

editorial

No to Uninformed Opinions

In an editorial published on Sunday, November 21, the Burlington Free Press, a publication many consider to be the newspaper of record in Vermont, urged the Supreme Court to decide the case of *Baker vs Vermont*. "It's time for a decision, time to say no," ended the piece.

Perhaps if the paper's editorial board had agreed to meet with the Vermont Freedom to Marry Task Force even once to discuss this issue, the resulting commentary would have at

the state's favor."

There are so many holes in these two points alone that it's difficult to know where to start.

Contrary to the *Free Press* assertion, the legislature has never defined marriage as a status available only to heterosexuals. In fact, our legislators have had the opportunity on several occasions to pass just such a bill, and have never done so.

Should we even bother to go into the use of 'heterosexuals'

only one point: a link between marriage and procreation.

The last point the *Free Press* made in its editorial was equally unsound. "The Vermont law is firm and clear. And only the Legislature can change it." Rejecting the basic rules of our government, the editorial board suggests that the legislature should have the final word on this – and apparently every – issue. Are we to believe that the legislature is infallible? Following the *Free Press* logic, we can do away with the

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least presented a solid, educated argument against same-sex marriage.

Instead, based on faulty reasoning, the board treated us to an opinion that could be dismissed by anyone who has read the briefs or viewed the oral arguments before the Court.

First, the *Free Press* stated that marriage is not a fundamental right. Not even the State of Vermont – the side that the *Free Press* is supposedly supporting – agrees with this. In oral arguments before the Vermont Supreme Court, state attorneys never contested that point – perhaps because the US Supreme Court has already held that marriage is indeed a fundamental right? In fact, the state acknowledged that as it argued that this particular fundamental right was reserved for couples made up of one man and one woman.

The *Free Press* editorial also referred to the arguments the state offered to a lower court for conferring the right of marriage upon one group and not another, calling them "six reasons why the Legislature has repeatedly defined marriage as a status only heterosexuals may attain." It went on to say that "the lower court ruled in

here? Is the *Free Press* suggesting that not only do candidates for marriage have to pass a gender test – difficult enough to prove conclusively – but also one for sexual orientation? Should county clerks be refusing marriage licenses to bisexuals?

Additionally, the state did not offer six reasons to the lower court: there were actually seven. The number six is important, though. That's how many of those arguments the judge tossed out.

The state claimed an interest in uniting men and women to "bridge their differences;" in promoting a setting that provides both male and female role models; in preserving the "time honored" institution of marriage; in ensuring that Vermont marriages are recognized in other states; in preserving the legislature's authority to channel behavior and make normative statements; and in minimizing the use of modern fertility treatments to avoid increased child custody and visitation disputes.

When Superior Court Judge Linda Levitt put those six "answers" to a constitutional review, they all failed. She found in favor of the state on

judiciary completely. We no longer need the branch of government whose role it is to hold every law up to the light of the Constitution. We need never worry about interpreting laws once they've been passed by the legislature.

We should consider ourselves lucky that the Burlington *Free Press* is not the only source of information and opinion available to us. We're fortunate to have media outlets in this state that take the time to do their homework, regardless of their editorial opinions, and at least get the facts right.

Maybe it's time the *Free Press* editorial board follow in the footsteps of papers like the *Rutland Herald* and accept a meeting with the Task Force. Opinions probably won't be changed, but the board would be better equipped to articulate their views.

One last point: the editorial board warns the Supreme Court justices against listening to public opinion. Does that count for theirs as well? ▼

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