

## TIMELINE | Same-sex rights in Canada

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Same-sex rights in Canada have come a long way since 1965. That year, the Supreme Court of Canada upheld a ruling that labelled Everett Klippert a "dangerous sexual offender" and threw him in prison for admitting he was gay and that he had sex with other men.

Today, homosexual Canadians enjoy much more freedom and societal acceptance. Here's a look at some of the changes that have occurred since Klippert was sent behind bars.

### 1965

Everett Klippert, a Northwest Territories mechanic, acknowledges to police that he is gay, has had sex with men over a 24-year period and is unlikely to change. In 1967, Klippert is sent to prison indefinitely as a "dangerous sex offender," a sentence that was backed up by the Supreme Court of Canada that same year.

### Dec. 22, 1967

Justice Minister Pierre Trudeau proposes amendments to the Criminal Code which, among other things, would relax the laws against homosexuality.

Discussing the amendments, Trudeau says: "It's certainly the most extensive revision of the Criminal Code since the 1950s and, in terms of the subject matter it deals with, I feel that it has knocked down a lot of totems and overridden a lot of taboos and I feel that in that sense it is new. It's bringing the laws of the land up to contemporary society I think. Take this thing on homosexuality. I think the view we take here is that there's no place for the state in the bedrooms of the nation. I think that what's done in private between adults doesn't concern the Criminal Code. When it becomes public this is a different matter, or when it relates to minors this is a different matter."

### 1969

Trudeau's amendments pass into the Criminal Code, decriminalizing homosexuality in Canada.

### July 20, 1971

Everett Klippert is released.

### Dec. 16, 1977

Quebec includes sexual orientation in its Human Rights Code, making it the first province in Canada to pass a gay civil rights law. The law makes it illegal to discriminate against gays in housing, public accommodation and employment. By 2001, all provinces and territories take this step except Alberta, Prince Edward Island and the Northwest Territories.

### Jan. 5, 1978

The Pink Triangle Press (now publisher of Xtra magazine) is charged with "possession of obscene material for the purpose of distribution" and "the use of mails for the purpose of transmitting anything that is obscene, indecent or scurrilous" for publishing an article titled "Men Loving Boys Loving Men" in the Dec. 1977/Jan. 1978 issue of The Body Politic.

After almost six years in the courts, including two trials, the case is finally resolved when on Oct. 15, 1983, the deadline passes for the Crown to appeal the second court acquittal. (In the first trial, The Pink Triangle Press had also won an acquittal but upon appeal the Crown won a retrial.)

The case results in an important precedent. On June 15, 1982, Judge Thomas Mercer, the judge for the second trial, rules that the article "does, in fact, advocate pedophilia," but says, "It is perfectly legal to advocate what in itself would be unacceptable to most Canadians."

## **1978**

Canada gets a new Immigration Act. Under the act, homosexuals are removed from the list of inadmissible classes.

## **1979**

The Canadian Human Rights Commission recommends in its annual report that "sexual orientation" be added to the Canadian Human Rights Act.

## **May 2, 1980**

Bill C-242, an act to prohibit discrimination on grounds of sexual orientation, gets its first reading in the House of Commons by MP Pat Carney. The bill, which would have inserted "sexual orientation" into the Canadian Human Rights Act, doesn't pass.

MP Svend Robinson introduces similar bills in 1983, 1985, 1986, 1989, and 1991. In 1991, Robinson tries to get the definition of "spouse" in the Income Tax Act and Canada Pension Plan Act to include "or of the same sex." In 1992, he tries to get the "opposite sex" definition of "spouse" removed from Bill C-55 which would add the definition to survivor benefits provisions of federal pension legislation. All the proposed bills are defeated.

## **Feb. 5, 1981**

More than 300 men are arrested following police raids at four gay bath houses in Toronto, the largest mass arrest since the War Measures Act was invoked during the October Crisis. The next night, about 3,000 people march in downtown Toronto to protest the arrests. This is considered to be Canada's 'Stonewall.'

## **October 1985**

The Parliamentary Committee on Equality Rights releases a report titled "Equality for All." The committee writes that it is shocked by the high level of discriminatory treatment of homosexuals in Canada. The report discusses the harassment, violence, physical abuse, psychological oppression and

hate propaganda that homosexuals live with. The committee recommends that the Canadian Human Rights Act be changed to make it illegal to discriminate based on sexual orientation.

In March 1986, the government responds to the report in a paper titled "Toward Equality" in which it writes "the government will take whatever measures are necessary to ensure that sexual orientation is a prohibited ground of discrimination in relation to all areas of federal jurisdiction."

## 1988

Svend Robinson goes public about being gay, becoming the first member of Parliament to do so. Robinson was first elected to the House of Commons in 1979. In 2000, the B.C. riding of Burnaby-Douglas (though its borders had changed) elected Robinson for the eighth time.

## 1991

Delwin Vriend, a lab instructor at King's University College in Edmonton, Alta., is fired from his job because he is gay. The Alberta Human Rights Commission refuses to investigate the case because the Alberta Individual Rights Protection Act does not cover discrimination based on sexual orientation.

Vriend takes the government of Alberta to court and, in 1994, the court rules that sexual orientation must be added to the act. The government wins on appeal in 1996 and the decision is overturned.

In November 1997, the case goes to the Supreme Court of Canada and on April 2, 1998, the high court unanimously rules that the exclusion of homosexuals from Alberta's Individual Rights Protection Act is a violation of the Charter of Rights and Freedoms. The Supreme Court says that the act would be interpreted to include homosexuals even if the province doesn't change it. The Alberta government does not use the notwithstanding clause despite pressure from conservative and religious groups.

## August 1992

In *Haig and Birch v. Canada*, the Ontario Court of Appeal rules that the failure to include sexual orientation in the Canadian Human Rights Act is discriminatory. Federal Justice Minister Kim Campbell responds to the decision by announcing the government would take the necessary steps to include sexual orientation in the Canadian Human Rights Act.

## November 1992

The federal court lifts the country's ban on homosexuals in the military, allowing gays and lesbians to serve in the armed forces.

## Dec. 9, 1992

As promised, Justice Minister Kim Campbell introduces Bill C-108, which would add "sexual orientation" to the Canadian Human Rights Act. But the act, which would also restrict the definition of "marital status" to opposite-sex couples, doesn't pass first reading.

On June 3, 1993, the Senate passes Bill S-15, another attempt at adding "sexual orientation" to the Canadian Human Rights Act, but the bill doesn't make it to the House of Commons because Parliament is dissolved for the 1993 federal election.

## **Feb. 23, 1993**

In the Mossop case, the Supreme Court of Canada rules that the denial of bereavement leave to a gay partner is not discrimination based on family status defined in the Canadian Human Rights Act. The case isn't a complete loss to homosexuals though. Two of the judges find the term "family status" was broad enough to include same-sex couples living together in a long-term relationship. The Supreme Court also notes that if Section 15 of the Charter of Rights and Freedoms had been argued, the ruling might have been different.

## **May 1995**

The Supreme Court rules on the case involving Jim Egan and Jack Nesbit, two gay men who sued Ottawa for the right to claim a spousal pension under the Old Age Security Act. The court rules against Egan and Nesbit. However, all nine judges agree that sexual orientation is a protected ground and that protection extends to partnerships of lesbians and gay men.

## **May 1995**

An Ontario Court judge finds that the Child and Family Services Act of Ontario infringes Section 15 of the Charter by not allowing same-sex couples to bring a joint application for adoption. He rules that four lesbians have the right to adopt their partners' children. Ontario becomes the first province to make it legal for same-sex couples to adopt. British Columbia, Alberta and Nova Scotia follow suit, also allowing adoption by same-sex couples. Other provinces are looking into the issue.

## **1996**

The federal government passes Bill C-33 which adds "sexual orientation" to the Canadian Human Rights Act.

## **May 1999**

The Supreme Court of Canada rules same-sex couples should have the same benefits and obligations as opposite-sex common-law couples and equal access to benefits from social programs to which they contribute.

The ruling centred on the "M v. H" case which involved two Toronto women who had lived together for more than a decade. When the couple broke up in 1992, "M" sued "H" for spousal support under Ontario's Family Law Act. The problem was that the act defined "spouse" as either a married couple or "a man and woman" who are unmarried and have lived together for no less than three years.

The judge rules that the definition violates the Charter of Rights and Freedoms and declares that the words "a man and woman" should be replaced with "two persons." "H" appeals the decision. The Court of Appeal upholds the decision but gives Ontario one year to amend its Family Law Act. Although neither

"M" nor "H" chooses to take the case any further, Ontario's attorney general is granted leave to appeal the decision of the Court of Appeal, which brought the case to the Supreme Court of Canada. The Supreme Court rules that the Ontario Family Law Act's definition of "spouse" as a person of the opposite sex is unconstitutional as was any provincial law that denies equal benefits to same-sex couples. Ontario is given six months to amend the act.

## **June 8, 1999**

Although many laws will have to be revised to comply with the Supreme Court's ruling in May, the federal government votes 216 to 55 in favour of preserving the definition of "marriage" as the union of a man and a woman. Justice Minister Anne McLellan says the definition of marriage is already clear in law and the federal government has "no intention of changing the definition of marriage or legislating same-sex marriage."

## **Oct. 25, 1999**

Attorney General Jim Flaherty introduces Bill 5 in the Ontario legislature, an act to amend certain statutes because of the Supreme Court of Canada decision in the *M. v. H.* case. Instead of changing Ontario's definition of spouse, which the Supreme Court essentially struck down, the government creates a new same-sex category, changing the province's Family Law Act to read "spouse or same-sex partner" wherever it had read only "spouse" before. Bill 5 also amends more than 60 other provincial laws, making the rights and responsibilities of same-sex couples mirror those of common-law couples.

## **Feb. 11, 2000**

Prime Minister Jean Chrétien's Liberals introduce Bill C-23, the Modernization of Benefits and Obligations Act, in response to the Supreme Court's May 1999 ruling. The act would give same-sex couples who have lived together for more than a year the same benefits and obligations as common-law couples.

In March, Justice Minister Anne McLellan announces the bill will include a definition of marriage as "the lawful union of one man and one woman to the exclusion of all others."

On April 11, 2000, Parliament passes Bill C-23, with a vote of 174 to 72. The legislation gives same-sex couples the same social and tax benefits as heterosexuals in common-law relationships.

In total, the bill affects 68 federal statutes relating to a wide range of issues such as pension benefits, old age security, income tax deductions, bankruptcy protection and the Criminal Code. The definitions of "marriage" and "spouse" are left untouched but the definition of "common-law relationship" is expanded to include same-sex couples.

## **March 16, 2000**

Alberta passes Bill 202 which says that the province will use the notwithstanding clause if a court redefines marriage to include anything other than a man and a woman.

## **July 21, 2000**

British Columbia Attorney General Andrew Petter announces he will ask the courts for guidance on whether Canada's ban on same-sex marriages is constitutional, making his province the first to do so. Toronto was the first Canadian city to ask for clarification on the issue when it did so in May 2000.

## **Dec. 10, 2000**

Rev. Brent Hawkes of the Metropolitan Community Church in Toronto reads the first "banns" — an old Christian tradition of publishing or giving public notice of people's intent to marry — for two same-sex couples. Hawkes says that if the banns are read on three Sundays before the wedding, he can legally marry the couples.

The reading of banns is meant to be an opportunity for anyone who might oppose a wedding to come forward with objections before the ceremony. No one comes forward on the first Sunday but the next week two people stand up to object, including Rev. Ken Campbell who calls the procedure "lawless and Godless." Hawkes dismisses the objections and reads the banns for the third time the following Sunday.

Consumer Minister Bob Runciman says Ontario will not recognize same-sex marriages. He says no matter what Hawkes' church does, the federal law is clear. "It won't qualify to be registered because of the federal legislation which clearly defines marriage as a union between a man and a woman to the exclusion of all others."

The two same-sex couples are married on Jan. 14, 2001. The following day, Runciman reiterates the government's position, saying the marriages will not be legally recognized.

## **May 10, 2002**

Ontario Superior Court Justice Robert McKinnon rules that a gay student has the right to take his boyfriend to the prom.

Earlier, the Durham Catholic District School Board said student Marc Hall couldn't bring his 21-year-old boyfriend to the dance at Monsignor John Pereyema Catholic high school in Oshawa. Officials acknowledge that Hall has the right to be gay, but said permitting the date would send a message that the church supports his "homosexual lifestyle." Hall went to the prom.

## **July 12, 2002**

For the first time, a Canadian court rules in favour of recognizing same-sex marriages under the law. The Ontario Superior Court rules that prohibiting gay couples from marrying is unconstitutional and violates the Charter of Rights and Freedoms. The court gives Ontario two years to extend marriage rights to same-sex couples.

As a result of the Ontario ruling, the Alberta government passes a bill banning same-sex marriages and defines marriage as exclusively between a man and a woman. The province says it will use the notwithstanding clause to avoid recognizing same-sex marriages if Ottawa amends the Marriage Act.

Also, a ruling against gay marriages is expected to be heard in B.C. by the province's Court of Appeal in early 2003, and a judge in Montreal is to rule on a similar case.

## July 16, 2002

Ontario decides not to appeal the court ruling, saying only the federal government can decide who can marry.

## July 29, 2002

On July 29, the federal government announces it will seek leave to appeal the Ontario court ruling "to seek further clarity on these issues." Federal Justice Minister Martin Cauchon says in a news release, "At present, there is no consensus, either from the courts or among Canadians, on whether or how the laws require change."

## Aug. 1, 2002

Toronto city council passes a resolution calling the common-law definition restricting marriage to opposite sex couples discriminatory.

## Nov. 10, 2002

An Ekos poll commissioned by CBC finds that 45 per cent of Canadians would vote Yes in a referendum to change the definition of marriage from a union of a man and a woman to one that could include a same-sex couple.

## Feb. 13, 2003

MP Svend Robinson unveils a private member's bill that would allow same-sex marriages. The federal government has already changed several laws to give same-sex couples the same benefits and obligations as heterosexual common-law couples.

## June 10, 2003

The Ontario Court of Appeal upholds a lower court ruling to legally allow same-sex marriages.

"The existing common law definition of marriage violates the couple's equality rights on the basis of sexual orientation under [the charter]," read the decision. The judgment follows the Ontario Divisional Court ruling on July 12, 2002.

Hours after the ruling, Michael Leshner and Michael Stark are married in a ceremony in Toronto.

Both men played a key role in the court case.

## June 11, 2003

Ontario Attorney General Norm Sterling announces that the province will obey the law and register same-sex marriages. Nearly two dozen homosexual couples applied for marriage licences in Ontario on June 10.

## **June 17, 2003**

Prime Minister Jean Chrétien announces legislation to make same-sex marriages legal, while at the same time permitting churches and other religious groups to "sanctify marriage as they see it." It means Ottawa will not appeal two provincial court rulings allowing same-sex unions. "There is an evolution in society," Chrétien said.

## **July 8, 2003**

British Columbia becomes the second province to legalize same-sex marriages. The British Columbia Court of Appeal lifts its ban on same-sex marriages, giving couples in the province the right to marry immediately. The decision alters a ruling that would have made same-sex marriages legal, but not until July 2004. The court had already agreed that the definition of marriage should be the union of "two persons" rather than of "one man and one woman." Ontario was the first province to recognize same-sex marriages as legal.

## **July 17, 2003**

Ottawa reveals the exact wording of legislation that would allow gay couples to marry. The Act Respecting Certain Aspects of Legal Capacity for Marriage was sent to the Supreme Court of Canada for review. According to the draft bill, "marriage for civil purposes is the lawful union of two persons to the exclusion of all others. The Supreme Court is being asked whether or not Parliament has the exclusive legal authority to define marriage; if the proposed act is compatible with the Charter of Rights and Freedoms and whether or not the Constitution protects religious leaders who refuse to sanctify same-sex marriages.

If the country's top justices decide that the draft legislation is constitutional, it will be put to a free vote in the House of Commons — meaning members of Parliament would not have to vote according to party lines.

## **Aug. 13, 2003**

Prime Minister Jean Chrétien vows not to let religious objections alter his stand on same-sex marriage. He says members of Parliament will be allowed to vote freely on the bill when it's introduced in the House of Commons after his retirement in 2004.

A significant number of Liberal MPs say they do not support same-sex unions and will vote against the legislation.

## **Aug. 14, 2003**

After extensive and emotional debate, the United Church of Canada votes overwhelmingly to endorse same-sex marriages. The majority of delegates at the church's general council meeting in Wolfville, N.S., vote to ask Ottawa to recognize same-sex marriage in the same way as heterosexual ones.

## **Sept. 9, 2003**

A gay and lesbian group goes to trial against the federal government in an attempt to force Ottawa to extend survivor benefits to excluded gays and lesbians. Gay and lesbian partners — pursuing Canadian Pension Plan benefits from their deceased partners — say the federal government is discriminating against them and have filed a \$400-million class-action suit.

## **Nov. 27, 2003**

Alliance Leader Stephen Harper Thursday fires MP Larry Spencer as family issues critic after Spencer said homosexuality should be outlawed.

## **Dec. 19, 2003**

An Ontario court rules that Ottawa has discriminated against same-sex couples by denying benefits to those whose partners died before 1998. The court rules that benefits will be retroactive to April 17, 1985, when equality rights in the Charter of Rights and Freedoms came into effect.

## **Jan. 28, 2004**

Justice Minister Irwin Cotler announces the government has asked the Supreme Court of Canada to determine whether limiting common-law marriages to opposite-sex couples only is constitutional. This adds to the three original questions sent to the top court in 2003.

## **March 19, 2004**

The Quebec Court of Appeal rules that homosexuals have the right to marry, and that the traditional definition of marriage is discriminatory and unjustified. The ruling upholds a lower-court decision and follows similar decisions in Ontario and B.C.

## **June 2004**

A lesbian couple files the first same-sex divorce petition in Canada. Lawyers for the couple are asking the Ontario Superior Court of Justice to grant the divorce and declare the definition of "spouse" under the Divorce Act unconstitutional. A judge grants the divorce in September 2004.

## **Sept. 16, 2004**

A Manitoba judge ruling in the Court of Queen's Bench declares the current definition of marriage "no longer constitutionally valid in view of the provisions of the Charter of Rights and Freedoms." Neither federal nor provincial lawyers attempted to oppose the lawsuit launched by three Manitoba couples. Officials in the province begin issuing marriage licences to same-sex couples shortly thereafter.

## **Sept. 24, 2004**

In the Nova Scotia Supreme Court, Justice Heather Robertson rules that banning same-sex marriages is unconstitutional, effectively changing the definition of marriage in the province to "the lawful union of two persons to the exclusion of all others."

## **Nov. 26, 2004**

The Ontario Court of Appeal rules that gays and lesbians in the province are entitled to survivors' benefits under the Canada Pension Plan dating back to 1985. The class-action lawsuit was filed for gays and lesbians whose partners died before Jan. 1, 1998, the cut-off date for retroactive benefits set by the government in 2000.

## **Dec. 9, 2004**

The Supreme Court of Canada rules that the federal government can change the definition of marriage to include same-sex couples, but does not answer whether such a change is required by the Charter. It also reaffirms that religious leaders cannot be compelled to perform same-sex marriages.

## **Dec. 21, 2004**

Newfoundland and Labrador is the seventh province to legalize same-sex marriage after a Supreme Court judge approves the licences for two lesbian couples.

## **Feb. 1, 2005**

The federal government introduces its same-sex marriage bill in the House of Commons. The bill, if passed, would give married same-sex partners the same legal recognition as other married couples, but protects religious freedoms, the Liberals say. "No church, no temple, no synagogue, no mosque, no religious official will be asked or forced to perform a marriage that is contrary to their beliefs," says Prime Minister Paul Martin.

## **April 25, 2005**

Four gay couples in New Brunswick file papers with the province's Court of Appeal asking it to redefine marriage to include same-sex unions. New Brunswick, the Northwest Territories, Nunavut, Alberta and Prince Edward Island are the only jurisdictions in Canada that don't recognize same-sex marriages.

## **May 3, 2005**

Two men, a Canadian Forces sergeant and a warrant officer, are married in the chapel at CFB Greenwood, N.S., in the military's first gay wedding.

## **May 20, 2005**

Jason Perrino and Colin Snow, a same-sex couple from Yellowknife, sue the government of the Northwest Territories over the right to be married.

## **June 23, 2005**

New Brunswick's Court of Queen's Bench finds the province's current definition of civil marriage violates the rights of gay people. The ruling makes New Brunswick the eighth province where a court has opened the door to legal same-sex unions.

## June 28, 2005

The Liberals' controversial Bill C-38, titled Law on Civil Marriage, passes a final reading in the House of Commons, sailing through in a 158-133 vote, supported by most members of the Liberal party, the Bloc Québécois and the NDP.

The vote came at a price for Paul Martin's minority government. Joe Comuzzi, the minister responsible for Northern Ontario, resigned from the cabinet so he could vote against the bill — an open rebuke of the government legislation.

Conservative Leader Stephen Harper says if his party forms the next government, the law will be revisited.

If the Senate approves the law, and it is expected to do so, it would make Canada the fourth country in the world, after the Netherlands, Belgium and Spain, to officially recognize same-sex marriage.

## July 20, 2005

Bill C-38, the law giving same-sex couples the legal right to marry, receives royal assent and becomes law.

## Dec. 7, 2006

A motion tabled by the ruling Conservatives to reopen the same-sex marriage debate is defeated in the House of Commons by a vote of 175-123. Twelve Tories — including five cabinet ministers — broke from party lines and voted against the motion, while 13 Liberals supported the motion.

## Jan. 12, 2012

The federal government says it is considering how to make divorce possible for same-sex couples who had to come to Canada to get married. Thousands of gays and lesbians who could not marry in the country where they live have travelled to Canada seeking a legal marriage. But Canada's divorce laws don't allow people who haven't lived in Canada for at least a year to end their marriage.

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