

# Commentary

## Vote No If You Believe in Marriage: *Lessons from the No On Knight/No On Proposition 22 Campaign*

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### I. INTRODUCTION

On March 7, 2000, California voters overwhelmingly passed Proposition 22, a ballot initiative that added the following words to the California Family Code:

Only marriage between a man and a woman is valid or recognized in California.

These fourteen words prevent California from recognizing same-sex marriages performed in other states—despite the fact that, at the time these words appeared on the California ballot, no jurisdiction in the United States had validated such marriages. Nor is any jurisdiction seriously considering such a move. In practical terms, then, the enactment of this new statute has no imminent effects. In legal terms, the issue is not yet ripe for adjudication, and so cannot yet be challenged.

Defeating a law that does nothing might sound simple enough, but when a vote for such a law becomes a symbolic act of support for a social institution as entrenched in our lives as marriage, this law that does nothing becomes a vote that means something. It may mean simply that marriage is perceived as fragile in today's world. Or it may mean that voters are unwilling to extend marital benefits to same-sex couples. It

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marriage is perceived as fragile in today's world. Or it may mean that voters are unwilling to extend marital benefits to same-sex couples. It may mean that homophobia is alive and well in California, or that the initiative was never perceived as homophobic by those who voted for it. Only time will allow us to see whether and how the law will be used, and therefore what it means that Californians approved it.

Before it was known as Proposition 22, the lesbian, gay, bisexual, and transgender (LGBT) community began organizing to defeat a proposed law commonly referred to as the Knight Initiative. The resulting political committee eventually was called the No On Knight/No On Proposition 22 campaign. As assistant to the No On Knight campaign manager, I have spent the past six months immersed in the world of the No On Knight campaign. Despite my inability so soon after the election to develop anything resembling the clarity of hindsight, I nonetheless feel the need to try to make sense of the jumble of images and critiques and emotions with which I am left, post-campaign. Perhaps my first backward glance at our strategies and experience will be useful to others who continue to fight for equality for LGBT families.

## II. THE BATTLEGROUND

Marriage has historically been a difficult issue for the LGBT community. Many members of our community subscribe to feminist critiques of the institution of marriage, believing it to be a fundamental source of gender inequity in our society and the dominant method for perpetuation of gender role stereotypes.<sup>1</sup> Others believe marriage to be an institution so essentially heterosexist as to have no real meaning for gay and lesbian relationships, which have creatively flourished free from the confines of rigid social norms.<sup>2</sup> Still others feel that marriage, as a civil institution sanctioned by the state, should be equally available to all citizens of the state regardless of the sexual orientation of the adults desiring marriage's legal benefits and protections.<sup>3</sup> But not until a legal challenge to the institution's inherent heterosexism<sup>4</sup> was taken seriously by Hawaii courts in

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1. See, e.g., Nan D. Hunter, *Marriage, Law, and Gender: A Feminist Inquiry*, 1 L. & SEXUALITY 9 (1991); Nancy D. Polikoff, *We Will Get What We Ask For: Why Legalizing Gay and Lesbian Marriage Will Not 'Dismantle the Structure of Gender in Every Marriage'*, 79 VA. L. REV. 1535 (1993).
  2. See, e.g., Paula L. Ettelbrick, *Since When Is Marriage a Path to Liberation?*, OUT/LOOK, Autumn 1989, at 8-12.
  3. See, e.g., WILLIAM N. ESKRIDGE, JR., *THE CASE FOR SAME-SEX MARRIAGE* (1996); Thomas B. Stoddard, *Why Gay People Should Seek the Right to Marry*, OUT/LOOK, Autumn 1989, at 8-12.
  4. Heterosexism is a bias for heterosexual, i.e. opposite-sex, relationships. Marriage is a heterosexist institution because it is a socially and legally recognized contract available only to heterosexual couples.

1993<sup>5</sup> did our community seriously consider marriage to be a civil right worthy of our immediate attention and limited resources. Until then, other issues such as job security, safety, and decriminalization of our sexuality were paramount in our struggle for equality and even basic social tolerance.

Hawaii changed the landscape. The possibility of same-sex marriages loomed large both within the LGBT community and within the politics of the right. Despite the general ambivalence about marriage within the LGBT community, our leaders and lawyers grasped the import of the Hawaii case and began to commit community resources to the fight for equal marriage rights. On the political and religious right, reaction to Hawaii was at least as strong, and political power stronger. Before a resolution was ever reached in Hawaii, in 1996 Congress passed and the President signed the so-called "Defense of Marriage Act" (DOMA), providing that each state could refuse to recognize same-sex marriages performed by other states.<sup>6</sup> Thirty states quickly acted on this dubious authority (DOMA likely violates the Full Faith and Credit Clause of the United States Constitution<sup>7</sup>) and passed their own mini-DOMAs.<sup>8</sup>

Most state DOMAs were passed by state legislatures and signed into law by governors. In California, a DOMA law was introduced into the legislature several times by Republican State Senator Pete Knight. The law never passed, and what happened next has become a familiar refrain in California politics. Pete Knight, supported by a handful of wealthy California right-wing extremists, took his proposed law to the voters. And so

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5. In *Baehr v. Lewin*, 852 P.2d 44 (Haw. 1993), the Hawaii Supreme Court held that sex is a suspect category for purposes of equal protection analysis under the Hawaii Constitution, and that Hawaii's refusal to grant same-sex marriages is subject to strict scrutiny. On remand, in *Baehr v. Miike*, No. 91-1394, 1996 WL 694235 (Haw. Cir. Ct. Dec. 3, 1996), the trial court held that the state failed to overcome the presumption that its refusal to grant same-sex marriage licenses is unconstitutional. In November 1998, while this decision requiring the state to grant marriage licenses to same-sex couples was on appeal, Hawaii voters overwhelmingly adopted an amendment to the Hawaii Constitution, allowing the Hawaii legislature to reserve marriage to opposite-sex couples. Though the Hawaii legislature failed to exercise this authority, the Hawaii Supreme Court eventually threw out the *Baehr* appeal, holding that the constitutional amendment approved by the people had effectively nullified the court's power to make marriage available to same-sex couples. See *Baehr v. Miike*, No. 20371, 1999 Haw. LEXIS 391 (Haw. Dec. 9, 1999).
  6. Pub. L. No. 104-199, 110 Stat. 2419 (codified at 1 U.S.C. § 7 (2000) and 28 U.S.C. § 1738C (2000)). Section 2 of the bill allows states to refuse to give full faith and credit to "any public act, record, or judicial proceeding . . . respecting a relationship between persons of the same sex."
  7. U.S. CONST. art. IV, § 1 ("Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State."). For arguments that DOMA is unconstitutional, see Andrew Koppelman, *Dumb and DOMA: Why the Defense of Marriage Act Is Unconstitutional*, 83 IOWA L. REV. 1 (1997); Evan Wolfson & Michael F. Melcher, *Constitutional and Legal Defects in the 'Defense of Marriage' Act*, 16 QUINNIAC L. REV. 221 (1996); Scott Ruskay-Kidd, Note, *The Defense of Marriage Act and the Overextension of Congressional Authority*, 97 COLUM. L. REV. 1435 (1997).
  8. For a list of states that have passed such legislation, see Lambda Legal Defense and Education Fund, *2000 Anti-Marriage Bills Status Report* (visited Apr. 6, 2000) <<http://www.lambdalegal.org/cgi-bin/pages/documents/record?record=578>>.

it happened that the people of California were able to vote down the civil rights of a minority of its citizens.

### III. GOING FOR THE WIN

Once the Knight Initiative was assured of a place on the ballot, a handful of LGBT leaders from across the state held two reportedly heated meetings to discuss possible community responses. Some wanted to organize and fight to defeat the initiative; others felt that, given the proposed law's lack of practical implications, it would be a waste of resources to fight it. Some of these early strategizers argued that we would be unable to raise the money to wage a respectable fight. Quite a few of our community's most respected leaders did not even bother to attend.

Despite the rocky beginnings, a temporary steering committee was formed, and by the spring of 1999, a grant had been obtained to conduct preliminary polling. Mike Marshall was hired as Campaign Manager, and Californians for Fairness was incorporated as a political committee. By the fall of 1999, the campaign had received a \$300,000 donation which convinced us that we could raise the funding we needed to defeat the Knight Initiative. By December, we had a staff of twenty-five people across the state, as well as a team of some of the best pollsters and general and media consultants in the country.

From the beginning, the campaign had two goals. First and most obvious, our goal was to defeat the Knight Initiative. But no less important was our second goal: to leave the LGBT community in California in a stronger position after the campaign than it had been in before it. We believed we could do this by building a strong organization, training community organizers and leaders, and encouraging a public dialogue that would foster understanding of our community and support for equality for lesbians, gay men, and bisexual and transgendered people.

The tension between these two goals became clear to me at our first campaign retreat in October, attended by consultants, pollsters, and senior campaign staff. Some consultants were of the opinion that it was unlikely we could defeat the initiative, and that we should seriously consider a "hold harmless" strategy, meaning a strategy that would result in the least possible erosion of support for our community and our struggle for equality. Staff members, most of us newly hired onto our first campaign experiences, sat silently while experienced political consultants discussed which voters we should target depending on whether we chose the hold harmless approach or the less certain strategy to win. Finally—and much to my relief—Mike Marshall firmly and unequivocally told our advisors that we intended to win.

In my mind, that was one of the defining moments of the campaign. From that point forward (and with the whole-hearted support of the

staff), our objective was clear: we intended to win by defeating the initiative at the polls. We knew it would be difficult, we knew it would be close, and we knew we would need to do everything perfectly and exploit every opportunity that arose. But most of us, I think, could not see the point of investing our talents, our resources, and our lives in a battle that we did not intend to win. Even now, after the loss and after hearing critiques from our own community, I do not think we could have or should have made that decision any differently.

Unfortunately, the decision to go for the win meant that our second goal—building our movement—was consistently relegated to a secondary role. This was compounded by the fact that all initial polls indicated that less than forty percent of voters were likely to vote No. To win, we needed to expend every single resource and every ounce of energy and creativity on convincing fifteen percent of voters to change their minds about same-sex marriage. As a result, any community building that happened was a byproduct of our singular focus on defeating an anti-gay and homophobic law.

#### IV. THE MESSAGE

Our polls and focus groups told us that despite Californians' relative tolerance of lesbian and gay people, a majority of voters were uncomfortable with "gay marriage." From the beginning, we knew that we would lose an up or down vote on same-sex marriage. As one of our consultants put it, we needed to find a "higher value" that appealed to voters. This difficult task was further complicated by the fact that we had to convince people to vote *against* a law characterized by its supporters as pro-marriage. The No On Knight campaign was on the defensive simply because we were forced to run a "No" campaign.

We tested a variety of arguments and, based on the results, we developed our message: "*It's divisive. It's intrusive. It's unfair.*" This phrase became our mantra—so much so that the joke around headquarters every time gay marriage was mentioned was: "That's off-message!" What became a joke to us, however, was problematic for those members of our community who believed that the Knight Initiative ultimately *was* about same-sex marriage. This view, espoused most movingly by our supporters within the religious community, argued that lesbian and gay relationships are worthy of social approval, and that the Knight Initiative provided our community with an opportunity to engage voters in a dialogue about the reality of our lives. Though the focus on same-sex marriage was in many ways an accurate reflection of how voters would view the initiative, it was not entirely an accurate portrait of what the initiative would do.

At its most basic, the Knight Initiative was about homophobia. The fact that same-sex marriage would not be legal in California whether

Proposition 22 passed or failed necessitated a closer look at the rationale for its presence on the ballot. We consistently attempted to educate voters about the wealthy religious conservatives who had ensured that Californians would vote on this issue, as well as about the substantial contributions by particular religious groups that characterize homosexuality as sinful and immoral. In fact, supporters of mini-DOMAs across the country have subsequently used these laws to attack basic family and civil-rights protections by arguing that anti-marriage laws create a public policy against legal recognition of LGBT families or individual rights.<sup>9</sup> Despite claims to the contrary by its proponents, Proposition 22 was not "simple," and it was not just about marriage. "*It's Divisive—It's Intrusive—It's Unfair*" was our attempt to redefine the initiative by focusing on the harms it caused.

Nevertheless, the message had its problems. In retrospect, I think the biggest problem was that our mantra could not compete with the simple (albeit misleading) slogan of our enemies: "*Protect Marriage*." This phrase created the impression that a vote against Proposition 22 was a vote *against* marriage. Certainly voters were confused. Our staff received dozens of phone calls from voters who would state their positions (e.g., "I believe in same-sex marriage") and then ask us how they should vote. Our most difficult task was explaining to undecided voters that there were reasons to vote against the initiative even if they did not support same-sex marriage. The logical convolutions required to explain those reasons proved too much for one staff member, who found himself saying to a caller: "You don't have to like gay people to vote against Proposition 22." In contrast, "*Protect Marriage*" is a simple concept; one need not even explore the implied threats to that basic social unit to accept the premise that marriage is worthy of protection.

We were never able to simplify our message so succinctly. We could not argue with protecting marriage, so we didn't. Our best response was to argue that allowing us to marry was not a threat to any heterosexual marriage, and that not allowing us to marry did nothing to decrease real threats to marriage like an increasing divorce rate or domestic abuse. The failure of this argument is, I think, illustrated by an event that happened a few weeks before the election. Fox Television hosted a program called "Who Wants to Marry a Multi-Millionaire" wherein a male millionaire was presented with his own personal Miss America-like revue of marriageable females whom he had never met. At the end of the show, Mr. Millionaire and Ms. Wife-for-Sale married in front of a record-breaking home television audience.

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9. See Lambda Legal Defense and Education Fund, *The Threats Posed by Anti-Marriage Laws* (visited Apr. 6, 2000) <<http://www.lambdalegal.org/cgi-bin/pages/documents/record?record=433>>.

Following this program, the No on Knight campaign received phone calls and e-mails from gleeful supporters who believed that this shocking display of disrespect for the institution of marriage by heterosexuals somehow proved that we, same-sex couples, were hardly the evil destroyers of marriage's sacred vows. Supporters of the Knight Initiative urged voters to "*Protect Marriage*," but from whom? Surely not from us. And surely the fascination of the public for this television program would allow them to see the irony of a law that prevented loving couples from assuming legal responsibility for each other, while loveless unions predicated on greed were unquestionably sanctioned by the state.

About a week after this program, I received a call from a straight, married woman. She was a lawyer, perhaps in her early thirties, with gay family members. She was wrestling with the decision about how to vote on Proposition 22. She wanted to hear our arguments for voting against it. I obliged and, being a lawyer myself, particularly focused on the way similar laws in other states were being used to attack a variety of civil rights and family protection laws and rulings in other states. The caller listened, but she remained uncertain. "I just feel that marriage is really important," she told me, citing the Fox program as justification for her feeling that the institution of marriage was under attack. Her dilemma reflected what our polling told us: she did not believe in discrimination against LGBT people. But the issue for her was not discrimination. Instead, her reverence for the institution of marriage was threatened by the thought that changing social mores might destroy that institution. Given that reverence, and given the sorry state of matrimony in our society, she felt compelled to make her vote count for the sanctity of marriage. "*Protect Marriage*"—a powerful symbol indeed.

About ten days before Election Day, we began to see that our message, as expressed through our two television commercials, was not working. Polls showed little or no movement in voter attitudes, and although we were not losing ground, our ads clearly were not moving people in the direction we had hoped. A change was needed, so we began working on our final television ad. We agonized over staying with our message or going with our instincts. All of us wanted something stronger, something that would cut through the ubiquitous political ads and wake people up, something that would convince them that they would be doing real harm to real people by voting to pass this homophobic law.

Our final ad was very different from our first two ads. It showed a single image: anti-gay protesters holding signs that read "God Hates Fags" and "Faggots Burn in Hell." Unfortunately, it was too late. We had been unable to portray the proponents of Proposition 22 as anti-gay homophobes throughout the campaign, and our final image was not enough to convince voters that "protecting marriage" would make them anti-gay.

Of course, our inability to portray Proposition 22 supporters as hateful and homophobic was the result of the political and religious right's kinder, gentler message. This approach was, for us, bittersweet. In California, the majority of citizens, whether or not they are comfortable with homosexuality, do not support discrimination against the LGBT community. An ad campaign with homophobic overtones would not have played well here, and could easily have resulted in a backlash by the voters. Instead, Proposition 22 supporters sugarcoated their homophobia, insisting that they were not anti-gay and that they were actually supportive of gay and lesbian relationships. Proposition 22, they said over and over again, was not about gay people; it was about protecting marriage, and about letting Californians define marriage for themselves (in the traditional, heterosexist way). While this shift from blatant homophobia to apparent acceptance of gay men and lesbians was an unprecedented change in attitude for the religious right, the facade of tolerance handicapped our efforts to portray Proposition 22 as the anti-gay initiative we knew it to be.

## V. OUR COMMUNITY, OUR ALLIES

Our own community expressed mixed feelings about our message. In the days since the election, I have heard much praise for our professional approach and our television ads. But in the days before the election, I heard from numerous supporters that our message bordered on homophobic. People were especially disturbed by our ad featuring a white, middle-aged male, his family in the background, who at one point said, "most people don't support gay marriage." In fact, that was a true statement. And in light of our knowledge that we could only defeat the initiative by convincing people who are not in favor of same-sex marriage to vote against Proposition 22, the ad made perfect strategic sense. Even so, the decision to include that line in the ad was not made lightly, or easily. We actually had several versions of the ad; the staff preferred one including the statement, "I'm not ready for gay marriage," while no one liked the statement, "I don't believe in gay marriage." The decision to use the version we did was made specifically in an attempt to convince voters who do not believe in same-sex marriage that they could oppose the Knight Initiative regardless of their feelings about marriage. Despite the truth of the statement we ultimately chose to use, many members of the LGBT community found the ad to be offensive for giving voice to the homophobia underlying the belief that same-sex couples should not be allowed to marry.

The "*It's Divisive—It's Intrusive—It's Unfair*" slogan was never intended to be a message for our own community. We assumed that lesbians, gay men, bisexuals and transgendered people would vote against the



Proposition with little prompting from the campaign. Our focus within the community was on our earned media<sup>10</sup> efforts, and on our field program.<sup>11</sup> To win, we had to get the vote out, and that meant making sure that our potential supporters knew about the initiative and understood the importance of voting. The earned media effort was particularly successful, in that we obtained the endorsement of every major newspaper across the state, all of which wrote editorials denouncing Proposition 22. But it was through the gay press that we were able to explore the reasons for and ramifications of the initiative in more depth than we could do in the mainstream press. While earned media efforts were directed at getting information to our supporters, our field program focused on getting out the vote within our community and among our allies, with a strong emphasis on phone banks where volunteers called supporters to urge them to vote.

Our field program especially would have benefited from utilizing a message more in line with our supporters' personal experiences of homophobia and inequality. By designing the message for swing voters but using it with our own supporters as well, we not only alienated some members of the LGBT community, but we also failed to accurately assess the support of our allies—those voters who traditionally vote as liberals and who could be expected to support the political position of the LGBT community. Further, our focus on the swing vote failed to address the need for the LGBT community to build long-term relationships with communities of color.

We assumed, for example, that democratic women would support us; as a voting block, this group historically supports lesbian and gay rights. We considered this group part of our base, meaning that portion of the vote committed to voting No on Proposition 22. But our tracking polls in the weeks immediately before the election surprised us; we were doing better than before among men, but our support from women was significantly weaker than we had expected. Our ads, and to some extent our message, resonated more strongly with men than women. Government intrusion (an argument I have never fully understood or been able to articulate) is a message designed for men and for conservatives, who are more likely to have libertarian leanings. But it has little meaning for

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10. "Earned media" refers to press coverage that does not cost a campaign any money. For example, press conferences and press releases are designed to get the media to run stories about the campaign or election. Earned media also benefits from developing relationships with reporters, and suggesting story ideas or providing them with leads so that the campaign's message reaches as many potential voters as possible. In contrast, "paid media" requires payment for its appearance in any media, for example, television and radio commercials and newspaper advertisements. The No On Knight earned media program was spearheaded by a two-person press department.

11. A "field program" is the component of a campaign that targets voters likely to vote in the desired way, and then utilizes phone banks and precinct walks to get those voters to the polls. The field program is usually also responsible for organizing rallies to bring in volunteers and to inspire support within a community. The No On Knight field program was comprised of a statewide Field Director and ten Field Organizers located strategically around the state.

women who tend to support government action to protect the rights of minorities.

Perhaps the most problematic issue within and around the campaign, however, was our lack of comprehensive outreach to communities of color. Despite our efforts to hire a diverse staff, to create a diverse board of directors, and to work with community organizations through our field program, we were never perceived as being committed to forming alliances with communities of color. The reasons for this perception are probably many, but particular situations exemplify the problem.

The first complaints I heard revolved around a fundraising video we produced to be shown at house parties held to raise money for the campaign. The video was produced rather quickly by a company that covered most of the production costs as a donation to the campaign. We arranged for elected officials, lesbian and gay leaders, and families to be in Los Angeles for the shoot. But we did not have time to do much outreach, and white faces overwhelmingly peopled the resulting program. We had put it together so quickly and cheaply that we had not even considered the lack of real diversity it showcased.

We should have learned from that experience. But as it turned out, we faced a much larger challenge when it came to our paid media campaign. The Yes on 22 committee made a huge show of unveiling their first television commercial, which was a Spanish-language ad geared toward California's large Latino population. We had not ruled out doing Spanish-language ads, but at the time we were still unsure about how much television time we would be able to afford. As the time frame in which we could purchase television time ran out, we did not have any money to spare. Spanish-language television looked less and less possible. Quite a few people involved with the campaign advocated strongly for Spanish-language radio—not only is radio cheaper, but the number one radio station in the Los Angeles market is a Spanish-language station.

However, there were strong arguments against spending our limited financial resources on Spanish-language media. Even though Latinos listen to Spanish radio, polls report that Latino *voters* get their news and political information from English-language television. And our internal polling told us that we were doing relatively well among Latino voters—at least as well as, and sometimes better than, we were doing among whites. Given our financial status, it did not seem wise to spend our money on Spanish-language media when we could reach more people, including Latinos, through English-language media.

In the context of our goal of winning, the decision not to expend significant resources to appeal specifically and only to Latino voters made strategic sense. In a different context, with a focus on building relationships between one minority and another, the decision probably would—and should—have been different. We did eventually buy some ra-

dio time on Spanish-language radio, and supporting organizations bought a Spanish-language newspaper ad but, overall, the outreach we could have done did not happen. Given the nature of a campaign, I am still not sure that the paid media campaign could have turned out any differently. A campaign is a temporary structure, created and funded specifically for the purpose of winning an election. Everything we did to create an organization was done with the knowledge that the organization would not exist beyond the election. This is a peculiar mindset, and not one that lends itself to building long-term relationships.

Despite the temporal nature of the campaign, we could have done some things differently. The outreach and connections to communities of color could have been the focus of specific components of the campaign: the earned media strategy and political department are two areas that could have forged stronger links between the LGBT community and communities of color. Another press staffperson could have been assigned to focus on media outlets serving communities of color. A stronger political department might also have improved our ability and commitment to doing outreach; where we had one person focused on endorsements, we might have profited from a second staff member dedicated to building those connections specifically within communities of color. These steps might have been possible had our donors contributed earlier in the campaign, rather than later—a recurring problem that we need to help all of our communities to understand.

Finally, I think it is imperative for those of us who believe in the importance of coalition-building to understand that we cannot expect to build those coalitions at the same time that we are forced to defend our communities from attack. Those of us who are members of minority communities should also assume responsibility for supporting other communities which are under attack. Defensive strategies do not easily allow us the time or luxury to build connections between disparate groups. But those connections will provide us with the support that we need to fend off attacks on a targeted group. The lesson here is that we need to figure out how to do outreach and build connections when we are not under fire, so that we will have a solid foundation for mutual support that is understood and supported throughout our communities. Not only will such connections provide a base of support for defeating homophobic or racist ballot initiatives, but strong links between communities may be the only thing that will allow us to develop pro-active approaches for passing laws that actually benefit our communities.

## **VI. VICTORY FROM LOSS**

During the final week before the election, we began to face the probability of a loss. Difficult though it was, we knew we needed to figure out a

way to help our community understand that even though we were going to lose this battle, we had indeed made some significant accomplishments, and that despite our disappointment, we will indeed win the war.

On Election Night, we turned what could have been a somber affair into a rally, unveiling our own spin on our opponent's message of simplicity:

It's simple. It's common sense. It's only fourteen words.

"California's gay and lesbian families deserve the same legal protections as all married couples."

This new message focuses on the need to gain equal rights for LGBT families, regardless of the status of same-sex marriage. We made signs that said: "Equality = Family Leave." "Equality = Joint Insurance Benefits." "Equality = Inheritance Rights." "Equality = Respect for our Families."

We held conference calls with our spokespeople across the state, and with community leaders from across the country. Our message was clear. The majority of Californians may not be ready for same-sex marriage, but lesbian and gay families cannot wait for protection under the law. We do not have the same legal benefits afforded heterosexual families, and our families are harmed by that inequity. We deserve equal treatment, and whether it is called marriage or something else, we deserve equality now.

Press Secretary Tracey Conaty commented after the election that, during the course of the campaign, the ground shifted under our feet. And it has. The battle over the Knight Initiative, along with the pending reality of civil unions in Vermont<sup>12</sup> and increasing discussions about same-sex marriage around the country, has had a dramatic effect on the public dialogue about lesbian, gay, bisexual, and transgendered people. The focus is no longer on homosexuality as pathology, but rather on the fact that we are people with families. The issue is no longer whether our families deserve rights, but rather when and how those rights will be granted. Heterosexual America may not be "ready" for same-sex marriage, but every battle we fight illuminates the inequities faced by our families. New legal terms are being coined and new laws are being created or proposed that attempt to address these inequities. Whether we gain rights as domestic partners, or in civil unions, or by becoming reciprocal beneficiaries,<sup>13</sup>

12. See *Baker v. Vermont*, No. 98-03, 1999 Vt. LEXIS 406 (Vt. Dec. 20, 1999) (holding that Vermont's constitution requires it to extend protections and benefits similar to marriage to same-sex couples). In response to this landmark decision, the Vermont House of Representatives recently approved a bill creating "civil unions," which, if passed by the Senate, will give same-sex couples all the benefits and responsibilities of marriage under Vermont law. See, e.g., Editorial, *The Vermont Solution*, S.F. CHRON., Mar. 20, 2000, at A22; Carey Goldberg, *Vermont's House Backs Wide Rights for Gay Couples*, N.Y. TIMES, Mar. 17, 2000, at A1; Ross Sneyd, *Vermont Set to OK Same-Sex "Unions": A Bill Passed by the House Makes Gay Couples Eligible for the Same State Benefits as Married Heterosexuals*, PORTLAND PRESS HERALD, Mar. 17, 2000, at 1A.

13. California recently passed the most comprehensive domestic partnership law of any state, though it currently does little more than create a registry and provide some benefits for state employees. See, e.g., Matthew Yi & Robert Salladay, *Governor Signs Trio of Gay Rights Bills: Benefits for*

LGBT families are closer to achieving legal protections than we have ever been.

Perhaps ironically, our failure to defeat the Knight Initiative allows us to realize that, in spite of that singular focus on winning, we did manage to make significant gains toward our goal of strengthening the LGBT community in California. Certainly we proved that our community can run and finance a credible, professional statewide campaign. We trained political activists and leaders, we educated voters, and we developed databases of donors, volunteers, and voters. We created networks within the LGBT community both in California and across the country. Our challenge for the future is to utilize the skills and knowledge we gained to continue the fight for full equality for lesbians, gay men, bisexuals, transgendered persons, and our families.

We know that we will achieve the legal protections that opposite-sex married couples take for granted. It will happen first in Vermont. Then we will make it happen in California. And someday, lesbians and gay men will be granted access to the timeless institution of marriage. Only then will our families achieve true legal equality.

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*Same-Sex Partners of State Workers, Student Protection*, S.F. EXAMINER, Oct. 3, 1999, at A1. Many local governments across the country also have domestic partnership laws. See Lambda Legal Defense and Education Fund, *States and Municipalities Offering Domestic Partnership Benefits and Registries* (visited Apr. 6, 2000) <<http://www.lambdalegal.org/cgi-bin/pages/documents/record?record=403>>. Civil unions are a recent concept, created in response to the Vermont Supreme Court decision requiring that state to provide the same benefits to same-sex couples that are afforded opposite-sex couples under the law. See *supra* note 12. Reciprocal beneficiaries is a term introduced in Hawaii law because of the *Baehr* case; by registering as reciprocal beneficiaries with the state, same-sex couples are entitled to many (but not all) of the benefits and protections traditionally reserved for married couples. See H.B. 118 (Haw. 1997); see also Deb Price, *A Major Issue of Equality is Still Waiting on Hawaii's Highest Court*, DET. NEWS, June 19, 1998, at E8 (discussing Hawaii's Reciprocal Beneficiaries Law).