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A NEWSLETTER ABOUT LAW AND DIVERSITY

Is Voting Rights Act Needed More Than 40 Years Later?

by Cheryl Baisden

In the 48 years since President Barack Obama was born, a lot has changed as far as political elections and minority voting rights are concerned. In fact, a black man living in some sections of the United States in 1961 could have found it impossible to simply cast a vote in an election, let alone get his name on the ballot to seek even a minor political post.

The fact that the nation recently elected its first black president shows that today the U.S. is "in a different place," Theodore M. Shaw, Columbia University law professor and former NAACP Legal Defense and Educational Fund president, told *The New York Times*. "But race still plays powerfully in electoral politics in this country. If it weren't for the Voting Rights Act, there would be no President Obama," Shaw said.

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Broken promises

Although the U.S. Constitution guarantees all Americans political representation, the right to cast a vote to elect those representatives has been something many groups—from Native Americans to women—have been forced to fight for throughout our history. While the 15th Amendment to the U.S. Constitution promised former slaves and other African Americans voting rights in 1870, it took 95 more years before that right was effectively reinforced nationwide through supporting federal legislation.

"Even though African Americans were guaranteed the right to vote, some states and regions—mostly in the South—were doing everything they could to deprive them of those rights," explained constitutional lawyer Stephen Latimer. "In some cases minority citizens were being violently prohibited from voting. What was needed was strong government oversight to make sure those constitutional rights were being upheld and protected. The Voting Rights Act provided that oversight."

Prior to passage of the Voting Rights Act in 1965, African Americans in certain >continued on page 2

U.S. Supreme Court Decides Reverse Discrimination Case

by Phyllis Raybin Emert

Is it possible to discriminate again white men? With a ruling handed down this summer the U.S. Supreme Court said yes, resulting in debates over the issue of reverse discrimination. **According to the U.S. Equal Employment Opportunity Commission, claims of racial discrimination from white complainants has risen 45 percent from 1998 to 2008.**

The case of *Ricci v. DeStefano* presented the U.S. Supreme Court with the opportunity to address reverse discrimination with a case involving firefighters in New Haven, Connecticut. In 2003, the city of New Haven looked at the results of a promotional exam to fill vacancies in the fire department and found that the white candidates had better scores than black candidates. In fact, the top ten candidates for promotion to lieutenant were all white, and among those eligible for promotion to captain were seven white and two Hispanic candidates. >continued on page 4

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states were frequently denied the right to vote by white local and state leaders determined to maintain political power. By adopting laws requiring voters pass certain tests, such as literacy exams; imposing poll taxes on voters; instituting unfair voter registration procedures; and ignoring violence and other intimidations at polling places, they effectively blocked many African Americans from casting ballots. And without a voice in the election process, the minority population was not only denied the right to vote for the candidate of their choice, but also prevented from winning political posts themselves.

The Voting Rights Act banned these activities and established administrative procedures to follow in order to avoid long and costly lawsuits by minorities who were being denied their voting rights. Another, more subtle form of controlling minority voters that was implemented by those in power was to manipulate voting district boundaries in a way that made their ballots ineffective, either by keeping minority percentages disproportionately low or crowding them into districts with little political power. This practice was called gerrymandering and is named for Massachusetts Governor Elbridge Gerry, who in 1812 signed legislation that allowed redistricting which kept his political party in power. Redistricting in order to alter voters' impact of an election was also outlawed by the Voting Rights Act.

The law also contains special enforcement provisions for certain states and regions where Congress felt discrimination was most likely to occur. Under Section 5 of the act, federal permission is required from the Department of Justice or the U.S. District Court before changes can be made in voting procedures such as how registration is conducted, where polling places are located, how elections are publicized and where voting district boundaries are drawn. Affected states include Alabama, Alaska, Arizona, Georgia, Louisiana, Mississippi, South Carolina, Texas and portions of Virginia. Some counties and communities in California, Florida, Michigan, New Hampshire, North Carolina and South Dakota, and three New York City boroughs (Manhattan, Brooklyn and the Bronx) are also covered. Any of these regions can file to "bail out" of the program if they can prove they are no longer likely to discriminate.

The time to act

Passage of the Voting Rights Act, which was signed into law by President Lyndon Johnson in August 1965, was prompted by national outrage following an unprovoked attack by Alabama state troopers and local police on more than 500 peaceful demonstrators on March 7, 1965, as the crowd crossed a bridge in Dallas County, Alabama, on the way to the state capital to protest voting rights violations in the South. Law enforcement officers tear-gassed and beat the marchers. With the violence captured by TV cameras, and on the heels of the murder of voting rights activists in Mississippi, U.S. lawmakers were compelled to act.

Hearings were held promptly on the drafting of new legislation, and Congress found that the existing method of fighting voter discrimination one case at a time, through lawsuits filed by individuals who were denied their constitutional rights, was ineffective. As soon as the courts found one practice to be unconstitutional, violators would mount a different assault on minority voters.

"Responding to these violations with lawsuits was not an acceptable solution," said Latimer. "For one thing, by the time a case worked its way through the courts the election was over. New Jersey's system of handling voter rights violations serves as an example of how these cases can be handled quickly and effectively. In New Jersey, if you are denied what you believe is your right to vote you go right to the county courthouse, where special judges are waiting to hear the matter. You receive a special ballot, and if the matter needs to be reviewed it's handled afterwards. This way

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you've preserved your right to vote. Naturally, where there is a pervasive intent to deny voters their rights, like there was in the South in those days, this would never work."

A success from the start

The new federal legislation was successful from the start. In fact, according to figures from the American Civil Liberties Union, during the first four months it was in effect, 250,000 new African American voters were registered in regions covered by Section 5 of the act, a third of them by federal authorities. In Dallas County, Alabama, alone, registered African American voter numbers rose from 383 to nearly 8,000.

Although it was envisioned as a temporary measure, and initially approved for a five-year period, the Voting Rights Act has been extended by Congress each time it has been set to expire, and in 1982 its scope was broadened to include the language concerns of Hispanic, Asian and Native American citizens. The latest reauthorization of the act was in 2006. Following 21 hearings and 16,000 pages of testimony to determine if the legislation was still necessary, the act was reauthorized by a vote of 98–0 in the U.S. Senate and 390–33 in the U.S. House of Representatives. The act is now set to expire in 2031.

While the law received strong federal support from U.S. lawmakers, those who fall under Section 5 continue to occasionally test the act's constitutionality in the courts. In April, the U.S. Supreme Court considered the latest case involving a tiny municipal utility district in a section of Austin, Texas, which fell under the Voting Rights Act and was denied the right to file for a bail out by lower courts.

The district argued that Section 5 was unconstitutional, and that it imposed too many burdens on the more than 1,200 regions it covers. In documents filed with the U.S. Supreme Court, district lawyers said the Voting Rights Act "treats racism as an inheritance that runs with the land rather than a manifestation of attitudes and actions of living individuals." But county officials argued against the district's stance, and asked the Court to uphold the act, noting that they rely on its authority in "every election cycle to help tamp down or eliminate the insidious influence of racial discrimination."

After hearing arguments on both sides, the Court kept the Voting Rights Act intact, but granted the district the right to file a bail out application. If approved by the Department of Justice, it would mark only the 18th time a bail out was authorized since the procedure was first authorized in 1982.

Although none of the states or other areas covered under Section 5 spoke out against the legislation in court this past spring, the Voting Rights Act's future remains unclear, even in the mind of the nation's highest judge.

In ruling on the Texas case in April, U.S. Supreme Court Chief Justice John G. Roberts Jr. wrote that while he recognized the Voting Rights Act's historic accomplishments, "things have changed in the South….Voter turnout and registration rates now approach parity. Blatantly discriminatory evasions of federal decrees are rare. And minority candidates hold office at unprecedented levels….The statute's coverage formula is based on data that is now more than 35 years old, and there is considerable evidence that it fails to account for current political conditions."

New Jersey Public Advocate Ronald Chen sees the state of minority voters' rights differently. "While we have made significant progress in achieving voter equality, that does not mean that the entire country, or the actions of all individuals, are free from discriminatory or illegal practices in elections," said Chen. "In New Jersey alone, the government sued Passaic County in 1999, charging it had committed illegal discrimination against Hispanic and/or Spanish-speaking citizens. The case settled with a court order directing the county to end its illegal practices and take affirmative steps to end this discrimination. In 2008, the same year President Obama was elected, the government sued Salem County alleging similar claims, and again a court ordered remedial practices. The act continues to provide a powerful deterrent against government officials and private individuals from violating the voting rights of any individual." ■

Reverse Discrimination *continued from page 1<*

After much debate, New Haven city officials "threw out the examinations" because of the "statistical racial disparity." City officials believed the test was evidence of "disparate impact," an unintentional but discriminatory effect on minorities in violation of Title VII of the 1964 Civil Rights Act, which "prohibits employment discrimination on the basis of race, color, religion, sex or national origin." The City chose to invalidate the test results rather than be potentially liable to a lawsuit by the minority firefighters.

The white and Hispanic firefighters sued the city for "disparate treatment," or intentional discrimination based on race, in violation of Title VII and the equal protection clause guaranteed by the Fourteenth Amendment to the U.S. Constitution. The district court and the Second Circuit Court of Appeals both ruled in favor of the City of New Haven. The petitioners then took their case to the U.S. Supreme Court. In June 2009, the Court reversed the lower courts in a 5-4 decision in favor of the white and Hispanic firefighters.

According to Justice Anthony Kennedy, who wrote the majority opinion in the case, "the City was not entitled to disregard the tests based solely on the racial disparity in the results." Chief Justice John Roberts and Justices Antonin Scalia, Samuel Alito and Clarence Thomas joined Justice Kennedy in the opinion.

The test

New Haven's contract with the city firefighters union required both written and oral exams for the positions of lieutenant and captain. The written exam counted 60 percent and the oral exam counted 40 percent of an applicant's score. The City hired a private company, Industrial Organizational Solutions (IOS), to create and administer the exams.

IOS interviewed and observed all firefighters and analyzed all job requirements. The company also put together a list of training manuals and regulations upon which the test was based. The result was a written examination of multiple-choice questions for each position that tested the basic knowledge and ability of each applicant. IOS also wrote the oral part of the exam that presented hypothetical situations that could occur in the course of performing the job. Each applicant answered how he would handle the situation in front of a three-member panel, 66 percent of whom were minority firefighters from outside Connecticut.

The test scores

After seeing the test results, the City became concerned with the disparity in written exam scores between the white and minority firefighters and notified the Civil Service Board (CSB). The CSB held several open meetings beginning in January 2004 where both black and white firefighters testified.

Christopher Hornick, an industrial/organizational psychologist, testified that he believed the disparity in test scores between the groups was on the high side, and it was possible that the 60/40 weighted written to oral scores might be responsible. Hornick ultimately recommended that the City of New Haven certify the test results but change future testing.

Thomas Ude, the City of New Haven's counsel, urged the City not to certify the exam results believing the City would be challenged in Court for violating Title VII if the City let the results stand. Other City officials testified and argued against certifying the results as well, while the president of the New Haven Firefighter's union supported certification. The CSB took a vote ending in a 2-2 tie. Since there was no majority, the test results were not certified.

The majority opinion

The Court held that the City of New Haven made its decision regarding the test results strictly based on race. Since white firefighters would be promoted to higher positions and not enough minority firefighters, the test was thrown out. The City claimed it couldn't base promotions on a test that unintentionally discriminated because it would be contrary to Title VII and make the City liable to a disparate-impact lawsuit. Justice Kennedy wrote, "Whatever the City's ultimate aim—

however well intentioned or benevolent it might have seemed—the City made its employment decision because of race. The City rejected the test results solely because the higher scoring candidates were white."

Applying the strong basis in evidence standard to the case of the firefighters in New Haven, Title VII allows "violations of one [disparate treatment or disparate impact] in the name of compliance with the other only in certain, narrow circumstances," wrote Justice Kennedy. Title VII also "prohibits adjusting employment-related test scores on the basis of race."

The Court explained that if an employer cannot rescore an exam based on race, it cannot completely discard all the test results to achieve better racial balance, unless there is strong evidence that the test was unfair and discriminatory. The Court noted that the City hired the consultant group, IOS, to develop a fair and impartial exam and did not present any evidence that the test was unfair to minorities.

Disparity in scores on the exam, according to Justice Kennedy, "is far from a strong basis in evidence that the City would have been liable under Title VII had it certified the results." He noted that "the City could be liable for disparate-impact discrimination only if the examinations were not job related and consistent with business necessity, or if there existed an equally valid, less-discriminatory alternative…that the City refused to adopt." Justice Kennedy declared, "Fear of litigation alone cannot justify an employer's reliance on race to the detriment of individuals who passed the examinations and qualified for promotions. The City's discarding the test results was impermissible under Title VII…."

The dissent

Justice Ruth Bader Ginsburg wrote the dissenting opinion and was joined by Justices John Paul Stevens, David Souter and Stephen Breyer. Justice Ginsburg set the context of the case by noting that for many decades, municipal fire departments throughout the country, including New Haven, discriminated against minorities. It is a city in which African Americans and Hispanics make up nearly 60 percent of the population, but few of these minorities occupy leadership positions in the fire department.

According to Justice Ginsburg, "the senior officer ranks (captain and higher) are nine percent African American and nine percent Hispanic [and] only one of the Department's 21 fire captains is African American." The pass rates on the exams in question for minorities were about one-half the rate for white firefighters, so the City, stated Justice Ginsburg, "had cause for concern about the prospect of Title VII litigation and liability."

Justice Ginsburg supported the reasoning of the district court decision, which was affirmed by the Court of Appeals, that " 'the intent to remedy the disparate impact' of a promotional exam 'is not equivalent to an intent to discriminate against non-minority applicants.'" According to Justice Ginsburg, the district court found that "New Haven could lawfully discard the disputed exams even if the City had not definitively 'pinpointed' the source of the disparity and 'had not yet formulated a better selection method.'" Since all scores were eliminated and nobody was promoted, all firefighters of every race would have to go through another selection process. Therefore, the district court noted, the action taken was "race-neutral."

According to Justice Ginsburg, "New Haven had ample cause to believe its selection process was flawed and not justified by business necessity. Judged by that standard, petitioners have not shown that New Haven's failure to certify the exam results violated Title VII's disparate-treatment provision. The Court simply shuts from its sight the formidable obstacles New Haven would have faced in defending against a disparate-impact suit.

The legal consequences

The ruling in *Ricci* introduced a new legal standard and interpretation of Title VII. The Court held that a "strong basis in evidence" must be shown in disparate-impact liability. In an article for the *American Constitution Society for Law and Policy*, Professor Sherrilyn Ifill, of the University of Maryland School of Law, wrote, "The new standard announced by the Court, is that clear disparate impact is an insufficient basis for an employer to take facially [at first view] neutral, race conscious actions as the City of New Haven did in this case, when it refused to certify the promotions exams."

Brian Cige, a constitutional attorney with offices in Somerville and Princeton, supports the Court's decision. "It's correct to say that the underlying dispute was the legal conflict between disparate-impact and disparate treatment claims," declared Cige. "This case makes clear that a disparate-impact case, especially when premised on a 'fear of litigation' as the substantial reason for its conclusion, will not stand." He explained that government should focus on "being free of discriminatory intent rather than [the] disparate, possibly discriminatory, impact of its decisions." ■

Will New Jersey Accept Same-Sex Marriage Proposal?

by Barbara Sheehan

As New Jersey prepares for November elections and potential changes in leadership, the question of whether New Jersey lawmakers will pass a pending bill that would legalize same-sex marriage looms in the state Legislature.

On the one hand, advocates of the bill contend that granting same-sex couples marriage equality is long overdue. A handful of states (Massachusetts, Connecticut, Iowa, Vermont, Maine and New Hampshire) have already given the green light to same-sex marriage. Opponents, however, say the institution of marriage has been around for centuries and is worth preserving as is. To that end, several Republican lawmakers in the Garden State have proposed a New Jersey bill that would amend the state constitution to recognize marriage as a union between one man and one woman.

What's the beef?

In part, attaining equal "marriage" status for same-sex couples is about gaining equal financial and legal rights. For example, married couples in the United States enjoy certain benefits regarding taxes and health insurance. For many, however, the push for same-sex marriage goes deeper. It's also about respect and tolerance—fundamental ideals that many in the gay and lesbian community feel they are being denied because they cannot marry.

Currently, each state decides how it will recognize same-sex partners. While six states have legalized same-sex marriage, according to the Human Rights Campaign, a lesbian, gay, bisexual and transgender (LGBT) civil rights organization, 29 states have constitutional amendments that restrict marriage to one man, one woman.

In the Garden State, same-sex couples cannot marry, but can enter into civil unions in accordance with a law that was passed in December 2006. This makes them eligible to receive essentially the same state rights as married couples, such as inheritance rights, family leave benefits, and state and local tax benefits.

The bigger issue, perhaps—and one that exists nationwide—is that same-sex partners do not have equal access to a host of federal rights. This is largely due to a federal law known as the Defense of Marriage Act (DOMA), which was passed in 1996. DOMA defines marriage as the union of one man and one woman and provides that states need not recognize a same-sex marriage from another state. This, among other things, precludes gay and lesbian couples in New Jersey and nationwide from receiving federal marital benefits such as Social Security survivor payments, Medicare and other federal estate and tax benefits. According to the American Civil Liberties Union, the federal government provides more than 1,000 benefits for married couples—benefits that are denied to same-sex couples whether they are legally married in their home state or enter into a civil union.

This past July, Massachusetts, the first state to legalize same-sex marriage in 2004, challenged the federal DOMA law in U.S. District Court. In filing the suit, Massachusetts claimed that DOMA interferes with states' ability to recognize same-sex marriage and discriminates against gay and lesbian couples.

At a July press conference announcing the lawsuit, Massachusetts Attorney General Martha Coakley said, "Massachusetts has a single category of married person, and we view all married persons equally and identically."

Civil unions vs. marriage

As Massachusetts awaits a court ruling in the DOMA challenge, the decision about how to recognize same-sex partners continues to lie largely with the states. So, if New Jersey's civil unions provide essentially the same state protections as marriage, why aren't they enough? What difference would a marriage certificate make?

Elizabeth attorney Felice T. Londa, who is joined with her partner in a civil union, said marriage would make a meaningful difference. For example, Londa and a number of other same-sex marriage proponents allege that some companies in New Jersey deny same-sex partners coverage under the Employment Retirement Income Social Security Act (ERISA), a federal benefits program, on the basis that they don't have "marriage" status. Companies would be less likely to turn these same-sex partners away, many argue, if they were "married."

Londa also contends that being married would change the way she and other gay and lesbian couples are viewed by society. In making this case, Londa tells a story of how she once tried to relay to a health care provider that she was not married but was in a civil union. Londa said the worker was polite but "clearly didn't get it."

Allegations that the public does not understand civil unions, along with the criticism that Londa communicated about ERISA, were noted in the First Interim Report of the New Jersey Civil Union Review Commission, released in February 2008. The report, among other things, charged New Jersey's civil union law with creating a "second class status" for same-sex partners and suggested that allowing same-sex marriage would help to rectify

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a number of the perceived shortcomings of civil unions.

"Language counts and labels count," Londa said.

Changing marriage for 'everyone'?

Maggie Gallagher, president of the Institute for Marriage and Public Policy, located in Virginia, agrees that language counts and that is precisely why she believes the government should not tamper with the definition of marriage. Gallagher is not focused on the impact same-sex marriage would have for same-sex couples and their children, rather she worries about how it would affect the rest of society.

"When the government changes the definition of marriage, it changes it for everyone," Gallagher said.

As a result, Gallagher fears that the ideal of entering into a marriage so that a mother and a father—a family structure that she believes is in children's and society's best interest—can raise children will be threatened. Further, she anticipates that individuals who hold to that traditional ideal will be labeled bigots. Gallagher contends that her opposition to redefining marriage has nothing to do with animosity toward gay people, nor does she question the conviction of her opponents on this issue.

It's all about *Loving*

In debating same-sex marriage, an analogy is commonly drawn to bans on interracial marriage or miscegenation laws. Those laws were struck down with the 1967 U.S. Supreme Court decision in *Loving v. Virginia*. The case involved a white man, Richard Loving, and an African American woman, Mildred Jeter—both originally from Virginia—who were married in the District of Columbia in 1958. The couple could not be married in their home state of Virginia because of a state law banning interracial marriage. Once they settled into their new married life in Virginia, they were arrested and charged with violating Virginia's ban on interracial marriages.

The Virginia judge in the case declared, "Almighty God created the races white, black, yellow, malay and red, and he placed them on separate continents. And but for the interference with his arrangement there would be no cause for such marriages. The fact that He separated the races shows that He did not intend for the races to mix."

The Lovings were sentenced to one year in prison, however, the judge suspended the sentence with the stipulation that the couple not return to Virginia for 25 years. The Lovings left and eventually the U.S. Supreme Court heard their case. The Court found that preventing marriage solely on the basis of race was in violation of the due process clause of the Fourteenth Amendment. "The freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men," the Court noted.

Comparisons between the *Loving* case and same-sex marriage provoke strong opinions from many. Gay advocates believe that, like in the *Loving* case, denying same-sex marriage to those who are in loving, committed relationships is just another form of discrimination. Opponents don't see it that way at all.

Gregory Quinlan, director of Government Affairs at New Jersey Family First, the legislative action arm of the New Jersey Family Policy Council, rejects the comparison and insists that interracial marriages and same-sex marriages are not the same. Interracial marriages are still heterosexual marriages, Quinlan contends. Comparisons of the two, he believes, are an "insult to every black American who sat at the back of the bus."

Advocates also assert that the objection to gay marriage is ultimately a religious issue and as such has no place in determining law or social policy, since marriage is a civil right, not a religious one. Mildred Loving agrees.

In a press statement released on the 40th anniversary of the landmark *Loving* decision, she talked about how much it meant to her and her late husband, Richard, to have the right to marry, "even if others thought he was the 'wrong kind of person' for me to marry," Loving said. "I believe all Americans, no matter their race, no matter their sex, no matter their sexual orientation, should have that same freedom to marry. Government has no business imposing some people's religious beliefs over others. Especially if it denies people civil rights. I support the freedom to marry for all. That's what *Loving*, and loving, are all about."

What do voters say?

What about the opinions of Americans themselves? Should voters be able to decide the fate of the same-sex debate? In California, voters did just that in the

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2008 presidential election, when a majority of Californians said no to same-sex marriage and effectively overturned the practice in California of allowing gays and lesbians to marry. That decision is now being challenged in the courts. Similarly, voters in Florida and Arizona also rejected same-sex marriage at the ballot box in 2008.

Whatever the voting or polling results, Kevin M. Costello, an employment and civil rights trial lawyer in Cherry Hill, said it really shouldn't matter. In the end, he believes it is about doing what is right. When the government validates marriage, it has to do it fairly, he said.

"We are at our worst when we cater to the majority," said Costello. "Democracy works best when it's an enlightened democracy."

For Costello, a straight, married man, it's a matter of legal rights. But it's also personal. When he was younger, Costello lost a favorite aunt, who he believes took her own life when her family did not accept her lesbian sexuality.

"If only she had hung on a few years, I would have been her biggest fan and ally," Costello said. "Same-sex marriage," he said, "is just about love...I don't get why that's a problem."

What about New Jersey?

New Jersey has historically been considered a progressive state in the area of gay rights and according to an April 2009 poll, conducted by Quinnipiac University, New Jersey voters support same-sex marriage by a narrow 49–43 percent margin.

Jon Corzine, New Jersey's current governor, has indicated that he will sign a same-sex marriage bill if one reaches his desk. Chris Christie, his Republican challenger in this year's gubernatorial election, however, has held that he supports keeping marriage as one man, one woman and said he would veto same-sex marriage legislation.

Of course, outside of what happens in New Jersey, there is the larger issue of the federal DOMA law and how the courts will answer the legal case filed by Massachusetts. Until DOMA is overturned, same-sex partners will never achieve true equality, Londa said.

According to an August 2009 article in *The Washington Post*, President Barack Obama said he believes DOMA should be repealed. According to a CNN 2008 Election Report, however, he has also said that he opposes same-sex marriage but supports full civil unions that give same-sex couples equal legal rights and privileges as married couples.

In September 2009, the Respect for Marriage Act was introduced in the U.S. House of Representatives. The act would repeal DOMA and allow same-sex couples access to federal marriage benefits. In a statement, former President Bill Clinton, who signed DOMA into law, said, "the fabric of our country has changed, and so should this policy." ■

Glossary

affirm – to uphold, approve or confirm (as in an opinion of a lower court). dissenting opinion – a statement written by a judge or justice that disagrees with the opinion reached by the majority of his or her colleagues. majority opinion – a statement written by a judge or justice that reflects the opinion reached by the majority of his or her colleagues. miscegenation – intermarriage between different races. parity – equivalent in value. pervasive – common or widespread. remedial – corrective. repealed – revoked. A law that is repealed has been withdrawn or cancelled and is no longer a law. reverse – to void or change a decision by a lower court. reverse discrimination – discrimination against an individual or group that is usually or traditionally in the majority.