

THE IDEA THE NEW JERSEY LEGISLATURE IGNORED: EQUALITY

Legal Experts explain why marriage equality matters, and civil unions are discriminatory

► **December 8, 2006, New Jersey State Bar Association, in voting to support full marriage equality and oppose civil unions:**

"We note that the NJSBA has previously taken the position, as an amicus party in *Lewis*, that the creation of a separate statutory construct and scheme for provision of benefits to same-sex couples is unwieldy and creates vast problems for attorneys and the clients with whom they deal.

"We respectfully request that NJSBA take the lead in being a voice for fairness and equality and against an unnecessary law whose only purpose is to discriminate and create second class categories of citizens."

► **December 12, 2006, New Jersey Civil Rights Commission, approving a resolution opposing civil unions and supporting marriage equality:**

"...imposing a separate status of "civil unions" on committed same-sex couples for the purpose of maintaining the bar on marriage would build a large discriminatory structure into New Jersey's statutory law of unprecedented scope, undermining the spirit, purpose, letter, and proud legacy of the Law Against Discrimination; and...

"...writing into statutory law that committed lesbian and gay couples are limited to the separate status of "civil unions" is a statement that their relationships are lesser than marital relationships and may create a dangerous precedent of government setting an example for employers, businesses, health care providers and the public for the treatment of gay and lesbian persons as second class citizens, in contradiction to the Law Against Discrimination;

► **October, 2006, Justice Poritz' dissenting opinion in *Lewis v. Harris*, (p. 7)**

"What we 'name' things matters, language matters...

"We must not underestimate the power of language. Labels set people apart as surely as physical separation on a bus or in school facilities. Labels are used to perpetuate prejudice about differences that, in this case, are embedded in the law. By excluding same-sex couples from civil marriage, the State declares that it is legitimate to differentiate between their commitments and the commitments of heterosexual couples. Ultimately, the message is that what same-sex couples have is not as important or as significant as "real" marriage, that such lesser relationships cannot have the name of marriage."

► **December 11, 2006, David Buckel, Lambda Legal's lead attorney in *Lewis v. Harris*, in testimony before the New Jersey legislature's Judiciary Committee:**

New Jersey already has experience with the harm of imposing a separate status with the domestic partnership law, which explains why this Legislature is rushing to the wrong side of history if it passes a civil union bill. To do so will replace one discriminatory status with yet another, a civil union, forcing these couples and their families to struggle through more years of indignity, harm, and sometimes tragedy.

What can be a defensible reason for this? The New Jersey Supreme Court said that if the Legislature chose to create a separate status rather than create equality, presumably there would be a reason stated for doing so. In sixty-three pages of this bill I cannot find the reason, and that suggests there is no good reason.

► **February, 2004: Massachusetts Supreme Judicial Court Advisory Opinion to the MA Senate, following *Goodridge* decision:**

"The dissimilitude between the terms 'civil marriage' and 'civil union' is not innocuous; it is a considered choice of language that reflects a demonstrable assigning of same-sex, largely homosexual, couples to second-class status." (pg 10)

"For no rational reason the marriage laws of the Commonwealth discriminate against a defined class; no amount of tinkering with the language will eradicate that stain. (pg 11)