

Vermont Courts Gays at the Altar

By Catherine Edwards

In a landmark decision, the Supreme Court of the Green Mountain State has ruled that same-sex couples deserve the same benefits as married people. But is it marriage?

New Year's revelers weren't the only ones to try to close out the 20th century with a bang as the world bid goodbye to 1999. The normally quiet and peaceful state of Vermont, better known for its cottage industries and Ben and Jerry's ice cream, set off fireworks of its own. Before heading home for the holidays the Vermont Supreme Court issued a ruling that has the potential to redefine marriage as Americans know it.

In a case brought before the court by three homosexual couples, the justices ruled that the complainants should be granted the same benefits as heterosexual married couples. The court, however, stopped short of handing out marriage licenses. Instead, the panel left it up to the Vermont Legislature to

decide whether said benefits should take the form of inclusion in the current marriage laws or a parallel domestic-partnership system.

Gay activists hailed the ruling as a victory. "We've never gotten this kind of official recognition," exclaimed Beatrice Dohrn, legal director for the Lambda Legal Defense and Education Fund, the nation's largest homosexual-rights lobbying group. "They're saying it's a social good that we be who we are, that we be in strong and loving families. It's so simple, and yet it's never happened before. This is a huge thing for gay people." Mary Bonauto, cocounsel for the plaintiffs in the Vermont case, said the decision is beneficial for American families. "This is a legal and cultural milestone," she said. "The court's decision paves the way for more secure families and strong communities."

Many activists for traditional families voiced displeasure at the court's ruling. "While the court fell short of legalizing same-sex marriage," said James Dobson of Focus on the Family, a Colorado Springs-based nonprofit organization dedicated to preserving the home, "its mandate to grant same-sex unions the benefits afforded to marriage between a man and a woman violates common sense and the

New lease: Former homosexual Johnston takes to the pulpit.

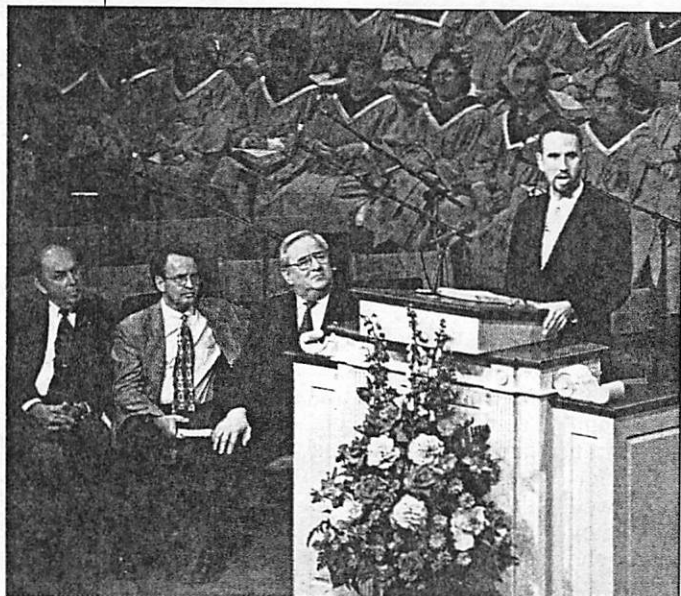


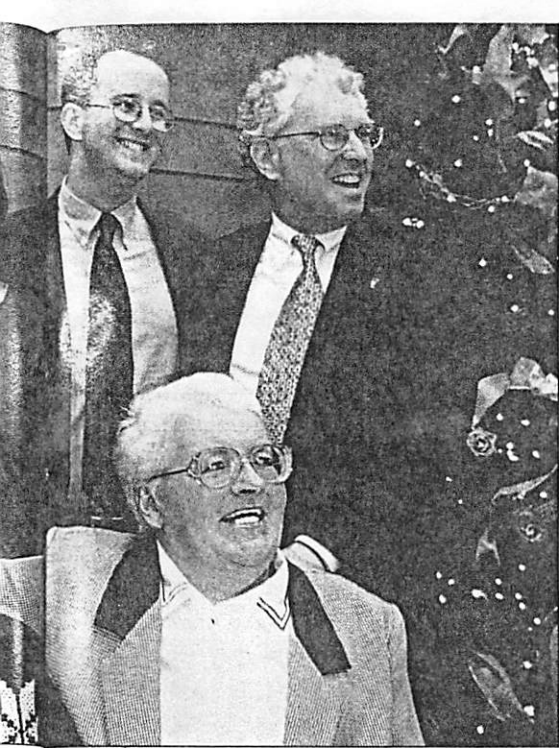
Vermont victors: Three couples who challenged the Green Mountain state's marital laws celebrate.

entire course of Western civilization." A poll conducted in Vermont by Take It to the People, or TIP, the in-state grass-roots coalition for traditional marriage, found that 79 percent of Vermonters did not want the state Supreme Court to decide this issue. Another TIP poll found that while 34 percent of Vermont's citizens supported allowing same-sex marriage, 52 percent remained opposed.

"This is a very serious issue and we are offended that gay activists would run this through the courts," says Craig Bensen, vice president of Take It to the People. "With big stuff like this, the power rests with the people. There needs to be more discussion on a statewide level." Vermont Gov. Howard Dean, a Democrat, said that same-sex marriage "makes me uncomfortable, the same as anybody else." Neither Vermont nor any other state recognizes such unions, although several have granted domestic-partnership benefits to homosexual couples.

Hawaii and Alaska are two states in which gay marriage has been debated in recent years. In 1993, the Hawaii Supreme Court handed down a decision similar to that of the Vermont court, inciting a wave of legislation culminating in the Defense of Marriage Act passed by Congress in 1996. This law allows states to refuse to recognize same-sex marriages performed anywhere. Thirty states also passed their own Defense of Marriage acts, defining marriage as an arrangement between a man and a woman. Gay





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activists then met with disappointment in Hawaii in early December when residents voted to amend the state constitution to affirm traditional marriage. Alaskans did the same.

It would be a difficult road if Vermont were to decide to follow Hawaii and Alaska in amending their constitutions. The Vermont Constitution is not as easy to alter, and changes must go through the Legislature a second time after being signed by the governor. It would take a minimum of four years. The court has left it to the Legislature to disallow calling the legalized contractual unions between homosexuals "marriage." Bensen's group in Vermont supports a bill that defines marriage as between a man and a woman. Introduced last session, it has more than 50 cosponsors. The Legislature reconvened in January and quickly scheduled a hearing on same-sex marriages for the end of the month.

A Government Accounting Office, or GAO, report has identified 1,049 federal laws governing marriage. Any state in conflict with these is asking for big trouble. The Vermont Legislature, which has no full-time staff, has its work cut out if it decides to recast its marriage laws in favor of domestic-partnership benefits during this legislative session. All Vermont's legislators are up for reelection in November, and gay marriage promises to be a hot political topic.

What have the prospective presidential hopefuls had to say on this issue? Former Family Research Council head Gary Bauer has been vocal in his opposition to the court's ruling and complains about judicial activism.

Democrats Bill Bradley, a former New Jersey senator, and Vice President Al Gore issued brief statements applauding the ruling but maintained they support traditional marriage. In the GOP camp, Arizona Sen. John McCain was silent; Texas Gov. George W. Bush reiterated his commitment to marriage between a man and a woman, as did radio commentator Alan Keyes, publishing magnate Steve Forbes and Utah Sen. Orrin Hatch.

Hard questions are bound to follow for Democrats trying to straddle this issue. Some critics of same-sex marriage are concerned that the next step could be the legalization of polyandry and polygyny. "If it walks like a duck and quacks like a duck, are we going to call it marriage?" asks Michael Johnston, a former homosexual who has AIDS but now works tirelessly to defend traditional marriage. "Marriage is an institution rooted in the character of God, and we are made in his image," he tells *Insight*. "We pro-marriage advocates will lose the battle if they don't define marriage as something sacred designed by God."

The Vermont court ruled under what is called the common-benefits clause that there is no reason benefits granted to heterosexual married people could not be granted to same-sex couples. David Orgon Coolidge, director of the Marriage Law Project at Catholic University, tells *Insight* that instead of recognizing marriage as the backbone of the family the Vermont court has redefined marriage as a place to get benefits.

"Men and women are different and together they form a community that is the best place for kids," says Coolidge. "Society should allow the community of marriage to exist and not make it difficult!"

Many gay activists disagree. Mel White, a homosexual and pastor in the Metropolitan Community Church, says he struggled with his homosexuality for years but finally came out of the closet 15 years ago. He now heads a group called Soulforce, dedicated to using nonviolent methods to effect social change and to teach the gay community not to act out of anger and frustration to achieve its goals. "We are as widely parenting as straight people and often more committed to one another," he tells *Insight*. "Heterosexual marriage would be better off if we were allowed to marry, and same-sex marriage may cut down on gay promiscuity."

The stir over the Vermont decision is likely to keep the national debate about same-sex marriage on the front

burner. The Lambda Legal Defense and Education Fund is promoting the third annual National Freedom to Marry Day on Feb. 12 — Valentine's Day weekend. Its Website encourages same-sex couples to get engaged and start trying to educate lawmakers about the benefits of same-sex marriage.

In March, Californians will vote on Proposition 22, sponsored by state Sen. Pete Knight. Under Proposition 22, California law would recognize only marriages between a man and a woman. Therefore, if Vermont legalizes gay marriage and a lesbian couple moves to California, under the Knight initiative their marriage would not be recognized. The debate in the Golden State is growing more furious by the day. Stanford law professor Michael Wald published a controversial study just days before the Vermont ruling claiming that children living with gay parents would suffer if the proposed California ban on same-sex marriages were to pass. If their parents' marriages were declared invalid, Wald says, children might feel ostracized by society. Critics are more concerned about how society might regard children from families headed by two fathers or two mothers.

Wald based his review on findings by the notoriously counterculture American Psychological Association, which last year had to back away from its claim that pederasty is okay if violated children don't complain, as well as other reports on same-sex parenting. He tells *Insight*, however, that he is not aware of any research promoting the benefits of heterosexual parenting. But Catholic University's Coolidge says Proposition 22 is not about same-sex unions or contracts, but about the right of Californians to define marriage for themselves.

Controversy over Proposition 22 naturally is roiling the San Francisco Bay area, however. Last November the National Gay and Lesbian Task Force's "Creating Change" conference met in Oakland, and participants marched on the Oakland Police Department after receiving instructions for opposing Proposition 22 and announcing a \$25,000 pledge to fund the "No on Knight" campaign.

Gay-marriage activists in Vermont, meanwhile, hailed their high-court ruling as a victory for equal rights, likening it to the state's abolition of slavery in 1777. But as the Lambda Legal Defense and Education Fund points out on its Website, three in four Americans remain opposed to same-sex unions. ●