

Bishops criticize 'judicial activism' in ruling on same-sex marriage

HARTFORD, Conn. – The Connecticut Supreme Court's Oct. 10 decision permitting same-sex marriage in the state was "a terribly regrettable exercise in judicial activism," the state's Catholic bishops said.

The court "has chosen to ignore the wisdom of our elected officials, the will of the people, and historical social and religious traditions spanning thousands of years by imposing a social experiment upon the people of our state," the bishops added in an Oct. 10 statement.

In a 4-3 decision in *Kerrigan v. Commissioner of Public Health*, the court majority said "the state's bar against same-sex marriage infringes on a fundamental right in violation of due process and discriminates on the basis of sex in violation of equal protection."

Eight same-sex couples sued after they applied for marriage licenses in 2004 in the town of Madison and were denied the licenses. In 2005 the Connecticut Legislature said same-sex couples in the state could enter into civil unions, with the "same rights and privileges" as spouses in a marriage," but continued to define marriage as "the union of one man and one woman."

"We conclude that, 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 union does not embody, the segregation of heterosexual and homosexual couples into separate institutions constitutes a cognizable harm," said Justice Richard M. Palmer, writing for the majority.

"The state has failed to provide sufficient justification for excluding same-sex couples from the institution of marriage," said the 85-page majority opinion.

Each of the three dissenting justices wrote his or her own opinion, with Justice Peter T. Zarella criticizing "the majority's unsupported assumptions that the essence of

marriage is a loving, committed relationship between two adults and that the sole reason that marriage has been limited to one man and one woman is society's moral disapproval of or irrational animus toward gay persons."

The Catholic bishops called on the citizens of Connecticut to vote "yes" on the Nov. 4 referendum on whether to call a constitutional convention. The state constitution requires asking voters every 20 years if they want such a convention.

"It appears our state Supreme Court has forgotten that courts should interpret laws and legislatures should make laws," the bishops said. "This ruling creates an inevitable conflict between people of faith, the natural law and the authority of the state."

Carl A. Anderson, supreme knight of the Knights of Columbus, said in a statement e-mailed to Catholic News Service that what U.S. Supreme Court Justice Byron White said 35 years ago about that court's decision legalizing abortion, *Roe v. Wade*, also applied to the Connecticut decision.

"It is an exercise of 'raw judicial power' and we will respond today as we did then: with a national, long-term educational and public policy effort to overturn a decision incompatible with a Christian way of life and the common good of society," added Anderson, who was in Rome as an observer at the world Synod of Bishops on the Bible.

The international headquarters of the Knights of Columbus is in Connecticut.

Richard Blumenthal, Connecticut attorney general, said the decision would not be appealed and same-sex marriages could be performed in the state beginning Oct. 28, under an earlier order of the state Superior Court.

Connecticut would be the third U.S. state to permit same-sex marriage, after California and Massachusetts. Civil unions or domestic partnerships are allowed for same-sex couples in Vermont, New Jersey, New Hampshire, Oregon, Hawaii, Maine, Washington state and the District of Columbia.

Currently 26 states, including Oregon, have constitutional amendments defining marriage as the union of one man and one woman. On Nov. 4 voters in three other

states - California, Arizona and Florida - will consider proposed constitutional amendments defining marriage.