

State of the States on GAY MARRIAGE

Vermont Helps Mass. Marriage, While a Partial Victory Is Won in New Jersey

BY MARGARET PORTER

Remember the date February 11. That's when the Massachusetts legislature, acting as a constitutional convention, is scheduled — as of press time — to debate and vote for the first time on an amendment that would prohibit legal recognition of marriages other than between a man and a woman. It's the next battle in the war for gay and lesbian equality.

Hired last month by MassEquality.org — a coalition of pro-gay marriage groups — Vermont political organizer and consultant Marty Rouse is one of the behind-the-scenes strategists for the campaign in our neighbor state to the south. In addition, attorney Beth Robinson contributed to an amicus brief filed with the Massachusetts Supreme Judicial Court opposing the idea that any domestic partnership or civil union proposal would satisfy the Court's own ruling for equality.

Rouse and MassEquality.org — working out of the Boston offices of Gay and Lesbian Advocates and Defenders, who litigated the case resulting in a repudiation of the state's policy of excluding same sex couples from obtaining marriage licenses — have been focusing their campaign on defeating "any anti-gay amendment to the constitution."

"I don't think the LGBT community understands the importance of the amendment vote, because on May 17, licenses will be issued, and we won," Rouse said during an interview at his Richmond home between stints organizing the Bay State campaign. "But there's this movement afoot to take that away."

The amendment must be voted on once each in two different legislative sessions — where a simple majority moves the amendment for-

ward — and then passed in a public vote during a general election. The earliest an amendment could take effect is November, 2006.

"Our opposition is well organized and well funded, and they have made this their number-one issue," Rouse declared. "That's why it is so important for Vermonters to call their friends and their families in Massachusetts to ask them to contact their legislators before February 11. This issue will be decided in the hearts and minds of the legislators. It is incumbent on us to share our stories."

Rouse repeatedly emphasized the importance of contacting "the people we know" in Massachusetts, gay or straight, to let them know why the Supreme Judicial Court's ruling must stand.

Having an actual "marriage license" makes it easier for businesses and agencies in other states to rec-

ognize and accept the validity of a same-sex relationship, Rouse said. And, Rouse pointed out, calling it marriage paves the way for a possible legal challenge to the federal "Defense of Marriage Act" (DOMA).

According to the National Gay and Lesbian Task Force, 36 states have passed their own "mini-DOMAs."

Among the differences between this struggle and Vermont's three years ago is that "polling has shown that the majority of Massachusetts citizens support same-sex marriage rights," Rouse said, explaining his increasing optimism, "and they are overwhelmingly

opposed to amending the constitution. Our goal is to get to July 31 without a constitutional amendment being passed." Some sources have suggested that the Constitutional Convention vote of the legislature will be delayed if the Supreme Judicial Court has not ruled on the question of civil unions. Rouse, however, suggests that the Court is likely to rule before February 11. "A vote will take place, and it is expected on February 11. The message for legislators is 'Vote No on any anti-gay amendment.'"

Back in Court

Helping the Court defend its original November 18 ruling in favor of full marriage equality rights, a number of groups have filed amicus briefs, as have groups and individuals opposed to

the ruling. GLAD's basic contention, reflected in the amicus brief Beth Robinson contributed to, is that civil unions are inherently separate and unequal.

One of the benefits of marriage is the status of being married, the brief argues, a status denied same-sex couples joined in civil union.

Asked how she felt about that characterization of the rights for which Vermont lesbians, gay men, and allies fought so hard, Robinson said, "I never felt like civil unions was a victory. There's some irony in that there was a flaw in the political

calculation behind civil unions" — that it would head off some of the more extreme backlash. "The hell we went through was not any less because it was civil union and not marriage."

The real question, she continued, is "do we in the gay community have the same range of choices" as heterosexual citizens. "People in our community ought to have the choice of marriage."

Robinson said, "The Massachusetts court ruled that same-sex couples would be marrying on May 17," and she "would be shocked if the court said anything other than marriage" was acceptable under their ruling.

"We ought to be tremendously proud of the step forward we made in Vermont. I am excited by the extent to which the ground has shifted since 2000. We are at a tipping point where we'll find out

whether civil unions are a floor or a ceiling. I hope it's a floor."

A Step in New Jersey

Meanwhile, in New Jersey, Governor James E. McGreevey signed a limited domestic partnership registration bill that awards some rights but falls far short of marriage equality. Some commentators saw this as a move to head off a Supreme Court ruling in a same-sex marriage case now working its way through the state's judicial system.

The law makes New Jersey

the fifth U.S. state to give some measure of legal protections to same-sex couples, following Hawaii, Vermont, California, and Massachusetts. The law also commits the state to recognizing the partnerships established in other states.

As in Massachusetts, the New Jersey legislature was given 180 days to develop the registration procedure. The bill does not authorize "gay marriage," which according to a report in the *Advocate* is outlawed. In addition, this law allows mixed-gender couples over 62 to register their partnerships.

The bill is far from Vermont's civil union measure. To register, a couple must share a residence and show proof of joint financial dealings, such as by designation of the partner as a beneficiary in a retirement plan or will. Its benefits include hospital visitation, emergency medical decisions, exemptions on state income tax filings, and exemption from the state inheritance tax. The state must provide dependent health insurance coverage to its employees' domestic partners, but private companies are not required to follow suit.

"States like New Jersey would do the country and its families a favor if they avoided the detour of separate and unequal and went right to the clarity, security, and equality that comes only with the freedom to marry," declared Evan Wolfson, executive director of the national Freedom to Marry organization, in a press release.

"One of the major benefits of marriage is being able to say to your family, your kids, the community, the government, and those you do business with wherever you are, 'I am married,'" said Wolfson. "There is no verb for civil union, and nobody writes songs about domestic partnership."

Freedom to Marry is organizing around Freedom to Marry Week February 9-16, including Valentine's Day.

Back in Vermont, the Vermont Freedom to Marry Task Force posed the question at a recent Queer Summit of whether it should begin the push for full marriage equality this year. A majority of those present at the meeting raised their hands to vote yes. ▼

For more information, visit www.glad.org or www.freedomtomarry.org.