



Same-sex marriage comes to forefront

It was a whiplash kind of week for those interested in the state of marriage in these United States.

Vice President Joe Biden kicked it off last Sunday with an announcement that he now is "completely comfortable" with men marrying men and women marrying women. He almost sounded like Delaware rocker George Thorogood when he said the essence of marriage really is "Who do you love?"

Biden later apologized to his boss, President Barack Obama, for having gotten -- as the president described it -- "a little bit over his skis" and pre-empting the president's long-belabored announcement of support for same-sex marriage, which would have been made at a later time if not for ... you know ... Joe.

Between those two declarations was a significant vote in a significant election-year state -- North Carolina -- where 61 percent of voters on Tuesday planted a firm "Not Here" sign in their ground, affirming an amendment to the state charter that limits marriage to heterosexual couples and precludes legal recognition of any other union -- same-sex or otherwise -- outside of marriage.

That statement has legal clout that neither Obama's nor Biden's carries.

But Obama's announcement raised the bar of this debate in significant ways. He is the first sitting president to endorse such unions. And every major newspaper in Europe carried the headline the next day -- as University of Delaware professor Leland Ware predicted.

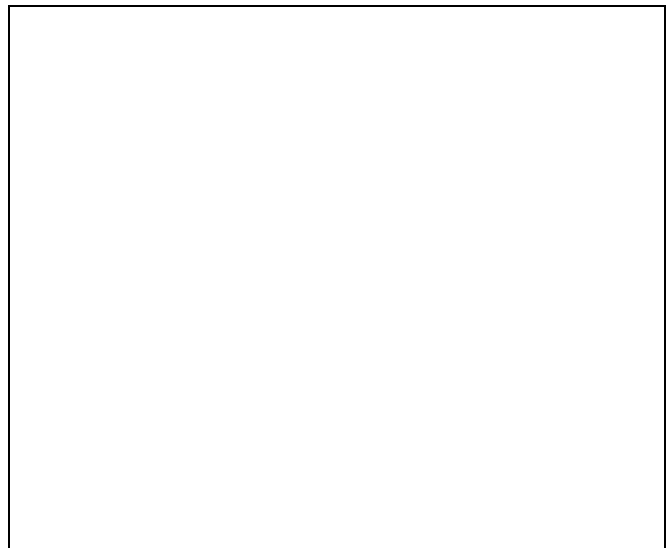
"Because it is the president and seen nationally and internationally, it's definitely a turning point of sorts," said Ware, the Louis L. Redding Chair and Professor for the Study of Law & Public Policy at UD's School of Public Policy & Administration.

Eric Bodenweiser, a Christian conservative activist in Sussex County, saw Obama's timing as an affront to North Carolina.

"To me, it was a tremendous insult to the people of North Carolina," he said. "It's ironic he would say that thing the very next day."

He doubts any such amendment would ever pass in Delaware.

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"There's a lot of people in Delaware who aren't as informed as they should be and would vote the wrong way," he said.

North Carolina's vote etches its existing state law more deeply in stone, and is added to similar actions already on the books in 30 other states. Six states and the District of Columbia allow same-sex marriage, with similar measures pending possible referendum votes in Maryland and Washington state. Delaware is among 13 states (including Maryland and Washington) that recognize legal same-sex unions but not marriage.

A civil rights issue

Ware sees the debate over same-sex marriage as a civil rights issue, one that may more likely be resolved in the courts than the voting booth.

Had such questions been left to voters, he said, nobody would have voted in favor of opening the doors of public schools to black children. That breakthrough required the 1954 *Brown v. Board of Education* ruling of the U.S. Supreme Court.

"In my opinion, it is un-American to put the minority's rights to a vote," said Lisa Goodman, a Wilmington attorney who -- with Equality Delaware -- steered efforts to pass Delaware's same-sex civil unions bill last year. "The president's willingness to speak on this issue is incredibly significant. The moral power of the presidency is one of the biggest powers of the office. To have a president speak from the heart on this

topic makes a tremendous difference -- not only for our community but for people who will be willing to reconsider their beliefs in light of the president's willingness to reconsider his."

Marriage laws are the purview of state lawmakers, as Obama reminded everyone this week. But the Supreme Court does rule on such measures where it finds constitutional issues in play, as it did in 1967 in *Loving v. Virginia*, a ruling that struck down Virginia's law against interracial marriage.

Obama -- who was a professor of constitutional law -- could have gone further, said John G. Culhane, professor at Widener University School of Law. He could have said he believes banning same-sex couples from marriage violates the Constitution's Equal Protection clause.

"He stopped short of that," said Culhane, who is gay. "But taking a step back from my law professor role, I found it very wonderful and moving and important for

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my president to say that he thinks we're entitled to full citizenship. ... In the long term, I really do think civil rights always win out. The president is on the right side of history and the effect of his statements will be to drive opponents into the position of having to defend inequality."

Ware believes the California case challenging that state's Proposition 8, which revoked that state's same-sex marriage rights, eventually will reach the Supreme Court. In the meantime, he said, the momentum in the court of public opinion is growing for approval of same-sex marriage, despite the vote in North Carolina.

Obama said his views have "evolved." Biden's have, too. Biden, who represented Delaware for six terms in the U.S. Senate, was among the 85 senators and 342 representatives who voted for the 1996 Defense of Marriage Act that defines marriage as the union of one man and one woman and protects the right of states to do the same, ignoring same-sex marriages or civil unions performed legally elsewhere.

New Castle County Clerk of the Peace Ken Boulden said he gets it.

"I've come full circle," said Boulden. "Early on, I could not imagine even being in a position to do a civil-union ceremony. I told people I couldn't see myself standing before a same-sex couple officiating at their ceremony.

"Now I have heard their stories, I have met

the people. And I now ask myself what's the big deal? Why did it take so long?"

Sussex County Clerk of the Peace George Parish still opposes it. He wishes the marriage question could be put to the voters here, but Delaware doesn't allow referendum votes.

Parish opposed Delaware's civil unions law, which took effect in January. When the law passed, Parish said he would not perform the ceremonies. He changed his mind later, saying he would honor the state's law and perform the duties of his office.

He does not support same-sex marriage, either, but he thinks it is "inevitable" in Delaware -- the same word Gov. Jack Markell used earlier this year. Parish believes legislation could be introduced as early as next year.

"For me, it's a historical, cultural and logical relationship" that links directly to a definition of a traditional family, he said.

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Changes in policy

Federal policy has changed in significant ways in the past year -- most notably in the repeal of the military's "don't ask, don't tell" policy and ban on homosexual troops.

In the Senate, Chris Coons, a Delaware Democrat, is a co-sponsor of the Respect for Marriage Act that would repeal the 1996 Defense of Marriage Act and grant federal recognition for all legal marriages.

"Whether the Respect for Marriage Act moves to the floor in this Congress or the next, we will eventually repeal DOMA," Coons said after the bill cleared a Senate committee last year. "We must redouble our efforts to show that the love and commitment **shared** by same-sex couples is of equal value as that shared by heterosexual couples."

Douglas Marshall-Steele, with towardequality.org, believes Obama's statement marks another pivotal moment in the push toward equality, a development "second only to Stonewall" -- the 1969 uprising in New York City that is considered the starting point of the lesbian, gay, bisexual and transgender (LGBT) movement in the U.S.

Mark Strasser, trustees professor of law at Capital University Law **School** in Columbus, Ohio, said in some ways Obama's shifting view could be perceived as a "barometer."

When an administration comes out with a position, the opposition brings out its views a

nd that gets the debate moving, he said.

Marshall-Steele said he isn't sure Obama's shift will be a significant election issue because Christian conservatives weren't going to vote for Obama anyway.

He sees a correlation between fundamentalist Christians who were opposed to integration during the 1950s and the Christian conservatives who are opposed to gay rights today.

"The fundamentalists of today are anti-gay," he said.

Ed Funk, a Millsboro conservative, had a gentler view, saying he came to know a gay couple when he retired to Delaware from Pennsylvania, and he is friendly with the men.

"I'm not going to be judging them," Funk said. "The man upstairs, he's going to be the judge."

But he thinks Obama acted cynically, with

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an eye to vote-getting.

"He's just doing this for votes. He's trying to get gay votes," he said.

Duke Brooks, spokesman for the Sussex County GOP, said he rarely hears gay marriage mentioned by Sussex voters.

"When I do, it is in the context of 'why change the definition of marriage?' " he said. "It is not in the context of 'I hate those gays!' "

Parish doesn't expect this to be a hot-button issue during the fall elections.

"I think the most compelling issue in Sussex County is the economy and jobs," he said.

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