

## LAW OF THE LAND

### 'Gay' marriage ruling's consequences 'dire'

Opponents fear court decision could 'destroy society as we know it'

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As Massachusetts moved closer yesterday to becoming the first state in the country to legalize homosexual marriage, defenders of traditional matrimony responded with alarm, warning the state high court's decision to strike down a ban on same-sex marriages will have monumental consequences for the nation. "The dire ramifications of what is happening in the United States and other Western nations cannot be overstated," said James Dobson, chairman of Focus on the Family. "For millennia, traditional marriage – the union of one man and one woman – has been celebrated by every culture on Earth as the cornerstone of society. But now, we have this activist court that is arrogant enough to say that those thousands of years of culture are simply wrong."

The Massachusetts Supreme Judicial Court decided homosexual couples are legally entitled to wed under the state constitution and should be allowed to apply for marriage licenses, overturning a ruling by a lower court handed down in May 2002 which said state law does not convey the right of marriage to homosexual couples.

"Barring an individual from the protections, benefits, and obligations of civil marriage solely because that person would marry a person of the same sex violates the Massachusetts Constitution," wrote Chief Justice Margaret Marshall in the opinion.

However, the 4-3 ruling stopped short of declaring homosexual couples should be granted the licenses, and does not call for them to be immediately issued to the plaintiffs in the case. Instead, the court ordered the state legislature to come up with a solution within 180 days. It granted a stay of its decision in the meantime.

The decision follows the watershed United States Supreme Court ruling in June in which justices rejected a longtime ban on same-sex sodomy in Texas. That case was widely viewed as the "Roe v. Wade" for homosexual activists.

Dobson and many analysts fear same-sex couples permitted to legally "marry" in Massachusetts will be able to return and challenge existing marriage laws in their own states. At the moment, 37 states have passed Defense of Marriage Acts, defining marriage as a union between one man and one woman; but it is unclear whether states without such legislation will be forced to immediately recognize a license in Massachusetts. "The homosexual activist movement, which has achieved virtually every goal and objective it set out to accomplish more than 50 years ago, is now closer than it has ever been to administering a devastating and potentially fatal blow to the traditional family," Dobson said. "What makes these developments so shocking is that the legal acceptance of homosexual marriage was little more than a pipe dream just a few years ago, but now it has become a tidal wave that is sweeping around the globe." That, Dobson added, "illustrates the destructive power of the judicial tyranny that has gripped our nation."

### **Tampering with society's DNA**

Brian Fahling, senior trial attorney for the American Family Association Center for Law & Policy said the decision "is on an order of magnitude that is beyond the capacity of words." "The court has tampered with society's DNA, and the consequent mutation will reap unimaginable consequences for Massachusetts and our nation," he said.

Steve Crampton, the AFA Center's chief counsel, said he agreed with the words of dissenting Justice Sosman who observed, "today, the court has transformed its role as protector of individual rights into the role of creator of rights."

Crampton said the "ruling marks one of the darkest days in the history of American law. Unless the people of the state of Massachusetts rise up with one voice in opposition to this lawless and socially destructive decision, it will destroy society as we know it." Former presidential candidate Gary Bauer asserted the laws of our Founding Fathers are being "perverted to impose a radical cultural agenda against the will of the American people."

"For anyone who has not understood the cultural struggle today, this is the perfect illustration," said Bauer, president of American Values. "Four robed individuals are attempting to seize power from the people of Massachusetts and their elected officials and order a cultural outcome of their choosing. These unelected judges would try to impose what no elected legislature would dare consider. And in fact, they are ordering the unprecedented destruction of marriage despite tremendous public support for the key building block of society." Bauer said it's worth noting, the four justices did not try to come up with a solution to "its own fiction of homosexual marriage created by judicial fiat, but instead 'punted' to the legislature the responsibility of creating 'faux marriage.'" "Perhaps it is time for another Boston Tea Party," Bauer said. "The heirs of Bunker Hill and Concord Bridge should not passively accept this decision by four robed individuals. The citizens of Massachusetts are not obligated to tolerate this tyrannical imposition of a radical agenda."

Family Research Council President Tony Perkins said, "While we are certainly relieved that the court stopped short of granting marriage licenses to the homosexual couples demanding them, it is inexcusable for this court to force the state legislature to 'fix' its state constitution to make it comport with the pro-homosexual agenda of four court justices."

"This is *the* wake-up call for both the American public and our elected officials," Perkins said. "If we do not amend the Massachusetts state constitution so that it explicitly protects marriage as the union of one man and one woman, and if we do not amend the U.S. Constitution with a federal marriage amendment that will protect marriage on the federal level, we will lose marriage in this nation."

The Christian Coalition of America noted a recent Time-CNN poll said 68 percent of Americans agree marriage should be between a man and a woman. "It is reprehensible for left-wing judges, such as these four radical Massachusetts judges, to disregard the will of the overwhelming majority of the American people who believe that marriage is only the union of one man and one woman," said Christian Coalition President Roberta Combs. She urged Congress to quickly pass the Federal Marriage Amendment and send it to the states for ratification.

The amendment, sponsored in the House of Representatives by Rep. Marilyn Musgrave, R-Colo., has nearly 100 cosponsors.

J. Edward Pawlick, attorney for Massachusetts Citizens for Marriage said the Massachusetts Supreme Court "has now joined the Legislature and Gov. Jane Swift in violating Massachusetts law." "They have all refused to follow the state Constitution and allow the voters to decide gay marriage at the ballot box even though 130,000 people signed a petition to do so and all the necessary requirements were followed," he said.

Pawlick noted the Supreme Judicial Court told former Gov. Swift in an opinion on Dec. 20, 2002, that the constitution had been violated by the Legislature and she must act before Dec. 31, 2002, to see that a vote was held. He said he has appeared before the SJC four times since October 2002 to counsel on the matter and to warn the court if it goes against the will of the people, "it could change our whole political structure in the state." "The overarching question they had to decide was who would make that momentous decision, the citizens or the lawyers?" Pawlick said. "The arrogance of these lawyers is without bounds. We are witnessing the collapse of a once-great society, not from an invading army but from decay within."

#### **For the children**

The FRC's Perkins emphasized the impact on children. "Marriage is about more than tax credits and other financial benefits," he said. "It is about preserving the best environment for raising children and the safest, healthiest living situation for adults. Without strong marriages as our bedrock, our nation will suffer a devastating blow."

Paul Cameron, chairman of Family Research Institute, contends children suffer when homosexuals "marry." Marriage is in large part about raising children, he said, "If homosexual relationships are 'just as worthy,' how do the courts account for the fact that homosexuals are much more apt to molest foster and adoptive children?" Cameron said the first empirical study of the issue has just been published, and it shows homosexual foster parents were much more apt to get sexually involved with their charges.

Two lines of evidence were compared in the newly published article, he said, the experience of the state of Illinois over the past six years and newspaper stories over the past 13 years. It showed that while it is likely not even as many as 3 percent of foster-parents are homosexual, homosexuals were responsible for 34 percent and 60 percent of the molestations in the datasets.

#### **Beyond Massachusetts**

Mathew D. Staver, president and general counsel of Liberty Counsel, said homosexual advocacy groups will seize this case as an opportunity to challenge other states' prohibitions against same-sex marriage and to challenge state laws that prohibit individual states from recognizing same-sex marriages from other states.

Alan Sears, president of the Alliance Defense Fund, agrees. "Radical homosexual activists have made their intentions clear – 'couples' will now converge on Massachusetts, 'marry,' and return to their respective states and file lawsuits to challenge Defense of Marriage Acts and try to force the states to recognize their 'marriages," he said. "We are disappointed but we're going to continue the fight state by state." "The Constitution, the weight of civil and natural law, the history of marriage and the nation's traditions of faith and democracy are against this opinion," Sears said. "The people of Massachusetts elect representatives to decide vital public policy matters such as questions of marriage. This opinion disenfranchises the voters of Massachusetts."

Massachusetts lawmakers already are considering a constitutional amendment to legally define a marriage as a union between one man and one woman, a proposal backed by Speaker of the House Tom Finneran.

Yesterday's ruling mirrors a 1999 decision by neighboring Vermont Supreme Court, which also put the question of legalization into the hands of state lawmakers. The Vermont Legislature ultimately approved civil unions in 2000, which allow same-sex couples to enjoy many of the same benefits of marriage.

In California, Campaign for California Families said the Massachusetts ruling threatens the California's marriage protection law, Proposition 22. "If judges think they can impose their personal agenda on the Legislature and tell the government to create new law, that's completely backwards," said Randy Thomasson, executive director of the group, which has filed a lawsuit against California's "gay marriage" law, passed earlier this year.

Proposition 22, the Protection of Marriage Initiative, was approved by 61.4 percent of California voters – 4.6 million people – in March 2000. "In our system of government, no judge and no politician has the right to trash marriage or the vote of the people," he said. CCF's case against California law is scheduled for a Dec. 4 hearing in Los Angeles.

Other state courts have rejected same-sex marriage claims, most recently in New Jersey where a court ruled there is no history to justify it as a constitutional right. Arizona and Indiana also rebuffed attempts to redefine the traditional definition in the past six months. Sears points out the U.S. Supreme Court has itself recognized the connection between marriage and a free society, referring to traditional marriage over 100 years ago as 'the foundation of the family and society, without which there would be neither civilization nor progress.' Canadian courts in Ontario and British Columbia recently legalized homosexual marriage, as have Belgium and the Netherlands.