

How a Libertarian Might Oppose Same-Sex *Marriage*

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1. Introduction

In February of 2005, an Act concerning the legal definition of *marriage* was introduced as Bill C-38 and received first reading in the Canadian House of Commons.¹ The bill provided a definition of *marriage* for the first time in Canadian law and expanded on the traditional common-law understanding of this form of union as (hitherto) an exclusively heterosexual institution. The bill's official legislative summary is as follows:

This enactment extends the legal capacity for marriage for civil purposes to same-sex couples in order to reflect values of tolerance, respect, and equality, consistent with the Canadian Charter of Rights and Freedoms. It also makes consequential amendments to other Acts to ensure equal access for same-sex couples to the civil effects of marriage and divorce.²

Though many nations recognized same-sex relationships at the time, there were only five countries that permitted same-sex *marriage*.³ In these countries, as in others, libertarians have been amongst the most vocal supporters of separating the sex of individuals from the right to enter the marriage state. While one cannot ignore the moral implications of denying same-sex couples the same rights and privileges afforded to members of

¹ Bill C-38 was introduced in the first session of the 38th Canadian Parliament on February 1, 2005.

² Parliament of Canada *LEGISinfo*, "House Government Bill C-38: An Act Respecting Certain Aspects of Legal Capacity for Marriage for Civil Purposes," 2011, accessed online at: <http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=1585203>.

³ The Netherlands has allowed same-sex marriage since April 1, 2001, and was the first nation to do so. On January 30, 2003, Belgium became the second country to recognize legally same-sex marriage, which became law in Spain and Canada in 2005. South Africa followed suit on November 30, 2006.

heterosexual marriage, this controversy has an important *semantic* dimension that has received far less attention than it deserves. Taking the Canadian case as a concrete example of how one political region settled the matter, I shall argue that a recognition of this semantic dimension makes opposing Bill C-38, and all its kin, perfectly consistent with libertarian values: one can be a steadfast libertarian, a believer in the equality of same- and opposite-sex couples, a proponent of having same-sex partnerships recognized by the state, and yet deny, without any threat of contradiction, that same-sex couples have a right to *marry*.

2. From Libertarianism to Same-Sex Marriage

That libertarians have been strong advocates of same-sex marriage is hardly surprising given their emphasis on human freedom, a limited role for government, and their endorsement of *value plurality*—a recognition that people differ in their goals, commitments, preferences, and beliefs, and an insistence that governments should be neutral with respect to these different attitudes.⁴ Of course, freedom cannot be absolute and libertarians *do* allow restrictions. Especially significant are restrictions related to the so-called *harm principle*—a principle that expresses an individual's negative right to freedom and the specific conditions under which interference with this freedom may be warranted. In the first chapter of *On Liberty*, John Stuart Mill makes the following comments, which have since become the hymn of libertarianism:

[T]he sole end for which mankind are warranted, individually or collectively, in interfering with the liberty of action of any of their number, is self-protection. The only purpose for which power can be rightfully exercised over any member of a civilised community, against his will, is to prevent harm to others. His own good, either physical or moral, is not sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinion of others, to do so would be wise, or even right The only part of the conduct of anyone, for which he is amenable to society, is that which concerns others. In the part which merely concerns himself, his independence is, of right, absolute. Over himself, over his own body and mind, the individual is sovereign.⁵

Under libertarianism, then, a person's negative right to freedom is guaranteed—even to the exclusion of paternalism and moralism—just as long as personal actions do not harm social institutions or non-consenting third

⁴ See Susan Dimock and Christopher Tucker, eds., *Applied Ethics: Reflective Moral Reasoning* (Toronto: Thomson, 2004).

⁵ John Stuart Mill, *On Liberty* (New York: Penguin, 1982 [1859]), pp. 68-69.

parties.⁶ Now if one connects libertarian commitment to individual freedom and autonomy, respect for multiple value systems, and the idea that governmental interference should be restricted and neutral, it becomes clear why libertarians have traditionally been strong advocates of same-sex marriage: they judge exclusively heterosexual marriage laws to be exclusionary and discriminatory, as challenging that part of conduct which concerns only the individual and over which the individual is sovereign.

Similar sentiments can easily be identified in almost all current discussions of this issue. For instance, the preamble to Bill C-38 explicitly states that the Act is meant to reflect “values of tolerance, respect, and equality, consistent with the Canadian Charter of Rights and Freedoms.” The reference to the Canadian Charter of Rights and Freedoms is not arbitrary. In fact, successful Canadian legal challenges to status quo marriage laws were often based on the Charter.⁷ Section 15(1) of the Canadian Constitution states:

Every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, colour, religion, sex, age or mental or physical disability.⁸

Analogous guarantees are a part of the constitutions of most other Western democracies, and challenges to (allegedly) exclusionary marriage laws have relied heavily on these guarantees. Bill C-38 also mentions *consequential amendments* to other Canadian Acts “in order to ensure equal access for same-sex couples to the civil effects of marriage and divorce.” Until very recently, same-sex couples were excluded from a host of privileges to which opposite-sex married couples are entitled, including (but not limited to):

- the right to obtain health insurance, to take bereavement leave, and to make decisions when a partner is incapacitated;
- the right of visitation in places restricted to families;
- the right to claim dependency deductions and inheritance;
- the right to claim estate and gift tax benefits;

⁶ Dimock and Tucker, eds., *Applied Ethics*.

⁷ For a brief history of the legal challenges to traditional marriage laws in Canada, see Daniel Cere, “War of the Ring,” in *Divorcing Marriage: Unveiling the Dangers in Canada’s New Social Experiment*, ed. Daniel Cere and Douglas Farrow (Montreal: McGill-Queen’s University Press, 2004), pp. 9-28.

⁸ Government of Canada, Department of Justice, “The Constitution Acts of 1867 to 1982,” 2011, accessed online at: <http://laws-lois.justice.gc.ca/eng/Charter/page-1.html#anchorbo-ga:l I-gb:s 15>.

- the right to sue for infliction of emotional distress due to injury or wrongful death; and
- the right to claim marital communication privileges.⁹

In one quick measure, Canadian legislators sought to recognize and correct what they perceived to be a blatantly inequitable state of affairs. The manner in which they decided to do so was to change the workaday definition of *marriage*, making it non-contingent upon the sex of individuals.¹⁰

3. Some Common Arguments Against Same-Sex Marriage

Despite all of the sound and the fury, however, it is worthwhile to step back and consider the libertarian argument for same-sex marriage in detail. What exactly is being claimed and why? In a fairly well known article, Adrian Alex Wellington gives us the basic structure for most such arguments:

(1) In a libertarian society, sexual relations between consenting adults are beyond the purview of the state.

(2) It is not possible to justify anything other than a functional account of marriage in contemporary, secular, libertarian society.

Two considerations underlie this claim:

(a) Courts have often developed functional definitions of “couple,” using questions such as: Did the parties share a bank account? Did the parties own property in common? Did the parties visit each other’s relatives? Did the parties purchase shared items? Did the parties care for one another when ill? Did the parties divide up household duties?

(b) The functional definition of a “couple” is meant to replace other definitions that would be objectionable in a

⁹ Adrian Wellington, “Why Liberals Should Support Same Sex Marriage,” in *Applied Ethics: Reflective Moral Reasoning*, ed. Susan Dimock and Christopher Tucker (Toronto: Thomson, 1995), p. 255.

¹⁰ The association of same-sex marriage with issues of fairness and recognition was not confined just to Canadian legislators, but was widespread among academics and laity alike. When the same-sex marriage bill was first introduced in Canada, I received an email encouraging general support. The email was sent in early 2005 by a Canadian philosopher to other Canadian philosophers. It said, in part, “For some Canadians, marriage is an expression of love and commitment. For others, it is a religious sacrament; for others, it is a setting in which to raise children; for others, it is a source of companionship; for some, it is a source of tax benefit; for some, it is a means to acquire property or wealth or medical benefits; and for some, it is a means to reduce expenses. In Canadian society, there is no one single purpose for marriage, and to deny a couple the legal right to a civil marriage on the basis of their sex or sexual preference, is to deny their human rights.” The reference to *value plurality* in this message is unmistakable.

secular, libertarian society—e.g., religious, moral, teleological.

(3) If opposite-sex relationships are to be given state sponsorship, there must be rational reasons consistent with libertarian principles to deny that sponsorship to analogous relationships.

(4) On a functional account of marriage, same-sex relationships *are* analogous to opposite-sex relationships.

(5) Any rational arguments against the provision of state sponsorship to same-sex unions could only make claim to libertarian principles by reference to some formulation of the harm principle.

(6) There is no valid argument against same-sex marriage based on the grounds of harm consistent with the harm principle—including arguments that cite harm to traditional family values, to the moral fabric of society, or to the quest of gays and lesbians to achieve social legitimacy.

Therefore

(7) Same-sex marriage should be made legal.¹¹

Premise (6) is rather interesting, since it claims that opposition arguments citing damage to traditional family values, the moral fabric of society, or to the quest of gays and lesbians to achieve social legitimacy are all ineffectual and do not show that more inclusive marriage laws produce (or are likely to produce) harm in the sense specified by the harm principle.

Maggie Gallagher offers us a glimpse of what the first of these opposition arguments might look like in the Forward to *Divorcing Marriage: Unveiling the Dangers in Canada's New Social Experiment*. She asks, "What message is today's push for same-sex marriage sending to our young people?" Her answer is: "Marriage is the place where we not only tolerate people having babies and rearing children, we positively welcome and encourage it . . . Same-sex marriage will be, in effect, a public and legal declaration by governments that children do not need mothers and fathers."¹² Katherine Young and Paul Nathanson share Gallagher's conclusion, but try to substantiate their concerns more formally:

The social-science evidence is sometimes ambiguous . . . but we do know by now that two parents are better for children than one and that families with both mothers and fathers are generally better for children than those with only mothers or only fathers. We know also that biological parents usually protect and provide for their children

¹¹ Wellington, "Why Liberals Should Support Same Sex Marriage."

¹² Maggie Gallagher, "Forward," in *Divorcing Marriage: Unveiling the Dangers in Canada's New Social Experiment*, ed. Daniel Cere and Douglas Farrow (Montreal: McGill-Queen's University Press, 2004), p. vii.

more effectively than non-biological ones. That these facts are either ignored or trivialized by some advocates of gay marriage . . . says something about concern for children in our time.¹³

Young and Nathanson also hint at some detriment to the moral fabric of society, if same-sex marriage were to be legalized. “At the heart of this campaign for gay marriage is . . . radical individualism,” they claim:

We are not referring to the kind of individualism that emerged in the eighteenth century and was expressed most effectively by those who wrote the American constitution. For them, individual liberty was embedded firmly in a context of communal responsibility . . . Today, individualism has come to mean something quite different, something that approaches the adage “anything goes” (as long, presumably, as no one is personally injured). The larger interests of society no longer function as constraints. And this indifference to society as a whole is made clear by those who demand gay marriage.¹⁴

The suggested link here is between same-sex marriage and a more narcissistic, self-absorbed life-style.

But perhaps most interesting of all are arguments which claim that same-sex marriage is actually a *hindrance* to the gay and lesbian cause. For example, Paula Ettelbrick contends that “marriage runs contrary to two of the primary goals of the lesbian and gay movements: the affirmation of gay identity and culture and the validation of many forms of relationships.”¹⁵

¹³ Katherine Young and Paul Nathanson, “The Future of an Experiment,” in *Divorcing Marriage*, ed. Cere and Farrow, p. 49. Young and Nathanson support the claim that biological parents are more effective than non-biological parents by citing Martin Daly and Margo Wilson, “Some Differential Attitudes of Lethal Assaults on Small Children by Stepfathers Versus Genetic Fathers,” *Ethology and Sociobiology* 15 (1994), pp. 207-17; Martin Daly and Margo Wilson, “Violence against Stepchildren,” *Current Directions in Psychological Science* 3 (1996), pp. 77-81; Carol D. Siegel, Patricia Graves, Kate Maloney, Jill Norris, B. Ned Calonge, and Dennis Lezotte, “Mortality from Intentional and Unintentional Injury Among Infants of Young Mothers in Colorado, 1982-1992,” *Archives of Pediatric and Adolescent Medicine* 150 (1996), pp. 1077-83; and Don Browning, *Marriage and Modernization: How Globalization Threatens Marriage and What to Do About It* (Grand Rapids, MI: Eerdmans, 2003). For further arguments purporting to show that same-sex marriage would have an adverse effect on traditional family values, see Margaret Somerville, “What About the Children?” in *Divorcing Marriage*, ed. Cere and Farrow, pp. 63-78.

¹⁴ Katherine Young and Paul Nathanson, “The Future of an Experiment,” in *Divorcing Marriage*, ed. Cere and Farrow, pp. 52-53.

¹⁵ Paula Ettelbrick, “Since When Is Marriage a Path to Liberation?” *Lesbian and Gay Marriage* 13 (1992), pp. 20-21.

Others, like Nancy Polikoff, are inclined to combine issues of gay and lesbian rights with broader feminist concerns, arguing that permitting same-sex marriage furthers neither agenda:

I believe that the desire to marry in the lesbian and gay community is an attempt to mimic the worst of mainstream society, an effort to fit into an inherently problematic institution that betrays the promise of both lesbian and gay liberation and radical feminism.¹⁶

A significant part of Wellington's effort is directed at dismantling all of these criticisms. Whether or not Wellington succeeds is not my primary concern, however, since the semantic argument I wish to recommend is quite distinct from those mentioned above. It remains to be seen, then, what (if anything) is wrong with the libertarian case for same-sex marriage.

4. Semantic versus Moral Claims

As Wellington's argument suggests, advocates for same-sex marriage have customarily invoked a number of concerns they consider relevant to the issue. Such concerns include a person's entitlement to self-determination, the right to choose with whom one shares his or her life, the injustice stemming from unequal treatment of same- and opposite-sex couples, and the alarmist attitudes of those who declare a threat to traditional family values from same-sex marriage. Notice, however, that these are all *moral* concerns, and they are certainly important: one can hardly deny that there has been, and continues to be, discrimination against gays and lesbians. Still, we may wonder whether the moral issues are really the heart of the matter.

Based solely on considerations related to the proper application of the predicate *married*, I suggest that it is possible to resolve all of the moral concerns and *still* oppose same-sex *marriage*. In fact, one can make a stronger claim: opposition to same-sex marriage is currently not merely consistent with libertarianism, but follows *directly* from libertarian values.

Suppose that a government decides to recognize same-sex unions and grant gay and lesbian partners exactly the same set of rights and privileges as their heterosexual counterparts. What do all of these rights really amount to? Do they render same-sex couples *married*? Surely, the answer depends on what the word *married* means.¹⁷ We can think of the word *married* as a two-place predicate, where

¹⁶ Nancy Polikoff, "We Will Get What We Ask For: Why Legalizing Gay and Lesbian Marriage Will Not 'Dismantle the Legal Structure of Gender in Every Marriage'," *Virginia Law Review* 79 (1993), p. 1536.

¹⁷ Hence, the italicized *marriage* in the title of this article.

M: Married
 x, y: variables
 x **M** y: x is married to y.

Clearly, whether or not same-sex couples can be married depends on whether or not the proper application of the predicate **M** requires the two variables, *x* and *y*, to be of opposite sex. If it does, then the expression *same-sex marriage* is oxymoronic; if it does not, then *marriage* may be used to describe same-sex unions without difficulty. It is that simple. But however the case may be, the point to be stressed is that the proper application of the word *marriage* involves a *conceptual question of classification*, which depends entirely on the semantic properties of *marriage*. It is not, and never should be, a case for moral theorists.

Unfortunately, this point is often lost. Not only have moral issues been associated with the same-sex marriage debate, but they have been its strongest driving force. That this association is misguided becomes clear when we take as an analogous case the rampant discrimination against African-Americans during the U.S. civil rights movement of the 1950s and 1960s. Martin Luther King, Jr., one of the most celebrated figures of that era, was fighting the injustice to which he and other African-Americans were continually subjected. He was not lobbying to have a certain predicate—*Caucasian*, for instance—apply to members of his race; he was lobbying for the same entitlements to which White America was accustomed. The issues in this case *were* moral, not semantic.

By contrast, there seems to be more going on in the same-sex marriage debate than just equal rights for gays and lesbians. There is also a sense that homosexuals are asserting some sort of right to a *word*, believing, perhaps, that the word *marriage*—firmly rooted, as it is, in a long tradition of social acceptance and advocacy—will somehow bestow a stronger measure of legitimacy on their relationships, one that might mitigate age-old biases. If so, then gay and lesbian couples do not just want their unions recognized in law, but want them recognized *by a specific name*, and this highlights a side of the debate that has never been fully addressed. Time and again we hear the opposition undermine itself by focusing on the wrong issues—religious conviction, moral purity, family values—and missing the crux of the problem. Likewise we hear advocates speak of justice and equality, fairness and inclusion, and yet fail to recognize that *marriage* is a word with a particular meaning and, like any other word, the meaning of *marriage* must be determined by specific semantic properties. But perhaps the biggest victim of all is a perfectly elegant proposition that has been buried under the myriad of charges and counter-charges: *where there are semantic properties, correct classification is never a matter of moral privilege*.

Even in the philosophical literature the semantic element is often ignored. We see this in the argument for same-sex marriage given by Wellington. As it happens, this argument is invalid, since we *can* agree with all of its premises and reject its conclusion. We can grant that in a libertarian

society sexual relations between consenting adults are beyond the purview of the state and nothing but a functional account of marriage is justifiable (premises [1] and [2]); that there must be rational reasons consistent with libertarian principles to deny state sponsorship to same-sex relationships but grant them to analogous ones (premise [3]); that on a functional account of *marriage* same- and opposite-sex relationships *are* analogous (premise [4]); that any argument against state sponsorship of same-sex unions could only make reference to the harm principle, but that a valid argument meeting this condition does not exist (premises [5] and [6]). Even if we grant all of these claims, Wellington's conclusion *still* would not follow. What follows is not that same-sex *marriage* should be legal, but that (some form of) same-sex *union* should be made legal. The expressions *marriage* and *legal union* are not synonymous, though they are frequently treated as such:

A [libertarian] society is one in which the fullest possible range of options for human flourishing is to be encouraged One important civil liberty is the freedom to engage in a *state sanctioned union*. The only possible reason that a [libertarian] could have for rejecting *same-sex marriage* is that the practice would in some way violate the harm principle.¹⁸

It is obvious from this passage that Wellington uses “a state sanctioned union” and “same-sex marriage” interchangeably, and this is a serious mistake. I suggest that marriage is a particular *kind* of state sanctioned union, one that, by the current conventions of usage, require those united to be of different sex. The last sentence of the passage is also false: violation of the harm principle is *not* the only possible reason that a libertarian could have for rejecting same-sex marriage. There remain the semantic constraints I have already mentioned—those pertaining to whether or not the meaning of *marriage* makes that word applicable to unions involving same-sex partners.

5. Semantics Matter

But does *marriage* really require the parties united to be of opposite sex? How can we find out one way or the other? We might try some kind of *functional role* semantics, where the meaning of an expression is said to be equivalent to the totality of inferences that can be drawn from that expression.¹⁹ Such an approach might prove helpful in illuminating the role that *marriage* plays in the English language. We might then be in a better

¹⁸ Wellington, “Why Liberals Should Support Same Sex Marriage,” p. 240, emphasis added.

¹⁹ See Ned Block, “Advertisement for a Semantics for Psychology,” *Midwest Studies in Philosophy* 10 (1986), pp. 615-78.

position to decide whether or not *marriage* covers unions of the same sex. On the other hand, do we really have to go that far?

I think it is fair to say that the word *marriage* currently means the union of two people of the *opposite* sex. This may not have always been the case, but the history of the word is irrelevant to the argument at hand; the only thing that matters is the current meaning of *marriage* as specified by modern usage conventions. My contention is that *marriage* presently designates opposite-sex unions, though I do not deny that this may be a temporary state: the wheels of change have started to turn, and perhaps not long from now *marriage* will mean the union of *any* two people. But this is not the current situation. I have no direct proof for this claim, but must appeal to our common empirical experience in its support—our common empirical experience of how things *actually are*, not how we might *want* them to be.²⁰ If I am correct, then denying homosexuals a right to marry is no more discriminatory or unjust than denying Martin Luther King, Jr., the right to call himself *Caucasian*, and claims to the contrary must be carefully explained.

But even if this were the case, why can't the relevant authorities simply change the meaning of the word *marriage*? After all, there does seem to be precedent for this kind of power: most governments exercise some control over the word *citizen*, for example. Through Bill C-38, Canadian legislators simply extended their jurisdiction to include *marriage*. Moreover, while the state may change the meaning of a word in terms of its use in laws and judicial proceedings, it has no power to prevent people outside this context from using words in any way they choose. If the state claims that same-sex couples can marry, this will not force people who oppose this practice from refusing to use the term *marriage* in reference to such unions.²¹ So why shouldn't other democratic governments enact bills similar to C-38?

The prospect of other governments following the Canadian example is precisely what should be worrying a libertarian. The question of how languages change is a very complicated one, and we will not venture too far into it here. Suffice it to say that languages evolve much like species do—very gradually and over long time intervals—so that in most cases it becomes exceedingly difficult, if not practically impossible, to determine precisely when a word came to have the meaning it does (much less shift its subtle connotative associations). In any case, what seems reasonably obvious is that neither individuals, nor special interest groups, nor governments should have the power to impose a specific word usage by an act of law *without proper and adequate justification*.

²⁰ This is an important qualification, since one sometimes notices in situations such as these that wishful thinking (and perhaps excessive optimism) rather than careful observation of actual practices guides assertions of fact.

²¹ My thanks to an anonymous reader of this article for raising this point.

The contrary brings to mind George Orwell's *Nineteen Eighty-Four*, where a government in a futuristic society invents a whole new language, called *Newspeak*, in order effectively to control people's range of thoughts and make them conform to a new political order.²² While this may be too extreme (surely no current democracy is likely to degenerate to this level), the point should still be pressed that just as governments in libertarian societies have no business in the bedrooms of individuals, libertarian governments have no business in the *dictionaries* of individuals. And this observation applies just as strongly to words over which authorities are *perceived* to exercise some control. From a libertarian perspective, it is important in such cases to be clear on the sort of control an authority is permitted to practice and the manner in which that power was acquired. Hence, taking the word *citizen* as example, we may distinguish between the *conditions* of citizenship and the *definition* of citizenship in a given country. While a national government typically has some say over the *conditions* that must be fulfilled before an individual is deemed a full and unqualified member of its region, the *definition* of *citizenship*—insofar as this pertains to the rights and duties that come with such membership—is usually outlined in that nation's constitution. In democratic societies, constitutional amendments are implemented by a protracted process that is contingent upon the involvement and assent of multiple regions and multiple levels of law-making bodies. Such constraints are put in place *precisely* to curb the powers of a national government. Notice also that the right of a democratic government to dictate the *conditions* of citizenship is usually bestowed from the *bottom-up*, and is therefore consistent with libertarian values: libertarianism does not only recommend a limited role for government, but also requires mechanisms that ensure that the type and range of a government's mandate are determined by citizens.

Having said that, there is no evidence that a *bottom-up* process to change the definition of *marriage* has ever taken place in any of the regions that have legalized that form of union for same-sex couples. In Canada, Bill C-38 was the *first* attempt to define *marriage* in law, prior to which the word had not been the concern of legislators. The controversy that has shrouded the Canadian debate—the antagonism, resentment, and deep divisions that have surfaced immediately after the new Marriage Act was introduced—strongly suggests that the proposed change did *not* come from the bottom-up. Though marriage has legal implications, the meaning of that word is essentially non-legal; it is rooted deeply in socio-cultural practices, religious convictions, and in value systems that are both personal and shared. Small wonder, then, that legislative efforts targeting the meaning of *marriage* have been seen by many as intrusive and threatening: it is one thing for a government to set forth the *legal consequences* of choosing to unite with a partner, but an entirely different matter for a government to (*re*)define the marriage institution itself.

²² George Orwell, *Nineteen Eighty-Four* (London: The Folio Society, 1949).

A government's role may include jurisdiction over the former, but should not be assumed automatically to include the latter.

But is all of this just a tempest in a teapot? If the right of same-sex couples to unite is recognized in law and issues of fairness and equality are no longer relevant, does it really matter what we call this form of union? Would coining a new term really be all that important when modification of the existing one seems quite workable?

The short answer to the last two questions is *yes*. Whether or not legislative modification of the word *marriage* is a workable option in a libertarian society is exactly the point at issue; to assume that it is begs the question. Nor is it relevant to point out that individuals in isolation are powerless to affect the contours of a public language however they are decided—whether by an authoritarian state, a democratic state, or the mass of the people in their spontaneous linguistic interactions.²³ While it may be true that the evolution of public languages falls outside the realm of individual liberty and individual choice, it is *also* the case that public languages can easily be influenced by governments. So questions related to the nature, extent, and legitimacy of such influence are (or at least should be) of concern to libertarians.

What I am proposing is a semantic argument against same-sex *marriage*, and semantics *do* matter. I strongly suspect that this debate would not have been nearly as divisive, in Canada and elsewhere, had not the word *marriage* been at stake. If I am correct, then coining a new term to designate same-sex unions would have diminished much of the backlash. The trouble is, this controversy has never been only about fairness and equality. Just under the radar there is a battle raging on—a battle for access to the word *marriage* itself, which is considered (rightly or wrongly, I cannot say) to have inherent value. Once the moral issues have been removed, however, my proposed solution is simple: let *semantics* decide. While it might seem easier to modify the meaning of *marriage* and make it more inclusive, the question is not one of convenience; it is whether or not a libertarian government has the *right* to force such modification.

In view of these considerations, the libertarian, assuming (s)he wishes to remain consistent and agrees that governments should *not* have a free hand to manipulate language, should demand the following as far as same-sex legislation is concerned:

- (a) that an argument be made showing that there are circumstances under which libertarian governments have a right to alter meaning regardless of usage conventions;
- (b) that doing so is not inconsistent with libertarian ideals, especially those pertaining to the extent of governmental powers; and

²³ My thanks to the same anonymous reader of this article for raising this point.

(c) that same-sex legislation *is* one of these circumstances.

Needless to say, we are far from having any of these requirements fulfilled. Indeed, there is no reason to suppose that an argument satisfying these conditions is forthcoming, since, on the conception defended here, same-sex marriage can be opposed without any moral implications at all: homosexual couples get exactly the same privileges as heterosexuals, but without entitlement to the word *marriage*.

6. Conclusion

A shift in emphasis is what makes the semantic argument against same-sex marriage different. Whereas most positions for and against the right of homosexual couples to marry are expressed predominantly within a moral framework, I have claimed that the resolution of the debate lies in recognizing its semantic elements. The meaning of any word—*marriage* included—is a matter of linguistic conventions, and ultimately it is in reference to these conventions that we must decide whether or not a word is being used correctly. A consistent libertarian should resist any attempt from a government to implement laws that either restrict or expand the conventions of linguistic usage, without (at the very least) proper justification of this power and a precise description of its boundaries. If it is dangerous to have a government meddling in the personal affairs of individuals, it is at least as dangerous to give a government unrestricted control over what words mean, all the good intentions in the world notwithstanding.

None of this amounts to a denial that same-sex partners have a right legally to be united and a right to the same privileges granted to heterosexual couples. But if the current conventions of usage require those united by marriage to be of opposite sex, then same-sex unions simply cannot be designated *marriages*. We may assume that a time will come when *marriage* may be used in reference to same-sex unions, but that kind of change must come from the *bottom-up*, not from the *top-down*. Until such a change comes, invocations of human rights and equal treatment, in an attempt to *force* a wider usage of the word, should go unheeded, since national charters and constitutions have nothing to say about the proper application of predicates or the correct linguistic usage of expressions. And that is exactly how it should be.

