

## ***Perry v. Schwarzenegger: Day 2 and 3***

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At the heart of any equality issue are the emotional scars of discrimination. For gays and lesbians, it's the pain of being denied equal access to opportunities and rights afforded to straight individuals and couples. It's being ostracized from secular, cultural, and religious institutions because their sexuality doesn't fall in line with the mores and writings of their respective doctrines. Its prominent members of religious and political institutions using derogatory terms and comparisons to describe them and their lifestyle. It's society reminding them that their relationship will never be viewed as significant, and equal to that of straight relationships. These are some of the individual scars inflicted upon gays and lesbians through lawful discrimination by laws such as Proposition 8, but rarely do we think about the collective consequences of said discrimination, and what that means for many of the arguments social conservatives make to justifying unequal treatment of gays and lesbians.

On day 2 and day 3, Yale History Professor George Chauncey was asked to take the stand for the prosecution, and give a historical perspective of discrimination against gays and lesbians. In his testimony, he cited examples of gays being "outed" in newspapers in the 1930's, the military banning openly gay personnel during WWII, employment discrimination, and being targeted by law enforcement for much of the 20<sup>th</sup> Century. The defense, led by Harvard Law grad, David Thompson, used examples such as the mainstream popularity of shows such *Will & Grace*, and movies such as *Philadelphia*, to try to show that gays and lesbians no longer face widespread discrimination in society, and that in highly influential mediums of television and movies, they are fully embraced. Thompson went on to make the case that it is the gay community that has been aggressively harassing and discriminating against the religious community, specifically one of Proposition 8's sponsors, William Tam. Tam claims he has been receiving threats since Prop 8 passed in November 2008. However, it would be Tam's own words that are used to reinforce Professor Chauncey's point about continued discrimination against gays and lesbians. Therese Stewart, San Francisco's chief deputy city attorney, showed

Chauncey a letter written by William Tam during the 2008 campaign. Tam says in the letter that efforts to legalize same-sex marriage are tantamount to “legalizing prostitution” and “legalizing sex with children”. That’s right, sex with children. Stewart asked if this verbiage "reflects a lower hostility level" towards the gay and lesbian community, Chauncey responded "This is consistent in tone with a much larger history of anti-gay rhetoric."

This is important for two reasons. The first reason is that the plaintiffs have asked Chauncey to testify in order to help make the case that gays and lesbians should be deemed a “protected class” and added to the federal constitution. Currently, that status is given based on race, religion, and gender by the U.S. Supreme Court. Given that recent quote from Tam in which he compares gay marriage to pedophilia, it’s clear to see that Thompson’s rosy view of modern day gay acceptance isn’t as “widespread” as he tried to claim.

The other reason this is important, is because it opens the door for a cause and effect narrative long ignored by those who don’t support equality for the LGBT community. Many social conservatives like to think the act of homosexuality itself is what causes the “flawed behavior” they cite in marginalizing the gay community. To them, the gay community is about hooking up at dark clubs or bars, sexual promiscuity, drug use, mental health issues, lack of long-term relationships, being materialistic, godless, and viewing organized religion with general disdain. In reality, being gay has little or nothing to do with any of these things. Unlike the attraction to someone of the same sex, gay people aren’t born with a penchant for debauchery and shopping. That part of the “gay experience” is cultural. It is in fact the discrimination waged by governmental, cultural, and religious institutions that causes the very behavior those institutions claim to loath. Of course gay people will meet potential mates at dark clubs or bars because those are the only institutions that society says that it’s safe and acceptable to be who you are. Of course many of those people will hook-up, and have promiscuous sex, since the Establishments gay people are relegated to, all serve alcohol. Being Godless, and worshipping material things is not an inherent quality of being gay, especially since gays, like everyone else, are often raised to believe in God, and belong to an organized religion. Gays and lesbians are often Godless and turn to material means to make them happy

because many churches have turned their back on them, not the other way around. One of the hardest things for any gay person to do is to be forced to leave the church they grew up in because they came out, and yet this continues to be an experience that most gays and lesbians have to suffer through. It's not a surprise that many gay people have substance and mental health issues when every institution in society, as well as many of their families, reject who they are. While society has made progress, gays and lesbians in America continue to be told they are sick, immoral, and much worse from respected sectors of society.

Lastly, if marriage is an institution meant to bond two people together who love each other, then why would anyone be shocked to see that gay relationships can often times be unstable when they are not afforded the rights, and in turn, the benefits of that Institution. This isn't meant to let the gay community off the hook for any and all personal responsibility. As a member of the gay community myself, I do believe we have an obligation, despite society's slow pace towards equality, to better ourselves, and expect more from each other than the self-fulfilling prophecies of those that would prefer we just go away. However, it is largely society's discrimination to blame for the current state of our community, not the sexual orientation of our community. To back up this point, at the end of day 3 the prosecution brought in UCLA prof Letitia Peplau, who testified that her research shows that same-sex couples enjoy the same personal and mental health benefits from marriage as heterosexual couples. Why would any rational, caring, person deny those benefits to someone else?

Despite all this, those in the religious community that oppose marriage equality will likely continue to argue that marriage is an institution tied to religion and tradition, an argument itself that deserves more discussion another time. However, it is my belief, as a gay man raised in a loving Catholic family, that if the religious community truly wants to save gay and lesbian souls, they will open their arms, and join the fight against discrimination, not equality.