

NORTHWEST news

KC: If [Multnomah County Attorney] Agnes Sowle had called me and said we want you to come in as outside council... I would have said by all means share your hand, publicly, soon, openly, honestly.... You want to take the high road on this thing because you want the editorial board, you want the chattering classes, you want everybody on your side so you don't give the other side anything to shoot at.... Most likely, the strategy was let's get 1,000 or 2,000 folks married out there so that the public sees that the sky isn't going to fall in, the world's not going to come to an end and if we have to weather the political fallout, we'll weather the political fallout.... [But] it's not intellectually honest to say there's a constitutional problem, we have to act right now or we'll get sued. The Tanner decision came down in 1998; it's 5 1/2 years and nobody has been in a hurry since then.

FS: I have.

KC: I mean nobody in government has been in a hurry.

FS: What are your feelings about gay marriage?

KC: I am one of those folks who is not able to say that the traditional definition of marriage being between a man and a woman should be changed. I recognize the inequities...but I think there are some valid reasons why the concept of marriage has been what it's been and should stay that way even as we try to address the tangible benefits.

FS: Such as?

KC: The best reason I can give, as a matter of social policy, if you will, is that I am still convinced that in a perfect world, kids are better off with two opposite-sex parents.

FS: Will we ever have a perfect world?

KC: No, but our society is entitled to codify that which we want to encourage and we want to recognize. We've known...ever since Daniel Patrick Moynihan started writing about this in the 1960s, that fathers matter, that kids who grow up in fatherless homes don't do as well as kids who grow up in homes with fathers.... I think we also know that kids do better in a home where there are two opposite-sex parents, all other things being equal.

FS: Where are you getting that research?

KC: There's not necessarily research. This is what I consider to be my gut instinct, the inherited wisdom of the ages.

FS: How do you wrap your head around the changes that have occurred in marriage over the centuries anyway?

KC: This is something that conservatives in

particular should be talking about more. The greatest enemy of traditional marriage may not be same-sex couples but the way heterosexual couples have treated marriage. I'm in a particularly vulnerable place on that point because I blew my first marriage. There's no excuse, I just blew it.

FS: Why is my relationship of 17 years less valid to the state than any other relationship?

KC: That may be your conclusion and your emotional feeling, but what if we...create a civil unions mechanism that grants you the same benefits and privileges and immunities under the Oregon Constitution? What we're doing here by recognizing same-sex couples is a new thing. Why not call it a new thing?

FS: But what about all the contracts, both private and public, that refer to marriage? How are we going to ensure that every single one of them applies to me?

KC: You create a good civil unions law.

FS: What would happen if marriage was legal for same-sex couples?

KC: I don't know what would happen, and therefore that tells me we haven't spent enough time...society is manifestly unprepared for gay marriage, not yet ready for it. And part of the understandable impatience of the gay community is working against it because change takes time. If I honestly tried to put myself in your shoes, I wouldn't have much patience either.

FS: Are you saying that marriage hasn't changed in 4,000 years?

KC: It has changed. Primarily the legal changes that have been made have been made through a process of changing the charter, changing the constitution.... What the plaintiffs are asking for is something that cannot be given by a judge even if the judge says you hereby have the right to marry. What you want is the piece of paper from the government; what you want is the social acceptance that you can only get from changing hearts and minds.

FS: So eventually, can it be called marriage?

KC: If you're creating a new phenomenon by recognizing same-sex couples, whether it's called civil unions or marriage, that has never been done before, why would you want to have the old label?...I am assuming in this conversation that a civil union statute is the functional equivalent of the marriage statute.

FS: Would you favor something like that?

KC: I would have a lot of explaining to do if I didn't. [J]

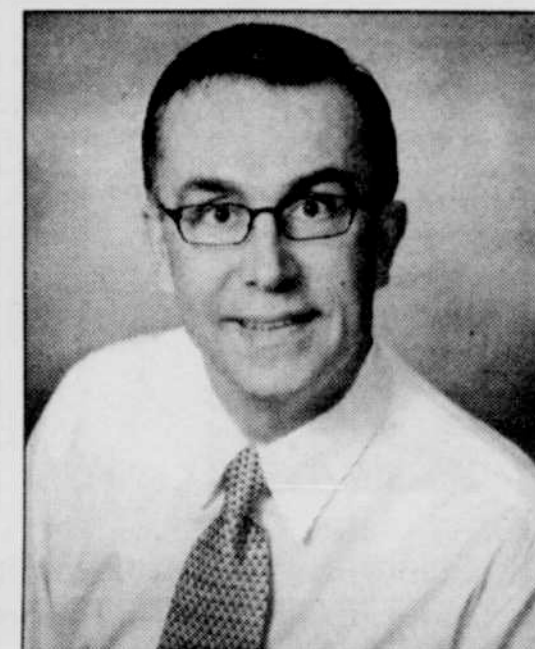
FLOYD SKLAVER is a Portland free-lance journalist.



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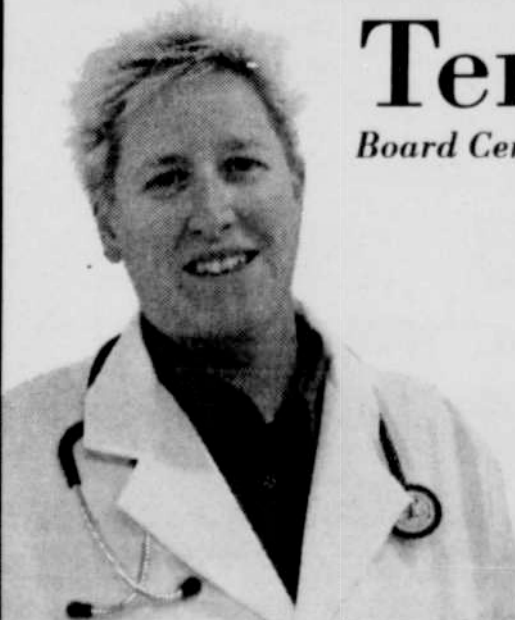


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