



2007: The year that should have been better

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by Eric Resnick

Perhaps the most apropos metaphor for how lesbians, gays, bisexuals and transgenders fared in 2007 happened in October when Harry Potter creator J.K. Rowling announced that the mightiest wizard in her children's best-sellers, Albus Dumbledore, was gay.

Quickly, LGBT message doctors rushed in to pronounce the development some sort of revolutionary act with the power to open the hearts and minds of children to LGBT acceptance for generations to come.

The real story, however, was much less dramatic.

The character was 115 years old, asexual his entire life, and is now dead, to the extent that fictional characters could have ever lived. Moreover, his homosexuality was irrelevant to the story's plot.

Had Rowling declared Potter or one of his teenaged friends gay, it would have been revolutionary, but that's probably why she didn't.

For the LGBT movement as a whole, much of 2007 was mired in disappointment, irrelevancy, broken promises, and self-inflicted wounds, punctuated by a few truly impressive events.

Ohio saw some of the best

There was good news from the Ohio Supreme Court last summer. It ended much of the concern over what the 2004 constitutional marriage ban could have done to LGBT families when it declared "the second sentence of the amendment means the state cannot create or recognize a legal status for unmarried persons that bears all of the attributes of marriage--a marriage substitute."

The key word is "all" of the attributes.

With that word, the court dramatically narrowed the second sentence--which bars recognition of anything that "intends to approximate the design, qualities, significance or effect of marriage"--to mean only marriage and civil unions.

The landmark decision gave the green light to domestic partner benefits, and minimized the amendment's impact in other areas.

"The court has rolled back the cloud of doubt that the marriage amendment rolled in over LGBT rights," declared gay Ohio State University law professor Marc Spindelman.

The case was about whether or not Michael Carswell could be tried for domestic violence for assaulting a girlfriend he lived with but wasn't married to. His lawyers argued that "living as a

spouse,” which invokes the domestic violence law, was impossible under the marriage ban amendment. The court found against Carswell.

Because Ohio’s decision was the first among states with similar provisions, it will probably guide the high courts of the other states.

Immediately, universities and cities, who were waiting to see what the court did, took advantage of the decision.

- Toledo created a domestic partner registry last month, nearly identical to the one passed by voters in Cleveland Heights four years ago. The two registries allow same-sex couples to document their relationship for the purpose of accessing benefits.
- The same week, Dayton passed a human rights ordinance adding sexual orientation and gender identity to protected classes under its non-discrimination laws. It is Ohio’s 14th city to add gays and lesbians to the measures, and the third to include transgender people.
- The suit against Miami University’s domestic partner benefits brought by State Rep.--and now congressional candidate--Thomas Brinkman disappeared when courts ruled he had no standing to bring his suit. The *Carswell* decision ensures no one else can bring it, either.
- The University of Cincinnati last month became the seventh state university to offer domestic partner benefits without fear of a lawsuit claiming they violate the marriage ban.
- Ohio’s new governor, Ted Strickland, who was propelled to the office with substantial LGBT support, signed an executive order in May that no state agency can discriminate by sexual orientation or gender identity in employment. The measure reinstated and expanded a similar one in effect from 1983 to 1999.

Strickland, like his predecessors, did not also order that contractors doing business with the state have similar non-discrimination policies, thus missing an opportunity to maximize its effect.

At the signing of the order, which explicitly prohibits discrimination caused by differences in “rate of compensation,” Strickland said he was watching the *Carswell* case for guidance on whether or not the state could offer domestic partner benefits.

However, two months later when the ruling gave Strickland the go ahead, he decided he would not define “rate of compensation” to include partner benefits, even though they have significant monetary value.

Perhaps more notable than Strickland’s declaration was the silence of Ohio’s LGBT activist community that greeted it.

- The state LGBT advocacy group Equality Ohio released a poll in 2007 showing that most Ohioans favor some rights for same-sex couples, a major shift from 2004. However, that study also found Ohioans uninformed about transgender issues.
- “Welcome back to Ohio” was the theme of a January reception in the Statehouse atrium celebrating the election of LGBT-friendly executive office holders, again signaling a shift.

The event, named “Equality Wins,” was historic and noticed by Ohio policy makers.

- Also noticed were appointments by Strickland of lesbian and gay people to positions of power and influence in state government.

Mary Jo Hudson of Columbus became the state's first out lesbian cabinet member, serving as Ohio's director of insurance. John Corlett of Cleveland was appointed by Strickland to be the state Medicaid director, and Mary Wiseman of Dayton was appointed Ohio's first out judge.

- Strickland also ended the anti-LGBT policy of abstinence-only until marriage sex education in Ohio's public schools.

- Equality Ohio staged its second annual lobby day in May. Despite its newness, the event is one of the largest lobby days by any group.

One distinguishing characteristic of the 2007 event over the 2006 one is that non-LGBT allies were more visible, and overall, fewer LGBT people came out. Some groups visiting legislators were all allies, reinforcing the myth to many that their districts have no LGBT people in them.

- No LGBT people were elected in this year's municipal races, unlike the ones in 2005, despite three good attempts in Columbus, Toledo, and Bexley.
- In University Heights, Win Weizer, a lesbian member of city council, lost her re-election bid, and Columbus city council passed over a highly qualified, well-financed gay man to fill a vacancy, causing outrage.
- In Cleveland, Joe Santiago, the city's first openly gay elected official, survived an attempted recall last week.
- Cleveland decided to actively pursue LGBT tourism, while Akron and Summit County decided they would not. The visitors' bureau Positively Cleveland includes "LGBT" among five "attractions" tabs on their web site's opening page.
- In 2007 it was discovered that Youngstown never really had a human rights ordinance covering LGBT people after all--a 1986 clause intended to do so is too vaguely worded.
- However, new measures added in 2007 mean that over half the U.S. population is covered by sexual orientation non-discrimination laws, and one third of transgender Americans are covered. In Ohio, roughly one quarter of the population is under some LGBT non-discrimination protection.

• The National Gay and Lesbian Task Force released a national study this year showing that one third of all homeless youth are LGBT.

- Two anti-LGBT petitioners in Cincinnati were convicted of election fraud, but the man whom the judge in the case called "the real culprit," State Rep. Brinkman, was let off the hook.

The exact nature of the grand jury deliberations that failed to indict Brinkman and his wife can never be known, but it appears that Hamilton County prosecutor Joe Deters, a political ally of Brinkman, led the panel away from indicting them.

- Brinkman ally Phil Burress and his anti-LGBT group Citizens for Community Values will escape scrutiny for possible campaign finance violations in the 2004 marriage ban amendment initiative and a losing campaign to keep Cincinnati's anti-gay Charter Article 12, due to lack of interest by Secretary of State Jennifer Brunner's office in pursuing a complaint over the matter.

- Groups typically allied with the LGBT community disappointed it this year with a proposal to require Ohio employers with 25 or more employees to provide for at least seven paid sick days a year. The measure includes time off to care for spouses and family members but, unlike similar proposals in other states, not domestic partners.

According to the Service Employees International Union, partners were excluded purposely to make it easier to pass.

Equality Ohio quickly opposed the effort unless partners were added. Some progressive groups joined Equality Ohio's position, but most were put in an untenable spot, forced to negotiate between two causes, LGBT equality and progressive labor laws, that they champion. So far, there's been no change.

- The Ohio Board of Education followed the lead of the state legislature by rejecting a move to specifically include LGBT students in an anti-bullying measure. Board members opposed to the wording claimed that it was unnecessary and repetitious.

- In an Ohio case, the Sixth Circuit Court of Appeals ruled that the 1964 Civil Rights Act applies to all instances of employment discrimination by sex-stereotyping except when the victim of the discrimination is gay or lesbian.

Among the reasons given, the court opined that Congress has rejected protecting on the basis of sexual orientation, so it cannot be allowed.

"In all likelihood," the court said, "any discrimination based on sexual orientation would be actionable under a sex stereotyping theory if this claim is allowed to stand, as all homosexuals, by definition, fail to conform to traditional gender norms in their sexual practices."

Congressional Democrats disappoint

Arguably the biggest disappointment of the LGBT movement of 2007 is the Democratic-controlled Congress.

LGBT people make up the party's second most loyal constituency group, after African-Americans, and per capita, one of its largest contributors. But the LGBT movement learned in 2007 that merely replacing the anti-gay Republican leadership does not mean progress will be made.

Though Republican-led threats like a federal marriage ban amendment are of lesser concern, Democrats in 2007 were concerned with the political fate of their conservative members-- including those who beat Republicans last year in districts won by George W. Bush. Lower on their agenda was keeping pre-election promises made to the LGBT movement.

No pro-LGBT legislation was made law in 2007, and with 2008 being an election year, it is doubtful any more will be initiated.

Bills for immigration equality, repealing the tax on domestic partner benefits, repealing "don't ask don't tell," and others, went nowhere.

- A top legislative priority, a bill to federalize hate crime based on sexual orientation and gender identity was stripped from a conference report this month after passing both houses.

Senate Democrats attached the provision to a large war spending bill, figuring the president could not veto it.

Instead, anti-war Democrats couldn't support the broader bill, and pro-war Democrats and Republicans were concerned that the provision would be an excuse to veto the bill and delay money to the war effort.

So, the solution was to take it out.

- Damage to the LGBT movement and to its federal lobby group, the Human Rights Campaign, occurred when the House took up the other LGBT priority bill, the Employment Non-Discrimination Act.

After determining that too few conservative Democrats would support gender identity and expression in the bill, HRC and the Democratic leadership, including gay Mass. Rep. Barney Frank, decided to pass a bill without it. This seems to have occurred while HRC was still telling transgender groups it would not back away from its 2004 promise to support only a trans-inclusive ENDA.

The non-inclusive ENDA passed the House, but rocked the LGBT movement to its core, bringing out animus among those on both sides of the debate. Alliances split up, HRC board members resigned, transgender activists and their allies picketed the group, and doubt was cast over whether or not HRC can represent the whole movement.

About 300 LGBT organizations, including some in Ohio, opposed the HRC and Democratic leadership position, insisting that ENDA be trans-inclusive.

Aside from that, what happened hindered future attempts to pass the measure.

If 2009 is the next opportunity to consider the measure, the first question asked by members of Congress will likely be, "Should this one include transgender people or not?" Congressional leaders and the bill's backers will have to decide how hard they want to work for including them, or to again let the clause be taken out. These were issues many LGBT people thought were settled three years ago. The wounds caused by last fall's controversy were self-inflicted, and may last a while.

- The year also gave us Senator Larry Craig's "wide stance" and his pronouncement that, "I am not gay."

While the trials and tribulations of this anti-gay senator were amusing, he did nothing illegal, and an opportunity was missed to talk about that.

Many men throughout the U.S., most without the resources of a sitting senator, are entrapped and wrongly charged with vaguely defined, all-inclusive "crimes" for doing little more than cruising, or asking someone of the same sex for sex.

In this post-sodomy law era, these sting operations are a last attempt to criminalize homosexuality, and the LGBT movement needs to be more vocal in exposing it and stopping it.

Senator Craig provided an opportunity. Our movement missed it.

- Corporate America gave us good news in 2007. The Human Rights Campaign's Corporate Equality Index showed that employers are more LGBT-affirming than ever, and that trends in that direction are likely to continue.

- The California legislature passed marriage equality a second time in August, and Governor Arnold Schwarzenegger vetoed it, again.
- New Jersey passed civil unions this year, and Washington passed legislation giving rights to domestic partners. Oregon passed a law requiring employers to offer domestic partner benefits.
- The most significant event to date in the Episcopal Church's struggle over acceptance of gays and lesbians and the role of women occurred when the Fresno, California diocese seceded this year.
- The year saw the passing of LGBT rights pioneer Barbara Gittings, AIDS activist and Clinton administration official Bob Hatoy, and lesbian separatist and "herstorian" Yolanda Retter.

Also deceased this year were civil rights leader and LGBT ally Yolanda King, daughter of Dr. Martin Luther and Coretta Scott King, and anti-LGBT movement leaders Jerry Falwell and the lesser known D. James Kennedy.

Though Falwell and Kennedy are gone, the forces they inspired are not, and one needs only to look at the pandering of the Republican presidential candidates to see that the Christian Right is alive and well, and will force LGBT issues into the 2008 presidential campaign fray.

- In response, HRC and Logo television missed an opportunity to use the power of a live telecast to clarify and sharpen Democratic presidential contenders' positions on and commitment to LGBT equality.

Though the event was historic, the lack of follow-up questions allowed the candidates, especially the "frontrunners," to merely repeat ambiguous or trite positions already on the record. Often, these positions were crafted to make LGBT people think the candidate is a friend, while assuring the rest of the voters they are not too good a friend.

Watch for much more of this messaging gymnastics in 2008.

- Vice presidential daughter Mary Cheney and her partner Heather Poe became parents of baby David. The vice president is still unwilling to speak up within his administration on behalf of LGBT families.
- Finally, the world, including the United States, continues to be relatively silent while lesbians and gays in Iraq and Iran face pogroms--organized harassment, torture and hanging.

The world laughed when Iran president Mahmoud Ahmadinejad told an audience at Columbia University, "We don't have homosexuals like in your country," but has done little to stop the persecution.

U.S. Secretary of State Condoleeza Rice joined Nigeria in opposing a United Nations resolution condemning Iran, and has done nothing to challenge the U.S. backed Iraqi government's treatment of gays and lesbians.