

If Utah falls, can the Gem State be far behind?

Marty Trillhaase/Lewiston Tribune

Nearly eight years ago, Idahoans deliberately chose to leap onto the wrong side of history.

They chiseled into their bedrock charter a constitutional amendment relegating gays to second-class citizenship, denying them the right to marry.

Even as the measure was debated, you could see the inevitability of a future, more enlightened society invalidating this form of state-sponsored prejudice. But the hurtful words Idahoans embraced in 2006 would remain etched in stone, an embarrassing reminder of this generation of Idahoans' rendezvous with bigotry.

They learned nothing from their history. In early statehood days, Idahoans approved a constitutional provision depriving Mormons of the vote. Credit the federal government for blocking that provision, but its taint remained embedded within the state constitution. Nearly four generations passed before voters went to the polls and formally erased that provision.

So what is the shelf life of Idaho's latest monument to intolerance?

Shorter than anyone could have imagined at the time. With almost lightning speed, a majority of Americans became persuaded they had been wrong to deny anyone their right to marry.

Judges in six states recognized the rights of gays to marry.

Lawmakers in another eight states enacted same-sex marriage laws.

In 2012, ordinary voters in Washington, Maryland and Maine passed ballot measures sanctioning the marriages of same-sex couples.

The following year, the U.S. Supreme Court stopped short of overturning same-sex marriage bans, but restored gay marriage in California and overturned federal laws interfering with the rights of couples in same-sex marriage states.

Then came the bombshell from - of all places - Utah.

Headquarters of the Mormon church, which has campaigned against gay marriage, it goes without saying Utah is about as socially conservative a state as you'll ever find. But in that venue, U.S. District Judge Robert J. Shelby overturned a state constitutional amendment limiting the blessings of marriage to heterosexual couples.

His ruling follows the logic of judges elsewhere - that marriage is a right, and for any state to deny it is to violate the U.S. Constitution's due process and equal protection clauses.

The same logic led to the U.S. Supreme Court's decision to reverse laws barring interracial marriage nearly a half-century ago.

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The respective state amendments are similar.

Utah's amendment says "Marriage consists only of the legal union between a man and a woman.

"No other domestic union, however denominated, may be recognized as a marriage or given the same or substantially equivalent legal effect."

Idaho's amendment is more succinct: "A marriage between a man and a woman is the only domestic legal union that shall be valid or recognized in this state."

The arguments four Idaho couples have brought to U.S. Magistrate Candy W. Dale bear a striking resemblance to the case four Utah couples submitted to Shelby.

Why, they ask, should Idaho deny them:

- Community property rights?
- Parental rights?
- Access to an ill spouse under hospitalization and the authority to make medical decisions for that spouse?
- The ability to provide a spouse with medical insurance coverage?
- Benefits due a spouse under Social Security, Medicare, veterans programs, pensions, worker compensation and inheritance?
- Recognition of a marriage performed in another state?

As in Utah, the state will be hard-pressed to answer, making it unavoidably clear that the Gem State is engaged in actively discriminating against people.

So when will Idaho's ill-fated attempt to declare some people less entitled to freedom than others be consigned to the footnotes of history?

How long before same-sex couples get married in Boise, Idaho Falls, Moscow and Caldwell?

And how much time will pass before Idahoans will reflect on the decision they made in 2006 and shakes their heads with dismay or disgust?

2020?

2016?

Next year? - M.T.

