turn of events should take heart by considering three other Supreme Court decisions of the past. *Sanford* denied the rights of citizenship to African Americans. *Wade* asserted a right to take the life of children still waiting to be born. The first two decisions were subsequently overturned by constitutional amendment and subsequent court action. But Christians should work toward the reaffirmation of marriage as it has been maintained across all civilizations and in our own country until the very recent past. Marriage, like religious freedom and life itself, is fundamentally a gift from God, not a contrivance of our government or any government. As we wrote in the closing words of the Manhattan Declaration: Nonetheless, even today we have reason to be hopeful. Just over two years ago, on the day of the oral arguments for *Windsor*, my newsfeed was a sea of red equal signs. No countering voice could be found. This time, however, the conversation shifted in dramatic fashion. To be sure, I came across a suffocating array of rainbow flags, but this time there were myriad voices balancing the debate. I was struck by the tenacity shown by dozens of college students and recent alumni who courageously shared quotes from the dissenting opinions, posted their own wedding photos, shared articles by my fellow authors in this symposium, posted memes about marriage and religious liberty, and respectfully engaged their peers in civil debates about the nature of marriage, religious liberty, and the democratic process—letting their social networks know in no uncertain or uncharitable terms where they stand on marriage. These young leaders have witnessed those harms first hand and want no part in their perpetuation, and they are doing something about it by exposing their fellow students to arguments and research their peers on campus might otherwise never hear. According to recent research by UT Austin sociologist Mark Regnerus less than half of millennials actually support the redefinition of marriage. We often forget about the substantial undecided middle because they are silent, but they are there, listening and watching. They remain open-minded for now and we have the task of convincing them. But in many ways we are the fortunate ones. I see more joy, more personality, and more life in those marriages than I do amongst those who view marriage as a capstone achievement with little difference from a cohabiting relationship and with children as an optional accessory. We understand what marriage vows mean when the truth has been obfuscated from the wider culture. However, we owe it to our friends, family, and our culture at large, to preserve that knowledge and carry that truth back, bit by bit, day by day, one person at a time with compassion and love. I write these words as I await the birth of my first child, any day now. Leithart Orthodox Christianity has lost all cultural potency in the United States. No one defending traditional marriage

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before the court dared raise the fundamental question: Who creates marriage, God or the state? Theology has no public standing, no persuasive force in the culture at large. Obergefell is another nail in the coffin of the Protestant establishment. It may be the one that snaps the lid closed. Early Christians were accused of incest; we can endure being treated as bigots. Been there, done that. We should stop acting like an exiled Tsar, hoping for the coup to put us back in the Winter Palace. We should instead double our efforts to form an alternative public among the churches. That means we stop veiling our convictions behind a publicly-approved idiom antithetical to orthodoxy. And we might as well say it plainly: We oppose gay marriage because we believe homosexual acts are sinful, and we believe that for biblical and theological reasons. Unbelievers already know it. Let the Courts and the States go where they will.

Chapter 8 : The Splendor of Truth: A Symposium

Pris: kr. HÅ¸ftad, Skickas inom vardagar. KÅ¸p Ourselves and Our Posterity av Bradley C S Watson pÅ¸ theinnatdunvilla.com

I had already discussed Part I last Monday. I recommend the series to all. Once again, I largely agree with T. My disagreement is with his view that non-abortifacient contraception, unlike sodomy, is not intrinsically wrong, which is only to be expected given that I am a neoCath who has blogged quite a bit about just this point, especially here. But my demurral is not merely academic. In my view, T. In my comments on Part I, I briefly explained why I believe that there is no sound theological basis for the distinction T. Rather than respond to that directly, T. In Orthodoxy, the telos of a given act if acts of the will can even be said to have a telos, as some moderns posit is always to be subject to the telos of the person. Likewise, within Orthodoxy the telos of the person is not determined by the perceived telos of the acts appropriate to that person. Orthodoxy is not bottom up in its anthropology. Within Orthodoxy the "telos" of the given act is derivative of the telos of the person or persons involved. I am finally meant for salvation. My wife is finally meant for salvation. As two who have become one our marriage is to serve us as we are , finally, being saved. Sex within our marriage is to serve our telos. We are not meant to serve the "telos" of a given act. This does not mean that we ignore or reject nature, quite the contrary. God intends to save me as a man, and to save my wife as a woman, and our salvation must be worked out in its proper course. But my sex and what is natural to it is meant to serve me, I am not meant to serve it. Thus, abortion always violates the telos of a person, whereas non-abortifacient birth control does not, if one accepts a modern biology with regard to then what must be the ontological status of sperm and egg unless one can show that the use of any contraceptive necessarily involves a willful sin such as lust, greed, selfishness, etc. When someone who accepts modern biology says that non-abortifacient contraception is unnatural, they are referring to the telos of an action, primarily, and not a person, or they refer to a person only in the sense in which their telos is subject to the "telos" of the action. In context, that seems meant as an alternative to the Catholic doctrine, which T. Rome uses a natural theology, via a "theology of the body" or some other such theological mechanism, to arrive at its theology of human sexuality. The "theology of the body" is one of these many contemporary theological manifestations of the "Incarnational theology" fetish. If one takes issue with this or that point in such a theology, its proponent will normally suggest that one is "anti-Incarnational. Every dogmatic point concerning the Incarnation was made using Greek patristic theological language. The entire project of Eastern Orthodox theology is intended to answer the question, "Who is Jesus Christ? In a few more decades it will be the "theology of something else. Theologies of the body do have a focus upon a sort of natural teleology of the body, but that is found to be lacking from an Orthodox perspective. From an Orthodox point of view, what a given act is naturally intended for is not the question. The question is, what is the person intended for? The answer is, theosis. Then with contraception the question becomes, in what way s might contraception help or hinder theosis? The answer to this question will not be couched in legal terms, as Orthodox frame it given a modern biological framework. When it comes to how contraception affects the human spirit, things do tend to get legalistic and even deterministic when a theology of the body is employed. Aside from that, it is idle. But I found the same kind of smile crossing my face when I compared the two passages just quoted. What we have here are two kinds of fallacy: I have found those particular patterns of argument depressingly common among Orthodox, on a variety of topics, when they criticize "Rome. The false dichotomy is that between the moral teleology of acts and the moral teleology of persons. In the teaching of the Catholic Church, the moral significance of acts consists precisely in how they relate, either instrumentally or constitutively, to the good of the acting and the affected persons. That holds for "natural law" as well as moral theology; the latter integrates the former without being limited to it. And so the good of the person s must always be seen, either immediately or indirectly, in relation to the divine will for us. The biological processes that form part of some such acts, or in some cases naturally flow from

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them, have no moral significance apart from that context. But they are of course morally significant within said context. The sexual activity in which husband and wife are intimately and chastely united with one another, through which human life is transmitted, is, as the recent Council recalled, "noble and worthy. For its natural adaptation to the expression and strengthening of the union of husband and wife is not thereby suppressed. The fact is, as experience shows, that new life is not the result of each and every act of sexual intercourse. God has wisely ordered laws of nature and the incidence of fertility in such a way that successive births are already naturally spaced through the inherent operation of these laws. The Church, nevertheless, in urging men to the observance of the precepts of the natural law, which it interprets by its constant doctrine, teaches that each and every marital act must of necessity retain its intrinsic relationship to the procreation of human life. This particular doctrine, often expounded by the magisterium of the Church, is based on the inseparable connection, established by God, which man on his own initiative may not break, between the unitive significance and the procreative significance which are both inherent to the marriage act. The reason is that the fundamental nature of the marriage act, while uniting husband and wife in the closest intimacy, also renders them capable of generating new life" and this as a result of laws written into the actual nature of man and of woman. And if each of these essential qualities, the unitive and the procreative, is preserved, the use of marriage fully retains its sense of true mutual love and its ordination to the supreme responsibility of parenthood to which man is called. We believe that our contemporaries are particularly capable of seeing that this teaching is in harmony with human reason. If they further reflect, they must also recognize that an act of mutual love which impairs the capacity to transmit life which God the Creator, through specific laws, has built into it, frustrates His design which constitutes the norm of marriage, and contradicts the will of the Author of life. Hence to use this divine gift while depriving it, even if only partially, of its meaning and purpose, is equally repugnant to the nature of man and of woman, and is consequently in opposition to the plan of God and His holy will. But to experience the gift of married love while respecting the laws of conception is to acknowledge that one is not the master of the sources of life but rather the minister of the design established by the Creator. Just as man does not have unlimited dominion over his body in general, so also, and with more particular reason, he has no such dominion over his specifically sexual faculties, for these are concerned by their very nature with the generation of life, of which God is the source. It cites the former two in relation to each other, and both together to the third. There is no dichotomy here between the biological and the personal, or between both on the one hand and our relationship with God on the other. So much for the alleged dichotomy. By invoking natural-law norms within a biblical personalism, the late pope integrated Catholic sexual teaching into a theology of communion, whereby sex and marriage are seen as the primordial way in which humans image the tri-personal, perichoretic God outwardly and in relation to each other. The whole is both-and, not either-or: Once the fallacious criticisms of Catholic teaching are cleared away, it becomes clear that, on such teaching, contraceptive sex is seen as lustful sex in which people incline to treat each other more as objects than as persons. Precisely by suppressing the procreative in favor of the unitive aspect of conjugal intercourse, by whatever means, one corrupts the unitive. That makes people less and less able to make a gift of themselves sexually in marriage as it is meant by God to be: Paul VI predicted that would happen once the contraceptive mentality set in, and he was absolutely prescient. In the last forty or fifty years, we have all observed the steady coarsening of sexuality throughout our culture. The universal availability of cheap, effective contraception has allowed people to fornicate with less cost than ever, and the effect on women has been even worse than on men. In the course of my baby-boomer lifetime, I have seen women approach if not equal men in their rates of fornication and adultery: Lewis once said, traditional Christian morality held that men ought to be as chaste as honest women were always expected to be; but now it seems women are permitted, nay expected, to be as unchaste as men have always striven to be. This is the kind of equality that the widespread availability and use of cheap, effective contraception inevitably causes. It is the equality of pansexualism. The problem would probably not be quite so bad if the only available contraceptives were "barrier" condoms, diaphragms, IUDs, and whatnot rather than abortifacient. But it would still be more

than bad enough. The problem less the technology than the principle. On this point, scientific research itself seems to be almost exclusively preoccupied with developing products which are ever more simple and effective in suppressing life and which at the same time are capable of removing abortion from any kind of control or social responsibility. It is frequently asserted that contraception, if made safe and available to all, is the most effective remedy against abortion. The Catholic Church is then accused of actually promoting abortion, because she obstinately continues to teach the moral unlawfulness of contraception. When looked at carefully, this objection is clearly unfounded. It may be that many people use contraception with a view to excluding the subsequent temptation of abortion. But the negative values inherent in the "contraceptive mentality"-which is very different from responsible parenthood, lived in respect for the full truth of the conjugal act-are such that they in fact strengthen this temptation when an unwanted life is conceived. Certainly, from the moral point of view contraception and abortion are specifically different evils: But despite their differences of nature and moral gravity, contraception and abortion are often closely connected, as fruits of the same tree. Still, in very many other instances such practices are rooted in a hedonistic mentality unwilling to accept responsibility in matters of sexuality, and they imply a self-centered concept of freedom, which regards procreation as an obstacle to personal fulfilment. The life which could result from a sexual encounter thus becomes an enemy to be avoided at all costs, and abortion becomes the only possible decisive response to failed contraception. Suppressing the procreative in favor of the unitive corrupts the latter and thus makes us readier to kill for our pleasures. That is why the much-loved distinction between abortifacient and non-abortifacient contraception is useless, and worse than useless, as a way of combatting pansexualism. Although the former is wrong for an additional reason, both are also wrong for the same reason. Their eyes dazzled by what technology can do, when they gaze upon human nature they see not a Design, but a canvass for their own designs. Because they can sever the causal link between sex and procreation, they suppose they have severed the link between sex and procreation. First the encyclical admonishes that artificial contraception will make it easier for people to rationalize sexual immorality. When modern people hear this they are dumbfounded. If there is artificial contraception, how could any sex be immoral? For old nature the old rules were necessary; for new nature we have new ones. Of course the Pope was right, but this is turning out to be one of those cases where the new rules too prove confining and we must "change" human nature yet again. And so, of course, they have. The difficulty is that in order to object to the interference, one must believe in the mission.

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Chapter 9 : PCBE: Transcripts (March 12,): Full Transcript

A familiar and important argument against the "judicial activism" on display in these cases is that such decisions constitute the judicial usurpation of legislative authority. This argument highlights the antidemocratic character of the decisions.

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