

'Til Death Do Us Part

By Patrick Guerriero

Protect individual liberty. Stabilize American families. Protect religious freedom. Guarantee states' rights. These tenets represent basic ingredients in the conservative recipe for a stronger America and have been embraced by the Republican Party for decades. In a telling irony, these tenets also formed the foundation of the Massachusetts Supreme Judicial Court's ruling in *Goodridge v. Department of Public Health*. Made by a court with nearly all members appointed by Republican governors, it paves the way for civil marriage for all Massachusetts citizens regardless of sexual orientation.

Yes, this ruling adds fuel to the simmering national debate on the full integration of gay and lesbian Americans into all aspects of American life. The court decision was undeniably bold; but it was also firmly based in conservative thought. Which makes the radical right's hysteric opposition to the ruling mistaken and inconsistent. The court wisely deployed the lexicon and values of conservatives to recognize that the Massachusetts Constitution protects matters of personal liberty against unwarranted government intrusion and respects the autonomy of all citizens to choose a life partner. Real conservatives, too, should be protectors of individual liberty, equality under the law and personal autonomy.

The court notes that "the exclusive commitment of two individuals to each other nurtures love and mutual support; it brings stability to our society." This is Family Values 101. Civil marriage will provide basic fairness and equality in benefits for nontraditional families in Massachusetts that do not exist today. But, as importantly, civil recognition of homosexual unions also "imposes weighty legal, financial, and social obligations." So why would self-proclaimed pro-family conservatives work against stable, loving, tax-paying, lifelong homosexual couples?

What alternative do they propose for persons whose sexual orientation leads them to love a person of the same sex? True conservatives should encourage exclusive unions that lead to a more stable society.

The decision also makes a powerful conservative argument for the greater protection of children in our society, concluding that "excluding same-sex couples from civil marriages will not make children of opposite-sex marriages more secure, but it does prevent children of same-sex cou-

Principled conservatives should support same-sex marriage.

ples from enjoying the immeasurable advantages that flow from the assurance of a stable family structure in which children will be reared. . . ." For decades, committed homosexual couples have been raising children across the nation, many of these children rescued from isolation through adoption. The court astutely argues that these children are better off as part of a recognized family unit. How can conservatives disagree?

The court is also careful to delineate civil marriage from religious marriage. It reminds us that "no religious ceremony has ever been required to validate a Massachusetts marriage." Nothing in this decision changes the appropriate separation between church and state. While there is a sizable segment of gay and lesbian Americans who participate in religious traditions, the First Amendment ensures that religious institutions have complete freedom to determine which unions they will recognize. Real conservatives should respect the clear distinction between civil marriage licenses and religious ceremonies.

Finally, this is a states' rights issue. Nothing in this decision requires any other state to recognize a civil marriage license from Massachusetts. Federalism has given states the opportu-

nity to experiment with public policies to determine what works and what does not, including approaches to test whether encouraging stable same-sex unions is, on balance, a good or bad thing. That will happen in Massachusetts with civil marriage. Vice President Cheney was correct when he said in the 2000 vice-presidential debate that he believed that there should not be a federal policy in this area: "I think different states are likely to come to different conclusions, and that's appropriate." Real conservatives should stand by federalist beliefs.

Sadly, to block states from legalizing same-sex civil unions, social conservatives are proposing a Constitutional amendment so broad and discriminatory that it would ban not only gay marriage but would deny gay families the most basic benefits that many American corporations offer their employees today. A Constitutional amendment in the midst of an emotional national debate is a gross overreaction unworthy of Republicans. States already have the right to regulate marriage, federal law already defines marriage in the traditional sense in regards to federal benefits, and the Constitution, designed to protect and ensure equal treatment for all Americans, has never been used to unnecessarily marginalize part of the American family.

Despite the historic court ruling, this decision will almost certainly end up before the voters of Massachusetts in 2006, the earliest time they can consider a Constitutional amendment to overturn this ruling. This will give the state's citizens the time to decide this issue for themselves. These two years of experimentation with civil marriage for gay and lesbian Americans will show Massachusetts citizens—and our nation—that homosexual families deserve basic recognition and equal protection under the law, and that we will be a stronger and more conservative nation as a result.

Mr. Guerriero, a former Massachusetts state representative, is executive director of the Log Cabin Republicans.