

## Arrivederci DOMA!

Michael F. Moore (June 28, 2013)



The Supreme Court opened the way to federal recognition of same-sex marriage. Scene of jubilation at Greenwich Village's Sheridan Square

June 26, 2013 – NEW YORK – Greenwich Village's Sheridan Square was a scene of jubilation tonight at a rally to celebrate two rulings by the Supreme Court that open the way to federal recognition of same-sex marriage.

In twin five-four decisions, the justices overturned the [Defense of Marriage Act \(DOMA\)](#) [2], which had defined marriage as a union between a man and a woman only, and dismissed a case brought by the supporters of Proposition 8. The impact of the rulings is far-reaching. Same-sex couples married in states that recognize their union will now enjoy federal rights and protections equal to those of opposite-sex couples, including Social Security, veterans, and tax benefits, and – for bi-national couples – the right to sponsor their partners for a green card. The dismissal of the second



case removes the last obstacle to legalized same-sex marriage in California.

At the Sheridan Square rally in front of the Stonewall Inn, birthplace of the modern gay rights movement, Edith Windsor, the petitioner in the DOMA suit, concluded her speech to the crowd on a poignant note. "If I had to survive Thea, what a glorious way to do it. She would be so pleased." Thea Spyer was her partner for 46 years, and the two were married in Canada in 2007. Upon Thea's death, after a long struggle with multiple sclerosis, Windsor was hit with an estate tax of \$363,000 that she would not have had to pay, as she is fond of saying, if she had been married to a Theo rather than a Thea. She fought back by filing suit against the Government. Her name is now forever enshrined in the case just won, "United States v. Windsor."

In his opinion for the majority, Justice Anthony Kennedy wrote that DOMA was a violation of the [Fifth Amendment](#) [3] of the Constitution. His language could not have been more pointed in its defense of same-sex couples and their children. "The avowed purpose and practical effect of the law here in question are to impose a disadvantage, a separate status, and so a stigma upon all who enter into same-sex marriages made lawful by the unquestioned authority of the States."

The second case, *Hollingsworth v. Perry*, led to a more narrowly-focused, technical ruling. Initially, a U.S. District Court found that Proposition 8 – a ballot initiative that was passed by California voters – violated the due process and equal protection clauses of the 14th amendment, and was thus unconstitutional. Supporters of the Proposition took the case all the way to the Supreme Court, but on Wednesday the majority ruled that the petitioners did not have legal standing to appeal the District Court's decision.

In both decisions the respective executive branch – the [White House](#) [4] and the [California Governor's Office](#) [5] – had refused to defend in federal court a law passed by the legislature or by the electorate. This circumstance figures largely in the sharply-worded dissents to the rulings, and indeed sidesteps the central and more controversial issue of the legal definition of marriage.

While the speakers at the rally – Windsor, attorney Roberta Kaplan, City Council Speaker Christine Quinn, Congressman Jerry Nadler, and Evan Wolfson of Freedom to Marry – detailed the long and hard work behind the historic decision, the crowd was eager to get the party started. Everywhere people were waving red and blue flags distributed by the Human Rights campaign, punctuated by the occasional humorous or romantic placard. "Eligible bachelor," was the label on a small lollipop-shaped sign carried by one dapper youth in a pink suit, and a woman in a bridal veil (over a silver sequined brassiere and tulle skirt) held up a poster reading, "Everyone deserves the freedom to marry." Couples hugged each other and gay fathers and mothers hoisted their children on their shoulders. Political organizers were out in force, collecting signatures for the mayoral campaigns of Quinn and current front-runner Anthony Weiner.

Despite a few ominous rumbles and a scary-looking sky, the weather held. At rally's end, the crowd dispersed down Christopher Street, heading for their favorite watering holes, ready to lift a glass to this new chapter in their lives and in all civic life, and end the long vigil for equal treatment.

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[1] <http://www.iitaly.org/files/gaybandieravillage1372617786jpg>

[2] [http://www.huffingtonpost.com/2013/06/26/doma-supreme-court\\_n\\_3454838.html](http://www.huffingtonpost.com/2013/06/26/doma-supreme-court_n_3454838.html)

[3] [http://en.wikipedia.org/wiki/Fifth\\_Amendment\\_to\\_the\\_United\\_States\\_Constitution](http://en.wikipedia.org/wiki/Fifth_Amendment_to_the_United_States_Constitution)

[4] <http://www.whitehouse.gov/>

[5] <http://gov.ca.gov/home.php>