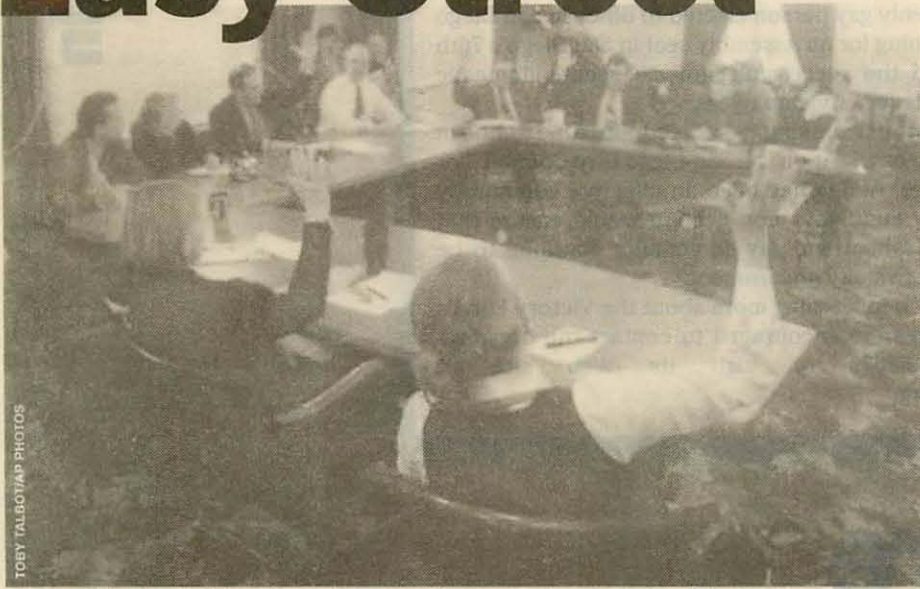


# Easy Street

by Jamie Wolters



Vermont House Judiciary committee members raise hands during Feb. 9 straw vote on same-sex marriage.

"This is not an official 'vote' and nothing keeps the committee or the Legislature from moving in a different direction as they start the drafting process."

—GLAD attorney Mary Bonauto

With a simple show of hands on Feb. 9, the members of a Vermont state committee charged with recommending how the state will recognize same-sex unions, indicated it will likely opt for a domestic partner-like system rather than broadening marriage statutes to include gay couples.

"Different than, broader than" any existing domestic partnership plan is how Thomas Little, chairman of the Vermont state House Judiciary Committee put it. "It is clear to me that the will of the committee is to initiate and work on a civil rights bill."

The Feb. 9 vote was not taken in regards to any specific plan, but as a preliminary step to beginning the drafting of such a plan. Neither is the decision set in stone, noted Mary Bonauto, an attorney for New England-based Gay and Lesbian Advocates and Defenders and a co-counsel in the case that led to the Vermont Supreme Court's landmark Dec. 20 ruling.

"This is not an official 'vote' and nothing keeps the committee or the Legislature from moving in a different direction as they start the drafting process," Bonauto wrote in a Feb. 9 statement. "All members adamantly oppose a constitutional amendment or any other effort to reject the Vermont Supreme Court's historic ruling for equality."

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Indeed, the committee's determination to remain on a course that will end with unprecedented state recognition of same-sex couples comes in the face of furious opposition from conservative religious groups, including from Operation Rescue's Randall Terry, the scandal-plagued anti-gay, anti-abortion activist who found his hyperbolic tactics largely unwelcome in a state that prides itself on its civility.

Not all the opposition comes from non-

Vermonters, however. A dozen state legislators have signed on to a resolution that seeks to impeach the Supreme Court justices. The Dec. 20 ruling found that gay couples are being unconstitutionally denied the rights and benefits of marriage. It ordered the state to recognize the couples, but left it up to lawmakers to determine whether to do that through a domestic partnership system or by extending existing marriage laws. The impeachment motion charges the justices with "usurpation of legislative authority." It goes on to insist that the Legislature refuse to recognize same-sex relationships in any manner.

"I have a problem with the decision," said Rep. Nancy Sheltra, R-Derby. "I have a problem with the usurpation of authority. And, as a legislator, I have a problem that they are trying to tell this branch of government what we should do."

Judging by the House Judiciary Committee's reaction, however, the dozen legislators will have difficulty broadening support for their impeachment bill.

In drafting its preliminary findings, the Committee firmly indicated that it fully accepts the court ruling and does not intend to question the justices. "Vermont's history as an independent republic and as a state is one of tolerance and equal treatment for all Vermonters," the preliminary findings state. "The common benefits clause [of the state constitution] requires that the state afford these couples the same legal benefits, protections and responsibilities as are available to couples whose sexual orientation is heterosexual and who choose to marry."

In addition to turning one government branch against another, impeachment supporters would have to convince a majority of lawmakers to ignore the Legislature's own activist past. Vermont was one of the first states to enact statewide legislation prohibiting discrimination in employment, housing and other areas based on sexual orientation. Vermont has laws protecting gays and lesbians from hate crimes and, most significantly, the Legislature has recently sanctioned adoptions by same-sex partners, a step taken by just a few states.

As the court said in its decision: "Whatever claim may be made in light of the undeniable fact that federal and state statutes, including those in Vermont, have historically disfavored same-sex relationships, more recent legislation plainly undermines the contention."

The Committee's draft document also gives insight into the Committee's strategy for extending a wide array of rights to gay couples without granting them marriage licenses; under the draft document, a domestic partner would be included in the state's definition of "spouse," "family," "immediate family," "dependent," or other gender-specific terms to denote the spousal relationship. Presumably, this means that any existing state law that now confers rights or benefits based on those definitions would include same-sex partners.

The Feb. 9 straw vote came after two emotional public hearings attended by more than 5,000 people. "Lesbian and gay people and couples and families were front and center in the discussions, explaining they wanted marriage for both practical purposes and to erase their sense of second-class citizenship," Bonauto said. "Some had stories of hardship and mistreatment to tell, including being denied access to partners in hospitals or medical settings even when they had the proper paperwork."

A broad array of people argued for same-sex marriage rights, including gay couples with children, non-gays, religious leaders and teens. Less varied were the opponents who, as Bonauto noted, employed a "good deal of Bible quoting," as well as calls for impeachment of the justices. "The opponents made it crystal clear they are unalterably opposed to both domestic partnership and marriage, and in the second hearing, began to get a bit ugly."

The Committee also took separate testimony from a series of legal experts, religious leaders and social historians. These included "a Canadian scholar [who] talked about her county's rapid movements toward recognizing the legitimacy and dignity of lesbian and gay relationships" and Los Angeles-based lawyer Tom Coleman, who testified about the successes and failures of existing domestic partnership systems.

As the Judiciary Committee continues its work, some lawmakers are proceeding with initiatives of their own. In addition to the bill to impeach the Supreme Court justices, pending measures include a bill to authorize marriage of same-sex couples; a bill to ban such marriages and to prevent Vermont from recognizing gay marriages performed in other states; a constitutional amendment to ban recognition of gay couples; and two separate domestic partnership bills.

In addition, on March 7, a date traditionally known as Town Meeting Day in New England, many towns across the state have scheduled local referendums on same-sex marriage at the urging of religious leaders. Not all towns will hold such ballots and turnout is usually only around 20 percent. "No matter how it turns out, and even though it is only a snapshot of voters, the media will give it a great deal of coverage," Bonauto said.

For those wishing to help in the Vermont struggle, Bonauto urges that contributions be made to the Vermont Freedom to Marry Action Committee or to GLAD. For the Freedom to Marry Committee, please send donations to P.O. Box 1038, Middlebury, VT 05633, or visit their Web site at [www.vtmarriageaction.org](http://www.vtmarriageaction.org). For GLAD, please send donations to 294 Washington St., Suite 740, Boston, MA 02108-4608.

—The Associated Press contributed to this story.