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Journal of the House**
FRIDAY, FEBRUARY 11, 2000
House Resolution Referred to Committee
H.R. 35

Reps. Sheltra of Derby, Randall of Bradford, Baker of West Rutland, Hathaway of Barton, Hoag of Woodford, Hudson of Lyndon, Maslack of Poultney, McGrath of Ferrisburgh, Mullin of Rutland Town, Pike of Mendon, Robb of Swanton and Valsangiacomo of Barre City offered a House resolution, entitled

House resolution relating to the constitutional authority of the Vermont Supreme Court;

Whereas, the government of Vermont organized into three separate divisions of power, each exercising the exclusive powers constitutionally granted to it, is fundamental to the establishment and maintenance of our democratic republic and is a paramount necessity for a people to remain free and self-governing, and

Whereas, Chapter II § 5 of the Vermont State Constitution clearly states, "The Legislative, Executive, and Judiciary departments, shall be separate and distinct, so that neither exercise the powers properly belonging to the others" and clearly states in Chapter II § 2, "That Supreme Legislative power shall be exercised by a Senate and a House of Representatives", and

Whereas, the Vermont Supreme Court itself acknowledged this fundamental truth in re: D.L. 164 VT. 223 (1995), an opinion written by Justice Dooley and joined by Justices Morse and Johnson which held that "The Legislative power is the power that formulates and enacts the laws; the executive power enforces them; and the judicial power interprets and applies them", the division of power "serves to create a structure resistant to forces of tyranny", and

Whereas, the Vermont Supreme Court with this clear understanding of these liberty-protecting constraints and its authority did, after holding as a matter of law, that Vermont's marriage statute did not include same-sex couples and held explicitly and unequivocally that the marriage law, in restricting

marriage to the union of one man and one woman, did not violate the Vermont Constitution, then ordered the passage of hundreds of new laws requiring the creation of so-called domestic partnerships, a legal relationship which has never existed in this state or any other state of the union, in clear violation of its constitutional authority, the separation of powers, and it is thus without legal effect, and

Whereas, such an Order is a deliberate and willful attempt to usurp powers of the legislature and the people, and if not resisted, aids and abets the court in establishing itself as an all powerful oligarchy, in violation of our constitution, laws, history and the Constitution of the United States, and

Whereas, succumbing to the unconstitutional Order of the court, severely undermines and mocks the Judeo-Christian moral foundation of our society; furthermore, forcing laws on an unwilling populace constitutes a dereliction of duty on the part of the legislature by not protecting the people and their exclusive right, through their legislators, to determine what shall be enacted into law, within constitutional restraints, now therefore be it

Resolved by the House of Representatives:

That this legislative body ignore the Supreme Court's usurpation of legislative authority and that no change in law occur concerning marriage or domestic partnership as a result of the Baker vs. State of Vermont opinion, and be it further

Resolved: That the House of Representatives immediately hold hearings to consider the impeachment of all Justices of the Vermont Supreme Court complicit in the Baker vs. State opinion, on the basis of unconstitutional usurpation of authority in violation of their oath to uphold and defend the Constitution of the State of Vermont.

Which was read, and referred to the committee on Judiciary.

****From the Vermont Legislative Council Web Page**