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NATIONAL news**CALIFORNIA COURT STRIKES DOWN
SAME-SEX MARRIAGE BAN**

The prohibition on same-sex marriage was struck down as unconstitutional by California Superior Court Judge Richard A. Kramer in a decision released March 14. He served for eight years as a judge in San Francisco before being appointed to the California bench by Republican Gov. Pete Wilson in 1996.

The decision is known as Woo/Martin vs. California and consists of six separate lawsuits filed by pro- and anti-gay parties. All had agreed to the consolidated procedure in order to expedite the hearing and appeal process for what

sex couples virtually all the rights of marriage, it could then deny those few remaining benefits and the appellation of marriage. Kramer said the question becomes "whether there is a legitimate governmental purpose for denying same-sex couples the last step in the equation: the right to marry itself."

"The existence of marriage-like rights without marriage actually cuts against the existence of a rational governmental interest for denying marriage to same-sex couples...[it] points to the conclusion that there is no rational state interest in denying them the rites of marriage as well."

"The idea that marriage-like rights without marriage is adequate smacks of a concept long rejected by the courts: separate but equal," Kramer wrote, citing the landmark 1954 civil rights decision Brown vs. Board of Education.

Right-wing plaintiffs had argued that case law established procreation as the basis for marriage. Kramer dissected their examples and concluded, "Instead, these cases establish that annulment is a remedy for the fraudulent inducement to marry. The facts in plaintiffs' cases also confirm the obvious natural and social reality that one does not have to be married in order to procreate, nor does one have to procreate in order to be married."

Applying the "strict scrutiny test," he found, "The marriage law establishes classifications (same gender vs. opposite gender) and discriminates based on those gender-based classifications. As such, for the purpose of an equal protection analysis, the legislative scheme creates a gender-based classification."

"The starting point is that one can choose who to marry, and that choice cannot be limited by the state unless there is a legitimate governmental reason for doing so." While the state has successfully demonstrated a legitimate interest in prohibiting a minor under a certain age and closely related kin from marrying, it has not done so here.

"The court recognized that same-sex couples aren't treated equally under the law unless we can marry," said Jennifer C. Pizer, an attorney with Lambda Legal who participated in the case. "This ruling says that same-sex couples deserve all the protections and security marriage provides and that we're entitled to get them the same way straight couples do."

Shannon Minter, legal director of the National Center for Lesbian Rights, which brought one of the lawsuits, said: "Couples who



Brides kiss after marrying in San Francisco last year.

most believe will be final resolution by the California Supreme Court.

Kramer first examined the "rational basis" for the state creating the law and found, "The state's protracted denial of equal protection cannot be justified simply because such constitutional violation has become tradition." He cited the 1948 Perez case, in which the California Supreme Court struck down a ban on interracial marriage.

He then turned to the U.S. Supreme Court, which struck down state sodomy statutes in the 2003 decision of Lawrence vs. Texas: "The fact that the governing majority in a state has traditionally viewed a particular practice as immoral is not a sufficient reason for upholding a law prohibiting the practice; neither history nor tradition could save a law prohibiting miscegenation from constitutional attack."

"Simply put, same-sex marriage cannot be prohibited solely because California has always done so before," Kramer said.

The state also claimed that in granting same-



From top, Oregon couples Beth Crane and Deb Zang, Tay Juncker and Kathy Belge, and Bob Richardson and Jason Evans got married in San Francisco last year.