

NATIONAL COMMITTEE
FOR
SEXUAL CIVIL LIBERTIES

Thomas F. Coleman, Esq.
Co-Chairman

Dr. Arthur C. Warner
Co-Chairman

1800 North Highland Avenue, Suite 106
Los Angeles, California 90028

(213) 464-6666

September 2, 1979

To: Sheldon Andelson

Re: Requests of Governor Brown concerning protection of
sexual privacy and prohibition of sexual orientation
discrimination

Soon after the Legislature voted to decriminalize private sexual acts between consenting adults in May, 1975, I began pondering what the next priorities should be in the area of sexual civil liberties and gay rights protection. I became aware of the action of the Governor of Pennsylvania, then Milton Shapp, of the use of executive power to create change in this area. I traveled to Harrisburg and visited with the members of the newly created Governor's Council on Sexual Minorities. I was impressed, and continue to be impressed, with the work being done by this group and by the executive branch of government in Pennsylvania.

I asked Governor Shapp to contact Governor Brown to urge him to take similar action in California. Attached you will find a copy of the letter from Shapp to Brown dated February 17, 1976.

For an example of the type of work being done by the Pennsylvania Council please read the March, 1978 Second Annual Report of that group. Further information about the activities of the group is available.

In March, 1976, Oregon Governor Robert Straub created a Task Force on Sexual Preference under the jurisdiction of the Department of Human Resources of that state. Unfortunately, the life span of that group was limited to one year. The preliminary report of the group was published in the Sexual Law Reporter and a copy of that issue is attached.

For a brief overview of both the Oregon and Pennsylvania state-level task forces, see "The Creation of State-Level Task Forces," as published in A Legislative Guide to Gay Rights, a product of the Portland Town Council.

It is my firm belief that we need to do more work with the

executive branch of government. In the past we have concentrated almost exclusively on court cases and legislative action to cure discrimination in this area. For an exposition of my philosophy in this regard I am enclosing a copy of an article written by me last year -- "The Executive Branch of Government, an untapped source of power for gay rights."

I am not trying to downplay the importance of court cases. Some 15 months ago I argued in the California Supreme Court that Section 647(a) is unconstitutional in the case of Pryor v. Municipal Court, Supreme Court No. L.A. 30901. I believe that the Supreme Court will void at least the solicitation portion of that statute, possibly the entirety of subdivision (a). It would not be possible to secure this type of relief from the executive branch and the legislative branch seems to be unwilling to take the lead in this area of the law.

I have also been actively working with Senator Roberti and Senator Sieroty to amend various portions of the penal code regulating consenting adult sexual behavior and speech. So far we have been only partially successful at the committee level. I have also been working to secure passage of the gay employment bill to amend the F.E.P.A. This too has only been marginally successful.

As you know, this year Governor Brown issued an Executive Order prohibiting discrimination on the basis of sexual orientation in state employment. I wrote to him in March of this year and urged him to take such action. I must say, however, that he did not issue a strong enough order. His order is limited to state employment. It is silent on state licensing, contracting by the state, and most importantly the delivery of state services. Eventually, the order should be expanded to cover these areas. Just before he left office, Governor Shapp strengthened his order to cover all of these issues. I have attached a copy of his order of September 19, 1978. It should also be noted that the new republican Governor in that state has agreed to allow the order to remain in full force and has given his support to the continuation of the Council.

Soon after the issuance of his Executive Order, I asked Tony Kline to set up a meeting with the State Personnel Board (the body charged with enforcing the order). It seemed that the order would merely be token and probably collect dust unless someone moved things along. To date there have been meetings with the 5 member Board, meetings with the Executive Officer, meetings with the Division Chiefs, and there are plans for future meetings with all interested state government participants. There are over 150 state departments affected by this order.

In addition to this there are meetings and communication going on right now with the Division of Fair Employment Practices to reverse their previous position that they would not handle gay housing discrimination cases. I think we will meet with success within the next few weeks. This will be quite a victory for gays throughout the state.

The National Committee for Sexual Civil Liberties will soon be contacting the state Labor Commissioner to help him adopt machinery and policies to handle employment discrimination cases involving discrimination by private employers. Because of the decision of the California Supreme Court in Gay Law Students Association v. Pacific Telephone Company, it appears that there is already some protection against discrimination by private employers. There are administrative, criminal, and civil remedies for such discrimination. I'm sure that the Labor Commissioner has not even thought about his duties in this area. I will be presenting him with an actual case within the next two weeks.

The National Committee will soon be contacting City Prosecutors and District Attorneys throughout the state to educate them about their responsibilities in the area of employment discrimination against gays.

The Public Utilities Commission needs follow-up now since they were mandated to take action against sexual orientation discrimination. I don't know what is being done with this agency, if anything.

The Department of Justice continues to send out information to state employers (including employers which are not involved with law enforcement) regarding arrests for 647(a). They also instruct local law enforcement to send arrest information, including arrest reports, to State Colleges and State Universities regarding the arrests of employees of these bodies. I cannot see how this can be justified. Work needs to be done with the Department of Justice.

In the near future I hope to set up meetings with the head of the Department of Consumer Affairs. This department oversees state licensing boards and commissions for various business and professions. An educational job needs to be done here.

The list could go on and on.

I feel that the Governor and his cabinet and staff can help in the following ways:

1. Appointment of openly gay people to the bench and to boards and commissions;
2. Creation of a Council on Sexual Privacy and Sexual Orientation Discrimination (not limited to the concerns of just gays);
3. Eventual expansion of the Executive Order to include state licensing and delivery of services;
4. Personal letter to each of the 150 Departments covered by his executive order stating his commitment to ending discrimination in this area;
5. Lobbying (more intense than present) on A.B.1 and S.B. 18 (gay employment protection), especially putting pressure on Senator Montoya;

6. Lobbying on behalf of Senator Sieroty's bills to eliminate sex registration for 647(a) defendants and to modify 647(a);
7. Make his views known to his cabinet and staff and set up a meeting with them to discuss infringements of sexual privacy and discrimination on the basis of sexual orientation.

I would like to emphasize that my approach and the approach of the National Committee has been pansexual. We are not going into this as merely a gay issue. The elderly and the handicapped suffer discrimination concerning sexual matters. Police officers and other types of law enforcement people suffer such discrimination. Unmarried people who cohabit together often suffer discrimination. We are concerned about all persons, not merely gays, who suffer discrimination of this type.

I hope that this brings you up to date about some of the activities of this Committee and some of my work. I think it is important that we present as united a front as we can when we work with the Governor's office. I'm sure we will.

Sincerely,



THOMAS F. COLEMAN

MEETING - SEPTEMBER 13, 1979
WITH RICHARD KAPLAN

- I. Council for Sexual Privacy Protection and Sexual Orientation Discrimination
- II. Appointments of Openly Gay People to:
 - a. Judgeships
 - b. Appropriate Boards under following agencies:
 1. Corrections
 2. ABC
 3. DPSS
 4. Department of Mental Health
 5. Youth Authority
 6. Criminal Justice Planning
 7. Aging
 8. Consumer Affairs
 9. Highway Patrol
 10. FEPC
 - c. Judicial Council
 - d. State Bar Board of Governors



State of California

GOVERNOR'S OFFICE
SACRAMENTO 95814

EDMUND G. BROWN JR.
GOVERNOR

(916) 445-1915

SF 4/5 557-3326

September 19, 1979

Sheldon Andelson
9200 Sunset Blvd., Suite 625
Los Angeles, California 90069

Richard Kaplan, Esq.
456 North Roxbury Drive
Beverly Hills, California 90210

Dear Shelly and Richard:

I thoroughly enjoyed lunch with you on Saturday and do hope that you both will feel free to contact me in the future whenever you think I can be of assistance or just on matters of mutual interest.

Enclosed, for your interest, is a letter to me from Tom Coleman dated August 28th. This letter accurately sums up Tom's meeting with Alice Lytle regarding AB 1. Frankly, I share Tom's view, set forth in the third paragraph of his letter that some of Alice's misgivings about the legislation are, as he puts it, "extremely overcautious". In any event, as I have explicitly informed Art Agnos, this administration most certainly supports his bill and the companion measures, and we will do our utmost to secure passage when the Legislature reconvenes next year.

As near as I can tell, the public reaction to Steve Lachs' appointment has been positive. I look forward to meeting him when I meet with the Gay Lawyers' Association next month in Los Angeles.

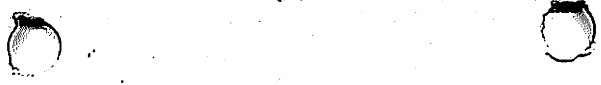
Best regards,

J. ANTHONY KLINE
Legal Affairs Secretary

JAK:kht

cc: Tom Coleman ✓

Enclosure



1944

1944

1944

1944

1944

1944

1944

1944

1944

1944

1944

1944