

Wedding-Bell Blues

Some Gays Aren't Wedded to the Idea of Same-Sex Marriage

by PETER FREIBERG

During a forum attended by the four New York City Democratic mayoral candidates at the Lesbian and Gay Community Services Center in Manhattan, an elderly gay man stood up to ask a question.

"I want to marry my lover like you married yours," he told city controller Harrison Goldin, one of the candidates. "Will you fight for my right?"

The overflow crowd of 400 gays and lesbians erupted in the loudest, most sustained round of cheers and applause of the evening. When the noise died down, Goldin and two other candidates—David Dinkins and Richard Ravitch—indicated they would support some kind of legal recognition for gay relationships. Only incumbent mayor Edward Koch expressed outright opposition to gay marriage.

The next morning, headlines in the *New York Daily News* and *New York Post* proclaimed that three mayoral candidates backed gay marriage, and not long afterward, the *Post* weighed in with an editorial that complained, "It is disturbing that some of New York's leading politicians would jump so casually on the homosexual-marriage bandwagon."

YEARS AWAY

If a homosexual-marriage bandwagon exists, gay activists said they are unaware of it; in light of their difficulties in winning passage of state laws banning antigay discrimination, they said any successful effort to persuade state legislatures to allow gays to marry is clearly years away. Yet the cheers in New York showed that gays are concerned about obtaining the right to marry one another.

"[Marriage] is, quite suddenly, a major issue for gay people," said Tom Stoddard, executive director of Lambda Legal Defense and Education Fund (LLDEF), a gay legal group headquartered in New York City. "I hear the issue debated everywhere now. . . . It was viewed until recently as either pie in the sky or hogwash."

Still, only a handful of cities have taken a first step toward recognizing same-sex relationships by enacting domestic-partner laws—measures that grant to gay couples

some of the legal benefits that are routinely granted to heterosexual couples. (The latest, and largest, city to do so is San Francisco.) But so far, the economic benefits for gays of domestic-partner laws appear to be minimal.

Lawrence Sheehan, cochair of Bay Area Lawyers for Individual Freedom, a San Francisco gay legal group, said that while domestic-partner laws are "a step in the right direction," they apply only on a citywide or countywide basis, and municipal or county employees are their main beneficiaries.

STOPGAP MEASURE

Domestic-partner legislation is "a stopgap measure to . . . give people protection that they would automatically have if they had the option to marry," Sheehan said. "The legislation is not going to do anything to provide for a lover if somebody dies who didn't leave a will. . . . Gay marriage would cover all the bases."

In an opinion piece in the *New York Times*, Stoddard wrote that "marriage triggers a universe of rights, privileges, and presumptions." A married person can share the estate of a spouse who dies without a will, receive group insurance and pension benefits, enjoy tax advantages, and be immunized from testifying against the spouse in legal proceedings, he noted.

Advocates of gay marriage got two boosts in recent months. In Denmark, the parliament voted to legalize civil marriage between gays, giving married gay couples the same rights as married heterosexuals in taxation, pensions, property ownership, and inheritance. And in California, directors of the Bar Association of San Francisco (BASF) unanimously urged the state legislature to allow gays to marry. In September, the BASF proposal may be considered by the California bar conference.

LEGAL PROBLEMS

Laura Goldin, a lawyer, said she initiated the BASF proposal after seeing the legal problems her gay and lesbian clients faced. "You read about that kind of thing every



Tom Stoddard

TOM TYBURSKI

day—people getting sick and their lovers unable to visit them in the hospital, people dying and families trying to set aside the will," she said.

"I reached the conclusion that there has to be a way to establish rights other than the constant running into courts to try to establish that two people had a relationship. I thought that establishing the right to same-sex marriage would be the most straightforward way to do it," Goldin said.

"I'm not saying everyone who's gay or lesbian would choose to enter into a marriage, but I think the choice of having . . . loving relationships sanctioned by society in a legal manner is real important," she said.

'OPPRESSIVE INSTITUTION'

Indeed, many gays said they oppose the idea of legalizing gay unions. "Marriage, in Western society, has been an oppressive

institution to women," said Heather Wishik, a Vermont lawyer. "I don't think lesbians and gay men would want to be part of that institution, so I'm not really comfortable with the attempt to get gay people included in existing marriage laws. . . . All [that] gay marriage laws will do is recognize gay people who want [their relationships] to look like straight marriages."

Paula Ettlbrick, LLDEF's legal director, said gays should press for legal recognition for all kinds of relationships, whether they involve a gay couple, lifetime friends who share expenses, a disabled person and a companion, or an extended family.

While domestic-partner laws seem less sweeping than legalization of gay marriage, Ettlbrick said they actually are "much more radical because they recognize the value of relationships that are not marital relationships. . . . I think what [gay marriage] would do is [let us] fade into the woodwork. There will be less incentive to stand up as gay and lesbian people who are different from heterosexual people," she said.

Other activists cited political obstacles as an argument against making gay marriage a lobbying priority. "I think it's inviting a major battle [from religious conservatives] and draining our resources to fight for something that is not likely to occur," said Tom Coleman, a Los Angeles lawyer. "Why not go for those [issues] that have consensus within the [gay] community?"

OPPOSED BY LAWYERS

Nan Hunter, director of the Lesbian and Gay Rights Project of the American Civil Liberties Union, said most gay lawyers believe that courts would reject gay marriage claims. With the courts out of the picture, legislation would have to come from state legislatures, where chances of passage were said to be slim.

Still, some activists said the idea of gay marriage would not be totally rejected by politicians and the general public. "If we took a vote in the state legislature right now on whether gay marriage should be legalized, we could probably get ten votes for it," said Terje Anderson, a gay activist in Vermont.

But, he said, "that's what [the vote] would have been for gay rights legislation a few years ago," noting that support for such legislation has increased over the years. "Part of the answer is, you build the environment that makes something like [gay marriage] palatable." ■