

Federal Marriage Amendment Dies

New Danger on the Horizon

Washington, DC – In a 48-50 procedural vote, a handful of Republican Senators joined most of the Democrats to kill the so-called Federal Marriage Amendment. Both of Vermont's Senators, Independent James Jeffords and Democrat Patrick Leahy, voted against "cloture" which would have allowed the Senate to consider another version of the amendment. Leahy led the floor fight against the cloture motion, according to his press spokesman David Carle.

Vermont Freedom to Marry Task Force Chairwoman Sherry Corbin greeted the news of the vote with relief. "It's good that at least half of the Senators have some faith in the U.S. Constitution and will not use it against one group of people."

She added that the vote "doesn't change anything we're doing in Vermont, but it is one less thing to have to fight against. Really [the amendment] was about playing political games. The real battle is local, not national. It's about us locally changing hearts and minds."

Attorney Beth Robinson, of the Vermont Fund for Families, reached on vacation, said, "Hopefully now [the Senators] will turn their attention to helping families instead of hurting them. I'm glad to have it off the table for now."

Six Republicans voted against the FMA cloture motion, resulting in a dead end for the amendment: both of Maine's Senators, Olympia Snowe and Susan Collins, New Hampshire's John Sununu, Rhode Island's John Chafee, Colorado's Ben Campbell, and Arizona's John McCain. Three Democrats voted in favor of the motion, which would have continued consideration of the amendment, Robert Byrd (West Virginia), Zell Miller (Georgia), and Ben Nelson (Nebraska).

The two missing senators for the procedural vote were Democratic presidential candidate John Kerry of Massachusetts and his running mate, North Carolina Senator John Edwards.

Leahy, speaking at a press conference after the vote, said that the Republicans' "handling of this constitutional amendment has

boiled down to pure politics, at the expense of gay and lesbian Americans and the families and friends and coworkers who care about them."

Further, he said, "We showed why a constitutional amendment is unnecessary. The Constitution does not require states to recognize marriages performed in other states when those marriages offend their public policy."

The real issue for moving Vermont toward equal marriage, Robinson said, is "the rapidity with which things unfold in other states." Six states have marriage cases in their court systems, and depending on how they are decided, Vermont "will feel less like a leader." The states she cited are California, Washington, Oregon, New York, New Jersey, and Indiana. "The case in New Jersey has been pending the longest," Robinson said, "but the case in Oregon seems to be moving the fastest."

Oregon's court might settle for a Baker-style arrangement, she opined. Such an arrangement provides full state recognition and benefits, but precludes both the

social status of the term "marriage" and eligibility for over a thousand federal benefits related to marital status. Robinson is working on an amicus brief for the Oregon case.

New Threat to Equal Marriage

Meanwhile, over in the House of Representatives, the House Judiciary Committee adopted a bill (H.R. 3313) that would prevent any federal court – including the Supreme Court – from considering challenges to the Defense of Marriage Act (DOMA). The committee reported the bill to the full House by a vote of 21 to 13. The vote occurred on the same day as the Senate vote that killed the FMA.

The bill's primary purpose is "court stripping," disallowing courts from pursuing a class of cases. It presupposes that constitutional challenges to the federal DOMA law, enacted in 1996 during the Democratic Clinton Administration, might threaten to impose a nationwide interpretation of a single state's marriage laws.

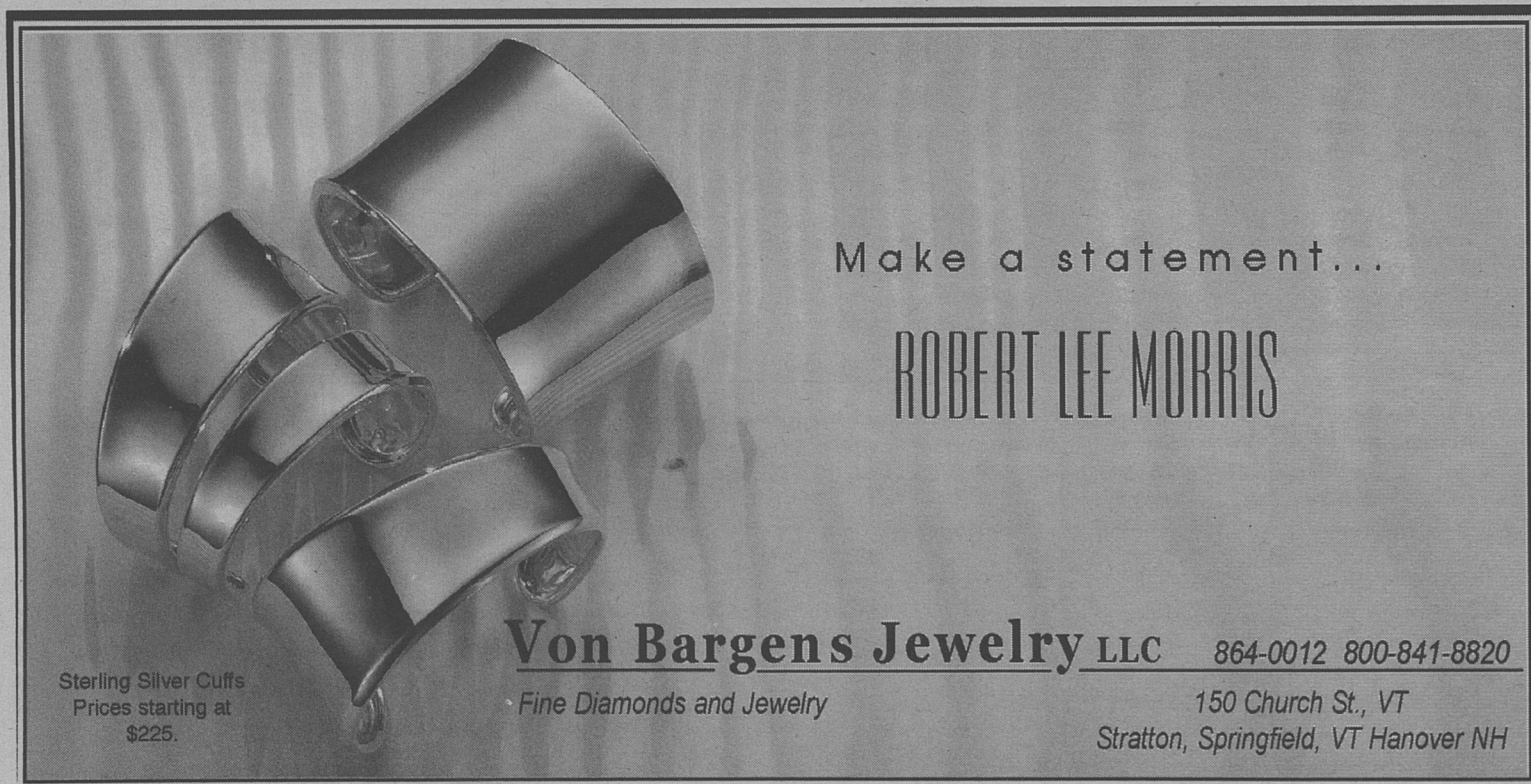
There is some question whether the federal DOMA vio-

lates the separation of powers provisions of the United States Constitution.

Christopher E. Anders, an ACLU Legislative Counsel, said, "On the very same day that the Senate voted against amending the Constitution, the House Judiciary Committee voted to violate the founding charter. Instead of playing politics with the private lives of hard-working American families, Congress should focus its attention on the real problems facing Americans."

Anders added, "This court-stripping measure seeks to stop the judicial branch from doing its job and to shut the door to married gay and lesbian couples who deserve their day in court. The Senate rejected the discriminatory marriage amendment, and the House should also reject these stealth attempts to legislate discrimination."

The full House passed the 'Marriage Protection Act' 223-194 as *OITM* went to press. The Senate is not expected to take up the bill this year. ▼



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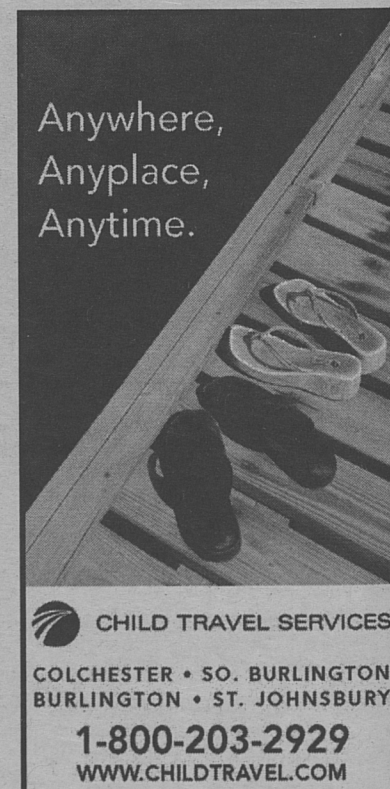
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