

New York Times Editorial

Separate Is Not Equal

Published: October 10, 2008

With a 4-to-3 ruling on Friday that granted gay and lesbian couples the right to marry, the Connecticut Supreme Court ended a serious injustice within its own borders, and the national debate over the issue was catapulted forward. The ruling made Connecticut the third state to legalize same-sex marriage, following Massachusetts in 2004 and California in May.

Connecticut's Supreme Court was considering a ruling by a lower court that found that there was no denial of equal protection in excluding gay people from the institution of marriage. The lower court cited supposedly comparable protections and benefits afforded by the state's civil-unions law. The Supreme Court's decision correctly rejects that standard, which is the same as the excuse of separate but equal once used to rationalize racial segregation.

Justice Richard Palmer wrote in the majority opinion that segregating heterosexual and homosexual couples into different institutions constitutes a "cognizable harm" in light of "the history of pernicious discrimination faced by gay men and lesbians, and because the institution of marriage carries with it a status and significance that the newly created classification of civil unions does not embody."

Because of that history of discrimination, the decision properly treats sexual orientation as a "suspect classification" entitled to the sort of heightened legal scrutiny applied to distinctions based on race or sex.

The new ruling is especially timely. Californians are about to vote on a ballot initiative that in effect overturns the May ruling that gave gay people the right to marry. Its message about the unfairness of treating the relationships of same-sex couples as somehow inferior needs to be taken to heart.