

# **Marriage Equality: Lessons Learned 2008-2009**

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## **ABOUT THE AUTHOR**

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Born James Dompkowski, he is a *cum laude* graduate of Dartmouth College and received an MBA from Cornell University.

Prior to founding Virtual Galt in 2008, Mr. Oaksun worked for nearly 20 years at the Unum Group in Portland, Maine, in a variety of roles within the financial, actuarial and communications organizations.

A firm believer in lifelong learning, he received Chartered Life Underwriter and Chartered Financial Consultant designations from The American College.

Mr. Oaksun has been involved with a variety of civic and charitable organizations. Among others, he has served as both treasurer and president of the Maine Gay Mens Chorus, president of the Community Orchestra of the Portland Symphony, and has done volunteer work with Equality Maine.

James lives in South Portland, Maine. He is in a relationship and hopes to be married... one day.

## **ABOUT LIBERTY FOR MAINE**

Liberty For Maine has been formed to advance the interests of freedom and liberty in Maine in an active, creative and assertive manner, offer support to similar efforts underway in many other states and nationally, and engage in other activities as appropriate.

The group has declared its support for the Statement of Principles of the national Libertarian Party.

## **ABOUT VIRTUAL GALT**

Virtual Galt is an economic and financial consultancy focused on the needs of gay men and lesbians at midlife. The company's holistic Financial Freud<sup>SM</sup> process examines all aspects of a person's life and makes recommendations that enhance financial as well as personal freedom. Among other efforts, the company is working on developing the first-ever stock index fund of companies with superior LGBT employee policies.

# **Marriage Equality: Lessons Learned 2008-2009**

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Should the November 2009 result in Maine – a 53/47 victory by the forces seeking to overturn marriage equality – have come as a surprise?

After all, No on 1 raised much more money than Yes on 1 did. They out-organized their opponents. They ran a positive, upbeat campaign. And still the result, just like California last year: a loss.

This report will examine the reasons behind the Maine loss. Then it will undertake demographic analysis of the results from Maine, California (Proposition 8) and Washington State (Referendum 71) to assess whether there were consistent demographic factors in play. Next, based on the results of the demographic analysis, a simple model will be suggested to estimate probability on a state-by-state basis of marriage equality being adopted at the ballot box. Finally, a going-forward strategy for marriage equality advocates will be proposed.

### **Maine: What Went Wrong?**

Given the type of campaign marriage equality advocates waged in Maine, and the realities of running such a campaign in a state like Maine, the No on 1 forces did about the best they could have. But close does not count, and a loss is a loss. There are five reasons the No on 1 forces lost Maine. Advocates of marriage equality must re-think what they are doing, or more electoral defeats are forthcoming. However, if they make some adjustments, they will obtain the result they seek, eventually.

#### **1. What Are We Voting On, Anyway?**

First: a pop quiz: How many times were the words “gay” or “lesbian” used in No on 1’s ads?

One speaker, in one ad, said the word “gay”. One time. Some wizard at some polling firm, or the Human Rights Campaign, or somewhere, had the idea that the sure path to electoral success was never to come out (pardon the pun) and say what the vote was really about.

In many respects this made the No on 1 effort a carbon copy of California’s No on 8 campaign – just better funded and organized. The core messages, including evasion of those two words, were the same. With the same result.

Refusing to use the words “gay” and “lesbian” made the marriage equality forces look like they were trying to hide something. When people are asked to buy something new, and same sex marriage is a relatively new concept for many, they want straight talk – they want to know what exactly they are buying. They are adults, not children; although it can be argued that even children can sense deception and excessive cleverness when they see and hear them.

In contrast the Yes on 1 forces were very clear in their media that the issue was about gay men and lesbians, and they were under no obligation to cast the LGBT community in a favorable light. They also made frequent use of the word “homosexual”, which is now out of favor in most circles.

## **2. Is the Best Offense a Good Defense?**

No on 1 never recovered from their opponents' initial advertising salvo on education and kids. Their media campaign from then on was nearly entirely defensive. Most people know, you can only win with defense if you are protecting a good-sized lead. No on 1 may have had poor polling data, or assumed since the Maine legislature had passed the marriage equality law that their victory was all but assured. Another mistake.

## **3. Who’s Got an “Agenda”?**

How many times did the Yes on 1 people talk about the Gay Agenda, or the Radical Homosexual Agenda: always in ominous terms, but never spelling out what that meant. The insinuation was that “radical gays” had a wild plan they were itching to foist on Mainers and the nation. (As mentioned above, the refusal of the No on 1 forces to use the words “gay” or “lesbian” reinforced the Yes on 1 campaign’s implication that the marriage equality advocates really did have something to hide.)

Remarkably, the No on 1 campaign never adequately answered this insinuation – and even more remarkable was the fact that, in reality, it is the leadership of those who *oppose* marriage equality who have the agenda. However, their agenda is extraordinarily unpopular among swing voters, so they do not ever talk about it. They talk only about their wedge issue – gay marriage – but not about what is just under the surface. Their agenda includes:

- prohibition of abortion even in cases of rape or incest;
- censorship of books and artists;
- elevation of men and subordination of women to men;
- re-writing basic school science curricula; and

- turning America into a "Christian nation" (as they define "Christian") and writing their interpretation of Biblical precepts into law.

Marriage equality leaders have never addressed why, in their opinion, the full agenda of the anti-equality forces is not a suitable subject for public discussion.

#### **4. Is Marriage an "Intrinsic (Negative) Right"?**

Polling by the Gallup Organization and USA TODAY suggests a framing for marriage equality efforts. Most Americans are supportive of arguments centered on personal freedom and liberty. They do not like being told that the government can stop them from living their lives in privacy.

In the poll, 63 percent of Americans stated that marriage of two men or two women was an entirely private matter and that government should not intervene.

However, instead of this "negative rights" framing, marriage equality advocates – including those in charge of the Maine campaign -- continue to use a positive rights framing, tacitly acknowledging that the government has the right to interfere. This is also a mistake.

#### **5. Is "Marriage" Still a Bridge Too Far In Some Places?**

Gay men and lesbians have come a long way in a short time (relatively). It has only been 40 years since Stonewall. Time is on the LGBT community's side, and the younger generation – those under 40 – are strongly in their corner. It is likely that there will be full marriage equality in most if not all of America within 25 years.

The word "marriage", obviously, remains a huge hot button for many Americans, including Mainers. These people are not all the way to the full marriage equality position yet, even though they might not bear any direct animus toward gay people.

Fifty-eight years passed between the Supreme Court's "separate but equal" education decision, and its cancellation. Politics is the art of the possible. Most observers agree that it would be preferable to bring a social change like marriage equality about at the ballot box than through the court system, although it is likely, in the end, the courts will deliver the final victory once a clear majority of states endorse full equality. The initial victories should probably come through the democratic process, which may not yet be ready

to give the LGBT community everything it wants. Maybe it is in some states, but clearly not in all.

**Demographic Realities**

A review of the town by town results of Maine Question 1 proves very instructive, especially when compared with the county-wide results from California Prop 8 and Washington Referendum 71.

A dataset was constructed that merged the three states’ raw vote results with 21 demographic variables as reported through the 2000 Census of the United States. Correlations were developed between the variables and vote percentages in favor of the marriage equality position (i.e., “No” votes in Maine and California, and “Yes” votes in Washington).

The results are striking and essentially consistent across all three states in terms of the strongest correlated variables.

	Maine	California	Washington
Median House Value	0.77	0.80	0.84
Percent of Adults with at least a 4 year college degree	0.77	0.86	0.67
Percent of Adults with a graduate, professional or doctoral degree	0.68	0.86	0.63
Percent of adults who did not graduate from high school	(0.67)	(0.57)	(0.63)
Percent households with income \$75k+ Median Income	0.55	0.68 *	0.65 *
Percent residents under age 18	(0.21)	(0.59)	(0.62)
Percent households with income < \$15k	(0.38)	(0.55) **	(0.45) **
Percent residents in same sex couples	0.12	0.63	0.61
Percent residents under age 10	(0.10)	(0.42)	(0.48)
Percent rural	(0.34)	(0.24)	(0.19)
Percent residents over age 65	0.06	(0.04)	0.08

\* California and Washington \$100k+  
 \*\* California and Washington Under \$20k

*(A brief explanation of how correlation coefficients work. Basically, a coefficient of +1.0 means two variables are perfectly correlated, i.e., an increase in one always means an increase in the other. Conversely, a coefficient of -1.0 means perfect negative correlation, i.e., an increase in one always means a decrease in the other. Statisticians get excited (well as excited as statisticians get) when they see coefficients of greater than +0.7, or less than -0.7. Coefficients between -0.3 and +0.3 are considered weak to meaningless.)*

Across all three states, the same variables were most predictive of the marriage equality vote total. Median house value – a proxy for the wealth of the community – proved to be the best predictor overall. Voter education level also proved a strong predictor, as did income.

It is notable which variables were less predictive. The least predictive major variable was the percent of residents over age 65. Much has been made in the media about how support for marriage equality declines with age. Here, it is not age *per se* that is the driver, it is wealth and education. Wealthy educated seniors seemed to be supportive of the equality position; downscale less educated seniors were against.

It is also interesting to note two differences between the Maine results, and the California and Washington totals. In Maine, presence of high numbers of children was not especially predictive of the vote. However, this was a moderate predictor in the other two states. This suggests that the work done in Maine to neutralize the “schools and kids” issue – although excessively defensive -- was effective.

Also, presence of identified same sex couples in a town was not a good predictor in Maine, but was a moderately good predictor in the other two states.

Finally a word about a supposed explanation for the California Proposition 8 result – the African American vote. The demographic analysis here suggests a different approach. In California, there was no correlation whatsoever between the African American proportion of a county’s population, and the county’s Prop 8 vote. As stated earlier, *wealth and education are the driving predictors behind a marriage equality vote, not race or anything else.* Downscale undereducated Caucasians in Maine and Washington voted the same way that downscale undereducated African Americans (and Caucasians too) in California did.

## **Quartile Distribution of Equality Vote in Maine, California and Washington**

The strength of the correlations is clearly evident when the towns and counties are divided into quartiles based on their wealth and education levels.

### **Percent Support for Equality Position Ranked by Home Value**

	CA	ME	WA	Average
Top Quartile	55	58	61	58
Second Quartile	48	45	48	47
Third Quartile	38	40	38	39
Bottom Quartile	29	30	36	32

### **Percent Support for Equality Position Ranked by Adults with College Degree or Greater**

	CA	ME	WA	Average
Top Quartile	54	59	63	59
Second Quartile	49	45	47	47
Third Quartile	34	38	37	36
Bottom Quartile	28	33	37	33

### **Percent Support for Equality Position Ranked by Adults Without High School Diploma**

	CA	ME	WA	Average
Top Quartile	45	36	35	39
Second Quartile	41	41	45	42
Third Quartile	53	51	46	50
Bottom Quartile	56	55	59	57

The equality position draws solid support at the top quartile rank (bottom when considering lack of a high school diploma). In quartiles with less wealth and less education, support for the full equality position dramatically declines.

## **A Model to Predict Probability of Marriage Equality Success By State**

Since it can be seen that four variables are strongly predictive of support for marriage equality, the 2000 Census data can be used to build a simple predictive model for the likelihood of success of marriage equality in a public vote within the next 5-10 years.

Four variables were used in the model:

- home values;
- adults with college education;
- adults without a high school diploma; and
- high income households.

Based on this model, two of the three top ranked states are Massachusetts and Connecticut, which already have full marriage equality. New Hampshire – in the top 10 – will have full equality in January 2010. Washington DC (also in the top 10) is widely expected to pass marriage equality before the end of 2009. Washington state is ranked sixth.

Of the remaining states, the five with the highest scores are:

Hawaii	100
Colorado	93
New Jersey	92
Maryland	90
Alaska	86

At this writing it is unclear whether New Jersey's legislature will pass a marriage equality bill before Governor Jon Corzine leaves office in mid-January. However, politicians follow the election returns closely, Corzine lost his re-election bid to someone who opposes equality, and the Maine vote may make some elected officials skittish about getting too far ahead of their constituents.

Interestingly, California ranks just 10<sup>th</sup> in this model with a score of 74. Maine – site of the heated campaign this past fall – is in 24<sup>th</sup> place with a score of 50. New York – whose State Senate is trying to pass an equality bill – ranks 15<sup>th</sup>.

Iowa – where a state court decision implemented marriage equality – received a score of only 47 in this model. This suggests that, if marriage equality were put to a popular vote in Iowa in the near future, it would stand a good chance of being repealed.

## **Suggestions for Strategy Going Forward**

1. **Shelve the Defensiveness.** Sales Training 101 gives the answer to the fear mongering favored by anti-equality forces concerning schools and kids.

If there is an objection a salesperson is certain to hear, all sales trainers will advise them to bring it up themselves, defuse it, brag about it, and turn it into an advantage. In other words: **Frame It Yourself First.**

With respect to schools, perhaps the framing is to talk about what modern society asks the schools to do. Educate, yes. But also prepare the leaders of tomorrow to function collaboratively in a diverse society. The reality of life is, yes, there are gay people and they are not going away.

Furthermore, marriage equality advocates should make clear that their opponents' full agendas will be up for discussion, the next time insinuations are made regarding hypothetical "radical gay agendas". Putting them on notice will probably be sufficient to remove that arrow from their quiver. Glass houses, stones, etc.

2. **Go for the Second Quartile.** Results from Maine, California and Washington state all show that marriage equality already has comfortable majority support among the elites. The next challenge is building support in the next tier – people who are more middle class and middle educated.

Marriage equality leaders need to construct messages that speak to that demographic, using spokespeople and situations with which this cohort identifies. It is a mistake to feature educated affluent gay men and lesbians in the quest for more downscale votes. And as mentioned above, evasiveness about the real issue compounds the problem.

The "negative rights" formulation suggested earlier may be an effective approach, especially if it can be tied to other negative rights concerns of people in the second quartile (e.g., Second Amendment issues perhaps).

3. **Win California.** With a score of 74 (i.e., a 74 percent likelihood of success in the next 5-10 years) California should be winnable for the marriage equality forces in the near future, if they run the right kind of campaign.

The campaign needs to be focused on the middle class, middle income, "ordinary folks" tier of the demographic, not on the elites.

4. **Tactical approaches to selected other states.** As mentioned above, Colorado, New Jersey and a handful of other states would probably be ready today to pass marriage equality, given the right kind of campaign.

Whether activists wish to continue the fight on a state by state basis, in advance of a final result from California, is not clear.

5. **A Federal "Civil Unions" Law?** For now, it is possible the LGBT community could get something substantially equivalent to marriage at the Federal – as opposed to the individual state – level. There are enough votes in Congress today to pass a Federal civil unions law. This would be extraordinarily beneficial to the millions of gay men and lesbians now living in states with constitutional amendments banning same sex marriage.

There are many who would consider this a half a loaf, separate but equal solution. However, if the choice is all or nothing, many states will for the foreseeable future choose nothing. The model discussed earlier in the report suggests at least half the states are unlikely to pass marriage equality in the next 10 years. The list of states unlikely to approve marriage equality any time soon includes Texas and Florida, the second and third largest states.

6. **Wait 5-10 Years.** Some compare the fight for marriage equality to the African-American civil rights movement of the 1950s and 1960s. There are some parallels, but also some important differences. The great advances in African-American civil rights came during a time of considerable economic growth, which, it could be argued, made the societal changes more palatable to some cohorts of the electorate.

Clearly the United States is not in an economic growth phase at present. What economist Arnold Kling refers to as the "Great Recalculation" continues, and some observers believe a sustained growth period may be 5-7 years away. Perhaps it would be in the LGBT community's interest to wait for more favorable economic times before making a wholesale push for full marriage equality across multiple states or the country as a whole.

Many supporters of marriage equality are very disappointed by the Maine results, coming only a year after the loss in California. But it is abundantly clear what happened and why. And the road forward should be equally clear.