

LEGAL BRIEFS

Landmark Decision in Own Own Backyard

BY BETH ROBINSON

Although Vermont is one of the best states in the nation in terms of g/l/b/t/q civil rights, a number of countries around the world are far ahead of us in the struggle for full civil rights. South Africa was the first country in the world to incorporate protections against sexual-orientation discrimination in its constitution; Denmark, Norway, Sweden, Finland, Greenland, the Netherlands and Iceland protect same-sex couples through legally-recognized registered partnerships which give rise to almost the full panoply of legal rights and responsibilities that accompany civil marriage; and international human rights tribunals have concluded that sodomy laws violate the privacy and non-discrimination provisions of international human rights treaties (to which the United States is a party).

One of the most exciting recent developments on the international front has taken place in our own backyard: In April, in a case called Rosenberg v. Canada, the Court of Appeal for Ontario struck down a Canadian law which provided for pension survivor benefits for common law spouses of the opposite sex but not those of the same sex. The court concluded that the law discriminated on the basis of sexual orientation, and therefore violated the Canadian Char-

ter of Rights and Freedoms (which is like our federal Constitution). The court explained,

Differences in cohabitation and gender preferences are a reality to be equitably acknowledged, not an indulgence to be economically penalized. There is less to fear from acknowledging conjugal diversity than from tolerating exclusionary prejudice. The court recognized the law's responsibility to adapt to diverse family structures, noting:

"Given the range of human preferences and possibilities, it is not unreasonable to conclude that families may take many forms. It is important to recognize that there are differences which separate as well as commonalities which bind. The differences should not be ignored, but neither should they be used to delegitimize those families that are thought to be different."

The court employed powerful language in rejecting the government's incrementalist approach to redressing injustice against gay and lesbian citizens, writing, "Groups that have historically been the target of discrimination cannot be expected to wait patiently for the protection of their human

dignity and equal rights while governments move toward reform one step at a time."

In the wake of the Court's decision, leaders of several Canadian provinces announced plans to extend a variety of marital rights to same-sex couples on an equal basis. The big news is, the Canadian government has apparently decided not to appeal the decision.

The Rosenberg decision may have profound implications in Canada since the court's reasoning should apply with equal force in a full-blown marriage case. We can only hope with our shrinking global society that courts in the United States and elsewhere take note.

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Wool in Middlebury, Vermont whose practices include employment issues, family matters, estate planning, personal injury and worker's compensation cases, and general commercial and civil litigation. This column features timely information about legal issues of interest to our community. We hope to provide information about impor-

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tant laws and court cases that may affect our rights, as well as practical nuts and bolts advice for protecting ourselves and our families. If you'd like to see us cover a particular topic, please feel free to write OITM or call us at 388-6356.

Dykes To Watch Out For by Alison Bechdel

Alison's on vacation. This is an archive episode of Dykes To Watch Out For.

