



Written by [R. Cort Kirkwood](#) on July 29, 2011

## N.Y. Christian Group's Lawsuit: N.Y. Same-sex Marriage Act Illegal

[The group New Yorkers for Constitutional Freedoms](#) says the law, known as the [Marriage Equality Act](#), was passed illegally because the negotiations leading up to Cuomo's effort to overturn the definition of marriage trespassed several open meetings laws.

After the law was passed, at least two town clerks [quit their jobs](#) rather than sign same-sex marriage licenses.

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### The Lawsuit

NYCF was founded in 1982 and like other state-level Christian groups, lobbies for traditional morality. Its [website says](#) that the organization is a Christian ministry that "exists to influence legislation and legislators for the Lord Jesus Christ."

NYCF's lawsuit, filed by the conservative Liberty Counsel, is strictly based on a practical matter: The law does not pass muster because it did not pass muster. That is, the journey to Cuomo's desk was marred by procedural flaws. The lawsuit does not entertain any moral arguments that might include, for instance, natural or divine law.

[Says NYCF's lawsuit](#), "In what many are heralding as a big step forward for gay rights, others are questioning whether the corrupt legislative process by which the Act passed renders the entire Act a nullity." [NYCF cites](#) seven major problems with the legislative procedure by which the same-sex marriage act passed:

- meetings that violated New York State Open Meetings Laws
- the suspension of normal Senate voting procedures to prevent Senators who opposed the bill from speaking
- failure to follow Senate procedures which require that a bill must be sent to appropriate committees prior to being placed before the full Senate for a vote
- unprecedented Senate lock-outs by which lobbyists and the public were denied access to elected representatives
- the Governor's violation of the constitutionally-mandated three-day review period before the Legislature votes on a bill by unjustifiably issuing a message of necessity
- promises (which were fulfilled) by high-profile elected officials and Wall Street financiers to make large campaign contributions to Republican Senators who switched their vote from opposing to supporting the Marriage Equality Act
- a private dinner between Republican senators and Governor Cuomo at the governor's mansion, with the public and press excluded, aimed at convincing Republican Senators to vote in favor of





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the bill

The [lawsuit](#) gives more detail. It says, for instance, that “high-ranking Executive branch staff persons were actively involved in the floor of the Senate, helping to ensure a favorable vote on the Act.” The public was “denied access to the Senate lobby,” and “denied access to the hallway on the Republican side of the Senate chamber, where the Republican conference room and leaders’ offices are located.”

It also claims that GOP legislators turned their cell phones off en masse to stop the public from hectoring them. And it was a number of Republicans who switched their votes to side with Democrats on the bill who enabled it to pass.

As well, the [lawsuit alleges](#), someone on the Senate floor said the bill had to pass before 11:00 p.m. in order that the news could be broadcast on the late news programs. The Senate leadership also denied a Democratic Senator’s request to debate the bill.

The lawsuit alleges that Senators were not permitted to make two-minute statements opposing the bill, but that only four Senators were permitted to speak — and only in favor of the bill.

The lawsuit [also quotes](#) a section of New York law, arguing that Cuomo needn’t have signed an unnecessary “message of necessity” to duck the state’s three-day waiting period that gives legislators a chance to fully consider matters. It cited [this codicil](#) of the Empire State’s legal code:

No bill shall be passed or become a law unless it shall have been printed and upon the desks of the members, in its final form, at least three calendar legislative days prior to its final passage, unless the governor, or the acting governor, shall have certified, under his or her hand and the seal of the state, the facts which in his or her opinion necessitate an immediate vote thereon, in which case it must nevertheless be upon the desks of the members in final form, not necessarily printed, before its final passage.

### **It’s Law**

Bottom line, [NYCF declares](#), is that the bill was shoved down the throats of New Yorkers using back-room deals and anti-democratic procedures. Liberty Council, the group representing NYCF, [says the maneuvers](#) were in “flagrant violation of New York constitutional and legal procedures.”

Numerous constitutional and legal violations were committed using strong-arm tactics to pass the Act, thus infringing the rights of the citizens of New York. For example, the Governor pressured Republican Senators to vote for the Act at a private meeting at the Governor’s mansion and with the millions of dollars he had raised from Wall Street financiers. There were also unprecedented Senate lock-outs during the days leading up to the vote, where lobbyists and the public were shut out from the Senate lobby and denied access to elected representatives.

As well, [the NYCF argues](#), New York law requires that the government be open and transparent to keep political officials responsible. When government operates in secret and freezes out the very people it is supposed to represent, the group says, then the entire system fails. They say that because back-room tactics were rampant in the passage of the law, it should be set aside and the procedure begun again to allow the people a voice in the process.

The homosexual lobby does not agree. Susan Sommer, director of constitutional litigation at [Lambda Legal](#), [told the Washington Times](#) that the lawsuit is “an act of futile desperation.”

It is ludicrous to think that the Marriage Equality Act was anything but a duly enacted expression of government at its best. ...



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The world saw, on television, how the vote took place. We also saw, in the weeks leading up, the halls of the legislature were choked with advocates on both sides of the question.

To say that there wasn't a full and fair airing of different views on the issue is simply ludicrous. I am confident that this [case] will go nowhere.

As for Cuomo, his spokesman [told the \*New York Times\*](#): "The plaintiffs lack a basic understanding of the laws of the state of New York."



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