

# Issue

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LEGISLATION

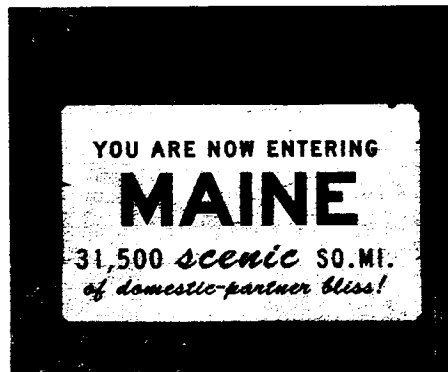
## Bordering on equality

As Maine recognizes domestic partnerships, Virginia bans them. What happens next?

**M**aine's Democratic governor, John Baldacci, joined a growing movement on April 28 when he signed a groundbreaking state law giving unmarried cohabitants who register with the state—including gay and lesbian couples—inheritance rights and other important protections. The law is largely about helping “people who die without a will,” said Rep. Ben Dudley, the Portland Democrat who sponsored the bill.

The domestic-partnership registry complements existing law passed in 2001 guaranteeing health insurance to domestic partners. It also puts Maine in the company of Hawaii, California, and New Jersey, each of which maintains similar domestic-partnership registries; Vermont, which sanctions civil unions; and Massachusetts, which on May 17 was to have begun extending full-fledged marriage rights to same-sex couples. “We are in a transitional period, moving from a situation where same-sex couples had no rights to, hopefully, a situation where we’ll have equal rights,” said Jon Davidson, senior counsel at Lambda Legal Defense and Education Fund.

So what challenges might this period of transition pose to registered couples traveling through states where laws limit recognition of their



legal relationships? Virginia's legislature passed a law in April banning not only recognition of same-sex marriage and civil unions but also domestic partnerships between same-sex couples. As other states enact similar bans, gay rights advocates are predicting a flood of litigation.

According to Davidson, there have been at least six court decisions in which couples committed in a Vermont civil union while living else-

where have sued for certain spousal rights in their home state, such as the right to dissolve the union. In the most notable case, the New York supreme court allowed John Langan the right to sue Manhattan's St. Vincent's Hospital for the wrongful death of his partner, with whom he had been legally joined in Vermont.

Evan Wolfson, executive director of the gay rights group Freedom to Marry, predicted that while litigation will eventually work out interstate differences in favor of marriage equality, many conflicts can be easily resolved in the meantime without invoking a “full faith and credit” constitutional argument. Rather, he said, states may defer to a more elementary legal principle known as “comity,” in which states are expected to recognize the legal acts of other states as long as they are not in violation of superior laws. This principle

was often used to recognize divorces and interracial marriages in states where they were not legal. For example, if a couple with a California domestic partnership guaranteeing them hospital-visitation rights is visiting Virginia when one partner is in a car accident, Wolfson said, the Virginia court could rule that the hospital should acknowledge the union and its attendant rights as a “courtesy.” —*Benjamin Ryan*

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