

JONAH GOLDBERG

'I don't' at the altar of U.S. marriage amendment

I guess I'm against the Federal Marriage Amendment. I know that's not the sort of forthright lead columnists are supposed to start out with. My wishy-washiness stems in part from the fact I'm against same-sex marriage, but I'm also against this "solution." Moreover, I really don't like most of the arguments for or against gay marriage.

Both sides seem to suffer from a nasty case of consequentialism. That's the branch of thinking — of which utilitarianism is a subset — that says a decision should be judged entirely on its consequences. So, what's wrong with that? Isn't that what politics is about?

Well, yes and no. There are two problems with consequentialism. The first is that, like utilitarianism, it dismisses principle or, worse, it pretends something is a principle when it isn't. So often we hear one political party or another cloak its positions in rhetoric about democracy or justice when really they're talking about personal enrichment or partisan advantage.

The second problem with consequentialism is it often

works on the false assumption we can foresee the consequences. The last great constitutional disaster was Prohibition. The 18th Amendment was supposed to get Americans to stop drinking booze. People made straight-line predictions that if you made hooch illegal, people would stop drinking it. Some did. Many didn't. Go rent "The Untouchables" for the rest of the story.

Proponents of the FMA believe it will have the straight-line effects they desire: no gay marriage, stronger traditional marriage, no more debate about gay marriage. Opponents of FMA make similar arguments about gay marriage itself, saying the consequences will be obvious, beneficial and predictable.

I really don't buy any of it. I think gay marriage probably is a bad idea. But I admit my feelings stem partly from a conservative view that all radical new ideas probably are bad. I like "muddling through," as the British say.

If I had my druthers, we would take this issue very slowly, over a generation or two. It was only in 1973 and 1975 that

the American Psychiatric Association and the American Psychological Association, respectively, removed homosexuality from their lists of mental disorders. That was the right decision, but it does illustrate how profoundly young a "mainstream" gay culture is.

If it is inevitable that civil marriage be redefined to include same-sex couples, I think that inevitability shouldn't be rushed. Why not first solve the practical, easier problems stable gay couples face — partnership benefits, hospital visitation, etc. — through some form of civil contracts?

And if eventually the stability and monogamy of homosexual relationships are so self-evident it becomes obvious to a wide majority of Americans that gay marriage is a worthwhile next step, we can deal with it. As Edmund Burke, the father of modern conservatism, noted, "Example is the school of mankind, and they will learn at no other."

If, in the meantime, justice delayed equals justice denied to a handful of couples who want marriage now, well, I'm sorry. That's the way life works

sometimes. As Burke also said, sometimes we "must bear with infirmities until they fester into crimes."

But no one is taking my advice. So, we have the FMA barreling down the tracks. The FMA would ban gay marriage "or the legal incidents thereof" — which many take to mean civil unions as well — in all 50 states for all time.

That may sound like a good idea if you're against gay marriage, civil unions and all the rest. But to me it sounds an awful lot like a replay of Prohibition. I can't tell you the unforeseeable consequences of such an amendment because, duh, they're unforeseeable. But what I can predict with almost mathematical certitude is that the FMA will not make this issue go away. Rather, it will more likely radicalize the anti-FMA forces in much the same way Roe vs. Wade radicalized anti-abortion forces.

Historically, the way we cut these knots is by throwing the issue to the lowest, most local level, possible. If South Carolina wants to ban alcohol, fine. But don't tell New York it has to, as



"Maybe same-sex marriages should be permitted . . . It might help improve divorce rate statistics in our country."

well. This way, we get multiple examples to follow and debate, rather than a monarchical decree from above.

If Massachusetts really wants something called "gay marriage," I may disagree but it's their decision (note: So far most Bay State voters are against it). And, while I would probably favor an amendment codifying the principle of the Defense of Marriage Act — which allows states to refuse to recognize the

gay marriages of other states — the FMA goes much further than that.

You can't favor federalism for only good ideas or those you like. Experimentation means allowing local communities to make mistakes.

So, I guess I'm against the Federal Marriage Amendment.

Jonah Goldberg is a nationally syndicated columnist.