THE AMERICAN CIVIL LIBERTIES UNION

AND

THE RIGHTS OF SINGLE PEOPLE

A PROPOSAL:

FOR THE ACLU TO MAKE THE ISSUE OF MARITAL STATUS DISCRIMINATION A PRIORITY

AND

FOR THE ACLU TO VIGOROUSLY PROTECT UNMARRIED INDIVIDUALS AND COUPLES FROM DISCRIMINATION BY GOVERNMENTAL AGENCIES AND PRIVATE-SECTOR BUSINESSES

SUBMITTED TO THE ACLU AT ITS 1998 NATIONAL BRIEFING IN WASHINGTON, D.C., AND TO THE ACLU PRESIDENT FOR DISTRIBUTION TO THE EXECUTIVE COMMITTEE OF THE NATIONAL BOARD OF DIRECTORS

THOMAS F. COLEMAN
EXECUTIVE DIRECTOR
SPECTRUM INSTITUTE
SEPTEMBER 14, 1998

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September 14, 1998

Thomas F. Coleman
Executive Director
Family Diversity Project

Nadine Strossen, President
Ira Glasser, Executive Director
ACLU Washington Headquarters
Washington, D.C.

Re: Adding the Rights of Unmarried Individuals and Couples to the ACLU Civil Liberties Agenda

Dear Ms. Strossen and Mr. Glasser:

I am pleased to attend the 1998 ACLU National Briefing with panels and presentations focusing on "Continuing Threats to Privacy and Civil Liberties."

Much of the conference is portrayed as a "dialogue" on various issues of importance. It is in the spirit of honest communication among friends and colleagues that the suggestions contained in this proposal are submitted to you and other ACLU supporters for consideration.

This proposal is being offered now, in anticipation of its formal presentation next month to the national board of directors by board member William F. Reynard, Esq. This will give members of the Executive Committee additional time to absorb the information presented in this packet.

The ACLU has an excellent record when it comes to having a systematic program to fight discrimination on the basis of race, religion, color, national origin, sex, and sexual orientation. Unfortunately, the same can not be said of marital status discrimination. This issue seems to have "fallen between the cracks" and has virtually disappeared from the ACLU's policies and programs.

There are now more than 78 million unmarried adults in this country. Since women are a numeric majority, this means that single people are the largest minority in the United States.

Despite the growing number of unmarried individuals and couples -- many raising children -- marital status discrimination is widespread. Such discrimination is routinely perpetrated by the government as well as by private sector businesses. And what group would be best suited to stand up for the rights of single people and to fight marital status discrimination? The ACLU, of course.

The ACLU has not risen to this challenge, or should I say, to this opportunity. Single people would benefit if the ACLU were to make marital status discrimination a priority issue. And the ACLU would benefit too. By fighting for their rights with a formal program targeting marital status discrimination, the ACLU would reach out to a large and untapped source of new members. In turn, single people would respond enthusiastically since the ACLU would be showing an interest in them.

While unmarried adults are a discrete minority defined by their marital status, they are also members of every other minority group. By fighting marital status discrimination, the ACLU would help young people, seniors, women, people with disabilities, racial minorities, and gays and lesbians.

In addition to the informational aspect of the right of privacy, the constitution also protects decisional and associational privacy rights. An adult should be able to exercise his or her freedom of choice to be married or not, without fear of discrimination or punishment. But that it not the case.

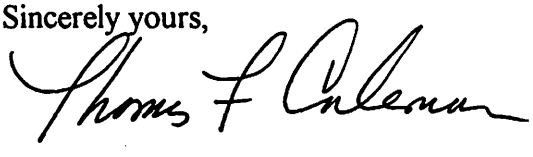
Much to the liking of the religious right, many current laws and government policies push people into marriage, even people without procreational intentions. Persons who choose to be single, or who choose a form of nonmarital bonding, often experience discrimination. With respect to the latter, many unmarried opposite-sex couples prefer to be domestic partners rather than married spouses, making this choice for religious, political, philosophical, economic, or other personal reasons. Should not the ACLU defend the freedom of choice of these individuals?

In keeping with its support of privacy rights and its abhorrence of sexism, the ACLU should be prepared to challenge government or private sector domestic partner benefits programs that exclude opposite-sex couples. Since inclusive domestic partner benefits programs have minimal economic impact, cost is not the real reason for excluding opposite-sex couples. The hidden, and usually unspoken, rationale for this restriction is religious in nature. While some clergy members are prepared to quietly accept domestic partnership for same-sex couples who are locked out of marriage, they do not want to give opposite-sex couples this option, fearing that many will choose domestic partnership rather than marriage. They would subject these couples to an unwanted marriage ceremony. Shouldn't the ACLU protect the freedom of choice to be domestic partners, rather then defend a policy of forced matrimony as a prerequisite to equal employment benefits? If the ACLU is going to fight for the right of same-sex couples to marry, it would seem that the same principles propelling that battle require it to defend the right of opposite-sex couples to be domestic partners.

The federal Civil Rights Act does not prohibit marital status discrimination. In the 25 states with such laws, protections are minimal and only half-heartedly enforced. Through its national headquarters, state affiliates and local chapters, the ACLU should educate the public about marital status discrimination. It should also mobilize single people to seek additional statutory protections.

There is much work to be done to protect the rights of unmarried individuals and couples. While the ACLU should not have to do this important work alone, it should lead the way. The national board of directors would show such leadership by quickly approving Mr. Reynard's proposal.

Sincerely yours,



THOMAS F. COLEMAN

Attachments

How the Issue of Marital Status Discrimination Relates to the Theme of the 1998 Briefing on "Continuing Threats to Privacy and Civil Liberties"

Privacy Rights and Civil Liberties: A Dialogue with Ira Glasser

The right of privacy protects the freedom of choice to make certain highly personal decisions, such as those pertaining to marriage and family life. Just as the right of privacy protects a woman's choice to procreate *or not*, so too should it protect an individual's choice to be married *or not*, or a couple's choice to be domestic partners rather than married spouses.

Most public and private employers with domestic partner benefits programs make all domestic partners eligible to participate, regardless of their gender. Most public registries established by municipalities are also gender neutral. However, a growing number of employers, and some public registries, exclude opposite-sex couples. This exclusion forces individuals to marry in order to obtain legal protections or employment benefits.

The ACLU should actively oppose gender registrictions in government benefits plans or registries since they interfere with the privacy rights and freedom of choice of unmarried individuals. The exclusion of opposite-sex couples from private-sector benefits programs also should be opposed as illegal sex discrimination under federal civil rights laws.

Supporting these sexist programs or remaining silent empowers the religious right. Many clergy and conservative politicians are reluctantly prepared to accept domestic partnership laws and programs, so long as domestic partnership remains a "gay ghetto." However, they do not want domestic partnership to be open to opposite-sex couples, due to their fear that it will encourage couples not to marry, thereby undermining the so-called "traditional family." The ACLU should not play into the hands of these reactionaries.

Civil Rights in the Courts: Fighting the Rights' Social Agenda

The social agenda of the religious right is much broader than simply stopping "gay rights." They want laws to define family in a restrictive way, limiting protections and benefits to persons related by blood, marriage, or adoption. They do not want government to acknowledge unmarried couples -- gay or straight -- as a family. They do not want civil rights laws to prohibit marital status discrimination. They are filing lawsuits to challenge domestic partner laws and benefits programs.

Most challenges by the religious right to housing laws against marital status discrimination have involved opposite-sex unmarried partners. Most domestic partner benefits laws that have been targeted with lawsuits have protected both gay and straight domestic partners.

The ACLU should not limit its agenda to protecting only same-sex couples from attacks by the religious right. All unmarried couples, regardless of gender, need the ACLU's full attention and resources.

Positioning the ACLU for the Future: A New Communications Strategy

The ACLU's directors of public education, legislative communications, and media relations should review this report and its recommendations carefully. Their outreach programs and communications should demonstrate that the ACLU cares about discrimination against unmarried individuals and couples. The ACLU should have a "big tent" when it comes to civil liberties.

Unmarried adults comprise a largely untapped source of new members for the ACLU. If only one out of every 100 -- or even one out of every 1,000 -- of the 78 million unmarried adults in the country joined the ACLU, what a boost that would be for the cause of civil liberties.

What incentive is there now for unmarried adults to become ACLU members? The 1985 ACLU book on "The Rights of Single People" has not only not been updated, it is omitted from its website list of publications. The ACLU has no policy paper on marital status discrimination. It has actually defended sexist domestic partner benefits programs that exclude unmarried opposite-sex couples. The legislative program is not trying to add "marital status" to federal and state civil rights laws. Its time for the ACLU to thoroughly review its programs, keeping in mind the needs of single people.

-- Thomas F. Coleman
Spectrum Institute
September 14, 1998

PROBLEMS WITH THE ACLU'S RESPONSE TO MARITAL STATUS DISCRIMINATION AND THE RIGHTS OF SINGLE PEOPLE

ACLU National

The board of directors has not adequately addressed the issue of marital status discrimination.

The ACLU headquarters does not have a systematic approach to combat marital status discrimination.

The ACLU headquarters has not updated "The Rights of Single People" published in 1985.

The ACLU website lists about 20 ACLU books in its "Rights of" series. It includes "The Rights of Criminals" but it fails to list the ACLU book on "The Rights of Single People."

An ACLU advertisement in the New York Times erroneously minimized the impact that laws criminalizing consenting adult behavior have on the lives of unmarried heterosexual men and women.

In the case of *Ayyoub v. City of Oakland*, the ACLU headquarters filed a legal brief defending a "gays only" domestic partner benefits program adopted by the City of Oakland that excluded opposite-sex unmarried partners.

ACLU of Northern California

The Northern California affiliate filed a brief in the *Ayyoub* case, trying to offer legal justifications for Oakland's exclusion of opposite-sex partners from its domestic partner medical benefits plan. It also filed a similar brief in the case of *Edwards v. City of Oakland*, in which a fire fighter who had worked for Oakland for 25 years was denied medical benefits for his female domestic partner of 26 years.

ACLU of Arizona

Debra Deem was denied an opportunity to interview for a job as a juvenile probation officer. Why? Because she was living with a person of the opposite-sex out of wedlock and Maricopa County would not hire a known "criminal." Arizona, and 11 other states, have laws criminalizing unmarried cohabitation. The ACLU of Arizona refused to help Debra when she went to them for assistance.

ACLU of New Mexico

When Debra moved to New Mexico, and then discovered that it had a law against unmarried cohabitation, she asked the local ACLU to help her challenge the law. The affiliate refused.

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WILLIAM F. REYNARD

OF COUNSEL
Travis A. Ochs

March 13, 1998

Nadine Strossen, Esq.
New York Law School
57 Worth Street
New York, New York 10013

Dear Nadine:

In Re: ACLU Policy with respect to married and single persons.

I submit a one page suggestion as to what the National ACLU and the ACLU Foundation can do to combat marital status discrimination.

This proposal was originated by the Spectrum Institute which states that it is a non-profit corporation promoting respect for human diversity. Thomas F. Coleman is the Executive Director, and its address is P. O. Box 65756, Los Angeles, CA 90065. The telephone of the Institute is 213/258-8955, and its Fax number is 213/258-8099.

I think this is a worthy policy suggestion that should be considered by the Executive Committee and placed on the Board's agenda.

Please give me a call if you have any questions.

Very truly yours,

Bill

William F. Reynard

WHAT CAN THE NATIONAL ACLU AND ACLU FOUNDATION DO TO COMBAT MARITAL STATUS DISCRIMINATION?

AMERICAN CIVIL LIBERTIES UNION

1. **Policy Statement on Marital Status Discrimination**. The national board of directors should adopt a resolution condemning marital status discrimination by employers, landlords, insurance companies, lending institutions, and all other businesses, and also condemning laws and government programs that discriminate on the basis of marital status. The term "marital status" should be defined as including the status of an individual being married, single, widowed, separated, or divorced, and the status of a couple (same-sex or opposite-sex) being married or unmarried.

2. **Lobbying Efforts**. Federal civil rights laws do not prohibit marital status discrimination. Most state civil rights statutes do not include protections against marital status discrimination. The national board of directors should direct national staff to work for the inclusion of marital status in federal civil rights laws. The national board should issue a policy statement urging all state and local chapters of the ACLU to lobby for the inclusion of marital status in state statutes and municipal ordinances prohibiting discrimination. The term "marital status" in these laws should conform to the definition in paragraph 1, above.

3. **National Project**. In cooperation with the ACLU Foundation, the national board of directors of the ACLU should authorize the creation of a national Marital Status Nondiscrimination Project. The purpose of the project would be to use any and all available legal, political, and educational means to combat discrimination against single people and against unmarried couples. This project can be used to attract some of the 75 million unmarried adults in the United States to join the ACLU. But the ACLU must show that it is helping, not ignoring or hurting, single adults and unmarried couples in order to entice them to join the ACLU.

4. **Policy Statement on Domestic Partnership**. The national board of directors should adopt a policy statement supporting domestic partnership rights and benefits. The policy statement should make it clear that the ACLU supports domestic partnership laws and benefits programs that are open to any two adults who live together as domestic partners, regardless of the gender of the parties. The policy statement should prohibit the use of ACLU resources to promote or defend sexist domestic partnership laws and benefits programs that limit participation only to same-sex couples and that exclude opposite-sex unmarried couples.

ACLU FOUNDATION

1. **Litigation Project**. The national board of the ACLU Foundation should establish a Marital Status Litigation and Education Project. The purpose of the project would be to combat marital status discrimination against single adults and unmarried couples. Donors to the Foundation could earmark contributions to be used exclusively for such cases. The board should adopt a policy prohibiting Foundation resources from being used to justify marital status discrimination, such as the policy of some employers to force unmarried opposite-sex partners to legally marry in order to receive compensation at work equal to married employees.

2. **Cosponsor Civil Rights Summit**. The national board of the Foundation should approve the Foundation becoming a primary cosponsor of Civil Rights Summit on Marital Status Discrimination to be held in Washington D.C. in the future. Some funds should be pledged to support this conference.

3. **Publications**. The national board of the Foundation should authorize the Foundation to publish an updated version of "The Rights of Single People" with a broader scope that the original book. Also, a book entitled "The Rights of Domestic Partners" should be published as a part of the ACLU "Rights of" series of books, focusing on the rights and responsibilities of unmarried couples, regardless of gender.

Why the ACLU Should Cosponsor a Civil Rights Summit on Marital Status Discrimination

Marital status discrimination has been badly neglected by existing civil rights organizations. It generally "falls between the cracks" of litigation and legislative agendas of national and state groups which devote all or much of their time and budget to fighting discrimination.

In a way, marital status discrimination has been treated as the neglected "ugly stepchild" of the civil rights movement. This must change.

Single persons constitute about 40% of the adult population in the United States. In most major metropolitan areas, they are actually the majority of adults. And yet, discrimination against unmarried adults is widespread.

The term "marital status" was first added to some municipal and state anti-discrimination laws in the 1970s, mostly due to the leadership of the National Organization for Women. NOW saw that marital status discrimination was closely linked to discrimination against women. However, NOW never received the backing from other civil rights and political groups that would have been necessary to build national momentum to fight marital status discrimination and to make it a priority issue.

To this day, the platform of the Democratic National Party does not mention marital status discrimination. Neither does the charter of the Democratic National Committee. While these organizations condemn sexual orientation and sex discrimination, they are conspicuously silent on the subject of marital status discrimination.

This is amazing, considering the fact that the "marital status gap" in voting trends is even more pronounced than the "gender gap." Most unmarried adults vote for Democratic candidates. Most married adults vote Republican. And yet, the Democratic Party acts as if unmarried adults do not exist.

The American Civil Liberties Union has barely scratched the surface of marital status discrimination. It's history on this issue is mixed. Sometimes it ignores the problem and turns test cases away. While it published a book on "The Rights of Single People" some 13 years ago, the book has never been updated. Furthermore, it is omitted from a website list of ACLU publications.

While the ACLU has made "gay rights" a priority issue -- creating a national project and some local projects on this issue, pushing for legislation at the state and federal level to end such discrimination, and taking dozens of test cases -- the same may not be said for its role in dealing with marital status discrimination.

In one case, *Ayyoub v. City of Oakland*, the ACLU filed an amicus curiae brief to justify and support discrimination against unmarried opposite-sex domestic partners by the City of Oakland. The city had been ordered by the California Labor Commissioner to include opposite-sex couples in its domestic partner medical benefits program, which the city had tried to limit to same-sex couples.

Oakland would only give benefits to opposite-sex domestic partners if they married, even though these couples had deliberately chosen to be domestic partners rather than married spouses. The ACLU National Lesbian and Gay Rights Project filed a brief seeking to overturn the labor commissioner's ruling. Matt Coles, director of the national project, later explained that the brief was filed based on nuances of local law. He said that he agreed that the exclusion of opposite-sex couples from domestic partner benefits plans is illegal sex discrimination under federal civil rights laws.

Unless marital status discrimination gets the attention it deserves, and until groups such as the ACLU, NOW, and the Democratic National Party make a major commitment to address this problem,

the situation will get worse. The issue of marital status discrimination could become relegated to a tragic footnote in the history of the civil rights, women's rights, and human rights movements, with a sad comment that it emerged and then disappeared during the 1970-1990 era of these movements.

Much can be learned from our neighbor to the north. In Canada, marital status discrimination has been made a priority issue. The Charter of Rights prohibits such discrimination.

The Canadian Supreme Court and provincial appellate courts have broadly interpreted the charter as well as provincial human rights laws prohibiting marital status discrimination. Provincial and federal legislatures have granted most of the rights that married couples enjoy to unmarried opposite-sex partners who live together as a nonmarital family unit. In the past few years, administrative human rights tribunals and provincial courts have extended most of these protections to same-sex couples living together in long-term relationships.

And yet, in this country the trend has been for national civil rights groups to push for gay rights, either ignoring singles and unmarried heterosexual couples or taking active steps to perpetuate and reinforce marital status discrimination against them.

Thus, most colleges, nearly half of private employers, and some municipalities that give benefits to domestic partners limit enrollment to same-sex couples, thereby forcing opposite-sex partners to get married to receive equal pay at work.

This practice is blatant discrimination on the basis of sex, sexual orientation, and marital status. Only one group in the nation, Spectrum Institute, is actively fighting such sexist programs, pushing for inclusive domestic partner benefits plans without gender-based restrictions for eligibility.

The insurance industry discriminates on the basis of marital status in many lines of coverage. The rationale for this practice is questionable, and the industry hides actuarial data on this issue from public scrutiny. But even if such data were to exist, should it justify class-based discrimination?

What if data existed to show that African Americans, as a class, were higher risks than Caucasians? Or if Muslims or Atheists were greater risks than persons with other religious affiliations? Would civil rights groups accept this justification?

No! People should be treated on the basis of their individual merit and personal background, not on class stereotypes. This principle should apply equally to marital status discrimination.

The decision to marry or not to marry is protected by the fundamental right of privacy, much the same as freedom of procreative choice is. Freedom of choice is protected, not just the decision to enter into marriage or to procreate.

Marital status bias affects some constituencies more than others. Many seniors, for example, suffer from the so-called marriage penalties built into tax laws, pension plans, and government benefits programs. As a result, many divorced and widowed seniors choose not to marry. They either live alone, or with a roommate, or a domestic partner in an intimate but nonmarital relationship.

Divorcees, many who left a marriage for important personal reasons, might find insurance rates go up as a result of their new unmarried status, when in fact they may have been higher risks when they were in an abusive or dysfunctional marriage.

Most African American adults are not married. Because federal civil rights laws, and most state statutes, do not prohibit marital status discrimination, a landlord who does not want to rent to racial minorities can use marital status as a way to circumvent laws prohibiting racial discrimination.

Young people who want to defer marriage until they graduate from college or establish a career are also adversely affected. They may have excellent grades in school and hold down a responsible job, but are nonetheless classified by

insurance companies or landlords as "careless swinging singles," and as a result they may be unfairly denied an apartment or forced to pay higher premiums for their automobile insurance.

It may seem outrageous, but children born out of wedlock are still labeled "bastards" or "illegitimate" by the laws in at least 14 states. These legislatures apparently believe that public policy should adopt the biblical admonition that "the sins of the parents shall be visited upon their children."

Gays and lesbians are also hurt by marital status discrimination. Because same-sex couples may not marry, they cannot enter the legally privileged class of marriage. Legalizing same-sex marriage could help *some* of these couples.

However, even if marriage laws were to remove gender barriers, many gay people would not benefit. Why? Because many, and possibly most, would remain single or would choose to register as domestic partners rather than legally marry.

If groups such as the ACLU or Lambda Legal Defense Fund were to go to court now to justify discrimination against unmarried heterosexual couples on the theory that they can gain economic benefits and legal protections by marrying, they will be reinforcing marital status discrimination. Some day, if same-sex marriage were to be legalized, these organizations will have created a legal monster that will harm a large percentage of lesbians and gay men -- those who choose to remain single or who choose domestic partnership rather than marriage.

Marital status discrimination needs national attention. Existing civil rights organizations should take a hard and close look at how such discrimination adversely affects their constituencies.

Should the platform of the Democratic Party be amended to condemn marital status discrimination? Should the National Organization for Women rededicate itself to ending marital status discrimination and elevate this issue on its national agenda? Should the American Association of Retired Persons devote some of its vast resources to promote civil rights for millions of older adults who are unmarried and who may be living in so-called nontraditional households?

Should the NAACP or the Rainbow Coalition take a look at how marital status discrimination affects African American adults, the large majority of whom are not married? Should the labor movement insist that "equal pay for equal work" is a principle worth fighting for, and thereby demand that single workers and those with domestic partners (of either gender) receive equal benefits compensation with their married coworkers?

Should gay and lesbian rights organizations remain allies with seniors, people with disabilities, and unmarried heterosexuals, making sure that these constituencies are not cut out of domestic partnership laws or employment benefits programs?

The answer to each of these questions should be a resounding and unqualified YES! After all, the rights of 78 million unmarried adults in the United States are affected by marital status discrimination.

While groups such as People for the American Way, Urban League, La Raza, MALDEF, American Jewish Committee, and others have done an excellent job in fighting racial, ethnic, and religious discrimination, they have not even begun to focus their attention on marital status bias.

Spectrum Institute invites the National Organization for Women, the ACLU, and other groups to cosponsor a Civil Rights Summit on Marital Status Discrimination to be held in Washington D.C. sometime in the next two or three years. The conference will develop strategies for combating marital status discrimination and promoting respect for family diversity for the first decade of the new millennium and beyond.

-- Thomas F. Coleman
Spectrum Institute
September 14, 1998

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

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JUL 10 1998

July 6, 1998

Lloyd E. Rigler
PO Box 828
Burbank, CA 91503-0828

Dear Lloyd:

Please forgive the delay in responding to your letter of May 7. I think you may be misconceiving the ACLU's position on domestic partnerships.

First, in our own health insurance plan, we provide family coverage to domestic partnerships, both heterosexual and same-sex.

Second, we have explicitly stated our preference for inclusive domestic partnership laws and practices.

Third, although we have not sought to overturn same-sex only domestic partnerships, it is not because we prefer them but rather because we have always been hesitant to overturn badly-needed rights for one group simply because those same rights have not yet been extended to others.

For example, the Civil Rights Act of 1964 outlawed discrimination in employment on the basis of race and sex. But if the law had only addressed discrimination based on race, and left sex discrimination for another day, and if we had not been able to get sex discrimination included at that time, we probably still would have supported the Act, not because we thought sex discrimination permissible but because we would not have wanted to overturn a remedy for race discrimination. That, and not principle, is why we have not sought to overturn same-sex only domestic partnership arrangements while pressing to have as many such arrangements as possible be inclusive of heterosexuals as well.

Sincerely,

Ira Glasser

/ml

SPECTRUM INSTITUTE

A Non-Profit Corporation Promoting Respect For Human Diversity

July 10, 1998

Thomas F. Coleman
Executive Director
Family Diversity Project

Mr. Ira Glasser
ACLU Foundation
125 Broad Street
New York, NY 10004-2400

Re: Reply to your letter of July 6
to Lloyd Rigler

Dear Mr. Glasser:

Lloyd Rigler just received your letter. Since he has been temporarily unable to work due to a spine injury caused when he fell recently, Lloyd asked me if I would respond to your letter.

I understand that the ACLU's own health insurance plan covers same and opposite sex domestic partners. That is commendable.

I also understand that the ACLU has stated its preference for inclusive domestic partnership benefits plans. For example, the model domestic partnership benefits plan on the ACLU's web page on the Internet includes all domestic partners regardless of gender. That is also commendable.

However, despite these modest indications of support for the rights of all domestic partners, regardless of gender, there are contrary indications suggesting that when push comes to shove, the ACLU will defend sexist domestic partnership plans. There are also numerous indications that, although the ACLU is actively and aggressively interested in securing the rights of gays and lesbians, it is indifferent to the rights of 78 million single adults in this country. These are the problems that Lloyd would like to see you address.

When the California Labor Commissioner ruled that the City of Oakland violated existing state law prohibiting sexual orientation discrimination in employment by its exclusion of opposite-sex couples from the city's dp benefits plan, the ACLU filed a brief *defending* the sexist plan. Both the Northern California affiliate *and* the ACLU national signed that letter brief. Then when the issue was raised again in a second case involving a fire fighter in Oakland (after the city refused to obey the Labor Commissioner's order), the ACLU filed another brief to defend the sexist plan. That brief was filed by the Northern California affiliate. I noticed that the ACLU national did not sign onto that brief. I don't know whether that was an oversight or whether the national had a change of policy.

These briefs are examples of aggressive legal advocacy *against* the right of single adults to choose domestic partnership over marriage. These briefs are examples of the ACLU attempting to limit the scope of protection of sexual orientation laws to homosexuals and to exclude protection for heterosexuals. This is a far cry from the example you gave in your letter regarding the Civil Rights Act of 1964. Your analogy does not apply to what the ACLU did in Oakland. Oakland's action violated *existing state law* prohibiting sexual orientation discrimination and *existing federal law* prohibiting sex discrimination in employment compensation.

Furthermore, the ACLU has actively recruited gay and lesbian members and continues to do so. The full page ad in the New York Times regarding the sodomy laws is a perfect example. The primary focus was the infringement on the rights of gays and lesbians, indicating that while these laws technically affect straight people, they really do not affect them in any significant way.

In fact, Spectrum Institute has documented the fact that criminal laws prohibiting fornication and unmarried cohabitation do affect the rights of straights and bisexuals in significant ways: child custody and visitation rights, employment in law enforcement positions, fair housing rights, and income tax dependency deductions, are a few areas affected by the continuing existence of fornication and cohabitation laws.

Recruiting victims of discrimination to join the ACLU to fight back makes a lot of sense. But why limit outreach to gays and lesbians? Why not also reach out to an untapped source of new members, i.e., tens of millions of single people, many of whom also are victims of discrimination in employment, housing, credit, insurance, and consumer practices?

The ACLU has updated its book on the Rights of Gays and Lesbians, which is great. However, its book on the Rights of Single People is sorely out of date (published in 1985). The ACLU has a National Gay and Lesbian Rights Project, but does not have a National Project on Marital Status Discrimination. The ACLU includes gay and lesbian issues in its annual national briefing, not so with respect to marital status discrimination. Several months ago, Denver attorney William Reynard submitted to the executive committee a list of actions that could be taken by the ACLU and the ACLU Foundation to fight marital status discrimination in a systematic manner. He and I discussed the matter at some length and he enthusiastically supported these suggestions. To my knowledge, he has never received a reply.

What Lloyd has been trying to suggest is that you develop a method for the ACLU to actively promote the rights of single people and to fight marital status discrimination as it affects single individuals as well as unmarried couples. Shouldn't the national briefing focus on marital status discrimination? Shouldn't the ACLU try to attack the laws in 12 states that criminalize unmarried cohabitation? Shouldn't the book on Rights of Single People be updated? Shouldn't the ACLU create a national Marital Status Nondiscrimination Project, or at least form a coalition with other

groups such as Spectrum Institute, the Alternatives to Marriage Project, NOW, and AARP? Shouldn't the ACLU stop filing briefs defending benefits plans that exclude opposite-sex partners? These are the issues he was hoping that you would help the ACLU to address.

When Lloyd found out that I was going to be in New York in mid-May, he faxed you a letter requesting that you meet with me to discuss some of these issues. Unfortunately, you did not have time of your agenda that week. I hope that someday you will have the time to meet with me.

Again, on Lloyd's behalf I would like to thank you for beginning a dialogue on these issues. I look forward to your response to the concerns I have raised in this letter.

Yours truly,

THOMAS F. COLEMAN

P.S. I have enclosed an informational briefing on family diversity, domestic partnership, and marital status discrimination that is being sent to all 230 candidates (from all parties) who are seeking election to the California Legislature. I thought you might find it interesting.

SPECTRUM INSTITUTE

A Non-Profit Corporation Promoting Respect For Human Diversity

August 28, 1998

Mr. William Reynard
958 Lincoln Street
Denver, CO 80203

Thomas F. Coleman
Executive Director
Family Diversity Project

Re: The disappearance of the ACLU book on "The Rights of Single People"

Dear Bill:

In preparation for my meetings with ACLU people next month, and in anticipation of your proposal to the ACLU board in October on the rights of single people and marital status discrimination, I have been doing some additional research.

As you know from the proposal I submitted to you last March, I was concerned that the ACLU book on "The Rights of Single People" needed to be updated. That was one of the projects I suggested for you to present to the ACLU.

Today, as I was reviewing the ACLU's web site on the Internet, I looked at the portion of its web site called "The Store." People can go to "the store" on the web site and purchase ACLU books and other publications.

I have attached the page where the series known as "ACLU Rights of . . . Handbooks" are listed. There are about 20 books from this series listed there. I was disturbed to see that "The Rights of Single People" has disappeared.

I thought, well, maybe it is not listed because it was published in 1985. However, that can not be the reason for its omission. "The Rights of Crime Victims" was published in 1985 and it is listed for sale. "The Rights of Older Persons" was published in 1988 and it is listed. "Your Right to Government Information" was published in 1985 and it is listed.

With 78 million single adults in the United States, one would think that the ACLU would not remove its own book on "The Rights of Single People" from its list of publications for sale. Of course, the book needs to be updated. And that is one of the primary projects in the proposal you submitted to Nadine Strossen, which will be brought to the full board. But why has the book disappeared from the ACLU's list of publications? This is a real mystery. Maybe you will find out when you present the proposal in October.

Yours truly,

THOMAS F. COLEMAN

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THE RIGHTS OF AUTHORS AND ARTISTS by Kenneth P. Norwick, Jerry Simon Chasen, and Henry R. Kaufman
THE RIGHTS OF CRIME VICTIMS by James Stark and Howard Goldstein
THE RIGHTS OF EMPLOYEES by Wayne N. Outten with Noah A. Kinigstein
THE RIGHTS OF GAY PEOPLE by Thomas B. Stoddard, E. Carrington Boggan, Marilyn G. Haft, Charles Lister, and John P. Rupp
THE RIGHTS OF INDIANS AND TRIBES by Stephen L. Pevar
THE RIGHTS OF PRISONERS by David Rudovsky, Al Bronstein, and Edward I. Koren
THE RIGHTS OF SINGLE PEOPLE by Mitchell Bernard, Ellen Levine, Stefan Presser, and Marianne Stecich
THE RIGHTS OF TEACHERS by David Rubin with Steven Greenhouse
THE RIGHTS OF THE CRITICALLY ILL by John A. Robertson
THE RIGHTS OF WOMEN by Susan Deller Ross and Ann Barcher
THE RIGHTS OF YOUNG PEOPLE by Martin Guggenheim and Alan Sussman
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AN AMERICAN CIVIL LIBERTIES UNION HANDBOOK

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- People with Mental Disabilities
- Prisoners
- Public Employees
- Racial Minorities
- Students
- Women
- Right to Government Information
- Right to Religious Liberty
- Right to Protest
- Right to Privacy

Single People??? >>>>>>

Why is this missing from the list?????

The Rights of Aliens and Refugees:
The Basic ACLU Guide to Alien and Refugee Rights
by David Carliner, Lucas Guttentag, Arthur C. Helton, and Wade J. Henderson
(2nd Edition, 1990)

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The Basic ACLU Guide to Author and Artist Rights
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The Rights of Crime Victims
by James Stark and Howard W. Goldstein (1985)

Item #1040 Order Item
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A Basic Guide to the Legal Rights of Non-Government Employees
by Wayne N. Outten, Robert J. Rabin and Lisa R. Lipman (2nd Edition, 1994)

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The Basic ACLU Guide to a Gay Person's Rights
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A Basic Guide to the Legal Rights of Older Persons under Current Law
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The Basic ACLU Guide to Patient Rights
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The Rights of Students:
The Basic ACLU Guide to a Student's Rights
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by Susan Deller Ross, Isabelle Katz Pinzler, Deborah A. Ellis, and Kary L. Moss (3rd Edition, 1993)

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Your Right to Government Information:
A Basic Guide to Exercising Your Right to Government Information Under Today's Laws
by Christine M. Marwick (1985)

Item #1190 Order Item
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Your Right to Privacy:
A Basic Guide to Legal Rights in an Information Society
by Evan Hendricks, Trudy Hayden, and Jack D. Novik (2nd Edition, 1990)

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AMERICAN ASSOCIATION
FOR
PERSONAL PRIVACY
18 OBER ROAD
PRINCETON, NEW JERSEY 08540
(609) 924-1950

1 September 1998

Mr. Ira Glasser, Executive Director
American Civil Liberties Union Foundation
125 Broad Street
New York City, N.Y. 10004-2400

Dear Mr. Glasser:

As one who has for many years been working in the field of sexual civil liberties, I have become increasingly concerned regarding the A.C.L.U.'s position with respect to certain gay and gender issues. On the one hand, one cannot help but be deeply impressed with the A.C.L.U.'s record regarding women's and gay issues as a whole, but when those issues are specifically narrowed to the matter of domestic partnership, I find a serious myopia regarding some fundamentals of civil liberties.

The problem begins with the refusal of many domestic partnership plans to include heterosexuals within their ambit on the specious ground that herosexuals have open to them the option of matrimony, which homosexuals do not have. This is a Hobson's choice. Millions of heterosexual Americans have rejected matrimony as an answer to their needs for interpersonal bonding. It is estimated today that a majority of newlyweds in the United States have had cohabiting experience either between themselves or with others, and thousands of cohabitors never marry at all.

The underlying problem is the fact that the institution of matrimony has never been secularized in this country, civil marriage to the contrary notwithstanding. There is no legal difference whatsoever between a civil marriage and a church wedding. Both are subject to the same rules and regulations, which are enforced by the same administrative and judicial agencies of the state. Though less numerous now, these rules and regulations differ little in their essentials from those in effect when the only administering and enforcing authority was the Christian church. Whether or not the matrimonial ceremony be civil or religious, the legal core of matrimonial jurisprudence continues to rest on the residual legacy of the old ecclesiastical canons. Wedlock, it is true, is no longer a life sentence. Release is possible through divorce, and adultery is no longer a crime in many states. But as broad as these changes have been, marriage is still essentially a Christian institution, the parameters of which are set by the state, and within which the various religious denominations -- both Christian and non-Christian -- operate.

In the criminal field the laws against bigamy, sodomy, incest, and polygamy, together with the rules operating in the civil field, such as those regarding failure to consummate, testimentary and testimonial privileges, and custodial arrangements, testify to the chasm which exists between domestic partnership and matrimony in terms of the respective responsibilities involved. Domestic partnership is a secular creation,

based entirely on the need in modern societies for interpersonal bonding, irrespective of procreational intentions. Marriage rules continue to be relics of a religious past, enforcing ecclesiastical regulations through the secular arm of the state governments, which are supposed to operate on the principle of separation of church and state. Here the laws of matrimony must be distinguished from secular statutes that criminalize offences such as murder and larceny, which, like marriage, have religious roots. The difference lies in the fact that crimes such as murder and larceny have long since been desacralized. Their proscription stands on independent secular grounds quite distinct from those which once constituted their religious warrant. The rules surrounding matrimony have never been subjected to any secular test, nor has the institution itself been genuinely desacralized.

To claim that heterosexual couples who wish to bond as domestic partners have marriage as an option -- and therefore should be prohibited from becoming domestic partners -- is tantamount to prohibiting all Gentiles from converting to Judaism, on the ground that they are acceptable as members in the established state church, from which all Jews are barred. The purpose of such rules in the past was to protect the state religion from losing members to heretical creeds. This is precisely the rationale of some leaders of the religious right, who are quietly prepared to accept domestic partnership if necessary as long as it remains a gay ghetto institution, open only to homosexuals, in the same way that a Christian would have been denied the right to have a Jewish marriage in the middle ages. In this manner, today's religionists hope to protect the institution of matrimony from the rising tide of heterosexual cohabitors, who constitute the greatest challenge to marriage in Christian history. Religionists fear that, if domestic partnership were made available to heterosexual couples, large numbers of such couples would choose to become domestic partners rather than husbands and wives.

For the A.C.L.U. to flout hallowed principles of church-state separation and to ignore the rank injustice to heterosexuals reflected in its present policy is nothing short of a return to the ecclesiastical concept of segregation by religious faith in the field of domestic relations. The practice of redressing discrimination against a minority by counter-discrimination against the majority is both unacceptable and inequitable, and is the handmaiden of segregation. In this case it has led the A.C.L.U. to defend a practice which does not even meet the standard of "separate but equal" required by the Plessy court more than a century ago. Domestic partnership is a secular institution, which is intended to confer the benefits of matrimony upon those who do not wish, or who are unable, to assume the religious responsibilities which attach to civil and religious marriage alike. To suggest an equivalency between domestic partnership and matrimony is to make a mockery of the term. A Canadian court, without even the benefit of a fourteenth amendment, recently invalidated a domestic partnership program involving segregation for reasons of sexual orientation identical in principle to that which you are attempting to uphold.

It is my understanding that you are a prime force behind the current A.C.L.U. practice of defending "gay only" domestic partnership programs. This policy will come up for discussion at your forthcoming conference in Washington later this month, and again at your national board meeting in October. I hope that at these meetings you and your office will redeem the A.C.L.U.'s historic role by recognizing the justice of the heterosexual claim to equal treatment in all domestic partnership arrangements as well as the church-state issue that is involved.

The favor of a reply will be appreciated.

Very sincerely yours,

Arthur C. Warner

Arthur C. Warner
Executive Director

cc: William F. Reynard, Esq.

ALTERNATIVES TO MARRIAGE PROJECT

120 B Pond Street, Sharon, MA 02067 • (781) 793-9911 • atmp@netspace.org • www.netspace.org/atmp

August 12, 1998

Mr. Ira Glasser
ACLU Foundation
125 Broad Street
New York, NY 10004

Dear Mr. Glasser:

We are writing to express our concern that the ACLU has not planned a strategy to address the issue of marital status discrimination.

We are the founders of the Alternatives to Marriage Project, a national organization that provides resources, advocacy, and support to people who have chosen not to marry, are unable to marry, or are in the process of deciding whether marriage is right for them. Some of our members are single, and others are in same-sex or opposite-sex relationships. What sets them apart from other Americans is that they are denied many of the rights and privileges married couples take for granted. This group of people has traditionally been overlooked as a political constituency, but we believe that given the increasing diversity of families and relationships in this country, there is an urgent need for marital status discrimination to be addressed and rectified.

We were recently actively involved in the legislative battle for domestic partner benefits in Massachusetts. Massachusetts' Acting Governor, Paul Cellucci, vetoed a bill that would have granted health benefits to domestic partners of state employees because it was an inclusive, non-sexist plan. He preferred a same-sex only benefits plan that would have discriminated on the basis of sex and marital status, and his veto means that state workers still do not receive equal pay for equal work. It would have been wonderful to have had the public support of the ACLU for a non-sexist domestic partner plan. We hope that when the issue is re-introduced in the next legislative session the ACLU will take a public stance in support of inclusive domestic partner legislation.

We are also currently interviewing unmarried couples around the country for a book about long-term couples who choose not to marry or are unable to marry. Most

of the couples with whom we have spoken say they have experienced discrimination on the basis of their marital status. When we ask these couples what type of information or resources would be helpful to them, they frequently talk about their fears regarding the lack of legal protections and rights for unmarried people. These conversations, as well as our personal experiences as activists and as an unmarried couple, have led us to the conclusion that protections for this portion of the population are long overdue.

We urge the ACLU to put into practice the recommendations made on the enclosed page, "What Can the National ACLU and ACLU Foundation Do To Combat Marital Status Discrimination?". Please let us know if our organization can be of help to you as you consider these issues.

Sincerely,

Dorian Solot
Co-Founder

Marshall Miller
Co-Founder

cc: Mr. John Roberts, Massachusetts ACLU
Ms. Nadine Strossen, New York Law School
Mr. Thomas Coleman, Spectrum Institute

THE MAGNUS HIRSCHFELD CENTER FOR HUMAN RIGHTS
CROSSWICKS HOUSE
551 VALLEY ROAD, SUITE 169
UPPER MONTCLAIR, NEW JERSEY 07043-1832
TELEPHONE: (201) 237-3406 FACSIMILIE: (973) 744-2513

Via Facsimile: 212-431-3295

August 14, 1998

Professor Nadine Strossen
The New York Law School
57 Worth Street
New York, New York 10013

RE: ACLU Policies Relating to Discrimination in Domestic Partnership Legislation/Marital Status

Dear Professor Strossen:

I am writing to you to signal my concern, and that of my colleagues, over an issue that has become an increasingly serious threat to hard-won gender equality as well as the principles of fairness and non-discrimination on the basis of gender and sexual orientation: ends to which the Hirschfeld Center in the international arena, like the American Civil Liberties Union in the national sphere, has devoted its efforts.

As you are surely aware, a number of states and municipalities (as well as private employers) have over the past decade made accommodation to provide spousal health and other benefits to persons engaged in committed relationships outside of the traditional (and legally recognized) marriage bond. Many of such persons are homosexual, with a life partner of the same gender as himself or herself and hence under current law barred from contracting marriage. All existing and proposed domestic partnership schemes, to their credit, envisage accommodating such individuals.

Regrettably, a number of proposals have been put into effect or are being put forward that would limit such benefits to persons of the same gender who are (at present) unable to contract marriage. Over the past month, as you may be aware, domestic partnership legislation in the city of Boston was imperiled on account of a divergence of views on the part of city and state legislators as to who should benefit by such legislation. In summary, the city of Boston favored the passage of gender-inclusive domestic partnership legislation and the state legislature (as is required under Massachusetts law) enacted a gender-inclusive statute, only to have that statute vetoed by the state's acting governor. Those who would limit such spousal benefits to same-sex couples have made the argument, as Massachusetts' acting governor recently did, that the provision of an alternative to marriage for heterosexual couples would contribute to the dissolution of families and promote "absentee fatherhood."

As you may also be aware, there has recently been commenced in the U.S. District Court for the southern district of New York a lawsuit by Bell Atlantic employees charging their employer with sexual discrimination owing to that employer's having in place a discriminatory domestic partnership benefits scheme that excludes partners of differing genders (Foray v. Bell Atlantic, docket no. 98 CV 3525).

Those holding to the view that domestic partnership status should be accorded to all qualifying persons, irrespective of gender, seem supported by the weight of legal authority. Such authority holds that the denial of domestic partnership status to partners on the basis of the genders comprising such a partnership is a clear violation of international law (as embodied in the International Covenant on Civil and Political Rights, to which the United States is a signatory),

federal law (as embodied in Title VII and the Equal Pay Act of 1963, inter alia) and state laws prohibiting sexual discrimination in employment and sexual orientation discrimination.

The ACLU should support the freedom of choice of single adults to become domestic partners rather than spouses in a traditional marriage without suffering penalty or discrimination on account of their exercising that choice. There are many reasons why single adults choose to live in a non-marital family unit. Many young people wish to finish their education or establish their careers before marrying. Many spouses divorce on account of domestic abuse and violence or may not wish to contract marriage without having experienced a period of healing even though they have a new, non-married partner. Many senior citizens wish to share a residence and a life with a new mate but do not marry because they would often lose pension survivor benefits were they to do so. Some believe that marriage is a historically tainted institution whose existence has been oppressive to female partners. In summary, the reasons for wishing to enter some union other than the traditional marriage are myriad.

As a member of the American Civil Liberties Union of many decades' standing, I was disheartened to learn over the past few days that the ACLU (perhaps via its local affiliate) in at least two instances litigated in support of a gender-discriminatory local domestic partnership scheme in Oakland, California. It would have been disheartening enough had the organization remained silent, but it is immeasurably more so to see the ACLU promote a stand that it has historically opposed.

I have been given to understand that, despite "lip service" paid to the need for the availability of domestic partnership to all, there has yet to be a supportive appearance by the ACLU or an ACLU local affiliate in litigation promoting or enforcing inclusive legislation. The provision of some kind of paramarital domestic partnership legislation for same-gendered couples is, to view it in a generous light, a "half-step" in a well-intended direction. But to undertake the resources of the ACLU to defend legislation that is wantonly discriminatory seems to me to be out of accord with the principles that have informed the ACLU's philosophy and activities since its founding.

Given the influence and status of the American Civil Liberties Union and the pool of talent it and its affiliates have available to them, it seems to me a shame that the organization would misdirect its efforts toward the support of inequality instead of acting to eliminate marital status discrimination in the workplace. An organized, systematic effort is needed to advance the possibility for all persons, lesbian, gay, bisexual and straight, to enjoy the right to a workplace free from gender discrimination and lives free from legally-mandated exclusion.

I am sending herewith a duplicate of a document that has come into my possession captioned "What can the National ACLU and ACLU Foundation do to combat marital status discrimination." The document embodies a proposal made to the ACLU's Executive Committee by William Reynard, Esq., of Denver, Colorado, and a member of the ACLU's national board. I would ask that you read it and consider its points carefully.

The favor of your reply is respectfully requested.

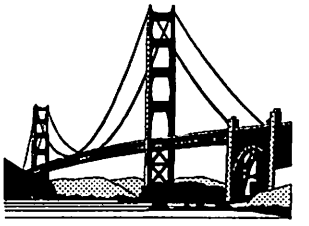
Thank you very much for your consideration.

Yours sincerely,

William A. Courson
Executive Director
THE HIRSCHFELD CENTER

cc:

Majid Yacoub Ayyoub - "Mickey"
Sandra Kay Washburn
299 Glen Drive, Lower
Sausalito, CA 94965
(415) 331-5421



August 17, 1998

ACLU Foundation
125 Broad Street
New York, NY 10004

Att: Ira Glasser, Executive Director
RE: California State Case #99-02937
Majid Yacoub Ayyoub v. City of Oakland
Claim alleging violation of Labor Code Section 1102.1

Dear Mr. Glasser:

In January of 1997, the City of Oakland enacted a same-sex only policy for extending medical benefits to their employees with domestic partners. As a heterosexual Oakland employee with a domestic partner, I was thereby discriminated against, simply for my sexual orientation and choice of familial commitment, and subsequently suffered its impacts. I argued my point against Oakland's illegal policy, and the State Labor Commissioner and Industrial Relations Director agreed with me by ordering Oakland to withdraw their policy and extend medical benefits to **all** domestic partners. After the state's decision and immense pressure from the Spectrum Institute (which supports family diversity and gay rights), the media, and other politicians and agencies, Oakland finally realized their error and corrected the situation (see attached news articles).

However, when the Labor Commissioner ruled against Oakland's policy, Kelli Evans of ACLU Northern California and Matthew Coles of ACLU National Gay and Lesbian Rights Project, sent a brief (dated November 21, 1997), supporting the act of sexual orientation discrimination, based on the fact that gay people cannot legally marry. Although the extension of benefits to domestic partners is primarily driven by this aforementioned fact, heterosexual domestic partners should not be discriminated against for this, or any, reason. As a matter of fact, one of the reasons why my domestic partner and I choose to continue a domestic partner commitment is because we do not want to support the discriminatory institution of marriage.

When I received an envelope with the ACLU letterhead, I rejoiced because I thought the envelope contained documents confirming your support of the state's decision, not a brief supporting Oakland's discriminatory action. Needless to say, we were extremely disappointed to be discriminated against and to later learn that the ACLU supported this particular act of discrimination. I believe that the

ACLU should be supporting the freedom of choice and family diversity (especially one of an equitable status), and focus their efforts towards a better cause, such as allowing gay people to legally marry. I sincerely hope you have changed your stance on this issue, and will be more supportive in recognizing the rights of family diversity and ending discrimination of any kind.

If I may be of any assistance, or if you wish to discuss the matter further, feel free to call me at (510) 238 - 7274 (work), or (415) 331 - 5421 (home). I thank you for your time and consideration in the matter.

Very Truly Yours,

MAJID "MICKEY" AYYOUB

Attachments

cc: Nadine Strossen, President, ACLU
Thomas F. Coleman, Spectrum Institute

Mickey\aclu1

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Oakland Faces Legal Fight Over Partners Benefits

State agency says policy favors same-sex couples

By Pamela Burdman
Chronicle Staff Writer

A state labor agency plans to sue the city of Oakland over its policy offering medical benefits to city employees' same-sex partners, an action that Governor Pete Wilson says could doom a similar policy just passed by the University of California regents.

State Labor Commissioner Jose Millan said yesterday he will take the city to court if officials don't extend medical benefits currently available to same-sex partners to opposite-sex partners as well.

Oakland officials said they have no intention of changing their policy — despite an order issued by Millan in October. Millan's ruling said the policy discriminates based on sexual orientation, in violation of state law.

"We are going to stand by our policy," said Oakland city attorney Jayne Williams. "The state can file action to compel us, and at that time, we will argue our position."

Millan's ruling was made after a complaint was filed in July by Majid Ayyoub, an Oakland city employee who was unable to obtain health benefits for his female domestic partner.

The Ayyoub case became a central feature of Governor Pete Wilson's unsuccessful bid to block the UC regents' new domestic partner policy two weeks ago. The regents narrowly approved the new policy — which excludes heterosexual partners — despite Wilson's opposition.

"We are faced with, at a minimum, the very high risk of being compelled to offer benefits to heterosexual unmarried couples," Wilson said at last month's meeting. "It appears to be an all-or-nothing proposition."

Millan's ruling was upheld by John Duncan, acting director of the Department of Industrial Relations, on November 14. Both men are Wilson appointees. A number of cities — including San Francisco, Los Angeles and San Diego — offer domestic partner benefits to their employees. But until the regents' decision last month, Oakland was the only governmental body in the state to exclude hetero-

BENEFITS: *Page A21 Col. 1*

BENEFITS: Oakland Policy

From Page A17

sexual couples.

"Oakland sticks out like a sore thumb," said Ayyoub's attorney, Thomas F. Coleman of Los Angeles.

After Wilson referred to the Oakland case, UC attorneys broadened their policy to include blood relatives who are dependents of UC employees.

The policy, which was ultimately approved in a 13-12 vote, applies to adults "in a long-term, committed domestic relationship who are precluded from marriage because they are of the same sex or incapable under California law of a valid marriage because of family relationship."

Because UC functions autonomously from other state agencies, UC officials believe the university is not bound by the decision in the Oakland case. "We see this as no hindrance to the regents' action," said UC spokesman Rick Malaspina.

Wilson argued that if Ayyoub prevails in his case against Oakland, UC would also face lawsuits and be required to broaden its policy as well. He said the policy undermines the institution of marriage and the privileges and benefits available under law to married couples.

Labor Commissioner Millan has not ruled on UC's policy, and no case has been filed with him on the question.

Yesterday, he said the UC policy does not face the same legal problems that Oakland's does.

In addition to the different wording of the two policies, Oakland appears to have run into legal problems because the city first offered dental and vision care to all domestic partners, regardless of sexual orientation, only to later restrict medical benefits to same-sex partners.

"It's not the same thing at all," Millan said yesterday. "It (UC's policy) is perfectly valid under the labor code. I think it would be fine as long as it's not based on actual or perceived sexual orientation' but instead on the inability to marry, Millan said last night.

Chronicle staff writer Thaai Walker contributed to this report.

▶ LOCAL-6 — Editorial: Compared with other states, California doesn't pay jurors enough.

Oakland approves benefits for straight domestic partners

By Stacey Wells
STAFF WRITER

OAKLAND — After a yearlong battle, city officials voted Tuesday to grant domestic partner benefits to heterosexual city employees.

The 8-1 vote by the City Council reverses a policy that extended medical benefits only to the registered domestic partners of same-sex city employees. The decision follows complaints filed by two workers and engendered considerable pressure from the state labor commissioner and other politicians.

In a letter to the council, newly elected 9th District Rep. Barbara Lee urged the city to pursue "fair treatment and benefits to all city employees, regardless of martial status."

Since 1996, Oakland has allowed city employees to register their domestic partnerships, regardless of sexual orientation. But Oakland only extended medical benefits to same-sex domestic partners, excluding heterosexual couples.

Two city employees, Mickey Ayyoub and Allan Edwards, filed complaints with the state labor commissioner, who ruled in November that Oakland's "gays only" medical coverage is illegal.

Ayyoub and Edwards also hired noted Los Angeles attorney Thomas Coleman, who has built a career fighting for gay rights by pushing an agenda of universal inclusion.

"This was a great educational opportunity. I think that if the council had heard all of this information back in 1996 it would not have done a gay-only plan," Coleman said. "There was a lot of misinformation."

Councilmember John Russo (Grand Lake-Chinatown) cast the lone dissenting vote on the issue.

"Gays and lesbians can't get married and what the council was trying to do was to remedy that injustice," he said. "I think the council got it right the first time. I think history will bear that out and some day, when we reach sufficient enlightenment to recognize same-sex marriage, then this whole issue of domestic partners will be rendered moot."

Oakland stood virtually alone in insisting that its "gays only" medical coverage was legal. Thirty-two other California cities offering domestic partner medical benefits cover heterosexual and same-sex couples.

August 17,l998

Nadine Strossen
President ACLU
New York Law School
57 Worth Street
New York, NY 10013

Re: Actions of Northern Califlornia ACLU against domestic partners

Dear Ms. Strossen:

On July 1.1998 the City of Oakland granted equal medical coverage to opposite sex domestic partners after a two year battle. During this time attorney Thomas F. Coleman of Spectrum Institute compiled a virtual mountain of evidence supporting unbiased coverage.

As expected, not one written or spoken word of complaint has arisen since this new policy took effect.

The ACLU of Northern California filed a brief with the Labor Commissioner supporting Oakland's illegal position. I was extremely disappointed that an apparent ally would actually defend a sexist definition of Domestic Partnership.

I am requesting a clear explanation of the ACLU'S position on sexism and marital status discrimination.

Sincerely,

Allan Edwards

cc: Ira Glasser
Executive Director
ACLU Foundation

Thomas F. Coleman
Spectrum Institute

August 31, 1998

Ira Glasser
Executive Director ACLU Foundation
125 Broad St.
New York, NY 10004

Dear Mr. Glasser:

I am writing to implore the ACLU to help- the opportunity to help others where I was refused assistance by the ACLU in 1988. During that year, I was denied the opportunity to apply for a position as a juvenile probation officer in the state of Arizona. The local ACLU refused to help. Here is my story.

I had impeccable credentials to work in juvenile probation. A Masters degree in Special Education, with an emphasis in Behavior Disorders, and prior teaching experience. My work in Alaska, for the District of Attorney in Anchorage, had me working daily as a victim advocate, working with victims of sex crimes, many of whom were juveniles. In a letter of reference, the District Attorney called me the "single best hire he had ever made."

I had moved to Arizona to be with my boyfriend, Jim, who had found a job in Arizona. We had been together since 1981, even purchasing a home together in Anchorage. We had no children, and did not wish to marry.

I had always wanted to be a juvenile probation officer, so quickly did the preliminary job application requirements- which included a written examination, which I passed. I was contacted in 1988, about the opportunity to do an oral interview- the final stage to getting hired. Before I could attend the interview, however, the Probation Dept. sent me a 6 page affidavit that they required to be completed before I could be scheduled for the oral interview. The questions seemed easy. I was not a child molester, nor arsonist, nor had I ever been arrested for robbery or theft. However, on the final page, I was asked, " Are you living in open notorious cohabitation?"

I could not believe what I was reading. I was cohabitating, although quietly. Certainly they couldn't be serious- to compare with real serious crimes. I contacted the Probation Department and was told that cohabitation was against the law in Arizona. Further research found it listed as a misdemeanor sex offense.

I was shocked, angry and hurt. But, probation was firm. I started to do research- first into the Arizona law, then others. I found an article about a deputy sheriff in northern Arizona, who was living in polygamy- a crime listed in the Arizona constitution. How could he work, and I couldn't? I applied for a job as a child protection worker, for the same county. Surprisingly, a few months later, I was offered the job. I disclosed my cohabitation in the interview and was told half the people in the office were cohabitating- that the law was not enforced for their department. So, I could not be a juvenile probation officer, but I could do child protection work in the same county?

Not being able to find other work, I found a job as a talk radio producer. It paid only $12,000 a year. I eventually contacted Louis Rhodes, who was in charge of the ACLU in Phoenix. I shared my story, offering to be arrested, if that would help end this form of marital discrimination, and asked if the ACLU could take my case. Mr. Stokes told me the ACLU could not help me. I did not have funds to pursue my own attorney. Later, I was able to talk to many notable attorneys and legislators in Phoenix, all expressing shame at the law, but not having any answers, or insisting they did not have the political support needed to get the law changed.

In early 1989, I spoke to a woman who was a Dean at the local law school, who also sat on the Board of the ACLU. She had not been told about my case- it was never formally brought before the local ACLU board for consideration. She urged me to reapply, but I was already moving out of Arizona. I would not live in a place that discriminated against me and considered me a sex offender. Nor would I ever trust the ACLU.

I have included several of the articles I collected ten years ago- that demonstrate the variety of ways that marital discrimination can still happen, so that you can understand that what happened to me was not an isolated case. The cases have happened all over the country in different contexts. Cohabitation laws are still on the statute books in several states, waiting to be used against us. The statutes I copied were in effect in 1988; they may still be the law.

I urge the ACLU to become a leader in fighting this type of marital discrimination, through a systematic national campaign. Just before I had requested help from the ACLU in 1988, the ACLU received a lot of publicity for assisting a group of Nazi's in their efforts to obtain a parade permit to march in Skokie, Illinois. I remember thinking that if the ACLU helped Nazi's, certainly they could help on my case, that potentially impacts so many cohabitating people. I was wrong. The ACLU of 1988 cared more for the small group of Nazi's than those of us cohabitating in Arizona. I eventually moved to California. For a while I had a speciality bumper sticker on my car, "Refugee from Arizona Laws". I still feel that status.

I am very bitter towards the ACLU, and their refusal to help. Although some time has passed, the issue of marital discrimination remains of great significance to me. I do not want a person's marital status used against them in employment, or in other ways, as it tears at the heart of what a free society is suppose to be. I hope that under your direction, the ACLU will join efforts with other groups in working to end marital discrimination.

Very truly yours,

Debbie Deem

Debbie Deem
1518 Calle Orinda
Camarillo, CA 93010
805-445-2950

cc. Nadine Stroussen
Thomas Coleman

COHABITANTS, BEWARE!

"To whom it may concern:

"You have a unique opportunity. Debbie Deem is interested in working for you. If you are wise, you will invest in your personal and professional growth and that of your organization and hire her. . . . Debbie is an extraordinary woman and is, in my judgment, the best single hire I have ever made. . . . There is simply not enough paper to outline her good qualities and skills. Let it suffice to say that she is the best of the best."

Talk about glowing references. All of them are printed on stationery bearing the label State of Alaska, Department of Law and are signed by attorneys from the Anchorage office who worked with Deem during her four years as a paralegal who headed the state's victim-witness program.

When Debbie Deem moved to Arizona at the end of May with her boyfriend of seven years, she brought crisply typed copies of these references with her for this "new adventure."

Jobs were tough to find, so it was only natural that Deem would end up seeking employment with the Maricopa County Juvenile Probation Department. She had long worked with children who were physically and sexually abused, and she had a reputation for being a caring and effective counselor. Besides, her experience and her master's degree more than qualified her for a job as a juvenile probation trainee that paid only $15,000 a year and demanded but a bachelor's degree.

And then Deem got the multipage policy rules from the juvenile probation department. The department made it clear it wouldn't hire murderers, robbers, sexual abusers or arsons to counsel troubled kids. She understood why someone who sold drugs or was a chronic user of alcohol or drugs would be disqualified. She wasn't exactly sure what it meant to be disqualified for "engaging in any illegal sexual act," but she passed that one by with no concern.

The one she couldn't understand, nor pass by, was the last disqualification listed: "Cohabitation without the benefit of marriage."

Deem wasn't sure if this was a joke or not. The stiff language of this policy document led one to believe these folks were serious as hell about their prohibitions and disqualifications. But cohabitating? Come on.

So she called the department's personnel office and talked to Betty Peterson, just as *New Times* did later. Here is what Peterson says: "Yes, that's our policy, because cohabitation is against the law."

In case you didn't know, it's Arizona statute 13-1409. Here's what it says: "A person who lives in a state of open and notorious cohabitation or adultery is guilty of a Class 3 misdemeanor.

Although the Arizona Senate has tried several times to wipe this antique law off the books, somehow the idea always has been stymied and, besides, lawmakers have argued, nobody's paying any attention to it anyway.

Well, somebody is paying attention, and it has just knocked Deem out of consideration for a job.

Juvenile Court Services Director Ernesto Garcia admits the law is very archaic and says if it were changed, he'd change his personnel policy "in about thirty seconds." But until then, Garcia says, "It's nothing personal, but it is against the law, and if you're working for the Superior Court, you can't be in open and notorious violation of the statutes." Garcia admits the policy "does shock people, especially those who come from out of state."

He might be surprised to find it shocks Arizonans, too. Besides reactions of "you must be kidding," *New Times* found that no other county department has such a prohibition.

The county's *adult* probation office doesn't, according to Wayne Johnson, director of administration. Neither does the Superior Court, according to personnel manager Pete Anderson. Ditto for Maricopa County itself, says Jim Austin, the employee-relations manager.

"I spent four years at the D.A.'s office in Alaska working my butt off on incest and murder and child-abuse cases and then to come here and see my living situation lumped in with all those other horrible crimes, I find it really offensive," Deem says. "I guess from this list, I could be a tax evader and still qualify for a job there. I could be promiscuous and out in the bars every night and still qualify, as long as I didn't live with a guy."

Deem is not suffering through the problem in silence. She has started calling around to see if anyone understands what's happening. "I talked to a lawyer for the Arizona Senate, and he told me the law was on the books, but nobody paid any attention to it," she recalls. "Nobody seems aware of the occupational repercussions of that law." She talked to people in the state's unemployment office who advised her to lie. "I told them I thought you had to take a polygraph to get this job, so then they suggested I have my boyfriend move out of the house for a couple of days so I wouldn't be lying when I said I wasn't cohabitating," she says. "I don't think it's appropriate to lie."

Nor does she think it's appropriate that her living arrangement is more significant than her degrees, or all the special training classes she's taken, or her years of experience, or her glowing references, or her final performance evaluation from the Alaska Department of Law. It shows "outstanding" rankings for the quantity, quality, accuracy and completeness of her work; for her work habits; for her interpersonal relations with co-workers. The evaluation talks about Deem's "new adventure" and suggests that if she ever came back to Alaska she would be "recommended for rehire." Maybe that's why the office threw her such a big going-away bash when she left. Maybe that's why the state's attorney general wrote an effusive *four-page* letter of recommendation for her.

Yes, this has been some adventure, all right. "I've met all these nice and reasonable people in Arizona," she says, "and I wonder, who's out there who's making laws like this?" — **Jana Bommersbach**

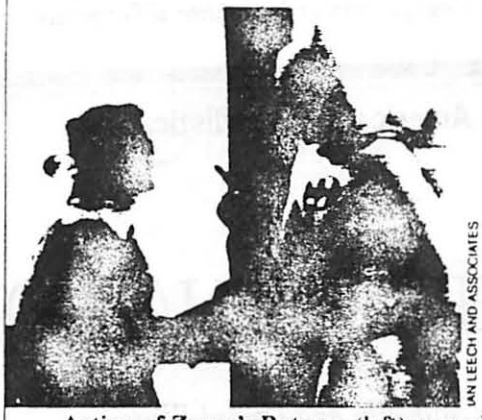
photo by Jon Gipe

Deem: "I could be promiscuous and out in the bars every night and still qualify, as long as I didn't live with a guy."

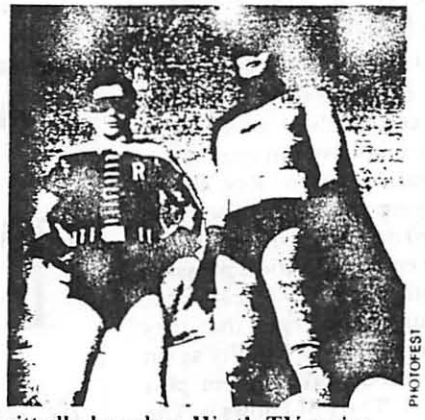
Holy Look-alikes! Batman Ad Disputed

Adam West, television's Batman, does not have any ownership rights in his distinctive portrayal of the Gotham City-based superhero, a trial court judge has ruled. West had sued the producers of a 30-second commercial that was made in 1986 for the Zayre Corp. discount chain for using a Batman whose style resembled his.

West, 59, charged that the defendants, producer Ian Leech and Associates of North Hollywood and advertising agencies BBDO New York and Ingalls, Quinn & Johnson of Boston, had infringed on his right of publicity — the right to commercial use of his creative work. West argued that the Batman in the ad was based not simply on the DC Comics hero but also on West's portrayal of that character. The defendants admitted that they had copied West's mannerisms, speech patterns and method of sliding down the Batpole in the popular 1960s series, but Burbank Superior Court Judge Stephen O'Neil ruled nonetheless that the character was the sole property of DC Comics, which created it and which licensed the character to Zayre's for its use.



IAN LEECH AND ASSOCIATES



PHOTOFEST

Action of Zayre's Batman (left) was admittedly based on West's TV series.

Mother-to-be Defies Court's Drinking Ban

A pregnant woman under a Wyoming court order not to drink alcohol was arrested last month for doing so.

Diane Pfannenstiel of Laramie gave birth last year to a child with fetal alcohol syndrome, a condition marked by low intelligence and small head size, brought on by exposure to alcohol in the womb. In a confidential proceeding in November, a judge ordered her to avoid alcohol. Pfannenstiel, who has another baby due in July, went to the police Jan. 4 to file a complaint that her husband had beaten her. Suspicious that she had been drinking, officers later arrested her on charges of felony child abuse and gave her a blood-alcohol test, which registered 0.119 (when driving, in comparison, 0.10 or more is legally drunk).

Though critics of the arrest have warned that it could encourage women who drink to have abortions, Pfannenstiel's attorney, Mary Elizabeth Galvan, insists the case "has nothing to do with right to life. It has nothing to do with pro-choice. It's not a woman's case; it's not an unborn child case. It's whether or not a citizen in the state of Wyoming is entitled to reasonable notice that his or her conduct is illegal. There are no statutes in Wyoming which make it illegal for a pregnant woman to drink."

Ex-Wife May Not Sue over Case of Herpes

A woman who says her fiance gave her genital herpes two weeks before their wedding may not sue him for damages, the Virginia Supreme Court recently ruled, because premarital sex is illegal in the state and one cannot collect damages for the consequences of participating in a crime.

The woman and her husband permanently separated eight months after their 1986 marriage. She then sued him for having exposed her to herpes without telling her that he had the disease. Upholding a lower court dismissal, the Virginia Supreme Court ruled that, by consenting to fornication — a misdemeanor in Virginia under a seldom enforced law — the woman had, in effect, consented to its consequences.

The woman had argued that people with venereal diseases should be held liable for injuries nonetheless, in order to discourage intentional or negligent transmission. But the court observed: "Such a contention is answered by the belief that a contrary rule would equally encourage plaintiffs to engage in or permit criminal conduct, for they would know that recovery is possible if harm results."

Lot Owner's Claim Is Up In the Air

A property owner in Salem, Ore., is suing the city for building an overhead pedestrian bridge that spans her lot without permission.

Ann B. White, owner of land currently leased to the Tahiti Restaurant and Lounge, claims she owns the airspace as well. In 1980, the city constructed a municipal walkway four stories over the restaurant walkway to connect a parking garage to an 11-story office building.

White is not asking for damages, just fees for her attorney, Michael Martinis, and formal recognition that the space occupied by the bridge belongs to her, not the city. Martinis says White is filing her lawsuit to prevent the city from acquiring ownership of the airspace by virtue of continued use.

Trafficker's Heir Called Asset Protector

A man facing a possible seizure of assets under a Louisiana racketeering law turned suddenly generous, giving most of his assets to a child he says is his illegitimate son just before being convicted on drug-trafficking charges.

In the largest such bust ever in St. Tammany Parish, Robert "Slim" Hamilton was convicted of using his logging business as a front for narcotics trafficking. He was sentenced to 50 years in prison. The district attorney planned to auction off an estimated $500,000 worth of Hamilton's logging equipment under a state law requiring convicted racketeers to forfeit assets used in the crime. But a funny thing happened on the way to the auction: Between Hamilton's indictment and conviction, a woman sued him for child support, and Hamilton agreed to pay her $420,000.

The district attorney has challenged the support agreement, calling it a subterfuge to protect assets from forfeiture. A hearing on the issue has been tentatively scheduled for June 25.

— Monica Powell

SAT scores fifty points below the national average. Now teachers' colleges are beginning to respond to these familiar complaints. The Holmes Group, composed of education deans at ninety-eight schools, recently advocated adding a required fifth year to four-year education courses around the country. The idea, which has been endorsed by the National Education Association and the American Federation of Teachers, is exactly what one would expect education deans to come up with: a plan to augment the empires of education deans. The question that arises is how an additional year of low-cal courses will improve matters. And the plan raises another hurdle to the many that already exist to keep talented people out of the teaching profession. The real reform in teachers' training would be to abolish the undergraduate education major altogether, and to make would-be educators learn at real four-year colleges the subjects they plan to teach. But don't expect to hear the idea from professional educationists.

WHO'S ON DRUGS? James H. Meredith, the former civil rights leader who now works for Jesse Helms, recently issued a press release on Senate stationery attacking delegates at the NAACP's 81st national convention:

> . . . I have a background profile on more than half of the delegates and over 60 percent are involved in the Drug Culture and at least 80 percent are involved in criminal or immoral activities. This is the real reason for Rev. Benjamin Hooks [sic] action. He is trying to save his own hide and that of most of the other 3,000 delegates. The only way they can stay out of jail is to apply enough political pressure to keep the government prosecutors at every level—local, state, and federal—from bringing the charges that they have proof to support against them. They are guilty as sin of every single charge being leveled against them plus many more. God knows it. I know it. The FBI knows it. The prosecutors know it. The people in the streets know it. Even much more significant, the vast majority of the people in the media know it.

The senator had this to say in response to his aide's poisonous ramblings: "Of course I have no knowledge whether these figures are right or wrong . . . I have found him in so many matters to be correct. But this is a matter between the NAACP and a well-known black man." Helms has it all figured out. Why go to the trouble of issuing lunatic, McCarthyite smears yourself when you can hire a "well-known black man" to do it for you?

SUMMER RERUN SEASON:

NEW YORK
Herald Tribune LATE CITY EDITION

Russia Backs Unification Of Germany, Stresses Its Role in World Economy

...to Harry Smith and Diane Wallerstein, New York, New

STINGING SINGLES: Rumor has it that several members of the White House staff boycotted last week's annual office picnic at the vice president's residence after Marilyn Quayle issued a proclamation prohibiting staffers from bringing their boyfriends and girlfriends. Only spouses and children were allowed. According to junior administration officials, the reason for the rule is that Mrs. Quayle condemns dating without intent to marry, and wasn't about to watch vulgar co-mingling without benefit of wedlock on her front lawn. Sure, it may start out innocently with a chocolate malted and two straws, but before long it's Madonna concerts and leather underwear.

DEEP MONOGRAPH: The staid Council on Foreign Relations has realized that nothing sells like sex. Its newest volume is luridly titled *Same Bed, Different Dreams: America and Japan—Societies in Transition*. If this one sells, look forward to more of the same. Maybe: *Last Tango in Brussels: Europe and the Future of NATO*. Or *Helmut Does Hamburg: German Reunification in International Perspective*. •

South America goes ballistic.

THE BRAZILIAN BOMB

By Gary Milhollin and Gerard White

As the United States worries about missiles in the hands of Iraq and other countries in the Middle East, an egregious case of missile proliferation is taking shape in its own back yard. A group of European companies has agreed to sell Brazil the technology to build a rocket motor capable of launching an intercontinental ballistic missile. If the sale goes through, the first non-U.S. ICBM will take up residence in the Western Hemisphere, Brazil will be able to sell long-range missiles to Iraq and Libya (its leading arms clients), and international efforts to stop the spread of large missiles to developing countries will crash to a halt.

The outlines of the deal are clear. The French company Société Européenne de Propulsion (SEP) is joining forces with Volvo in Sweden, MAN in West Germany, and FN Motors in Belgium to teach Brazil how to produce the powerful Viking rocket engine, developed by France to lift satellites for the European Space Agency. Other European firms—including Saab Space, Alcatel-Kirk, Sfena, and Contraves—will supply Brazilian engineers with extensive training in on-board computers, guidance systems, and the techniques of launching


CHURCHILL & KLEIN FOR INSIGHT

Kranz and family with Ranger

Police Dog Handlers Sue for Overtime Pay

Chicago Police Department canine unit employees say they are tired of caring for and housing their four-footed coworkers for free each night. They are suing for four years' overtime pay they say the city owes them under the federal Fair Labor Standards Act.

The department requires dog handlers to take their dogs home with them after work. The department views the animals as free pets and guard dogs for the 72 handlers, who should not expect overtime pay as well. Now, the city is considering whether to kennel the dogs rather than pay overtime for the hour or so a day officers say they spend grooming, feeding and exercising them. John Kranz, a canine handler for 10 years and a plaintiff in the suit, strongly opposes a kenneling policy: "In order to keep the bond between you and the dog, you need to keep him in a family situation."

The 40-odd dogs in the canine unit sniff out suspects, drugs and occasionally bombs. Officers in the city's public transit canine unit are also suing.

Driver Must Explain His Trip to Ski Slope

The Michigan Court of Appeals has reinstated misdemeanor drunk driving charges against a man caught driving his car on a ski slope at 3 a.m. The slope had closed for the night, and Michigan's drunk driving law applies only to places that are open to the public. Nonetheless, the court said there might be evidence that the driver, William Dale McDonald, was already intoxicated when he drove to the site on public roads.

McDonald was arrested last winter after security guards at the Alpine Valley Ski Lodge in White Lake Township spotted him maneuvering his car on the slope. He was charged with drunk driving after refusing to take a breath test and performing poorly on several field sobriety tests. Two judges successively dismissed the charge after concluding that it was not a violation of the law to drive drunk on a closed ski slope. The appellate court reversed, ordering the case to trial. For one thing, the court said, there were no beverage containers in or around McDonald's car when he was arrested, evidence that he did his drinking before he took his car skiing.

Atheists Target Statue of Christ Underwater

The Florida Civil Liberties Union has agreed to represent an American Atheists chapter in a lawsuit seeking removal of a statue of Christ on federal parkland — albeit land that is under 20 feet of water some three miles offshore.

Christ of the Deep, a 25-year-old memorial to people who have died at sea, is in the Key Largo National Marine Sanctuary, a park frequented mostly by snorkelers and scuba divers. Christos Tzanetakos, head of the American Atheists South Florida chapter, says the statue's presence on federally owned and maintained parkland is a violation of the First Amendment's requirement of church-state separation.

Tom Gardner, executive director of the Florida Department of Natural Resources, suggested in a letter to Tzanetakos that those whom the statue might dismay need never see it: "If one is offended by a statue submerged under 20 feet of water and more than three miles at sea, one should forgo the rigorous journey to the point of offense." Tzanetakos concedes he has not inspected the statue firsthand but says he has seen pictures of it.


RICK McCAWLEY

Statue lures snorkelers and divers.

Five Face Charges of Ambulance Chasing

Four lawyers and a legal secretary in Texas have been indicted on charges of barratry, or ambulance chasing, for their allegedly aggressive attempts to drum up business after a delivery truck crashed Sept. 21 into a school bus in Alton, killing 20 students.

According to Hidalgo County District Attorney Rene Guerra, three of the indicted lawyers — Mauro Rayna, Ruben Sandoval and Leo Pruneda — asked Rayna's legal assistant, Norma Lopez, who was also indicted, and others to solicit business for them at the site of the accident. The four were formally charged April 6. Another lawyer, Joe Martinez, was indicted a week later for trying to enlist the students' relatives to join him in litigation against Valley Coca-Cola, owner of the delivery truck. Guerra says his office received numerous complaints from grieving relatives who felt harassed by attorneys. More indictments may be filed soon, he says.

Trailer Park Acting to Keep Unwed Out

More than a dozen states have laws that make fornication and living together without a marriage license illegal. Some of those states, along with local governments within them, also have laws banning discrimination on the basis of marital status. One of those states is Florida, and a St. Petersburg man who wants to bar unmarried couples from living in his trailer park is asking a court to declare that if he does so, he will not be liable for discrimination under local fair housing laws.

William Watson II is morally opposed to cohabitation at his 97-unit Romany Mobile Home Park South, a senior citizen development, says his attorney, Peter Hooper. Hooper says Watson is not attempting to evict any seniors living together but seeks only the right to bar unmarried couples in the future.

— Monica Powell

Smokey Meets The INS

Javier Lopez (not his real name) is not a member of the Sierra Club, but he's been doing an awful lot of voluntary work on national forestland lately. Last spring, lured by the promise of $8.50-an-hour tree-planting jobs, he traveled north to California's Shasta-Trinity National Forest with a crew of 30—all but 5 of whom were undocumented Mexican workers.

For a month the contractor worked the men 12 hours a day, says Lopez, with only 20 minutes out for boiled potatoes at lunch. Thousands of dollars in checks then issued by the contractor turned out to be worthless.

But Lopez is luckier than most. As a legal resident worker, he has the status to complain and is suing for his back pay. The 25 undocumented workers who got stiffed on the Shasta-Trinity project have little recourse to law. When undocumented workers complain, contractors are liable to turn them over to immigration authorities or just abandon them on snowbound mountainsides with no food or shelter.

The 156 national forests managed by the U.S. Forest Service account for about a fifth of the nation's annual timber harvest, and in the past 12 months, the Forest Service has let 2,000 reforestation contracts for bids that totaled $67 million. Forest workers, contractors, and federal officials estimate that undocumented workers represent between one-third and one-half of the estimated 13,000-worker national reforestation work force.

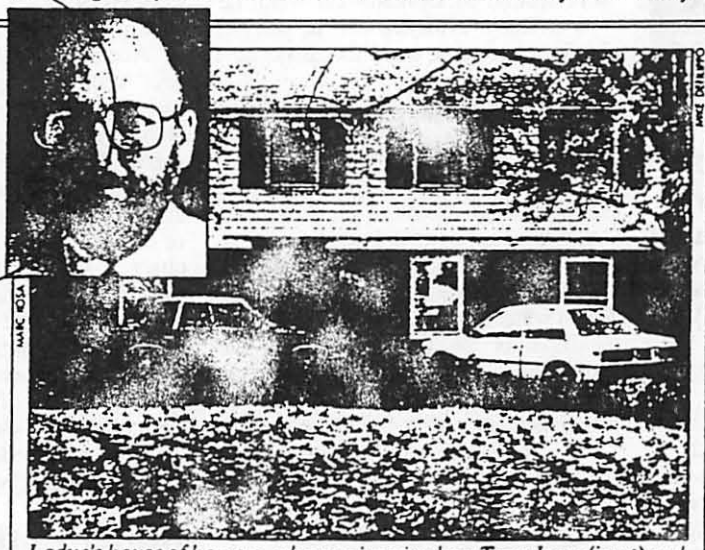
Undocumented Mexican workers are recruited to plant in national forests by low-bidding contractors who know they can get away with paying next to nothing because the undocumented try hard to stay away from the law. And even when contractors have been shown to repeatedly use and abuse illegal workers, they are rarely penalized. Most claim ignorance of their workers' status, finish the job, and bid again.

The use of undocumented workers "put us out of business," says a bitter Gerald Mackie of a now-defunct forest workers group in Oregon. Forest workers depend on reforestation contracts for survival in Oregon, which has one-eighth of the Forest Service land scheduled for reforestation.

Honest contractors and INS officials aren't the only ones

Town Takes Brave Stand Against Sin

Ladue, Missouri, is among the richest communities in America. The average household income in the St. Louis suburb of nearly 10,000 people is just over $80,000, and one-third of the homes there are worth $200,000 or more. But deep within this picture of brightness is a dark blemish: there is sin in Ladue.



Ladue's house of horrors, where university dean Terry Jones (inset) and political consultant Joan Horn led a six-year life of unwed depravity.

The folks in Ladue take their sin seriously, especially when it comes in the form of unmarried adults living together. A city zoning law prohibits such arrangements: people can live together only if they are related by blood, marriage, or adoption. An unwritten, but honored, rule allows domestics as live-ins. The law was written in 1938 to protect Ladue's "health, safety, and morals."

In 1983 an anonymous caller tipped off the city that political consultant Joan Horn and university dean Terry Jones were living together without a marriage license. Ladue sued Jones and Horn, demanding that they marry, split up, or move out of town.

Two courts have upheld Ladue's law, leading Leonard Frankel, the American Civil Liberties Union attorney handling the case, to ask that the case be transferred to the Missouri Supreme Court.

In upholding the city ordinance, Missouri Court of Appeals Eastern District Judge William Crandall wrote, "To approximate a family relationship, there must exist a commitment to a permanent relationship and a perceived reciprocal obligation to support and care for each other."

Since jointly buying their sprawling seven-bedroom home in 1981, Horn and Jones have shared meals, a checking account, and responsibility for raising each other's children—living, Frankel says, "as a family unit." Three children live with the couple; as Frankel points out, that's hardly a threat to Ladue's "health and safety." The law doesn't specify numbers. "Technically," says Frankel, "ten cousins would be allowed to live together here."

Horn dismisses talk of the city's case being politically motivated, but says many of the couple's friends think the anonymous caller may have been inspired by Horn's support for abortion rights. It's not hard to imagine how Horn's liberal politics—and the couple's life-style—might ruffle feathers in Ladue, which President Reagan carried by a five-to-one margin in the 1984 election. In any case, Horn says, her privacy has been "totally invaded by the city of Ladue."

On the first Saturday of 1987, Horn and Jones were married at Ladue City Hall, in a move Horn says "had nothing to do with the city of Ladue. The reasons for my marriage were personal." The status of the city's suit against the pair is now unclear, but the law against unrelated adults living together remains on the books; "I've never seen," says the ACLU's Leonard Frankel, "an ordinance as restrictive as this." But Horn is optimistic that the city's suit may be the last pursued by sin-hunting Ladue officials. "They're just not going to be able to enforce it," she predicts. "The law will die of its own weight."

—J.A. Lobbia

SF EXAMINER July 1 1990

Watch Out, Unmarried Couples

Living together a no-no, says litigious Floridian

BY MIKE WILLIAMS

St. Petersburg, Fla.

IT'S NOT exactly "Back to the Future," but a mobile home park owner is doing his best to turn back the clock to the straitlaced days of the past.

William Watson believes that unmarried couples should not live together. Dusting off a 122-year-old state law against "lewd and lascivious behavior," he has sued local governments, asking the court to toss out modern anti-discrimination laws that guarantee unmarried couples the right to live together.

Watson's minicrusade has stirred the wrath of free thinkers, prompted an interview request from a national television show and left the residents of his sleepy mobile home park wondering what all the fuss is about.

But he isn't about to budge. "I'm sticking by what my parents and grandparents taught me," said Watson, 63, who has owned Romany Mobile Home Park for three decades.

St. Petersburg and Pinellas County officials don't begrudge Watson his convictions, but they aren't sure about his legal interpretations.

"We don't consider sexual relations between consenting unmarried adults to be lewd and lascivious," said Bob Reece of the Pinellas County Office of Human Rights. "Moral standards are somewhat different than they were years ago."

Publicity over the lawsuit has prompted dozens of letters to Watson from people around the country and an invitation to appear on "Good Morning America," said Peter Hooper, Watson's attorney. "The mail has run about 50-50 for and against."

Watson declined the TV show's invitation, just as he's declined most interview requests.

"He's not going to beat any drums," Hooper said. "He's a very conservative man, and this is a matter of personal conviction."

Most Romany Park residents are retirees. Some rent their trailers from Watson; others rent lots for their mobile homes. Most support Watson.

"I go along with whatever he says," said Florence Cook, a 27-year resident.

None of the residents seemed to know why Watson filed the lawsuit, except one man who wouldn't give his name.

"Some people are very religious," the man said. "If they can poke their business up your nose, they'll do it."

Cox News Service

JULY 1, 1990/SUNDAY PUNCH

Letter to Los Angeles
City Attorney James Hahn

December 5, 1989

Dear Mr. Hahn:

A friend who is a federal prosecutor in Los Angeles recently sent me a newspaper article entitled, "Bias Against Single People Is Targeted." I hope you will direct the enclosed information to the task force. I am especially concerned because I was also a victim of archaic sex laws in the United States.

In Phoenix, I was denied the right to apply for a job as a juvenile probation officer because their Juvenile Court enforced a state misdemeanor law prohibiting cohabitation. I am sending a copy of a local news article that explains the incident in greater detail. I am still angry about this, and understand more first hand what the lack of freedom in a so-called 'free society' means. Since this incident, I have been collecting articles from around the United States describing similar cases where sex laws have been used against unmarried couples, straight or gay. I hope they have some benefit to your group.

I am currently doing all I can to leave New Mexico, which also has a state law prohibiting cohabitation. The ACLU in both New Mexico and Arizona were not interested in pursuing my case. We will hopefully be moving back to California within the next three months. I welcome your efforts to ensure I will be an 'equal citizen' there. I have made a commitment that I will never again live in a state with such offensive criminal laws.

One other issue your task force may wish to investigate that would affect Californians, is the issue of unemployment benefits. In both Arizona and New Mexico, I was denied 'good cause' for quitting my job to move to a new state with my housemate/boyfriend of eight years. My unemployment benefits were denied for six weeks each time we moved, in one case when he was transferred to another state by the same company. We really felt the intent behind this law was one of 'religious morality', as a way to punish those who are not married. It is my understanding that this is the usual policy in all states, and that if we had been married, I would have had good cause to quit, and received my benefits as soon as I applied.

Every single day of my life now, I reflect upon the fact that I am considered a sex offender in the state I live in. As my enclosed recommendations hopefully show, in Alaska I was able to spend my skills and energy into helping victims and convicting people who were real sex offenders. I feel that I should have the right to live with whomever I wish, in the type of consentual association I find right for me, without the threat of discrimination by an employer, mortgage company, landlord or my government. I no longer feel I have the freedoms that most Americans feel they can take for granted. If there is anything I can do to assist your task force in any way, please feel free to contact me.

In addition, if you know of any agencies needing a victim advocate/ paralegal/ investigator who is hardworking and skilled in her job, but cohabitates, please let me know. I will be breathing a big sigh of relief when I reach California, thanks to people like yourself.

Respectfully,

Debbie Deem

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September 11, 1998

Mr. Ira Glasser
Executive Director
American Civil Liberties Union and ACLU Foundation
125 Broad Street
New York, New York 10004-2400

Professor Nadine Strossen
President, American Civil Liberties Union
New York Law School
57 Worth Street
New York, New York 10013-2959

Dear Professor Strossen and Mr. Glasser:

I understand that the ACLU and the ACLU Foundation have received from my longtime friend, William C. Reynard of Denver, and from the Spectrum Institute a set of proposals for action against marital status discrimination and in favor of inclusive domestic partnership rights and benefits as a means of ending such discrimination.

An outline of steps that can be taken toward such goals has been furnished me, and I wholeheartedly support them. In particular, and in tandem with the more general goal of ending marital status discrimination, it is important not to foster sex and sexual-orientation discrimination while advocating domestic partnership.

This means that domestic partnership arrangements should not be limited to same-sex couples but should also be open to opposite-sex couples who wish to enter into them. Otherwise, a gross anomaly is created, whereby a proposal meant to correct in part the effects of one sort of discrimination (limitation of civil marriage to opposite-sex couples) becomes the vehicle for carrying out an invidious mirror image of that same discrimination (limitation of domestic partnership to same-sex couples).

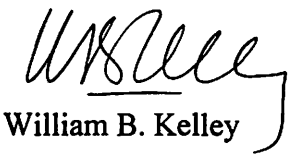
Marital status discrimination is felt not only by single persons of all sexual orientations, and not only by same-sex couples to whom civil marriage is currently forbidden, but also by opposite-sex couples who reject the assumptions, traditional inequalities, religious modeling, or special privileges bound up with marriage but who at the same time are denied an equal right with same-sex couples (where that right exists at all) to enter into legally recognized domestic partnerships. When opposite-sex couples are excluded from domestic partnerships that same-sex couples are permitted, such opposite-sex couples experience quite poignant forms of sex discrimination and sexual-orientation discrimination--forms created by some of the very advocates who otherwise oppose all such discrimination.

None of this should be. The ACLU and the ACLU Foundation should take a lead role in ensuring that single persons achieve equity with coupled persons and that domestic partnership rights and benefits do become available, but available to all couples and not merely same-sex ones.

My recommendations arise from four decades of civil liberties and gay rights activities Besides having been a teenage ACLU member in the South of the 1950s, I have been involved in the Chicago and national gay rights movement since 1965, am a former board member of the ACLU of Illinois, am a founder and former co-chairperson of the National Lesbian and Gay Law Association, and am currently chairperson of the Cook County Commission on Human Rights, a government agency. I have been a lifelong believer in the indivisibility of civil liberties, in the necessity of fair treatment for all, in the rightness of church-state separation, and in the maxim that foes of discrimination should never be its practitioners.

All these experiences strengthen my belief in the merits of the marital status proposal now being considered by you. I earnestly hope it will receive approval by the ACLU and the ACLU Foundation.

Sincerely,



William B. Kelley

DOES MARITAL STATUS DISCRIMINATION REALLY OCCUR? JUST ASK SOME VICTIMS ON THE WEST COAST.

Debra Deem and Jim Riley live in Camarillo. Sometimes people stop to ask what the bumper sticker on their car means. The slogan reads: "Refugees from Arizona laws."

Although it is sometimes an inconvenience, the couple feel that it is their duty to take a few minutes to tell their story to those who inquire.

They formerly lived in Alaska. When Jim received a job offer in Arizona, Debra quit her position as a victim-witness coordinator with the Anchorage district attorney and moved with Jim.

Debra applied for a job as a juvenile probation officer with Maricopa County. She thought she had the job when the recruiter saw her resume, the high job performance ratings with her previous employer, and her excellent personal references.

Then came the final page on the application. Debra had to answer several personal inquiries under penalty of perjury about prior arrests, drug use, etc.

The final question infuriated her. Do you live with a person of the opposite sex outside of wedlock? When she said "yes," the interview process ended.

Arizona and 12 other states have laws making unmarried cohabitation a crime. The county would not hire a "criminal" for a law enforcement position.

Debra and Jim packed their belongings and headed for California. They assumed they would find toleration and respect here. They assumed they would be judged on the basis of individual merit rather than class stereotypes. Were their assumptions correct? Read on.

Robert Henderson was seeking a job with the San Diego chapter of the Boy Scouts of America. The position involved recruiting adult volunteers for the group.

Robert had impeccable references. During the interview, he was asked about his marital status. Robert explained that he and his fiancé lived together and planned to marry, although they had not yet established a firm date for the wedding.

Robert was denied the position because the employer disapproved of unmarried cohabitation.

Bryan Molenda moved to Los Angeles from Detroit where he had once been an on-site manager of a medium size apartment complex. Bryan looked in the Los Angeles Times and Daily News to find a similar job. He was surprised to see ad after ad indicate that only married couples need apply.

Bryan called a few ads anyway. He explained that although he was single, he did not live alone. His domestic partner, Xavier, would be living with him and so he could help Bryan with the chores. The responses were all the same: "married couples only." Bryan moved back to Detroit.

Tony Melia had just retired. He wanted to travel more and so he bought a motor home. Tony was shocked when he called his insurance company and told the agent about his plans.

Although he had an unblemished driving record, the agent informed Tony that the company added a hefty surcharge on all single drivers. Tony had no choice but to pay the penalty.

Ken Phillips and Gail Randall were looking for an apartment to rent in Chico. They found the perfect place, filled out an application, and handed the landlady a deposit.

There was one last minute inquiry: "You are married, aren't you?" When the landlady found out that Ken and Gail were unmarried partners, she flatly refused to rent to them. Never mind the fact that they had lived together for years, had good jobs, and could give wonderful references from prior landlords.

Ken and Gail fought back. They filed a complaint with the state fair housing agency. The tribunal ruled that the landlady had violated a state law against marital status discrimination in housing.

But the landlady appealed and won the first round in court. The Court of Appeal agreed that discrimination against unmarried couples in housing is illegal. But the court sided with the landlady anyway, on the theory that a business owner with religious objections to unmarried cohabitation does not have to obey the state's civil rights laws.

Gail and Ken took their case to the California Supreme Court. Eventually, the high court sided with the tenants, refusing to give "special rights" to business owners who want to discriminate under the guise of religious freedom. The landlady appealed, but the U. S. Supreme Court rejected her case.

In 1996, some 10 years later, Ken and Gail

won their case. But with such delays and associated costs, little wonder that most victims of marital status discrimination have been reluctant to fight back.

Terry Taylor worked for the City of Los Angeles and belonged to the Los Angeles City Employees Federal Credit Union. Taylor was living with her fiancé, Roger Naas.

Terry wanted to buy a new car but did not make enough money to qualify for credit on her own. She and Roger therefore sought to apply for a joint loan from the credit union.

They were turned down. Not because of bad credit or lack of joint resources. The loan was rejected solely because the credit union would not give joint loans to unmarried couples.

The problem was that credit unions can only issue loans to members. Members can be city employees or their immediate family members.

Terry and Roger discovered that the board of directors of the credit union had voted to define "immediate family" as being limited to spouses or blood relatives of employees.

Although Terry and Roger never got a loan, the problem was later corrected after it was exposed by the Los Angeles City Attorney's Consumer Task Force on Marital Status Discrimination.

The credit union board finally changed its bylaws to define "family" in a more expansive manner, so that spouses, blood relatives, or other household members such as domestic partners may now join.

Attorney Marsha Levine and her fiancé, Alfred Sharff, who works in the television production business, also have experienced credit discrimination.

Marsha and Alfred had very traditional marriage plans. They each maintained a separate home and would not live together until they wed.

During their engagement, they found the perfect home which they intended to purchase before their wedding date. They applied for a joint loan from the Dreyfus Consumer Bank.

Although the home would have been jointly owned, and although they had sufficient incomes and good credit, Dreyfus would not approve the loan unless Marsha and Alfred signed a notarized affidavit that they planned to be married and specified the date their marriage would occur.

Although the couple had a date in mind, they felt that the conditions imposed by Dreyfus were illegal. As a result, they withdrew their application and found an unconditional loan elsewhere.

Gregory Anderson and Michael Connolly lived together for nine years. They jointly owned a condominium in New York where the couple lived.

Michael was murdered by a stranger when he was visiting Los Angeles. After police investigated the case, a key suspect admitted that he was guilty.

When Gregory heard that the man had been sentenced, he contacted the detective assigned to the case to determine the defendant's name, the terms of his sentence, or the place of his imprisonment.

The detective refused to disclose this information because Gregory was not a spouse or blood relative of the victim.

The story of Juan Navarrete and Leroy Tranton is even more tragic. Juan and Leroy lived together in Long Beach for eight years.

One day, Juan came home from the grocery store and found Leroy, who had fallen off a ladder, lying on the concrete patio.

Leroy was rushed to the hospital where he stayed in a coma for several days. Although Leroy regained consciousness, he remained hospitalized for nine months. Juan visited Leroy once or twice each day, feeding him and encouraging him to recuperate.

Leroy's estranged brother, who lived in Maine, filed a lawsuit seeking to have himself appointed as Leroy's conservator.

When Juan accidentally found out, he showed up at court in Long Beach. Although Juan, who was not represented by counsel, stood up and protested, the judge refused to consider Juan's plea because he was a stranger to Leroy in the eyes of the law.

The brother subsequently had Leroy transferred from the hospital to an undisclosed location. When Juan finally discovered that Leroy was being housed in a nursing home about 50 miles from Long Beach, he attempted to visit Leroy there. The staff stopped Juan in the lobby, advising him that the brother had given them a photo of Juan with strict orders not to allow him to visit Leroy. Unfortunately, no one else ever visited Leroy there.

It took Juan about two weeks to find an attorney who would take the case without charge. The attorney filed a lawsuit seeking visitation rights.

A few hours before the hearing was scheduled to occur, the brother's attorney called Juan's attorney, informing him that Leroy had died three days before.

Since the body had already been flown back to Maine where it was cremated, Juan never had an opportunity to pay his last respects.

FACTS ABOUT SINGLE PEOPLE AND MARITAL STATUS DISCRIMINATION IN THE UNITED STATES

Demographics:

Per capita population:

There are more than 78 million unmarried adults in the United States.

Singles constitute more than 40% of the adult population in the nation.

Marital status discrimination may disproportionately affect African-Americans.

62% of Caucasian adults are married,
62% of Asian-Americans adults are married,
42% of African-American adults are married.

In many major metropolitan areas, singles comprise the majority of the adult population.

The Census Bureau estimates that about 10% of adults will never marry.

Households:

Married couples with minor children live in fewer than 25% of the nation's households.

Single adults living alone comprise about 25% of the nation's households.

Another 13 million single adults are living with unmarried relatives.

Nearly 6% of the nation's households are composed of two unrelated adults living together, with 68% of these households containing partners of the opposite sex.

Hispanic households are the most likely to contain a married couple:

63% of Hispanic households contain a married couple.
56% of Caucasian (non-Hispanic) households contain a married couple.
32% of Black households contain a married couple.

Singles tend to be renters rather than home owners. Of the nation's 65 million owner-occupied units, 69% are occupied by married couples. Of the nation's 34 million rental units, only 38% are occupied by married couples.

Unmarried Cohabitation:

Of people who have recently married, the majority had cohabited together prior to marriage.

Opposite-sex cohabitation is increasing rapidly, with a 28% increase between 1990 and 1994.

In 1970, there was one unmarried couple for every 100 married couples in the nation.
In 1995, there were seven unmarried couples for every 100 married couples in the nation.

Older Adults:

According to a study done by the American Association of Retired Persons:
15 million older adults live alone; 1.5 million older adults live with a roommate or partner.

Marriage rate:

The marriage rate in the U.S. dropped to 9 marriages per 1,000 population in 1993, the lowest rate in 30 years.

Divorce:

rate:

The divorce rate has remained fairly stable since 1988.
It was 2.5 divorces per 1,000 population in 1966,
5.3 divorces per 1,000 population in 1981, and
4.6 divorces per 1,000 population in 1993.

numbers:

In 1970, 3.0% of the adult population was currently divorced
In 1994, 9.0% of the adult population was currently divorced.
In 1997, 9.8% of the adult population was currently divorced.

Nonmarital childbearing:

In 1980, one in five births was nonmarital; in 1992 almost one in three births were to unmarried women. This a 54% increase in only 12 years.

In 1998, the Census Bureau reported that a MAJORITY of children born in recent years were either conceived by, or born to, unmarried parents.

Premarital sex:

virgins at time of marriage:

Of those born between 1933 and 1942: 22% of men & 54% of women were virgins.
Of those born between 1963 and 1974: 16% of men & 20% of women were virgins.

unmarried cohabitation prior to marriage:

Of those born between 1933 and 1942: 84% of men & 94% of women did not cohabit.
Of those born between 1963 and 1974: 34% of men & 35% of women did not cohabit.

Single parent families:

Half of all children in the nation will spend some time in a single parent family.

9.1% of all households in the nation are now single-parent families.

Public Opinion Polls:

Premarital sex is always wrong: (American Enterprise, 7-1-95)
1972: 71% said yes 1994: 51% said yes

1989 national survey found that: (American Enterprise, 7-1-95)

Women having child out of wedlock:
Acceptable: 27% unacceptable: 59%

Single parent family:
Acceptable: 61% unacceptable: 22%

National Opinion Research Center:

Premarital sex is wrong:
1937: 55.0% agree
1959: 54.0% agree
1969: 68.8% agree
1973: 47.0% agree
1990: 40.0% agree
1991: 37.0% agree

Marital status and politics:

In the last three presidential elections, a majority of unmarried adults voted for the Democratic nominee, while a majority of married adults voted for the Republican nominee.

Criminal Laws

Unmarried cohabitation:

10 states make it a crime for an unmarried man and a woman to cohabit together: Arizona, Florida, Idaho, Michigan, Mississippi, New Mexico, North Carolina, North Dakota, Virginia and West Virginia fall into this category.

Fornication:

8 states and the District of Columbia make it a crime for a man and a woman to engage in consensual intercourse in private:
Georgia, Idaho, Massachusetts, Minnesota, South Carolina, Utah, Virginia, West Virginia, and D.C. fall into this category.

Sodomy:

16 states make it a crime for an unmarried man and woman to engage in consensual sodomy in private (which is defined as oral or anal sex or both):
Alabama, Arizona, Florida, Georgia, Idaho, Louisiana, Massachusetts, Maryland, Michigan, Minnesota, Mississippi, North Carolina, Rhode Island, South Carolina, Utah, and Virginia fall into this category.

Laws prohibiting consensual sodomy have been used to put defendants in prison for consensual heterosexual sex with another adult. Even when juries have found defendants not guilty of rape, on the rationale that the sexual conduct was consensual, they have found defendants guilty of sodomy because the judge had instructed the jury that, unlike rape, consent is not a defense to the crime of sodomy.

Civil effects of criminal laws:

Some courts that have restricted the civil rights of unmarried cohabitants have cited criminal laws against fornication or cohabitation as the rationale for doing so. For example, courts in Washington, Minnesota, Michigan, Maryland have relied on these criminal laws as the basis for denying fair housing rights to unmarried couples, despite express statutory prohibitions against "marital status" discrimination.

Some courts have cited these criminal laws as a basis for refusing to enforce cohabitation or "palimony" agreements, on the ground that doing so would violate public policy.

Some courts have cited criminal laws prohibiting consenting adult sexual behavior as the basis for decisions denying child custody or restricting visitation by a parent.

Some federal courts have cited fornication or anti-cohabitation laws as a ground to deny a taxpayer the statutory right to declare his or her unmarried cohabitant as a "dependent" for federal income tax purposes.

Employment Discrimination Laws:

The federal Equal Employment Opportunity Act does not prohibit marital status discrimination.

Only 21 states have laws that prohibit employers from discriminating on the basis of marital status.

Housing Discrimination Laws:

The federal Fair Housing Act does not prohibit marital status discrimination.

Fewer than half of the states have laws that prohibit landlords from discriminating on the basis of marital status.

In some of these states, courts have narrowly interpreted these laws so that unmarried couples do not receive protection from housing discrimination.
Maryland, Michigan, Wisconsin, Illinois, and Minnesota

In other states, the courts have broadly interpreted these laws to give unmarried couples protection from housing discrimination.
Alaska, California, New Jersey, and Massachusetts

Credit Discrimination Laws:

Federal law, and laws in some states, prohibit marital status discrimination in credit.

Examples of Discrimination Against Unmarried Adults:

Marital status discrimination is widespread in the United States. Most marital status discrimination is targeted against unmarried adults, although some forms of discrimination are perpetrated against married couples (e.g., anti-nepotism employment rules, an income tax "marriage penalty").

Employment:

Some employers prefer to hire married workers. This is especially true for absentee owners of apartment buildings who prefer to hire or only hire married couple caretakers.

Some employers tend to favor married workers when it comes to promotions, on the theory that they better fit the image the company wants to project to the public.

Some employers have refused to hire workers who are living with an unmarried partner. Cases of such discrimination against heterosexual workers have been documented in places such as California, Arizona, and Minnesota.

Most employers discriminate against unmarried workers when it comes to employee benefits, giving more benefits compensation to married employees than to single employees.

Some employers, such as Xerox, Bank of America, Bank Boston, and Merrill Lynch, have taken steps to eliminate benefits discrimination against unmarried workers.

A growing number of employers (over 600 now) have expanded spousal or family benefits programs to include domestic partners. However, about 40% of these programs exclude opposite-sex domestic partners, forcing them to get married in order to receive equal benefits compensation.

Some employers are adopting cafeteria style benefits plans so that each worker gets the same amount of credits to be used for benefits that will suit his or her personal or family needs, regardless of marital status.

Housing:

Zoning: Many cities have zoning laws that prohibit a group of unrelated adults from living together in an area zoned for single-families. In recent years, some of these laws have been repealed (Denver's R-0 zoning law is an example) or declared unconstitutional by the courts (New York, New Jersey, and California are examples).

Renters: Some landlords won't rent to single adults, single parents, or unmarried couples. Some of them cite religious beliefs against unmarried cohabitation.

Insurance:

A study done by the California Insurance Commissioner's Anti-Discrimination Take Force in 1993 documented that marital status discrimination by insurance companies is widespread. It occurs in almost all lines of insurance. Responsible single adults are judged by insurers on the basis of class stereotypes, rather than on the basis of past performance or individual merit.

Consumers:

A study done by the Los Angeles City Attorney's Consumer Task Force on Marital Status Discrimination in 1990 found that despite the fact that unmarried adults constituted a MAJORITY of the adult population in Los Angeles, marital status discrimination was regularly practiced by many businesses, including: landlords, automobile clubs, health spas, credit unions, airlines, mortuaries, etc.

Child Custody and Visitation:

Courts in some states have included restrictions in a child custody order prohibiting the custodial parent from living with a person of the opposite-sex outside of wedlock or forbidding a paramour from staying overnight in the custodial home.

Enforcement of Contracts:

Courts in some states refuse to enforce cohabitation agreements between unmarried partners on the ground that it would be against public policy.

Statutory and Judicial Stigmatization:

Statutes in many states still refer to a child born out of wedlock as a "bastard" or as "illegitimate." Some court decisions refer to an unmarried female partner as a "concubine" or to domestic partners as a "meretricious" relationship (i.e. of, or pertaining to, prostitution).

U.S. Census Bureau The Official Statistics

SELECTED CHARACTERISTICS OF THE POPULATION BY RACE: MARCH 1997

(Numbers in thousands)

Marital Status of People 18 Years Old and Older by Race: March 1997

	White		Black		Asian and Pacific Islander	
	Number	Percent	Number	Percent	Number	Percent
Marital Status						
Total population 18+	164,050	100.0	22,772	100.0	7,130	100.0
Married, spouse present	96,747	59.0	7,759	34.1	4,068	57.1
Married, spouse absent	5,018	3.1	1,893	8.3	349	4.9
Separated	3,241	2.0	1,525	6.7	137	1.9
Other	1,776	1.1	369	1.6	212	3.0
Widowed	11,662	7.1	1,646	7.2	332	4.7
Divorced	16,149	9.8	2,569	11.3	329	4.6
Never Married	34,474	21.0	8,905	39.1	2,052	28.8

Households by Type and Race of Householder: March 1997

	White		Black		Asian and Pacific Islander	
	Number	Percent	Number	Percent	Number	Percent
Households by type						
Total households	85,059	100.0	12,109	100.0	2,998	100.0
Married couples with children	21,914	25.8	1,974	16.3	1,032	34.4
Married couples without children	25,736	30.3	1,877	15.5	731	24.4
Other families with children	6,322	7.4	2,913	24.1	171	5.7
Other families without children	4,962	5.8	1,692	14.0	312	10.4
People living alone	21,513	25.3	3,126	25.8	560	18.7
Other nonfamily households	4,612	5.4	528	4.4	191	6.4

Source: March 1997 Current Population Survey, U.S. Census Bureau

Table 8. Households With Two Unrelated Adults, by Marital Status, Age, and Sex: March 1997

[Numbers in thousands. For meaning of symbols, see text]

Subject	Households with two unrelated adults	Age of householder					Marital status of householder				
		Under 25 years	25 to 34 years	35 to 44 years	45 to 64 years	65 years and over	Never married	Married, spouse absent		Widowed	Divorced
								Separated	Other		
ALL HOUSEHOLDERS											
Total	5 948	1 202	2 353	1 085	995	313	3 624	257	168	267	1 632
Partner of opposite sex	4 130	782	1 656	773	723	195	2 318	187	124	193	1 307
No children under 15 years in household	2 660	484	941	421	631	183	1 522	79	89	181	790
Age of partner:											
Under 25 years	576	338	198	20	13	7	511	10	7	6	43
25 to 34 years	923	136	606	131	46	4	689	27	42	9	177
35 to 44 years	479	4	109	195	160	12	206	20	9	19	224
45 to 64 years	533	1	28	75	366	64	115	19	24	72	303
65 years and over	149	6	–	–	46	96	22	2	7	75	44
Marital status of partner:											
Never married	1 541	427	735	191	161	27	1 197	40	16	30	259
Married, spouse absent	193	24	51	46	52	21	69	10	54	16	45
Separated	104	19	22	29	32	2	52	7	–	5	41
Widowed	137	–	2	6	59	70	15	9	4	71	38
Divorced	788	33	153	178	359	64	241	20	15	64	448
With children under 15 years in household	1 470	298	715	353	92	12	797	109	35	13	517
Age of partner:											
Under 25 years	355	191	136	22	6	–	268	25	5	1	55
25 to 34 years	702	93	439	143	25	3	385	44	14	6	253
35 to 44 years	333	12	121	167	31	3	131	30	16	1	155
45 to 64 years	74	–	18	20	31	4	11	10	–	2	51
65 years and over	6	2	–	2	–	2	–	–	–	2	3
Marital status of partner:											
Never married	885	261	426	159	34	6	595	55	21	9	206
Married, spouse absent	95	10	44	34	7	–	38	19	9	–	29
Separated	67	9	31	23	4	–	31	13	4	–	19
Widowed	12	–	4	6	1	–	4	1	–	–	6
Divorced	478	27	241	153	51	6	160	34	6	3	276
Partner of same sex	1 818	420	697	311	271	118	1 306	69	44	74	325
No children under 15 years in household	1 686	391	636	285	255	118	1 238	63	40	69	275
Age of partner:											
Under 25 years	419	286	113	9	12	–	378	5	8	–	29
25 to 34 years	650	93	399	90	50	18	499	38	7	7	99
35 to 44 years	318	4	90	145	67	10	193	16	12	12	84
45 to 64 years	216	8	27	37	109	36	127	2	8	22	57
65 years and over	83	–	7	4	17	54	41	2	5	29	6
Marital status of partner:											
Never married	1 301	354	525	190	170	62	1 057	37	17	20	168
Married, spouse absent	108	18	32	22	23	13	35	12	12	12	37
Separated	53	6	12	10	18	6	13	10	1	8	23
Widowed	40	–	4	3	4	28	11	–	5	24	–
Divorced	238	18	75	71	59	15	134	14	6	14	70
With children under 15 years in household	132	29	61	26	16	–	68	6	4	5	49
Age of partner:											
Under 25 years	52	24	18	7	2	–	28	–	–	–	23
25 to 34 years	44	4	27	3	9	–	26	6	–	5	6
35 to 44 years	23	–	10	12	–	–	5	–	–	–	18
45 to 64 years	12	–	6	1	5	–	6	–	3	–	2
65 years and over	2	–	–	2	–	–	2	–	–	–	–
Marital status of partner:											
Never married	90	28	38	16	8	–	49	6	–	–	34
Married, spouse absent	8	1	3	–	5	–	3	–	–	5	–
Separated	1	1	–	–	–	–	–	–	–	–	–
Widowed	2	–	–	2	–	–	2	–	–	–	–
Divorced	31	–	20	8	3	–	13	–	3	–	15

AUGUST 29, 11:51 EDT

Report: More Kids Born to Unmarried

By MICHELLE BOORSTEIN
Associated Press Writer

She was dealing blackjack when she got pregnant, and Pam Hesse didn't deal herself a very good hand: Turned out the father was sleeping with the woman who threw her baby shower. But it was hard to let go of the dream she'd had for so long.

``When I was growing up I thought, `I'm going to get married by the time I'm 25 and have two kids and my life is going to be wonderful and that's that,'" said Hesse, who lives in her native Grand Forks, N.D.

Five years later, Hesse is 32 and has Cody and Alec, a second son by another man she calls ``just incredible." They share a home and a future, but not a formal vow — just one couple caught up in the seismic shifts taking place in American attitudes toward marriage and childbearing.

A soon-to-be-released Census Bureau report shows Hesse is far from an exception; in fact, she's in the majority. The report, the bureau's first compilation of all its 60 years of data on childbearing and marriage, finds that for the first time, the majority of ``first births" — someone's first child — were either conceived by or born to an unmarried woman. That is up from 18 percent in the 1930s.

It's hardly news that people live together, have sex, even bear children together outside marriage. But the majority?

``This is connected to an erosion of the centrality of marriage," said Stephanie Coontz of Evergreen State College in Olympia, Wash., who studies the family and its role in history.

In ``Our Town," his renowned 1938 play about small-town America, Thornton Wilder positioned marriage as a given: ``Almost everybody in the world gets married — you know what I mean?" the Stage Manager character says. ``In our town there aren't hardly any exceptions. Most everybody in the world climbs into their graves married."

Two generations later, the federal study shows that the percentage of children conceived by unmarried people is essentially unchanged from the 1930s. However, the percentage of children born to unmarried parents has increased fivefold. In other words, sex without marriage may have been an option — however hidden — but children meant marriage.

And unlike the explosion of teen pregnancy in the late 1980s and early 1990s, the rise in out-of-wedlock births today represents women in their 20s and 30s. While the fraction of unwed mothers who were teen-agers fell from half in the 1970s to about a third in 1996, the number of unmarried mothers in their 30s has doubled.

These women are old enough to get married; they're just choosing not to.

But this isn't just about the demise of the shotgun marriage. The Census Bureau found that more women who have children without being married are staying single one year, two years, even five years after the birth.

Law books in many parts of the world are removing references to ``illegitimacy'' and guaranteeing children access to both parents' resources, even if they never married. Forms at schools, banks and hospitals no longer assume parents are married. Doctors specialize in treating foreign babies adopted by single women.

And celebrities from Madonna to Rosie O'Donnell arouse little controversy by raising children alone. Society has grown accustomed to that concept: When one of the country's largest tabloid newspapers snagged an exclusive interview with Jodie Foster just days before her son's birth, the writer mentioned Foster's ``fatherless family'' only once — halfway through the article.

Social scientists say the statistics tell many stories — tales of women's growing financial power, of major confusion in relationships, of ever-increasing life spans and a culture and economy that value independence.

But not tales of people who don't want marriage — just of people who want a good one.

``There are very few women who are like, `I've got this fantastic Alan-Alda-diaper-changing man but I'm just not going to marry him,'' said Andrea Engber, head of the National Organization of Single Mothers, based in Midland, N.C. ``If they could wave a wand and have Mr. Right, they would. But what they're doing is not settling for Mr. Adequate.''

Even marriage experts who disagree on just about anything else say the rise in out-of-wedlock births reflects Americans' difficulties in negotiating the new marital waters.

``There are no scripts for people living in the kinds of relationships people are living in. They're kind of pioneers in that they're both working, both trying to be equal. Marriage is an institution in transition,'' said Arlene Skolnick, a sociologist at New York University.

So dramatic are the changes that the National Institutes of Health held its first conference on the topic this summer, exploring why people are ``partnering'' the way they are. The conclusion: Romantic love isn't dead, but it may not be enough to hold a marriage together.

As gender roles blur, women earn their own money and men no longer need wives in order to climb the corporate ladder. Divorce has become commonplace, challenging the view that marriage as a permanent commitment.

``As you lose the economic reasons to marry, the reasons are about love and romance and being with the person you most enjoy, and that kind of a connection is a lot less strong glue than obligation and dependency and social rules,'' said Barbara Risman, author of the newly released book ``Gender Vertigo: American Families in Transition.''

Economists often theorize that marriages are less alluring because men and women are acquiring similar skills — both can defrost the TV dinner — and therefore depend less upon one another. Before, marriage had more benefits because each person ``specialized,'' the woman in child-rearing and the man in making money.

Los Angeles Times

THURSDAY, MARCH 29, 1990

Report Finds Widespread Bias Against Unmarrieds

By VICTOR F. ZONANA
TIMES STAFF WRITER

A report documenting widespread and often illegal discrimination against unmarried people in Los Angeles—ranging from higher dues at health clubs to restrictions on visits to hospital bedsides—will be released today by a consumer task force convened by City Atty. James K. Hahn.

"Discrimination based on marital status is arbitrary, inappropriate, illegal and unfair—but it is also a pervasive national problem," said Thomas F. Coleman, chairman of the Consumer Task Force on Marital Status Discrimination and an adjunct professor at the USC Law Center.

"Our report represents the emergence of a new dimension of the consumer protection movement," he added. "Call it singles' rights."

The unmarried—those who are single, divorced, separated or widowed—make up 55% of people of marrying age in the city, Coleman said. The U.S. Census Bureau defines "marrying age" as 15 years or older, he said.

"A sleeping giant is awakening, and once it awakens there are going to be major changes in the way businesses and others interact with unmarried consumers," Coleman said.

Hahn, who called a press conference for this morning, declined to comment on the 126-page report, an advance copy of which was obtained by The Times. But in creating the task force last October, the city attorney said: "Most of us aren't living in traditional American families anymore, and the rights and privileges extended to a few should be extended to everyone."

The report details numerous instances of alleged discriminatory practices in a wide range of situations. Among them: landlords who refuse to rent to single people or unmarried couples; auto insurers who levy higher premiums or will not write policies for singles; credit unions that will not issue joint loans to members and their fiances; and airlines that restrict the use of frequent-flyer awards to spouses or blood relatives.

"Most of these practices are illegal in California," said Coleman, an expert on family law. In many areas, such as housing, singles and unmarried couples are already covered by fair-housing laws and regulations, the report noted. Where specific statutes are lacking, the report urged more vigorous enforcement of existing laws barring arbitrary discrimination or unfair business practices.

"Most consumer protection programs focus almost exclusively on consumer fraud and virtually ignore the issue of discrimination," the report charges.

Other remedies the report recommends include increased efforts to educate consumers, voluntary cooperation by businesses and, where ambiguities exist, clearer laws and regulations.

"There are signs of change," the report notes. For example, the Greater Los Angeles Zoo Assn. recently liberalized its membership policy to provide admission to any two adults, regardless of marital status; previously, admission was for the member and "spouse."

In cases where bias is not deliberate but stems from unintentional assumptions or inappropriate terminology, a simple letter to the offending business can bring redress, the report said. Last November, for example, Wells Fargo Bank apologized to the task force for using the word "spouse" in a promotional offer to credit-card holders.

"To have been more accurate, the offer should have been made to 'the joint account customer,'" Eric Kahn, a bank vice president, wrote to the task force. "We are grateful for your bringing our misworded letter to our attention."

Some businesses cite economic reasons to justify charging higher prices for single people. For example, in response to new state regulations barring the use of marital status in setting auto insurance rates, State Farm and Allstate recently filed suit against the state charging that marital status, among other factors, "bears a substantial relationship to the risk of loss."

Like other California-based social movements, the drive to secure equal rights for unmarried consumers is being noticed in other parts of the country. "This is a question that begs examination, and Los Angeles has taken a very positive first step," said Virginia M. Apuzzo, deputy executive director of the New York State Consumer Protection Board.

Apuzzo said her agency plans to mount a similar campaign against marital-status discrimination, adding: "People are not being treated equally in the marketplace. It isn't fair." Apuzzo, who has worked on behalf of gay rights, said economic discrimination based on marital status is of special significance to gay people, who are denied the right to wed, though the majority of persons who are victimized are heterosexuals.

The Los Angeles task force held three public hearings and heard testimony from about 30 witnesses, including business representatives, legal experts and politicians.

The task force did not specifically address "domestic partnership" legislation, which was considered by an earlier city task force. After that earlier report, the Los Angeles City Council redefined the term "immediate family" to offer sick leave and bereavement leave to city employees with unmarried partners. Other municipalities, including West Hollywood and Berkeley, have gone even further, granting health benefits to domestic partners of city workers.

Most of the testimony to the consumer task force came from individuals who alleged discriminatory practices by landlords, insurers, banks, credit unions, nursing homes, hospitals, health clubs and frequent-flyer programs.

Valeria Morea, the fiancee of a member of TWA's frequent-flyer program, told the panel that she was denied permission to board a plane with her fiance, even though he had qualified for an award of two tickets. The airline cited its policy of permitting only spouses or immediate family members to use the second ticket.

TWA has since changed its policy, the task force report noted.

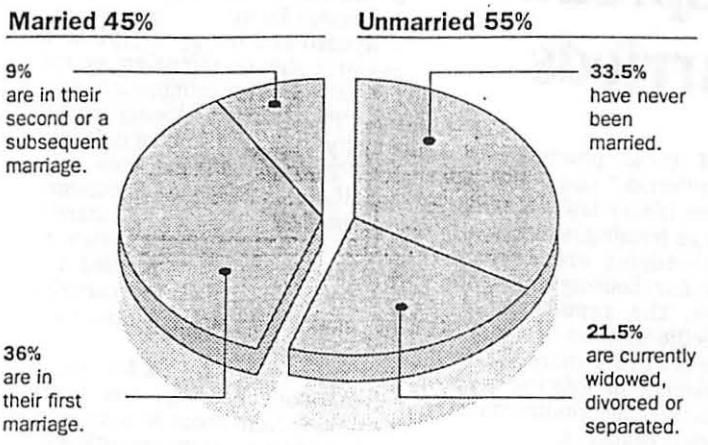
Some other airlines, however, still have restrictions that the carriers say are designed to prevent sale of the frequent-flyer awards to strangers, the report said.

Nancy Matthews, an account executive with the advertising firm McCann-Erickson in Los Angeles, has lived with advertising copywriter Adam Shreve for nearly four years and has been waging a running battle with the Mid Valley Athletic Club in Reseda to obtain the joint membership discount the club offers to married couples.

BIAS: Discrimination Against Singles Detailed

MARRIAGE IN LOS ANGELES

A breakdown of the marital status of those of "marrying age" in the city of Los Angeles. The U.S. Census defines people of "marrying age" as those 15 years or older.*



*A task force on discrimination against singles notes that 49.5% of the people 18 or over are unmarried.

Sources: Office of the City Attorney of Los Angeles, Consumer Task Force on Marital Status Discrimination, and 1980 U.S. Census data.

As singles, Matthews and Shreve each pay $55 a month for membership, or a total of $110 a month. Were they married, they would be entitled to a joint membership for $65 a month—just $32.50 each.

"Why should a single person, or a widowed person, or a person who is new to town, pay nearly twice as much for the same membership?" Matthews asked.

"As a single person, I take up one-half the room in the aerobics class, dirty one-half as many towels, consume one-half as much shampoo, and flush one-half as many toilets as a two-person married couple," she said.

"We considered forging a marriage certificate on Adam's Macintosh," Matthews continued. "But then we decided that the system was wrong and that we should fight it."

So far, it has been a losing battle. Despite two meetings with club general manager Harold Wright, a flurry of letters, and public testimony by Matthews before the task force, the club refuses to budge.

"You are either married or you're not," Wright said in an interview. "It would be an administrative nightmare to provide joint memberships to unmarried couples," he asserted.

"This isn't a moral issue for us," Wright added. "We're not trying to impose a value system on our members."

But societal privilege for married people is very much a moral issue to Beverly Sheldon, whose husband, the Rev. Louis P. Sheldon, heads the Traditional Values Coali-

"Single people aren't providing the same stability to our country, they're not providing offspring, they carry more diseases," said Mrs. Sheldon, director of research for the fundamentalist Christian organization.

Though she said she opposes discrimination, she added: "I feel saddened that [singles] want to take away the help [society grants married couples] simply because they can't have it, too."

In response, Coleman accused Sheldon of "vile stereotyping that lumps all unmarried people into one negative category, whether they are widows, gays, divorcees or even members of the clergy."

"California has a strong public policy to protect the freedom of choice of individuals to marry, or not to marry," he added. "The state's policy of granting certain privileges to married people does not imply a corresponding policy to discriminate against the unmarried."

The Consumer Task Force on Marital Status Discrimination was convened by Hahn after the city's advisory Task Force on Family Diversity recommended that the city attorney crack down on discrimination against unmarried individuals and couples.

The consumer panel did not investigate workplace discrimination against unmarried people because the city attorney lacks jurisdiction in employment matters.

Members of the panel included attorneys, consumer protection officials, human rights advocates and representatives from such businesses as Pacific Bell and Kaiser Permanente.

Panel members said that perhaps the most compelling testimony was provided by Juan Navarrette, who explained how a nursing home barred him from visiting his unmarried partner, Leroy Tranten, after Tranten fell from a ladder and suffered brain damage.

Although the two had lived together for eight years, Navarrette said he was kept away from Tranten at the insistence of a hostile relative. "I visited him for 10 months in the hospital, but after they transferred him to the nursing home, they wouldn't let me see him," Navarrette said.

"I wanted to bring him ice cream. I wanted to bring him food, but they wouldn't let me," he said.

Though Navarrette went to court to challenge the forced six-week separation, he was too late. Five days before the scheduled hearing, Tranten died and, without notification to Navarrette, the body was flown out of state.

"They wouldn't even let me pay my last respects," he said.

RANDY LEFFINGWELL / Los Angeles Times

Adam Shreve and Nancy Matthews in front of Mid Valley Athletic Club

☑ GAY, STRAIGHT COUPLES CLAIM BIAS

San Francisco Chronicle
SAN FRANCISCO, CALIF.
OCT 15 1990

Standing Up for 'Singles' Rights'

FRONT PAGE

By David Tuller
Chronicle Staff Writer

Nancy Matthews was incensed. Although her San Fernando Valley health club offered a substantial discount for married couples, it would offer no such savings to her and the man she lives with.

Instead, she and her boyfriend must each pay $80 a month for an individual membership at the Mid Valley Athletic Club in Reseda, while married couples pay a combined fee of only $80.

The club says its policy is designed to minimize administrative hassles: Granting joint status to unmarried couples would mean a paperwork nightmare if the pair broke up, it contends. But to Matthews, that argument is just an excuse for blatant discrimination.

"If I buy jewelry or food or go to the dentist, no one asks me if I'm married and charges me accordingly, so why should my health club?" said Matthews, an advertising executive from Woodland Hills. "I don't use any more club services than half of a married couple, but I pay more than half of what a married couple does."

Matthews is one of a growing number of Americans who feel that they have been discriminated against on the basis of their marital status in virtually all aspects of everyday life. They include single adults, as well as unmarried straight and gay couples.

These emerging "singles' rights" advocates, as they call themselves, say that in an age of vastly changing demographics and lifestyles, society must find ways to address the needs and rights of those living alone or in so-called nontraditional households.

The debate underscores an emotional and contentious re-evaluation of a primary element of American society: the basic concept of family.

Those who oppose the "singles' rights" concept argue that the movement would overturn centuries of convention in which marriage has been regarded as a fundamental institution.

Conservative groups denounce the campaign on religious and moral grounds. And others say that extending spousal benefits would be an expensive, bureaucratic mess. Businesses, for example, note that it would be extremely difficult to protect themselves against fraud by unmarried people who claim to be dating or living together.

"Twenty years ago, if you had a conference on the family, everybody would know you were talking about Mom, Dad, Dick, Jane and Spot," said Martha Farnsworth Riche, national editor at American Demographics magazine. "But now, people are so polarized by the changes that if you had a conference on the family today you might have to bring out the National Guard."

In San Francisco, the issue has taken the form of a November ballot measure that would make it the second city in the country, after West Hollywood, to allow all unmarried straight and gay couples to officially register their relationships as "domestic partnerships." Some other cities have extended certain benefits to the unmarried partners of municipal employees.

Pervasive Prejudice

But singles' rights advocates say the effort extends well beyond domestic partnerships. Last spring, a task force convened by the Los Angeles city attorney's office documented what it called "widespread" discrimination against singles and unmarried couples in such diverse areas as housing, credit, insurance, membership groups and medical services.

"The movement is much more broad-based than the domestic partnership effort in terms of constituencies and issues," said Thomas Frank Coleman, a Los Angeles attorney who chaired the task force and heads the Family Diversity Project, which disseminates information about nontraditional families.

"Unmarried and single people are fed up with being denied services and paying higher prices," Coleman added. "It's a pervasive national problem."

High Rates of Divorce

Demographic trends are spurring the debate over singles' rights. According to U.S. Census figures from 1988, 45 percent of Californians of marrying age are divorced or have never been married. And the percentage of unmarried people is even higher in major metropolitan areas like San Francisco and Los Angeles.

The debate underscores re-evaluation of the concept of family

"Certainly, the whole marital status issue has blossomed in the past few years and seems to be picking up steam," said Steven Owyang, chief staff attorney in the San Francisco headquarters of the California Fair Employment and Housing Commission, which adjudicates discrimination complaints.

Advocates for singles and unmarried couples say that such individuals fall within a gray area of the law. Although many states have statutes forbidding discrimination based on marital status, there are gaps. Even in California, which has such laws, only those related to a deceased person by marriage or blood can seek damages for wrongful death.

Sanctions Against Cohabitation

Many say some laws already on the books are simply overlooked or ignored by overburdened law enforcement agencies. And many states still have statutes outlawing "fornication" or "cohabitation" by unmarried couples, although these laws are rarely enforced.

Standing Up for the Unmarried

'Singles' rights' advocates complain of discrimination

A few years ago, Debbie Deem could not even get an interview when she applied for a job as a juvenile probation officer in Phoenix, despite strong recommendations and stellar qualifications. The reason: In violation of Arizona law, she was not married to the man with whom she had been living.

"It felt like a kick in the stomach," said Deem, who has since moved to the South Bay and works in a nonprofit agency. "I could have lied, or I could have been going out to bars all night, and that would have been all right."

Not surprisingly, some conservative groups, citing moral and religious reasons, are fiercely battling attempts to extend benefits to unmarried people.

Chico Landlady's Battle

In a case that could have wide-ranging effect on how courts interpret statutes forbidding discrimination based on marital status, Concerned Women for America, a lobbying group based in Washington, is defending a Chico woman who refused on religious grounds to rent her apartment to an unmarried straight couple.

After the couple filed a complaint with the state, the Fair Housing and Employment Commission ordered the landlady to pay them hundreds of dollars in damages. The landlady has appealed the decision, saying that forcing her to rent to unmarried couples would violate her constitutional right to freedom of religion.

"The two-parent family is the basis of a stable society, and you end up with social disintegration if the government starts encouraging and protecting different kinds of groupings as the moral equivalent of a married couple," said Jordan Lorence, an attorney with Concerned Women for America who is representing the landlady.

New Standards

But advocates for such protection argue that opponents are ignoring the changing demands of society. "The practical reality is that in order for governments to continue to function effectively, they have to recognize the way people actually live," said Sky Johnson, director of community affairs for the Los Angeles city attorney's office.

In some cases, just pointing out a problem is enough to resolve it. In a letter sent to the Los Angeles task force last year, Wells Fargo apologized for using the term "spouse" in a promotional offer extending a special dining club membership to credit-card holders and their partners.

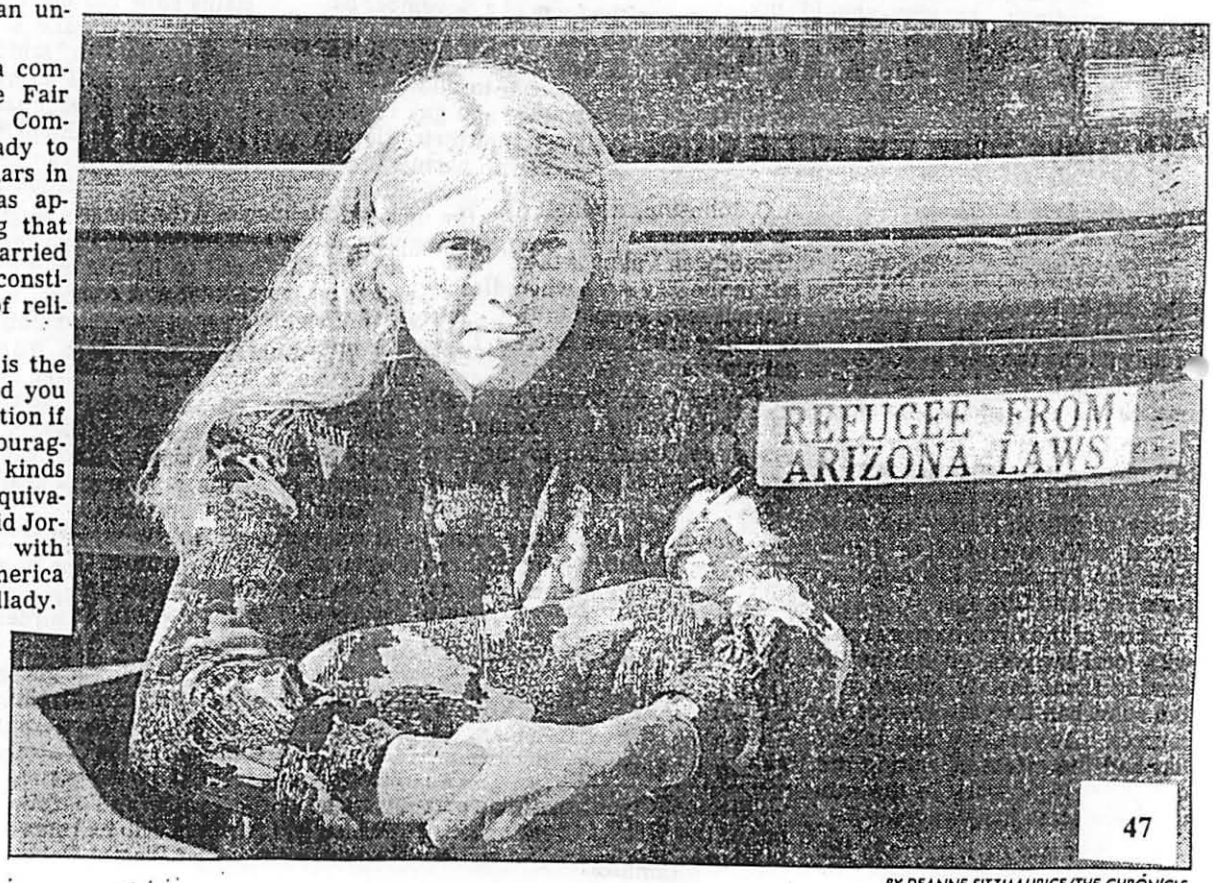
"We misused the word 'spouse' in our letter; to have been more accurate the offer should have been made to 'the joint account customer,'" wrote Eric Kahn, a Wells Fargo vice president, who thanked the task force for pointing out the matter.

Gay Pressure

The issue is of paramount importance to gay couples because they cannot get married legally even if they want to. Last year, Duane Rinde, a sales clerk at Woodward & Lothrop's department store in Washington, applied for a "spousal discount card" for Rob, his lover of two years.

When the store refused Rinde's request, gay and lesbian community leaders met with management and threatened to call a boycott unless the store changed its policies. The company then agreed to give cards to domestic partners of its employees and added sexual orientation to its list of protected employment categories.

"Rob and I are at this time not allowed to be married," Rinde said. "But we are in a long-term relationship that's equivalent to a marriage, and we should be entitled to the privileges."



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BY DEANNE FITZMAURICE/THE CHRONICLE

Debbie Deem was refused a job in Arizona because she was not married to the man she lived with

THE WALL STREET JOURNAL.

TUESDAY, FEBRUARY 5, 1991 **B1**

LAW

BY ARTHUR S. HAYES

Singles' Rights Activists Target Corporations

THE SINGLES' rights movement has gained acceptance from voters and legislators, but it has made little headway with business.

Singles' rights advocates say that many of the nation's 50 million unmarried people are treated unfairly by the insurance, airline and financial service industries, as well as by employers. They argue that singles pay more for some services than married people and often aren't entitled to the same benefits.

In the late 1980s many cities recognized heterosexual and homosexual domestic partnerships. Seattle and other cities even extended spousal benefits to the unmarried companions of municipal employees. California allows nontraditional families and couples to register as unincorporated nonprofit associations, a move that could lead to greater legal recognition of those relationships.

But for the most part, the business world has resisted the demands of the singles movement. Management lawyers say corporations feel little compulsion to extend benefits to companions of their employees because the law doesn't require them to.

"I don't see the private sector moving to replicate these early developments in these municipalities," says Paul Shultz, a lawyer with Towers Perrin, a benefits consulting firm.

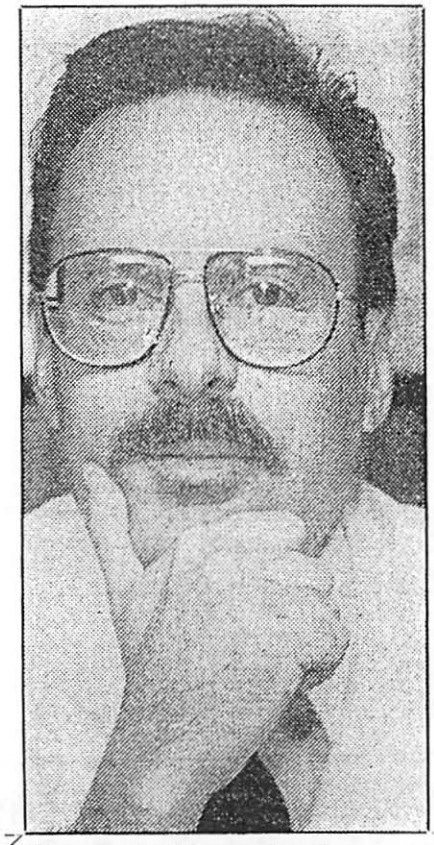
But Thomas F. Coleman, a singles' rights lawyer in Los Angeles, predicts that in 15 years the movement will have an impact on corporate America. "People are filing lawsuits—threatening to file lawsuits," he says.

One of them is the surviving lesbian partner of a deceased **American Telephone & Telegraph** employee. She filed suit in federal court in New York last August, charging the company with discrimination because it denied her the death benefits it ordinarily pays a husband. An AT&T spokesman says that until the law recognizes such partners, the company has no obligation to extend its benefits to them.

Couple says unmarried status spurs discrimination

By TONY LINK
Daily News Staff Writer

ROGER W. VARGO/DAILY NEWS



Thomas F. Coleman heads panel probing charges of discrimination.

Terri Taylor called it an example of discrimination against the unmarried.

Taylor, 31, said she didn't have a chance of qualifying for a car loan from the Los Angeles Federal Credit Union. Her income alone was insufficient, and when she tried to combine assets with her live-in fiance, the credit union said no.

While the credit union, for city employees and their families, allows married couples to combine assets and seek loans jointly, it would not allow Taylor and her betrothed, Roger Naas, to do so, said Hugh Coffin, an attorney representing the credit union.

Naas, who is not a city employee, could not become a member because of the couple's unmarried status, Coffin said. He added that the issue is not one of prejudice. It is one of credit-union-membership requirements.

Taylor disagreed.

"I feel that we were discriminated against because we were not married. I would like to see that stopped," she said.

Members of the Los Angeles Consumer Task Force on Marital Status Discrimination are exploring steps that could make Taylor's wish come true.

Convened by City Attorney James Hahn in October, the task force this winter is hearing testimony on a string of potentially discriminatory situations.

The panel's chairman, attorney Thomas F. Coleman, said charges have included:

■ That unmarried couples who are members of health clubs are paying nearly double the membership fees of married couples at the same clubs.

■ That unmarried couples seeking health insurance often must pay higher premiums than married couples receiving identical benefits.

■ That unmarried couples seeking to share apartments often are denied occupancy by landlords who believe such living arrangements are immoral.

Coleman pointed to an August ruling by the state Fair Employment and Housing Commission as evidence that the allegations must be taken seriously.

The commission found that Evelyn Smith, a Chico apartment landlord, improperly withheld a unit from an unmarried couple and required her to lease it to them.

Underscoring the importance of the issue, Coleman cited U.S. Census Bureau statistics showing 55 percent of adults in Los Angeles are unmarried.

"We're talking about the majority of adults in Los Angeles. It potentially could affect every one of them, and it is costing people money," said Coleman, who will submit a final report on the task force's findings in March.

For Taylor, her unmarried status almost cost her the car of her dreams, a used Jeep Cherokee that she had found for sale at a below-market price.

She eventually qualified for the loan she needed at a bank that allowed her and Naas to apply jointly.

But Taylor is still mad. She said she and Naas are as much a couple as many spouses, adding that it is their business when they decide to marry.

Coffin said, however, it is in the credit union's bylaws that it can make loans only to members.

He added that the directors of Los Angeles Federal Credit Union don't totally control those bylaws. Any changes they might want to make must also receive the approval of the National Credit Union Administration, a government regulatory agency, Coffin said.

Nonetheless, Coleman said, discrimination based on marital status is illegal under the Unruh Civil Rights Act. That legislation, enacted in 1959, prohibits businesses from any kind of arbitrary discrimination against their customers, according to officials of the California State Law Library.

Whether discrimination exists concerning the credit union remains to be proved, he said. The task force is seeking testimony from Los Angeles Federal Credit Union's representatives, as well as from businesses that have received the brunt of discrimination allegations.

Putting an end to any alleged discrimination will involve prodding government agencies to more stringently enforce the law, Coleman said.

The city task force, Coleman said, plans in its report to develop an enforcement model that can be used statewide.

The report also should include plans to educate unmarried consumers about their rights and inform businesses about their obligations, Coleman said.

"Why should single people be subsidizing married people?" Coleman asked. "It doesn't make sense."

TUESDAY
JANUARY 9, 1990

Daily News

FOCUS
PEOPLE

Los Angeles Times

FRIDAY, JUNE 12, 1992

Court Widens Right to Claim Jobless Pay

By SCOTT HARRIS
TIMES STAFF WRITER

In a decision interpreted by some as a victory for "non-traditional families" and by others as a slap at the institution of marriage, a sharply divided Massachusetts Supreme Court on Thursday ruled that a woman who quit her job to relocate with a longtime companion was entitled to unemployment benefits.

At a time when the "family values" debate has emerged as a major issue in the presidential race, the court ruled, 4 to 3, that teacher Kathy Reep qualified for unemployment benefits although she and Robert Kurnit remained unmarried after 13 years of living together.

Advocates for unmarried couples, gay unions and other unconventional "family units" hailed the decision, one of several in recent years to extend legal protections to relationships not bound by blood, adoption or a marriage license.

"It's an important and courageous decision since so many of the families in this society are non-traditional that we need institutions to support families, no matter what they look like," said Mary Bonauto, a lawyer with Gay and Lesbian Advocates and Defenders, which had filed an amicus brief in the case.

In a vehement dissent, Justice Joseph R. Nolan called the ruling "mischievous public policy" and "another paragraph in the obituary of the concept of the traditional family."

Thomas F. Coleman, a family law lawyer in Los Angeles and president of EEO Seminars, a company that advises corporations on marital and sexual orientation discrimination issues, said the case may be a "helpful precedent" in California, where rulings remain "unclear."

Personal
THE MAGAZINE FOR YOU

The Magazine of the Sunday Times Union

AUGUST 11, 1991

Feeling Single, Seeing Double

In a world full of married couples, the single person is the odd man — or woman — out

BY RICK KARLIN

Each year around Christmas time, Dottie Smith goes through a simple routine shared by millions of other Americans. But in the eyes of some, it seems like a forlorn, almost pathetic, ritual.

"Why do you have a Christmas tree if you live by yourself?" people ask Smith, who has been divorced for 14 years but still decorates her Albany home each December. It seems like some people equate all single folks with Ebenezer Scrooge. Smith stifles the impulse to sneer at such questions and instead replies that she enjoys the Yuletide season as much as anyone else. "Christmas is a happy time," says Smith. So much for the image of holiday depression among those who live alone.

"Families are looked upon as something wonderful and something good and being single is looked upon with suspicion."

-- Susan Johnson, program director of the Capital District's Singles Outreach Services Network

For Donna Hawthorne, the questions are different, but still odd. When she goes out on a date with someone new, she often gets a puzzled response when she mentions that, at age 36, she's never been married. "They're kind of shocked," she says of the way men react to the news. "They expect you to say you're divorced.

"A couple of them have said, 'How did you escape it?' That makes me wonder, gee, is something wrong here?"

Of course there's nothing wrong with Hawthorne, or with Smith. But if you're a

single person who has reached the age of, say, 30, people can give you plenty of reasons to wonder if you're some kind of misfit.

In a world full of married couples, the single person is the odd man — or woman — out. It doesn't matter if one is single through divorce, death of a spouse, or from never having tied the knot in the first place: Single people face constant reminders of their solo status.

The slights are everywhere, ranging from social conventions tilted wildly in favor of married couples, to the hard-number worlds of finance and business..

Listen to any politician and sooner or later you'll probably hear a remark about "The American Family." You'll never hear politicos talk about "The American Single Person," even though nearly half of the nation's households are occupied by single people.

When Supreme Court Justice David Souter came up for nomination in 1990, his bachelor status became cause for speculation. What was wrong with him? Was he emotionally unstable? Did he lack a sense of commitment? Was he gay? Did he beat his dog? Such questions resulted merely from the fact that he was unmarried.

Go to a large family wedding by yourself and chances are you'll sit somewhere in the back, along with your 9-year-old third cousin from Toledo and your aging Aunt Anita, who never got married.

It's tough seating a single person at a party of couples since it breaks up the traditional man-woman-man-woman seating arrangement.

Enter a fancy restaurant alone and see where you end up. Unless you ask to be seated elsewhere, there's a good chance you'll be steered toward the table under the air conditioning duct or next to the swinging doors leading to the kitchen.

Single women are particularly peeved by people who assume they are married.

When telephone solicitors call Mary Berger with sales pitches for insurance policies, investment schemes, discount phone services, or some other offering, they almost always address her as "Mrs." — even though she's been divorced for 11 years.

"I resent the automatic assumption that I'm a 'Mrs.'," says Berger.

Phyllis Fortin recently attended a local health seminar on dealing with stress. The woman conducting the seminar told her audience that one way to reduce stress is to have the kids do some of the housework. "I don't have any kids and my cats refuse to do housework," says Fortin.

It's true that the pressures and prejudices against singles are not as great as they used to be. Soaring divorce rates, increased longevity, and a trend toward marrying later in life have caused the ranks of single people to swell.

According to the 1990 Census, about 25 percent of all Americans live alone, up from 23 percent in 1980 and 17 percent in 1970. By contrast, the number of married couples is shrinking. The 1990 Census found 56 percent of all American households were occupied by married couples. That's down from 61 percent in 1980 and 71 percent in 1970.

"Single people aren't providing the same stability to our country. They're not providing offspring, they carry more diseases."

-- Beverly Sheldon, of the Traditional Values Coalition in Irvine, California, as quoted in the Los Angeles Times.

The stereotypical family of yesteryear — a husband and wife and 2 children — is giving way to any number of combinations today: blended families in which divorced parents have remarried; single-parent families; grandparents who raise their grandchildren; gay or lesbian couples; empty nesters; couples with no kids and so on.

And some of the pejorative terms to describe singles have faded from our vocabulary. Single-parent families used to be called "broken homes," but that expression is rarely used anymore. And the terms "spinster" or "old maid," describing women who never married, have all but vanished from our lexicon. The description of an unmarried man as a "swinging bachelor" also seems to have lost popularity.

Nonetheless, divisions between married couples and their unattached counterparts still remain. "It's the tyranny of the culture," says Gregg Millett, executive director of the Singles Outreach Services (SOS) Network, a singles group based in the Capital District.

Millett says that some negative stereotypes about singles persist — that they're lonely, or unable to find a spouse. But they are vast oversimplifications when one considers how many single people are out there. SOS, for instance, has more than 4,000 members.

SINGLEHOOD IS EXPENSIVE

Biases about singlehood extend beyond our cultural and social concepts. They also extend into the world of finance, even though this may not be readily apparent. The fact is, living alone can be an expensive proposition.

Go into any supermarket and compare the prices of single-serving foods with jumbo family-size products. If you regularly buy the smaller size — and most solo people do — you're not getting the most for your money.

There are other costs as well.

A University of Michigan survey conducted in 1990 found that married men earned considerably more than their single counterparts. This was true in a dozen countries including the United States, where, on the average, married men earned 31 percent more.

Researchers speculate that married men earn more because family responsibilities motivate them to work harder — or that married men may simply appear to be more stable than their single counterparts and are financially rewarded for it.

Either way, U.S. Census figures bear out the wage differentials, especially for men. The median income for married men aged 18-24 is $14,937. For men in the same age group who have never married, the median income is $7,240. Between the ages of 24 and 44, the median income for married men rises to $27,156 while it increases to only $17,661 for those who haven't married. (Median is the point at which half the numbers are higher and half are lower). Unmarried women, though, tend to earn more than than their married counterparts, possibly because most of them don't interrupt their careers to have children.

Being single may even work *against* someone in hard times when job layoffs are imminent. "It's a behind-the-scenes issue," says Thomas McKenna, a local employment counselor. When layoffs come, McKenna says, some firms may think twice about jettisoning those employees who have a wife and kids to support. "There's a lot more sensitivity to the individual who is married and has children and a spouse who is not working," he says.

In the world of Fortune 500 companies, being single can help or hurt, depending on your age, adds McKenna. If you are young and just starting to climb the corporate ladder, it's a plus: It's assumed that you can pick up and relocate on a moment's notice and work those 80-hour weeks without fear of ruining your home life. But as you progress in your career or profession, you're expected to settle down with a spouse and children.

"It's generally an advantage when you're younger and a disadvantage when you're older," McKenna says of singlehood.

Consider how most corporate health insurance policies work. Even though single

"A growing number of single Americans are claiming, demanding, the same kind of benefits and respect given married people. I find that very disturbing."

-- Bryce Christensen, head of the Rockford, Illinois-based Center on the Family in America, a conservative think-tank.

people may actually use far fewer benefits than their married-with-children counterparts, they rarely get a break when paying their corporate premiums.

Being single can cost you more on your time *off* the job as well.

Timeshare resorts, which sell rights to use a vacation facility for certain weeks during the year, have offered inducements like free gifts to potential customers who submit to their sales pitches. But some of those pitches have been offered only to married couples.

"As single travelers, we have problems," says Marilyn Rudne, a Miami, Flordia, marketing consultant who travels extensively. "The way the bias shows up is monetarily. All of the travel facilities are built for couples." Many hotels and resorts will charge a solo sojourner their two-person rate. Often, the price for a single guest will be one-and-a-half to two times what a couple would pay, says Rudne. "About the only place you don't pay extra is on a plane."

In an attempt to help solo travelers overcome this price bias, Rudne launched the Single Travelers Network, which organized trips for singles, earlier this year. She contacted TV stations and newspapers around the nation and started advertising planned trips. She even created a short, syndicated television show to dispense information to solo travelers.

Rudne got thousands of inquiries but only a handful of solid commitments to go on trips; the network eventually foundered. "It was an enlightening, disturbing experience," she recalls. "I got a lot of calls saying 'What have you got for next week?' "

It was, Rudne says, symptomatic of how single people keep waiting for a "better offer" or hedge until the last minute in hopes that they will soon be part of a couple.

"They are reluctant to make a life as a single because they are always so busy trying to be couples," says Rudne.

Society dictates — so some singles are convinced — that the unmarried should devote themselves entirely to finding a mate.

"There is an assumption that it is always better to be working on a relationship than not being in one," says Norman Goldman, Ph.D., a Schenectady psychologist. "The pressure can be very, very heavy."

Goldman knows one man who has arranged his whole life around finding a wife. Every activity he engages in or every trip the man takes is planned with the hopes of meeting that special someone to marry.

Goldman says he asks such people if they really want to marry or if they're simply caving into society's pressure.

"We live very much in a couples culture," says Susan Barbieri, a columnist for *The Orlando Sentinal*, in Orlando, Florida, who writes about issues of interest to single people. "There's an assumption that you make being single a career, that you are always out there looking."

SINGLES RIGHTS

In March 1990, with great fanfare, a group of people in Southern California heralded the start of the "Singles Rights" movement.

It began in Los Angeles when a special Consumer Task Force issued a 126-page report detailing instances of discrimination against unmarried people in Southern Calilfornia.

Among the abuses that Task Force members identified: Landlords who didn't want unmarried tenants; health clubs that gave discounts only to married couples; airline frequent flyer programs that were limited to married couples. Some of those problems have since been corrected.

But the so-called singles rights movement has yet to catch on nationwide.

"There seem to be pockets of people fighting here and there. It hasn't formed a cohesive movement like the women's movement or the gay rights movement or anything like that," says Thomas F. Coleman, a University of Southern California law professor who chaired the Los Angeles task force.

Coleman theorizes that the singles rights movement hasn't taken off in part because so many single people see themselves heading, hopefully, toward marriage. If they are not married, they may then suffer from a low self-esteem that causes them to "suffer in silence."

"Almost everyone wants to be married," says Coleman. "If they are not married, they feel like there is something wrong with them. People with low self esteem don't generally join together to fight."

When the Los Angeles study came out, Virginia M. Apuzzo, the deputy executive director of the New York State Consumer Protection Board, was quoted as saying the entire singles rights issue (particularly as it pertains to financial or economic discrimination) warranted close examination. She also said her agency planned to look into it.

But as of last week, Apuzzo says budget cuts have prevented any probes of the issue.

"It's not that we're not interested. It's one of the things that's on the back burner," says Apuzzo.

She believes Americans have not yet come to grips with the fact that the nuclear family — the prototypical mom and dad with two kids and a picket fence outside — is no longer the norm.

"Call it singles rights... Most of us aren't living in traditional families anymore and the rights and privileges extended to a few should be extended to everyone."

-- University of Southern California law professor Thomas F. Coleman, as quoted in the Los Angeles Times.

"It's like somebody has an image of a 1950s TV program," says Apuzzo. "We hook into a perception of reality and we are reluctant to give it up no matter what."

People are still clinging to the image of "Leave it to Beaver," as the typical American family. But the Fox cable TV network's "Married with Children," a show depicting a vulgar, dysfunctional family that barely stays together week after week, may be closer to the mark.

JOKES AND COMEBACKS

Until society catches up, single people will have to cope. Some do it with humor. Dino Billings, a 39-year-old bachelor, jokes about bringing a blow-up life-size rubber doll to parties as way of dealing with questions about his single status. "You may call her an air-head, but she's flexible," he says with a smile.

Sometimes the humor turns to quick comebacks. If a divorced person asks him why he has never gotten married, Billings asks the questioner why he or she is divorced.

And when Phyllis Fortin senses a slight against her single self, she turns her thoughts toward the two master's degrees she's earned and the time she has spent in places like Arizona and Wyoming. Had she been married, she might not have had those experiences, she says.

Dottie Smith, who fields the funny questions about her Christmas tree, seems to revel in her singlehood. It means freedom to do exactly as she pleases, without someone tagging along or moping about how he doesn't want to do this or go there.

If she wants to waste her money on installing cable TV in three rooms of her home, she can do so without answering to anyone. If she feels like staying home all weekend and watching old movies on her VCR, she can do that, too.

And when Donna Hawthorne gets to worrying too much about her single status, she thinks of all her carefree winter ski trips and the spur-of-the-moment windsurfing expeditions she enjoys each summer. She might not have been able to do that if she'd had a husband and children to tote along.

Overall, the personal freedom that comes from being single can be one of the biggest antidotes to any cultural stigmas or costs. SOS's Millet agrees. "With personal freedom, the tryanny of marriage isn't so strong." ■

Rick Karlin is a staff writer for PERSONAL.

Los Angeles Times

WEDNESDAY, APRIL 10, 1996

Landlords Can't Deny Housing to Unwed Couples

■ **Courts:** In a 4-3 decision, state justices rule against woman who refused to rent to a pair on religious grounds. She plans an appeal.

By HENRY WEINSTEIN
TIMES LEGAL AFFAIRS WRITER

SAN FRANCISCO—A sharply divided California Supreme Court ruled Tuesday that a landlord cannot refuse to rent to an unmarried couple on the grounds that it would violate religious beliefs.

By a 4-3 vote, the Supreme Court reversed a lower ruling and upheld the decision of the California Fair Employment and Housing Commission that Evelyn Smith of Chico violated state anti-discrimination laws. She declined to rent to Kenneth Phillips and Gail Randall after they told her they were not married, saying it would be a sin for her to rent to people having sex out of wedlock.

Four justices, led by Kathryn Mickle Werdegar, rejected Smith's argument that her rights to religious freedom under the U.S. and California constitutions had been violated. Three of the justices in the majority also rejected Smith's contention that her rights under the 1993 Religious Freedom Restoration Act had been violated.

Stanley Mosk, the fourth justice who voted against Smith, wrote a separate concurring opinion, saying that although he generally agreed with most of Werdegar's opinion, he considered the 1993 statute unconstitutional and therefore did not need to even assess the merits of her claims under it.

California law specifically makes it unlawful for the owner of any housing unit to discriminate against any person because of that person's marital status or to make any inquiry—written or oral—concerning marital status when renting a unit.

But Smith contended that those bans did not apply to unmarried couples who live together. Werdegar's majority opinion specifically rejected that contention.

In effect, the Supreme Court has ruled that a landlord may not impose a religious test as a condition of renting an apartment," said Thomas F. Coleman, an attorney for the couple. "After today, landlords may no longer refuse to rent to tenants who do not conform their conduct to the religious beliefs of the landlords."

Phillips and Randall said they were pleased that they had prevailed in a nine-year legal battle that began when Smith refused to rent them a tree-shaded duplex in Chico. "Fantastic," proclaimed Smith, who runs a landscape supply business in Chico.

"It's definitely been worth it because this has far-reaching implications for other people, too," said Randall, an administrative assistant at a real estate office in Davis.

Smith said she was "very disappointed" but that she felt she had a good chance of prevailing at the U.S. Supreme Court. Her attorney, Jordan Lorence of the conservative Alliance Defense Fund, based in Phoenix, said he would immediately seek Supreme Court review.

In its ruling, the California high court majority noted that the state law originally had been enacted in 1963 as the Rumford Fair Housing Act and amended in 1975 to specifically prohibit housing discrimination because of marital status. Moreover, the court stressed that a few months before the statute was amended, the California Legislature had repealed the laws criminalizing private sexual conduct between consenting adults.

Werdegar's opinion cited earlier California Supreme Court rulings, including a 1982 case upholding a decision that the owners of a duplex had violated state law when they rescinded a rental agreement after learning that a couple were not married. "In the ensuing 13 years, no court has suggested the statute should be interpreted differently," she wrote.

The majority also spurned Smith's contention that requiring her to rent to Smith and Randall violated her rights under the federal Religious Freedom Restoration Act of 1993. That law provides that government "shall not substantially burden a person's exercise of religion" unless it can be demonstrated that there is a compelling state interest and there is no less restrictive means of furthering that interest.

The majority said there was no serious question that Smith's Christian beliefs are religious and that she holds them sincerely. But it added that "Smith's religion does not require her to rent apartments, nor is investment in rental units the only available income-producing use of her capital."

In her dissent, Justice Joyce Kennard said the majority was placing an undue burden on Smith's free exercise of her religious beliefs. Kennard also suggested that California officials had failed to carry their burden of "showing that eliminating housing discrimination against unmarried heterosexual couples is a compelling interest of the same high order as, for instance, eliminating racial housing discrimination."

Justice Marvin Baxter, joined by Chief Justice Malcolm Lucas, wrote in a separate dissent that the case should be reexamined under the 1993 Religious Freedom Act.

Smith's attorney said he was particularly disturbed by the majority's suggestion that she could make money another way.

"For the majority to suggest that she can sell her townhouses and just reinvest the money and live off the investment income is like Marie Antoinette telling French peasants they can 'eat cake,' " Lorence said.

LANDLADY: Top State Court Rules Against Her

BY LEA SUZUKI/THE CHRONICLE

Kenneth Phillips (left), attorney Thomas F. Coleman and Gail Randall reacted happily in San Francisco to the state Supreme Court ruling in their favor

Chicago Sun-Times
News

Top court backs landlord who barred unwed pair

October 2, 1997

BY ADRIENNE DRELL LEGAL AFFAIRS REPORTER

Landlord Ronald Jasniowski does not have to pay a $622 fine or an estimated $50,000 in legal fees for refusing to rent a North Side apartment to an unmarried couple, according to an Illinois Supreme Court order issued Wednesday.

The court vacated a 1994 Chicago Human Relations Commission finding that Jasniowski violated the city's fair housing laws barring discrimination on the basis of marital status.

The high court turned down Jasniowski's request to be heard on appeal. Without any written opinion or explanation, the court also voided lower court rulings upholding the commission decision. The rulings marked the first time Chicago's marital status protection provision had been tested in court.

But Jasniowski's own attorney and legal experts suggested that the court's unusual one-paragraph ruling should not be viewed as a green light for other landlords to deny leases to unmarried people.

``It's like the oracle at Delphi. The court has spoken, but I am not sure what was said. I know we have won something, but I am not sure what," said Jasniowski's attorney Jordan Lorence.

DePaul University law professor Jeffrey Shaman agreed that Jasniowski's wallet is safe, but he suggested that the ambiguous wording of the brief court statement could open the door for a new commission hearing.

``This just seems to send things back to square one," Shaman said.

University of Illinois law professor Ronald Rotunda said that without a written opinion, the case has no precedent-setting value.

``It is the equivalent of saying this guy won without arguing before the court, but we don't know what the [court's] reasoning is here," Rotunda said.

COMMENTARY
COHABITATION AND CIVIL RIGHTS

BY NORMAN N. ROBBINS

Published in the November, 1997 issue of the Michigan Family Law Journal.

> *Civilization is a method of living, an attitude of equal respect for all men.*
> — Jane Adams

McCready v Hoffius, 222 Mich App 210, 564 NW2d 493 (1997) is a troublesome case that deserves our attention and discussion as it involves unusual legal as well as social issues. The facts are simple enough. The plaintiffs, an unmarried couple, in response to an ad, attempted to rent a residential unit from the defendants. The defendants upon learning that the plaintiffs were not married to each other, refused to conclude a rental agreement. Mr. Hoffius said it was against his religious beliefs to do so. The plaintiffs filed a complaint presumably alleging discrimination. Defendants moved for summary disposition stating that plaintiffs failed to state a claim upon which relief could be granted; that the Civil Rights Act did not protect unmarried cohabitation. The act, MCL 37.2502(1) states as follows:

> (1) A person engaging in a real estate transaction, or a real estate broker or salesman, shall not on the basis of religion, race, color, national origin, age, sex, familial status, or marital status of a person or a person residing with that person:
>
> > (a) Refuse to engage in a real estate transaction with a person.

The appeals court cited **Miller v A. Muer Corp.**, 420 Mich 355 in apparently arguing that "By including marital status as a protected class, the legislature manifested its intent to prohibit discrimination based on whether a person is married." I suppose we can now rule in favor of the plaintiffs? Wrong! The court has now joined a criminal statute to the Civil Rights Act so as to nullify the unmarried couple's civil rights.

> MCL Sec. 750.355 provides:
>
> Any man or woman, not being married, to each other, *who shall lewdly and lasciviously associate and cohabit together*, and any man or woman, married or unmarried, who shall be guilty of open and gross lewdness and

> lascivious behavior, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail not more than 1 year, or by fine of not more than $500.00. No prosecution shall be commenced under this section after 1 year from the time of committing the offense.

Our judges reasoned that unmarried cohabitation in and of itself is lewd and lascivious conduct and therefore criminal conduct. The conclusion they reached by deductive reasoning is that the legislature would not have intended the Civil Rights Act to insulate criminal conduct; unmarried cohabitation is criminal conduct, and therefore, not protected under the act.

The court in the tradition of draconian interpretation of the law cannot be faulted. The "felt necessities of the time," the experience of our age and moral, political, and social issues avowed or disavowed was not to be considered. The vicissitudes of life was not the court's concern, the court does not engage in social engineering. The right of privacy was a fantasy from a bench that deals in ethereal matters. Our courts must dot every "i" and cross every "t".

Justice Cardozo in his outstanding book the "Nature of the Judicial Process," which I highly recommend to our readers, said: "If judges have woefully misinterpreted the mores of their day, or if the mores of their day are no longer those of ours they ought not to tie, in helpless submission, the hands of their successors."

Again this is not a critique of the decision in the **McCready** case. The court did what they had to do. However, I wonder how you equate an offer to rent premises and actually renting or living in said premises by an unmarried couple, with lewd and lascivious conduct. In other words, was the act of renting lewd and lascivious? If a married man and unmarried woman rent a motel room, is the act of renting that room adultery? At what point in time did Kristal McCready and Keith Kerr, the plaintiffs, herein violate MCL 750.335, or become lewd and lascivious?

The end result of this case just leaves a bad taste in the same manner as other draconian decisions have. As did the **Smith** case (cited in previous journals) where the court refused to assist a helpless and permanently disabled child because she was over eighteen years old; as did the **Peltier** case (previously cited in the **Journal)** where the court refused to help a woman beaten by her husband who also saw her infant child hushed by barbaric acts committed by her husband, who also refused to support his family; as did the **Gynn** case (previously cited in the **Journal)** where the court refused to enforce its own order saying it had no authority to do so. In each of the above cases, the court strictly interpreted the law, and there are those who applaud the court for doing so. I sometimes feel I am going the wrong way on a one way

street. I continually look for justice not merely precedent. Some of our notable judges have found ways to mete out justice in the most difficult juridical situations.

In regard to the merit of cohabitation of unmarried individuals, I must state positively that I believe that marriage is the keystone of our society. One of its main purposes is procreation. The best environment for children is founded in a happy well adjusted marriage. I am also aware that homes not protected by the marital laws of our state can be a festering point for antisocial behavior and economic problems. Of course, on the other hand, the same may occur in a marital setting.

The **McCready** court, to substantiate the perils of cohabitation, cited a Minnesota Supreme Court decision (**State by Cooper v French**, 460 NW2d 2 (1990) which said:

> "Before abandoning fundamental values and institutions, we must pause and take stock of our present social order: millions of drug abusers; rampant child abuse; a rising underclass without marketable job skills; children roaming the streets; children with only one parent or no parent at all; and children growing up with no one to guide them in developing any set of values. How can we expect anything else when the state itself contributes, by arguments of this kind, to further erosion of fundamental institutions that have formed the foundation of our civilization for centuries?"

As an aside, I applaud the court for pointing out our present social disorder though I strongly object to the inclusion of the one parent household as a contribution to this disorder. Children of divorce in a one parent setting are in most instances a protected class. These children are wards of the court and clothed with numerous statutes and safeguards that tend to diminish the causes of delinquency and anti-social behavior.

The court indicates that renting to an unmarried couple would contribute to the "erosion of fundamental institutions that have formed the foundation of civilization for centuries." This hyperbole is difficult to accept from a learned judicial body. What does grandma and her aged male companion who are living together in a 'condo' in Florida for economic reasons and due to unfavorable tax laws, say to this assertion. I wonder how unmarried couples who cohabit, be they doctors and lawyers, clerks and plumbers would respond to this acrimonious and impertinent reference. What about the many cohabitation events that eventually resulted in marriage? I wonder about the noted social scientists who advocate premarital cohabitation in order to determine if people are properly mated for marriage thereby lowering the divorce rate. Are they accessories to the crime of lewd

and lascivious conduct?

Of course, the **McCready** case was not decided on social issues. (Incidentally the court did not consider the religious issue). I have cited the above as background to the court's perception of the legislative intent as to how unmarried couples should and will live.

Our public law for the most part is based on necessity and its efficacy depends on the public's experience and acceptance. Would it be acceptable or even desirable to arrest every unmarried couple who live together under one roof? Was that the legislative intent, or was it just a deterrent as our law condemning adultery was supposed to be.

Let me repeat that I speak with authority when I laud the marriage

The Bismarck Tribune

Sunday, August 23, 1998

Fair Housing Council sues property owner over discrimination

DEENA WINTER, Bismarck Tribune

Above the potted cactuses that line the window of John Haider's "Auction Mart and Second Hand Store" on Airport Road, a sign reads "apartment rentals."

The sign maybe needs an addendum that says: White, married couples only -- because those are virtually the only kind of people Haider rents to, according to a lawsuit filed against him by the North Dakota Fair Housing Council.

Just a block down the street from Haider's store, employees in the office of the Fair Housing Council have been fielding complaints about him since 1995. More than 18 people have claimed he discriminated against them when they tried to rent from him, violating state and federal housing laws.

That's the most complaints the council has recorded against one person since it opened its doors in 1994, when it was created through a grant from the federal Housing and Urban Development Agency.

In February of this year, the council began sending in volunteer "testers" to try to rent from Haider, to see if he would discriminate against them because of their sex, national origin, marital status or familial status.

They say he did, repeatedly and rather blatantly.

That was enough to convince the council, along with six Bismarck residents, to file their lawsuit in U.S. District Court earlier this month. They allege he discriminated against American Indians, single mothers, families with children, unmarried couples, young people and people receiving government assistance.

Not In My Apartment!

When Landlords Mix Business and Religion

By Jerry DeMuth

Yarka Vendrinska

The sign might say "For Rent," but, increasingly, landlords are refusing to let unmarried couples move in, citing religious beliefs as their major or sole defense.

At issue is whether business practices can be legally based on one's religious beliefs rather than on state or local law governing the business.

Tieing the exercise of religious beliefs into apartment rental practices was first employed in arguments in a 1992 California case, *Donahue v. Fair Employment and Housing Commission*, notes attorney David Link, who represents an unmarried couple in another California case.

"Agnes Donahue, a Catholic, told the court that she had two interrelated religious beliefs," he points out. "First, she believed that sexual intercourse outside of marriage is a mortal sin. Second, she said that assisting or facilitating the sinful behavior of others is also a sin."

The California Court of Appeals ruled in favor of Donahue but the California Supreme Court accepted the case for review, then dismissed the appeal.

"The issue started becoming prevalant in 1988, 1989," says Jay Sekulow, chief counsel for the American Center for Law and Justice, which is funding the defense of landlords in cases in California and Massachusetts.

The freedom of religion defense is also being used in cases in Illinois and Tennessee, he says.

Reasons for this development lie partly with the strong support given to these landlords by such fundamentalist Christian organizations as Concerned Women for America and the American Center for Law and Justice, which was founded by Christian conservative Pat Robertson. Attorneys defending these landlords have more recently been emboldened by the Religious Freedom Restoration Act of 1993.

"People are becoming more aware of what their rights are and that they don't simply surrender these rights when they engage in commercial business. So they're willing to stand up," says Sekulow. "And you've got groups like ours and others that are out there willing to defend these people at no cost to the individuals.

"We give out a tremendous amount of material and our briefs are widely circulated," he adds, referring to the cases in which it is not directly involved.

The ACLJ is defending the landlord in *Evelyn Smith v. the Fair Employment*

and Housing Commission of the State of California, and Sekulow and attorneys Thomas F. Coleman and David Link, each of whom represent one of the two couples denied apartments, say they will appeal to the U.S. Supreme Court if they lose in the California Supreme Court, which is now considering an appeal.

Sekulow says he also will appeal a Massachusetts case if he should lose that case. Whatever case the U.S. Supreme Court hears on the issue, he says, "will be involved with the issue of someone of religious faith being asked in business to do something they object to and being asked to surrender their faith at the door to their business."

The broad implications of a decision that upholds landlords, and places their religious beliefs above laws regulating the operation of a business, is reflected in the number and range of groups and agencies filing amicus curiae briefs in the *Smith* case.

They include the American Civil Liberties Union of Southern California, the Western Law Center for Disability Rights, Americans United for Separation of Church and State, the Fair Housing Congress of Southern California, the Fair Housing Congress of Northern California, Lambda Legal Defense and Education Fund, the San Francisco District attorney's office and the Santa Monica (Calif.) city attorney's office.

A decision favoring these landlords would impact the growing number of unmarried couple households—3,187,772 in 1990, more than double 1980's 1,560,000, according to the U.S. Census Bureau.

Although all of the cases now in the courts involve unmarried heterosexual couples, attorney Jordan Lorence, who represents Smith, says, "The logic would apply equally to a homosexual couple as it would to an unmarried [heterosexual] cohabiting couple."

Attorneys representing discriminated-against apartment seekers complain not just against the reduction in the rights of unmarried couples now occurring, but also about the religious protection being sought for business practices.

"Is any conduct motivated by religious belief automatically the exercise of religion?" asks Coleman. "What they are asking for is unprecedented. It's never been done—to grant an exemption to accommodate one person and in the process cause harm to the rights of another party. You can't just force someone to conform to your religious beliefs."

"The *Smith* case," says Link, "is a case where the commercial activity is claimed to be the exercise of religion and that's [a new defense].

"If renting apartments is the exercise of religion, what isn't? What conduct doesn't the First Amendment cover then?" he asks. "By renting apartments, these landlords have not been exercising their religion.

"When religiously-motivated Americans expect to make a personal profit in the commercial marketplace, they are not exercising religion, they are exercising capitalism. And like everyone else, they have to abide by the law," he says.

"The argument has been made by the other side," protests Lorence, "that once a person enters the marketplace, they lose all of their constitutional protections of religious liberties. I just think that's wrong as a matter of law and violated common sense. There are many business owners who bring their religious beliefs to the marketplace. It is common for people who have religious beliefs and are business owners to apply their beliefs to their businesses.

"I absolutely reject the argument, and so have the courts in these cases," he says, referring to four cases in which courts ruled in favor of employees who were fired because they wouldn't work on the Sabbath or, in the case of a religious pacifist, wouldn't work on tanks at a truck factory, "that just because a religious person is entering the commerce they lose all ability to exercise their constitutional rights to free exercise of religion."

Lorence says that an animal rights defender who owns commercial real estate could refuse to rent commercial space to a furrier or a butcher or a pet shop owner.

Smith, like *Donahue,* Link points out, believes that she herself would be sinning if she rented apartments to unmarried couples because she would then be facilitating the sins she believed her tenants would commit.

"By letting religious believers claim as their own sins the sins others are committing, the facilitation theory, turns the free exercise clause on its head," Link maintains. "That provision was intended to protect religious believers from governmental intrusion into private decisions about belief in God. The framers did not intend to give individuals a means of imposing their beliefs about sin on others."

Coleman points out that Smith testified that she would evict even tenants who had unmarried sex in a motel. "It doesn't even have to be on the premises," he notes.

He says there is a simple way out for Smith and other landlords—hire a property management company to screen potential applicants when vacancies occur.

Sekulow rejects that idea.

"That's just shifting the blame," he says. "And a Catholic family would still be facilitating sin. You can't negate the responsibility by making someone else do it. That's not the idea here. These people should not be forced to relegate or surrender their faith when they engage in commercial business."

In cases outside of California, landlords who refused to rent apartments to unmarried and other unrelated persons have had their actions upheld by courts in Illinois, Massachusetts, Minnesota and Wisconsin. Although in the first three states, they gave their religious beliefs as the reason for the denials, their victories were won because of the lack of protection based on marital status or the existence of anti-fornication laws.

In the Wisconsin case of *Dane County v. Dwight Norman and Patricia Norman,* which involved landlords who twice refused to rent to two women on the grounds they would rent only to families, the landlords won a 4-3 ruling in the state supreme court on April 13, 1993.

The court, citing a provision of the state's constitution that affirmed the state's intent to "promote the stability and best interests of marriage and the family," declared that the denial of apartments to the two women was "triggered by their 'conduct,' not their 'marital status,'" adding, "their living together is 'conduct,' not 'status.'"

The use of the right to the free exercise of religion as the sole or major defense further complicates a fair housing issue already complicated by lack of clarity of state fair housing laws in applying to unmarried couples.

No state laws specifically protect unmarried couples, but state fair housing laws in 21 states and the District of Columbia do bar discrimination based on marital status, according to research by Matthew J. Smith, of the *University of California Davis Law Review.* At issue is whether the term "marital status" applies to unmarried couples.

(please turn to page 52)

Apartment (from page 45)

Courts in only three states have said that the term "marital status" is intended to protect unmarried couples from housing discrimination.

Attorneys for the landlords are also maintaining that states have no compelling interest in protecting unmarried couples, and many other groups. The state's compelling interest, they say, is limited to protecting only those who have been discriminated against because of their race, religion or national origin.

Sekulow says that unmarried couples should not have the same rights to housing as married couples. "Benefits are given to people who are married that are not given to people living together without the benefit of marriage," he points out.

"The law," says Lorence, "is rife with disparate treatment that everyone views as a natural, normal thing, not as a sort of evil discrimination."

But Coleman says that does not mean unmarried couples can be denied housing.

Whether unmarried couples are protected or not under fair housing laws, attorneys for landlords in Alaska, California, Illinois, Massachusetts and Tennessee are arguing that landlords can still discriminate against unmarried couples when cohabitation offends their religious beliefs.

Discrimination against unmarried couples is different than discrimination because of race, they maintain. Discrimination because of race is discrimination against people for who they are, while discrimination against unmarried couples is discrimination against people because of their conduct, because they are "about to engage in an activity that is repugnant to the landlord's faith," Sekulow argues.

Sekulow and Lorence further claim that governments have no compelling interest in protecting unmarried couples as they do in protecting racial minorities. Besides, they add, unmarried couples can always find housing elsewhere since the landlords who want to be allowed to discriminate against them are a minority.

"There obviously hasn't been systematic discrimination against unmarried couples as there has been against racial minorities," says Lorence.

And if all housing in a community is not available to unmarried couples because of the religious beliefs of landlords, "That's life," he comments. "There are other factors that also can make it tough for people to find housing. I don't think that the fact of the relative abundance or lack of abundance of housing should influence whether somebody should exercise their religious liberties or not in this kind of context."

Lorence says he also objects to the other side, the prospective-tenant side of the argument, that the state has "an overall compelling interest to eradicate all forms of discrimination" when there are limits to what "people in the popular culture will see as legitimate things to prohibit under fair housing laws.

"We're not going to allow the legislatures or city councils to toss anything that they want into an anti-discrimination law and claim that any category they put in there has the high moral equivilancy to ending racial discrimination," he says.

Opposing attorney Coleman says there is a compelling state interest in protecting the rights of unmarried couples and other groups listed in protection clauses, and that interest rests in more than simply guaranteeing them the same rights as others.

"To reject you on the basis of your belonging to a particular group that is somehow disfavored, and the insult, the humiliation and the harm to your personal dignity interests is the same regardless of whether it's race or gender or color or national origin or religion or sexual orientation or whatever," he says. "That interest is still there to be treated as an individual."

The highest court victory for tenants occurred last May 14 when the Alaska supreme court, in the case of *Swanner v. Anchorage Equal Rights Commission*, ruled against a landlord, citing marital status as a protected category in the state's fair housing law. Appealed to the U.S. Supreme Court, the nation's top court denied a petition for writ of certiorari last October 31 in a 7-to-1 vote.

Justice Clarence Thomas, in a dissent welcomed by defense attorneys, cited RFRA's provision that a governmental entity "shall not substantially burden a person's exercise of religion" unless it is "in furtherance of a compelling governmental interest." He questioned whether preventing discrimination against unmarried couples is a compelling governmental interest.

"What Clarence Thomas wrote in his opinion is a precurser to what a majority of the Supreme Court is going to say in some future case," says Lorence. "I think he wrote that as a warning to state courts not to agree with what the Alaska Supreme Court did. He was saying, 'Watch it. It's not open season on landlords now.'"

The U.S. Supreme Court declined to review the Alaska case, Sekulow feels, because the RFRA issue was not litigated or framed properly.

"I think there's going to be more cases until there's a definitive court decision. And I think you're going to see a growing dimension to these cases," says Lorence. "But I don't think you're going to see a lot of landlords doing it. If there are a lot of landlords who agree with Mrs. Smith, I think you'll see state legislatures amend anti-discrimination laws to clarify that marital status does not include cohabitation. That has happened in some states already."

If exemptions from civil rights and housing laws are permitted on the basis of religious beliefs, says Colemen, agency budgets once spent on enforcing laws will be spent on side trials to determine the sincerity of claimed religious exemptions. "Resources will be diverted from enforcement and protection to these side trials," he maintains. "That will diminish civil rights enforcement."

"This is an issue that's not going to go away," says Sekulow. "There's no doubt this issue is going to be reoccuring. Eventually the Supreme Court is going to have to deal with the application of anti-discrimination laws to people of religious faith when the activity proposed violates their faith."

But Link sees even broader implications of a U.S. Supreme Court victory for these landlords, and it worries him.

"If landlords' argument that renting apartments is the exercise of their religions is accepted," he fears, "it has the potential to change constitutional law more profoundly than anything since the passage of the 14th Amendment, altering the relationship between law and religion in ways that are unprecedented in this country's history."

Jerry DeMuth is a writer in Chicago.

Cincinnati Enquirer 5/31/89

Denver drops old ban against living together

ENQUIRER NEWS SERVICES

DENVER — Denver residents will no longer have to carry around their marriage certificates, and housing inspectors can stop counting toothbrushes.

The City Council has abolished its "living in sin" law.

The 36-year old zoning ordinance made it against the law for unmarried couples to live together in some of the city's more affluent neighborhoods.

Proponents of a replacement measurecheered the 7-6 vote Monday. The old law was considered one of the nation's most restrictive.

"We've finally eliminated an anachronism from our zoning laws," said Councilman Dave Doering, who introduced the bill last December to allow unmarried couples to live together.

Councilwoman Mary De Groot said, "Zoning should be used for regulating land use and density, not relationships."

The opponents of the change had defined the battle over the new ordinance in terms of what it would do to traditional family structure.

Councilman Bill Roberts, an opponent of the change, said the new ordinance "kicked the family in the behind." Roberts, who is black, said that "one of the things that has kept Afro-Americans weak was the destruction of their families" under slavery.

Half of couples approve cohabitation

Scripps Howard News Service

Shacking up is no longer shameful, according to a Los Angeles psychologist whose studies since 1984 indicate half of young Americans now live together before marriage or say they plan to.

The figure is a dramatic rise over the 10 percent who confessed to "living in sin" in 1970, and it reflects a major shift in public attitudes, Michael Newcomb said.

"Twenty years ago, 10 percent of marriages were actually begun by cohabitation, while the majority of Americans disapproved of it," he said. "We're now seeing cohabitation in all segments of our society. Conservatives are doing it as much as liberal people."

Newcomb is an instructor at the University of California at Los Angeles, and he has done extensive research on the subject of premarital relationships vs. traditional marriages, and who is most likely to forsake traditional values.

There are three clinical categories for cohabitation: temporary or casual, which is generally a relationship of convenience; trial marriage; and explicit alternative to marriage.

(Mike Pearson is a reporter for *The Rocky Mountain News* in Denver.)

GAZ 1/17/89

Night with beau could cost mom a year in jail

WASHINGTON (AP) — Now that the Supreme Court refuses to help, Carla Parrillo risks up to a year in jail and a $500 fine if she lets her boyfriend stay overnight while her children are home.

The Johnston, R.I., woman, as a result of a custody quarrel with her ex-husband, is under a judge's order restricting her having overnight male guests. One lawyer says the order has a sexist overtone.

"I would be surprised if judges were as willing to serve as moral guardians of a family where a man is involved," said Steven Brown, executive director of the American Civil Liberties Union's Rhode Island chapter.

The ACLU handled Parrillo's appeal to the Supreme Court, which denied review of the case Monday.

Thomas DeSimone, an attorney for Parrillo former husband, Justin, said he is not surprised by the court's action. The dispute, he said, is "simply a strange little case from Rhode Island that didn't deserve the court's attention."

The Parrillos were divorced in 1986. Under a joint custody agreement, their three children live with her, and their father has visitation privileges.

Carla Parrillo, 33, said her ex-husband began to harass her when he learned she was dating Joseph DiPippo. She asked for a court order limiting Parrillo's visitation rights, requiring him to see the children at specific times away from the home.

Justin Parrillo countered by asking a judge to prevent Carla Parrillo from having overnight male guests.

Judge William Goldberg, who has since retired, barred Carla Parrillo "from allowing any unrelated males to stay overnight" when the children are home. The judge said having such guests is not "a suitable arrangement for the children to be put into."

The children were 8, 10 and 13 when the judge issued his order in late 1986.

JULY 31, 04:22 EDT

Gay Custody Ruling To Affect Others

By ESTES THOMPSON
Associated Press Writer

RALEIGH, N.C. (AP) — A state Supreme Court ruling that denied a gay man custody of his sons prompted laments from lawyers who believe the decision could be turned against unmarried heterosexual couples fighting over who'll get the children.

Fred Smith lost custody of his sons to his ex-wife in 1995, when a judge said the boys would suffer from living with two gay men. A state appeals court reversed that decision, but the high court sided Thursday with the lower judge in reversing the appeals panel.

Smith and his lover, Tim Tipton, said they had sex behind closed doors but kissed in front of the boys.

While the high court said homosexuality alone is not enough of a reason to deny a man or woman custody, dissenting Justice John Webb said his colleagues were motivated by their disapproval of a gay lifestyle.

The boys, now 9 and 12, have been living with their mother in Wichita, Kan., during the appeals. After her marriage to Smith broke up in 1991, she left him and the boys and moved in with a man she eventually married.

The mother, Carol Pulliam, won custody three years ago after confronting Smith about his sexuality.

Phillip Jackson, the lawyer who represented Mrs. Pulliam, said the ruling's language ``is broad enough that it certainly is not limited" to homosexuality.

``A trial court could take this opinion and make similar findings for an unmarried heterosexual couple," said Jackson.

An attorney for the Lambda Legal Defense and Education Fund, which fights for gay rights, said the ruling was troubling.

``I see a court that looks like it has been so eager to treat a gay parent unfairly that it has really unsettled a whole area of North Carolina law," said Stephen Scarborough, staff attorney in Lambda's southern regional office in Atlanta.

``They've now announced that any unmarried parent who engages in sexual activity with the kids under the same roof is at risk for losing custody of their children, whether the parent is gay or straight," said Scarborough.

The North Carolina case wasn't unprecedented. In June, Alabama's high court removed a child from the custody of her homosexual mother, and in 1995 the Virginia Supreme Court placed a lesbian's son with his grandmother.

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Subject: *QL*: VA police use sodomy laws in prostitution sting
Date: Mon, 20 Jul 1998 20:40:10 -0800
From: Doug Case <Doug.Case@sdsu.edu>
To: QUEERLAW@abacus.oxy.edu

An example of how a sodomy law can be used to make heterosexual solicitation a felony

ALEXANDRIA JOURNAL, July 20, 1998

Police use sodomy laws in prostitution sting
By DOMINIC PERELLA
Associated Press

CHARLOTTESVILLE - Men seeking prostitutes for oral sex here are being charged with a felony under Virginia's 206-year-old law against sodomy, while asking a prostitute for intercourse is only a misdemeanor.

An American Civil Liberties Union official said the crackdown means a varying severity of punishment for similar crimes.

``What an astonishing twist,'' said Kent Willis, the ACLU's Virginia director. ``The law should be more rational.''

In early May, Charlottesville police seeking to target a growing enclave of downtown prostitution sent in undercover officers, who succeeded in busting three men trying to pick up prostitutes.

One of the men arrested had allegedly tried to pay for sexual intercourse. He was charged with a misdemeanor, which carries up to a year in jail upon conviction.

The other two men allegedly requested oral sex. They were charged with soliciting another person to commit a felony - namely, sodomy, which is illegal in Virginia and 19 other states. Soliciting a felony also is a felony, and it carries one to five years in prison upon conviction.

The sodomy law - which makes oral sex illegal even if it is consensual and the participants are married - is a rarely used relic of the 18th century blue laws. But it remains on the books, and police occasionally drag it out and dust it off, usually for use against homosexuals, Willis said.

Apart from prostitutes, there are no recorded cases of any heterosexuals being prosecuted for consensual oral sex in the history of the law, lawyers said. Its most notable recent use may have been in the Sharon Bottoms custody dispute: A judge refused a mother custody of her child because the woman is a lesbian.

No statistics are available on how often the sodomy law has been used to elevate solicitation of prostitutes to a felony, but the idea isn't new. Charlottesville officials say it was suggested to them by police in Richmond and elsewhere in the state.

``Solicitation of prostitution is a misdemeanor. That's what it clearly is meant to be in Virginia, and that's what it is almost everywhere,'' Willis said. ``Yet because of the sodomy statute, you can twist legislative intent. ... It almost makes a joke of the law.''

Charlottesville Police Lt. Chip Harding said there's nothing unusual about prosecutors seeking the maximum possible charge for a crime.

``We use whatever's available to us,'' Harding said. ``I think state law allows us to do that. If somebody thinks it's unfair, they can take it up with the General Assembly.''

Willis said any appeal to the General Assembly would likely be fruitless.

``Legislators are afraid to touch it for political reasons,'' he said. ``They're afraid that they'll appear to be pro-gay and lesbian.''

Similar laws have set off struggles in state assemblies nationwide since the 1960s. About 30 states have replaced their sodomy laws. Of the rest, Virginia and 13 others still have sodomy laws that cover homosexual and heterosexual sodomy, and six other states have sodomy laws banning homosexual sodomy only.

The first man charged with felony solicitation in Charlottesville, Robert Lee Gentry Sr., 36, cut a deal with prosecutors and ended up pleading guilty to a misdemeanor. Harding pointed to that fact as evidence that different charges don't mean unequal justice.

Reprint from the October 12, 1995 edition of the
CHRISTIAN SCIENCE MONITOR

High Cost of Living Is Pushing Florida Seniors to Share a Roof

By Jonathan P. Decker

In a tiny one-bedroom apartment just a block away from the beach, octogenarians Martin Silverman and Paula Clark plan to live their remaining years together.

He does the food shopping and runs the errands. She does the cooking and cleans their rooms crammed with momentos from previous lives in the Northeast.

The couple met four years ago at a Miami Beach senior center and soon decided to share a roof.

"It wasn't love or anything like that," says Mrs. Clark, a widow who was married more than 50 years to the same man. "Our relationship is strictly platonic. We moved in out of simple economics: It's cheaper to live with a roommate."

The phenomenon of seniors living together may conjure up images of the "Golden Girls," the popular 1980s television sit-com. But it's not just women or couples sharing quarters. Half of all couples living together are "golden guys," according to one study.

Unmarried couples older than 45 are the fastest growing type of household both in Florida and across the nation, says a new report from the US Census Bureau. If Medicare reforms boost premiums, tighter personal finances may accelerate the trend of seniors sharing quarters, notes one researcher. Already, their numbers have quadrupled since 1980 to 1.2 million people nationwide.

In Florida, where nearly 1 in 4 people is over age 60, about 50,000 seniors have chosen to spend their golden years together. "It's a major cultural phenomenon, and it could drastically transform elderly care in the future," says Larry Polivka, director of the Florida Policy Center on Aging at the University of South Florida in Tampa.

"As more older people live together and care for one another, it may even reduce the need for nursing homes."

Nationally, most seniors sharing quarters live in the South. And south Florida, in particular, with its large elderly population, has become a proving ground for this type of living arrangement.

Some seniors do it to save money. Others do it for platonic companionship. Still others give the same reason that some of their children and grandchildren use: They love each other, but are not quite ready for marriage.

But even those who want a legal union often say they can't afford it.

Glenn Daniels and Lynn Martell have lived together in Hallandale for the past three years. They have wrestled with the moral challenges of what they call "living in sin."

(continued on next page)

Each divorced, the two have considered marriage, but so far have discarded the option. It's not for a lack of commitment, but rather a reduction in income.

"We live mostly on welfare and disability payments," says Mr. Daniels, who used to own an appliance-repair business in the Midwest. "Under the federal guidelines, if we were to get married, our payments would be reduced."

"Marriage, no matter how much I believe in it as an institution, is just not economically feasible."

But even those who choose to live together and remain unmarried often face legal and financial challenges.

While many insurance companies and employers have begun to make their plans available to same-sex couples, no plans exist for the "elderly senior roommate" demographic group.

Couples like Daniels and Mrs. Martell also don't have the right to decide medical treatment for each other at most hospitals because of the lack of a lineal or matrimonial relationship. For that same reason, they are often denied medical visitation rights in some circumstances.

"It's also not clear whether federal housing and discrimination laws cover them," says Joyce Winslow, a spokeswoman for the American Association of Retired Persons (AARP) in Washington. Elderly couples who want to purchase a home together, for example, often run into obstacles.

"Mortgage lenders tend to shun group homes, and there's very little that can be done about it legally," says Ms. Winslow at the AARP.

With unmarried elderly couples growing in numbers daily and with baby boomers fast approaching their golden years, the AARP has taken up their cause.

A study on the subject was recently completed for the national elderly group, and its findings have been made available to federal, state, and local governments.

One of the AARP findings is that while many people may think of a couple like Daniels and Martell when discussing elderly roommates, "golden guys" actually make up 50 percent of these nontraditional households.

"For elderly males living as roommates, the medical care problems are magnified," Winslow says. "Very few hospitals will allow one best friend to make an important medical decision for another friend."

While the government, insurance companies, and hospitals decide what legal status should be given to unmarried couples older than 45, this fast growing demographic group shows no signs of slowing down. In fact, the pace may quicken.

"In Florida, where the proposed changes to Medicare would affect nearly 1 of 5 residents, more seniors will be forced to live together out of economic necessity," says Mr. Polivka. "The higher premiums and deductibles for recipients that are envisioned by Congress may make living alone a hardship for many retirees."

* * *

Unequal Rights for Many Oakland Couples

By Thomas F. Coleman

THE STATE'S labor commissioner recently ordered Oakland to include opposite-sex unmarried couples in the city employees' domestic partners health care program. The city has refused.

The City Council's decision to give employees greater or lesser benefits compensation based on their marital status is an insult to the majority of citizens in Oakland. According to 1990 census figures, 54.4 percent of adults in Oakland are not married. Only 34.5 percent of Oakland's households contain a married couple.

Does the council realize that it is telling the majority of its city's residents that they must get married to obtain equal rights there?

A group of progressive community leaders in Oakland once had a vision of creating public policies based on an understanding that we live in a diverse society. They believed that respect for freedom of choice, including over personal decisions regarding family structure, should be the hallmark of government action.

Several of those leaders formed an organization that produced a "Family Bill of Rights" in 1989. Among its principles is the premise that government should not condition employment benefits on the marital status of an employee and his or her family partner. The current members of the council apparently never received this message.

It is interesting that when the city first extended dental and vision benefits to domestic partners of city employees, no distinction was made between straight couples and gay couples. Domestic partnership was open to all unmarried couples who met certain eligibility criteria.

BY THE CHRONICLE

The council's more recent decision to give medical benefits to the domestic partners of gay and lesbian city workers but not to the unmarried partners of heterosexual workers smacks of political favoritism. Apparently, politicians thought it enough to try to appease the most vocal and politically active portion of the domestic partner constituency — gays and lesbians.

Who is promoting the politics of division in Oakland? It seems unlikely that leaders in the gay and lesbian rights movement would encourage or even support such "wedge" politics.

Most of the legal gains made by gays are the result of coalition politics. Coalitions formed by gays, singles, seniors, women, and people with disabilities have generally been responsible for the passage of domestic partner ordinances in a dozen California municipalities.

The continuing success of such coalitions is threatened when politicians tempt one group to break ranks by offering its members, and no others, domestic partner protection.The Oakland City Council's desire to eliminate discrimination against same-sex couples should be applauded. However, the politically divisive process it is using should not be condoned.

In San Francisco, gay and lesbian leaders rejected such counterproductive tactics by refusing to support a business lobby's efforts to water down the then-recently enacted law banning city contractors from benefits discrimination. As a result, the Board of Supervisors held firm and demanded that employers give all domestic partners, same-sex and opposite-sex,the same benefits they give to married couples.

Treating unmarried same-sex partners more favorably than unmarried opposite-sex partners violates state laws prohibiting discrimination based on gender, sexual orientation, and marital status. It is also an insult to gays and lesbians in Oakland. Even if same-sex marriage were legalized tomorrow, many same-sex couples would choose domestic partnership rather than marriage. Would gays then be divided into two camps -- one of married couples worthy of all spousal benefits, and one of domestic partners unworthy of such benefits?

If unmarried opposite-sex partners are willing to sign the identical affidavit of family commitment that now entitles same-sex partners to medical benefits, why should the city object? It certainly can't be because of cost. Studies show that when domestic partner provisions are offered to both same-sex and opposite-sex couples, less than 1 percent of the work force signs up for such benefits.

The council's stubbornness surely is not supported by public opinion. Most people want to see health care provided to everyone, and they believe that all workers are entitled to equal pay for equal work.

The council should take immediate steps to ensure that all domestic partners of city employees are eligible for the city-subsidized medical benefits plan. The failure to do so is likely to result in the use of state and local taxpayer dollars on unnecessary and protracted litigation. Those funds would be better spent on worthwhile programs.

Thomas F. Coleman has been an attorney for 24 years. His law practice has concentrated heavily on cases involving marital status and sexual orientation discrimination.

House Takes Aim at S.F. Partners Law
Riggs amendment OKd in close vote

Carolyn Lochhead, Chronicle Washington Bureau
Thursday, July 30, 1998

URL: http://www.sfgate.com/cgi-bin/article.cgi?file=/chronicle/archive/1998/07/30/MN28645.DTL

The House narrowly approved a measure by North Coast Republican Frank Riggs yesterday to punish San Francisco for requiring city contractors to offer domestic partnership benefits to their employees.

RIGGS DENIES TARGETING GAYS

Riggs also denied that he aimed his measure at gays, saying it applies to benefits going to any unmarried partners.

House opposes adoption by unwed

Judy Holland
EXAMINER WASHINGTON BUREAU
Aug. 8, 1998

WASHINGTON - In the latest of a series of measures that advocates of civil rights for gays view as anti-homosexual, the House has passed a bill that would forbid unmarried couples - including gays and lesbians - in the nation's capital to adopt a child.

The measure - an amendment sponsored by Rep. Steve Largent, R-Okla., to a $6.8 billion spending bill for the District of Columbia - passed by a 227-192 vote shortly before the House adjourned early Friday for its August recess.

Prospects in the Senate are unclear. No corresponding adoption provision exists in that chamber's D.C. spending bill, but one could be added once the measure goes to the floor for a vote.

Los Angeles Times

JULY 28, 1993

Garamendi Urged to Fight Bias on Marital Status

By DONNA K. H. WALTERS
TIMES STAFF WRITER

A state Insurance Department task force is urging California Insurance Commissioner John A. Garamendi to get tough with insurers who discriminate—in rates and coverage—against unmarried individuals and "domestic partners."

Garamendi already has embraced many of the recommendations of the group's report, which he will officially accept at a press conference in Los Angeles today. He is calling it a "vital blueprint to end unjustified discrimination against the unmarried."

Regulations proposed by Garamendi would prohibit auto insurers from using marital status as a basis for setting premiums.

However, one of the report's central themes, that married and unmarried couples be treated the same, is unlikely to get the regulatory attention and backing hoped for by its authors and proponents.

Most of the state's large insurance companies have already voiced opposition to the recommendations, which have been circulating in draft form for the past six

Please see INSURANCE, D2

INSURANCE: Garamendi Urged to Prohibit Bias on Marital Status

Continued from D1

months. Insurers commonly refuse to issue joint policies to unmarried couples for health, rental and auto coverage. Indeed, in a survey cited in the report, insurers say that not only is it legal—at this point—to set different rates and in other ways discriminate against unmarried policy buyers, but that it is a sound business practice justified by statistical data.

Not so, insists Thomas F. Coleman, a Los Angeles attorney who headed the working group on marital status, part of the commissioner's anti-discrimination task force. Coleman, who says he has been fighting "pervasive" discrimination against unmarried people for 20 years, said that the insurance companies have yet to provide the statistics on which they base higher rates for the unmarried or discounts for married persons.

While the issue of discrimination against unmarried singles and couples hits all the hot buttons in the on-going debate over homosexual rights, Coleman said that the vast majority of unmarried people who bear the brunt of discrimination are heterosexual, and that by the year 2000 unmarried people will make up the majority of California's adult population.

The report also recommends that Garamendi:

- Issue orders to insurance companies to stop discriminating on the basis of marital status.
- Support a ballot initiative on the so-called "pay at the pump" auto insurance system that would cover all drivers. Garamendi has voiced support for this concept.
- Support universal health care coverage, which would provide basic care to everyone regardless of status.
- Issue new regulations declaring rate discrimination based on marital status to be an unfair business practice and prohibiting insurance companies from refusing to issue joint policies to unmarried couples.
- Take legal action, in conjunction with the state Department of Corporations (which oversees many health care insurers), against health insurance companies that refuse to provide coverage to domestic partners of employees.

While most of the recommendations are already in force or are being supported by the insurance commissioner, those pertaining to coverage for unmarried couples pose difficulties, said Bill Schultz, a spokesman for the commissioner's office.

Garamendi will likely order his staff to study those proposals, but "there doesn't seem to be the authority," he said, for the insurance commissioner to "force a company to provide insurance to unmarried couples."

CWA NewsFLASH

From Couplehood to Singlehood

Households comprised of unwed pairs greatly increase

A recent study by the Census Bureau shows that over four million households consist of unmarried couples. That number is eight times the number of unwed, cohabiting couples in 1970 (*Washington Post*, 7/27/98). Some speculate the reason may be that young people prefer to pursue college and careers, yet continue in relationships and move in with partners. Such attitudes reflect the change in values over the past thirty years. Reynolds Farley of the Russell Sage Foundation in New York stated, "We've had a huge change in how people think about marriage" (*Washington Post*, 7/27/98).

Other findings by the Census Bureau show:

- Of the 4 million unwed couples, nearly 36 percent of them have children under age 15 living with them. In 1970, only one-fifth of the cohabiting households had children under age 15.
- 38 percent of women ages 19 to 24 say they have cohabited with a man.
- Divorce has increased from 3.2 percent of the adult population in 1970 to 10 percent of the population today. (*Washington Post*, 7/27/98)

Interestingly, the number of widowed women has decreased since 1970. Statistician Terry Lugaila of the Census Bureau said this change occurred as more couples divorced. In 1970, 2.3 percent of elderly women were divorced. Today 7.4 percent of elderly women are divorced. (*Washington Times*, 7/27/98)

But there is hope. According to David Popenoe, a sociologist at Rutgers University, people in their 20s are "the most marriage-oriented of all. They want one person for life." (*USA Today*, 7/21/98) A 1994 study by the University of Chicago revealed that Gen Xers are the least likely to recommend divorce for couples in trouble. Diane Sollee, founder of Coalition for Marriage, Family, and Couples Education, stated, "Couples who stay married and happy have the same level of disagreements as those that divorce. It's about how they handle the differences." (*USA Today*, 7/21/98) A rise in relationship and premarital training and marriage courses shows the changing attitude in favor of marriage.

Recently, 51 couples were honored as model parents in celebration of National Parents' Day. All of the couples credited faith in God as the reason for their successful marriages and family relationships (*Washington Times*, 7/23/98). During a time in which outside groups attempt to break down the traditional family and redefine it, a new generation is rising up to advocate traditional marriage. People are finding their strength in God.

"What God has brought together, let not man put asunder."

FAMILY RESEARCH COUNCIL *In Focus*

NEW LAW REDEFINES THE FAMILY

A new law pushed by the Clinton Administration redefines "family" to include unmarried partners, including gays and lesbians. This promotes homosexuality as the moral equivalent of heterosexuality.

WHAT TO DO?

OPM has liberalized the definition of "family" in the Federal Employees Family Friendly Leave Act to mean something not allowed by the law. The definition should be changed to mean unambiguously only the natural family. This could be accomplished by striking the word "affinity" from OPM's new regulation. Alternatively, the Clinton Administration can grant this benefit to other-than-family members by amending the regulation to allow for "non-family members." The 104th Congress has oversight of any change.

The Federal Employees Family Friendly Leave Act was not designed to expand the official definition of "family" to include domestic partners, whether homosexual or heterosexual. Rather, it was intended to help federal employees in crisis and should not be manipulated by the Clinton Administration to advance a political agenda.

FAMILY RESEARCH COUNCIL *Insight*

ADOPTION POLICY AND UNMARRIED COUPLES

At its heart, adoption is a practice dedicated to promoting the best interests of the child, not the best interests of prospective parents. As such, the Family Research Council strongly supports an adoption policy which would prohibit unmarried couples -- both heterosexual and homosexual -- from adopting children. There is ample evidence to suggest that this prohibition is necessary in order to protect children from the profound social risks associated with cohabiting households. Moreover, the prevalence of married couples waiting for years to adopt argues powerfully for a statutorily enforced preference for couples who are in lawful wedlock.

ACLJ PRESS RELEASE

IMMEDIATE RELEASE
JULY 22, 1998
CONTACT: VINCE MCCARTHY
(860)355-1902

NEW YORK CITY DOMESTIC PARTNERS LAW CHALLENGED IN COURT

ACLJ FILES SUIT-- PRELIMINARY INJUNCTION REQUESTED TO PREVENT LAW FROM BEING IMPLEMENTED

(New York, New York) -- The American Center for Law and Justice today filed a lawsuit in the Supreme Court of the State of New York challenging New York City's newly-created domestic partners law that provides marital benefits to unmarried heterosexual and homosexual partners of New York City employees.

"This law is both legally and morally wrong," said Vincent P. McCarthy, Northeast Regional Counsel of the ACLJ whose office is located in New Milford, Connecticut. "By creating a special class of persons for whom matrimonial benefits flow but from whom no responsibilities are required, the City of New York mocks the dignity and inviolability of marriage as the foundational institution of our society."

The lawsuit was filed today in the Supreme Court of the State of New York and seeks an immediate hearing date to request a preliminary injunction to prevent the domestic partners law, which has been approved by City Council and signed into law by Mayor Rudolph Giuliani, from being implemented on September 5, 1998.

ACLJ PRESS RELEASE

IMMEDIATE RELEASE
APRIL 27, 1998
CONTACT: BENJAMIN BULL
(602) 596-0821

"DOMESTIC PARTNERS" ORDINANCES CHALLENGED IN COURT

ACLJ FILES SUIT AGAINST CITY OF SANTA BARBARA, CALIFORNIA

(Santa Barbara, CA) -- The American Center for Law and Justice has filed a lawsuit against the City of Santa Barbara challenging City ordinances that recognize so-called "domestic partnerships" of City employees – both heterosexual and homosexual – and permit the "domestic partners" to receive health benefits from the City of Santa Barbara.

"The City ordinances clearly violate the law of California which protects the institution of marriage," said Benjamin W. Bull, who heads up the Western Regional Office of the American Center for Law and Justice in Phoenix, Arizona. "In an effort to accommodate unmarried employees who choose to live together, the City of Santa Barbara has overstepped its authority by creating ordinances that are unlawful and violate state public policy protecting marriage."

The ACLJ filed the lawsuit April 24 in Superior Court of the State of California for the County of Santa Barbara on behalf of William Rolland Jacks, a Santa Barbara resident.

The suit challenges City ordinances adopted by the Santa Barbara City Council in June 1997 and in January and February of 1998. The ordinances expand the classes of persons eligible to participate in the City of Santa Barbara's health insurance plans to include both unmarried heterosexual and homosexual partnerships who register with the City Clerk's office.

SPECTRUM INSTITUTE

A Non-Profit Corporation Promoting Respect For Human Diversity

MISSION STATEMENT

Single people constitute a majority of the adult population in most major cities throughout the nation, and soon will be a majority in many states. Despite their large, and growing numbers, unmarried adults often face unjust discrimination as employees, tenants, consumers, and as ordinary citizens. Spectrum Institute believes that single people deserve respect, dignity, and fair treatment.

Spectrum Institute fights laws and business practices that discriminate against people who are not married. Our work benefits people who are single by choice or by necessity, such as seniors who are widowed, people with disabilities who will face a cutoff or reduction in benefits if they marry, people who have separated or divorced because their marriages were abusive or otherwise unsatisfactory, young people who have deferred marriage so that they may finish college or establish a career first, and people who are gay or lesbian.

Spectrum Institute works on several fronts simultaneously to eliminate marital status discrimination and to protect personal privacy rights:

Employment. Most people believe in the concept of "equal pay for equal work." Unfortunately, single workers receive much less pay than married workers, when employee benefits are taken into consideration. That is why Spectrum Institute promotes the use of "cafeteria style" benefits plans, where each employee receives the same credits, which the worker may then use in the way that suits his or her personal or family needs. While a married worker may need health benefits for a spouse and child, and a single worker may want more retirement benefits or may need day care for an elderly parent, another employee may need benefits for a domestic partner. Benefits plans should be flexible.

Housing. Spectrum Institute fights landlords who refuse to allow two unmarried adults to rent an apartment or a home together. Tenants who are responsible and creditworthy should not suffer housing discrimination by landlords who insist that they will only rent to married couples. Spectrum recently participated in a national roundtable sponsored by the American Association of Retired Persons (AARP) which developed a report and recommendations supporting the rights of seniors and older adults who live in nontraditional households.

Consumers. Spectrum Institute encourages businesses to eliminate discrimination against unmarried consumers. We wrote a report for the California Insurance Commissioner condemning higher rates for single adults, many of whom are seniors, merely because of their marital status. We succeeded in getting the Automobile Club of Southern California to give a membership discount to the "adult associate" of a primary member, a discount that was formerly available only to a spouse. We prodded airline companies to broaden their discounts to include "companion" fares and programs such as "friends fly free" in place of marketing strategies previously limited to spousal or family discounts.

Privacy Rights. Nearly half of the states still have laws that criminalize the private intimate conduct of consenting adults. Spectrum Institute fights for the privacy rights of all adults, regardless of marital status or sexual orientation. We participate in court cases to encourage judges to declare these laws unconstitutional. We also conduct educational forums and network with government agencies and private organizations to protect the privacy rights of members of society who may be vulnerable to abuse or neglect, such as children, people with disabilities, and seniors.

Post Office Box 65756, Los Angeles, CA 90065 / (213) 258-8955

BIOGRAPHICAL INFORMATION ON
THOMAS F. COLEMAN
EXECUTIVE DIRECTOR, SPECTRUM INSTITUTE

Thomas F. Coleman has been practicing law since 1973. Over the years, he has become a national authority on sexual orientation and marital status discrimination, the definition of family, and domestic partnership issues.

In 1998, Mr. Coleman was successful in convincing two California cities, **Santa Barbara and Oakland**, to discontinue a gender restriction in their same-sex domestic partnership benefits programs, and to open the plans up to all domestic partners regardless of gender. He was also consulted by the **Detroit** city council which accepted his advice and passed the most inclusive "extended family" employee benefits program of any municipality in the nation. The plan allows each employee to choose one adult household member to receive benefits: either a spouse, a domestic partner of either sex, or a dependent blood relative.

In 1997, Mr. Coleman was invited to testify as an expert witness before the **California Assembly Judiciary Committee and the Senate Insurance Committee** on domestic partner benefits. He also conducted an informational briefing for the **Philadelphia City Council** on legislative options for protecting domestic partners.

In 1997, Mr. Coleman was invited by the **Self-Insurance Institute of America** to conduct a seminar on domestic partnership benefits for 130 insurance company executives who came to Indianapolis from all parts of the nation. In 1996, he conducted a similar seminar for the **National Employee Benefits and Worker's Compensation Institute** at a national conference in Anaheim.

In 1996, Mr. Coleman drafted a comprehensive domestic partnership act at the request of the Chairperson of the Hawaii **Commission on Sexual Orientation and the Law**. The draft was the basis for a bill (SB 3113) passed that year by the **Hawaii Senate**. The Senate Judiciary Committee invited Mr. Coleman to testify as an expert on legal issues involved in domestic partnership legislation. He was consulted by legislative leaders again in 1997.

Over the years, Mr. Coleman has represented clients and has filed *amicus curiae* briefs in numerous test cases before various appellate courts.

In 1996, he won a victory for tenants when the **California Supreme Court** refused to give a landlord a "religious" exemption from state civil rights laws prohibiting marital status discrimination. He filed a brief in a similar case in the **Michigan Supreme Court** in 1998 and before the**Illinois Court oof Appeals** in 1996. He was consulted by government attorneys fighting housing discrimination against unmarried couples in **Alaska** and **Massachusetts**.

In 1995, Mr. Coleman filed an *amicus curiae* brief in the **Alaska Supreme Court** in a case involving marital status discrimination in employment. In 1997, the court ruled that it was illegal for the state to refuse to provide health benefits to domestic partners of university employees.

In 1994, Mr. Coleman filed an amicus curiae brief in the **Georgia Supreme Court** on behalf of a local union representing employees of the City of Atlanta. The brief defended the reasonableness and legality of two domestic partnership ordinances enacted by the city. In March 1995, the Supreme Court by a 5 to 2 vote upheld the registry for domestic partners. In 1997, the Supreme Court upheld the city's health benefits plan for domestic partners.

In 1994, Mr. Coleman filed an *amicus curiae* brief in the **Michigan Supreme Court** seeking to invalidate the "gross indecency" statute as unconstitutionally vague and an infringement on the right of privacy of consenting adults. The court ruled that the statute was vague and defined it in a way to prohibit public sex or sex with minors. However, it sidestepped the issue of consenting adults in private.

In 1993, Mr. Coleman won a major victory for employees in the **California Court of Appeal**. In *Delaney v. Superior Fast Freight,* the appellate court ruled that private employers are prohibited from discriminating against employees or applicants on the basis of sexual orientation.

In 1989, Mr. Coleman filed a friend of the court brief in the landmark case of *Braschi v. Stall Associates* (1989) 74 N.Y. 201. There, the **New York Court of Appeals** (the state's highest court) ruled that the term "family" was not necessarily limited to relationships based on blood, marriage, or adoption. The court concluded that unmarried partners who live together on a long-term basis may be considered a family in some legal contexts. The *Braschi* decision has been cited as precedent in numerous lawsuits by workers who have been denied employment benefits for their unmarried partners.

Mr. Coleman has also participated in both government and privately-sponsored policy studies dealing with the right of personal privacy, freedom from violence, family diversity, and discrimination on the basis of marital status and sexual orientation.

In 1994, Mr. Coleman was selected by the **American Association of Retired Persons** to serve on a round table focusing on nontraditional households. This resulted in a report by AARP in 1995 entitled "The Real Golden Girls: The Prevalence and Policy Treatment of Midlife and Older People Living in Nontraditional Households."

In 1993, Mr. Coleman wrote a report for **California Insurance Commissioner's Anti-Discrimination Task Force**. It proposed ways to end discrimination against unmarried insurance consumers.

In 1991, Mr. Coleman was consulted by the **Bureau of National Affairs** for its special report series on *Work & Family*. He provided demographics and background information for Special Report #38, "Recognizing Non-Traditional Families."

In 1990, Mr. Coleman worked with the **Secretary of State** to implement a system in which family associations may register with the State of California. Registrations systems like this have been used by companies for employee benefit programs that provide coverage to employees with domestic partners. This novel registration system was cited by Hewitt Associates in a research paper entitled "Domestic Partners and Employee Benefits." Hundreds of same-sex and opposite couples (many with children) have registered under this de-facto family registration system.

In 1989, the **City of West Hollywood** retained Mr. Coleman as a consultant on domestic partnership issues. He advised the city council on how the city could strengthen its ordinance protecting domestic partners from discrimination.

In 1989, Mr. Coleman conducted a seminar for faculty and staff at the **University of Southern California** on "Employee Benefits and the Changing Family."

In 1989, the **Los Angeles City Attorney** appointed Mr. Coleman to serve as chairperson of the Consumer Task Force on Marital Status Discrimination. The task force issued its final report in May 1990. The report documented widespread discrimination by businesses on the basis of sexual orientation and marital status. It made numerous recommendations to eliminate discriminatory practices. Many have been implemented.

From 1987 to 1990, Mr. Coleman served as a member of the **California Legislature's Joint Select Task Force on the Changing Family**. After many public hearings and ongoing research, the task force issued a series of reports to the Legislature. One aspect of the study involved work-and-family issues. The Task Force recommended ways to eliminate discrimination on the basis of sexual orientation and marital status from employee benefits programs. Other recommendations were made to eliminate discrimination against domestic partners. A bill to establish a domestic partner registry with the Secretary of State and to give limited benefits to domestic partners was passed by the Legislature in 1994 but subsequently vetoed by the Governor. A similar bill (AB 54) has been reintroduced.

In 1986, Mr. Coleman became a special consultant to the **Los Angeles City Task Force on Family Diversity**. After two years of research and public hearings, the task force issued its final report in May 1988. Major portions of the report focused on sexual orientation and marital status discrimination in employment, housing, and insurance. For the following three years, Mr. Coleman worked closely with city council members, the city administrative officer, the city attorney, the personnel department and several unions to develop a system granting sick leave and bereavement leave to a city employee if his or her unmarried partner were to become ill or die. In 1994, the city council voted to extend health and dental benefits to all city employees who have domestic partners.

In 1985, Mr. Coleman became an adjunct professor at the **University of Southern California Law Center**. For several years he taught a class on "*Rights of Domestic Partners.*" The class focused on constitutional issues, court cases, and statutes that either discriminate against unmarried couples or provide them with protection from discrimination.

In 1984, the **California Attorney General** appointed Mr. Coleman to serve on the Commission on Racial, Ethnic, Religious, and Minority Violence. From 1984 to 1990, Mr. Coleman assisted the commission's staff and consultants in gathering information about hate crimes against lesbians and gay men and in developing recommendations designed to prevent and combat such violence. The Legislature added "age, disability, and sexual orientation" to the state's hate crime statute in 1984. The state Commission on Peace Officer Standards and Training then incorporated recommendations of the hate crime commission into its data collection system and its training programs.

In 1981, Mr. Coleman was appointed to serve as Executive Director of the **Governor's Commission on Personal Privacy**. After two years of public hearings and research, the Commission issued its final report to the Governor and the Legislature. Over 100 pages of the report focused on sexual orientation discrimination, particularly in the areas of employment and housing. Mr. Coleman was the author of the final report of the Privacy Commission.

Mr. Coleman graduated, *cum laude*, from Loyola University of Los Angeles School of Law in 1973. He received his bachelor of arts degree from Wayne State University in Detroit, Michigan in 1970.

* * *

AARP

Bringing lifetimes of experience and leadership to serve all generations.

March 14, 1995

Mr. Thomas Coleman, Executive Director
Family Diversity Project
Spectrum Institute
P.O. Box 65756
Los Angeles, CA 90065

Dear Mr. Coleman:

You will be pleased to know that the Women's Initiative's research report on midlife and older people who live in nontraditional households is just about ready for production and publication. As I near completion of this research project, I just wanted to thank you once again for sharing your expertise with us.

As you know, we found that more than 5 million midlife and older persons live in nontraditional households with extended families, partners, roommates, grandchildren, live-in employees, and in many other sorts of arrangements. We also found that individuals living in such households are often treated less favorably under public policies than traditional families.

Your organization is the only one we found that has extensively documented the treatment of nontraditional families under public policy. We found the studies in which Spectrum Institute participated to be well-researched and well-written, and we relied on several of them in our research report. Please keep up the fine work you do to document and advocate for diversity in family and living arrangements.

Sincerely,

Deborah Chalfie
Women's Initiative

INTERNATIONAL ASSOCIATION OF FIRE FIGHTERS
LOCAL 55

Affiliated with
AFL-CIO
CALIFORNIA LABOR FEDERATION
CENTRAL LABOR COUNCIL
OF ALAMEDA COUNTY
INTERNATIONAL ASSOCIATION
OF FIRE FIGHTERS
CALIFORNIA
PROFESSIONAL FIREFIGHTERS

STEVE SPLENDORIO, *President*
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DENNIS J. RAINERO, *Secretary-Treasurer*

414 - 13th Street, Suite 300
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FAX (510) 834-0812

May 13, 1998

Thomas F. Coleman
Executive Director
Spectrum Institute
P.O. Box 65756
Los Angeles CA 90065

Dear Tom:

Local 55 is deeply grateful for the extraordinary efforts that you and the Spectrum Institute put forth for our union member Al Edwards. It was only through those efforts which you made on behalf of Edwards that convinced the City Council to extend health benefits to all domestic partners of employees regardless of gender. Thank you again.

Sincerely,

Steve Splendorio

Steve Splendorio
President, Local 55

cc: Edwards
Holsberry

SCHENDEL & CALLAHAN
Suite 200, NBA Building
613 Cushman
Fairbanks, Alaska 99701
(907) 456-1136

William B. Schendel
Daniel L. Callahan

TELEFAX (907) 451-8535
Mailing Address
P.O. Box 72137
Fairbanks, Alaska 99707

March 24, 1997

Thomas F. Coleman, Ex. Dir.
Spectrum Institute
P. O. Box 65756
Los Angeles, CA 90065

Re: Univ. of Alaska v. Tumeo

Dear Tom,

Let me thank you very much for your part in our recent victory in Tumeo. I think it is the first published appellate court victory for domestic partner benefits, without regard to the sex of the partners. As such, it was great that it came out right.

As you may guess, the Supreme Court's opinion has received wide publicity. I've received phone calls from The Chronicle of Higher Education, all the Alaska media (including the Associated Press), and from attorneys around the country. I believe the opinion will soon be summarized in U. S. Law Week and Bureau of National Affairs specialty publications. It is perceived to be the leading opinion on the subject at the moment.

All this would not have been possible without the assistance of the amici, and especially Spectrum. In particular, I think that your briefing on the legislative background to the Alaska statute, especially the research you did on similar statutes in Maryland, Montana, Oregon, etc., was very impressive. As I expressed several times during the briefing process, I was particularly worried about the legislative history argument that the University raised, yet unable to do the necessary research regarding foreign statutes; you came through in that area, and wrote up the results of your result in a persuasive manner.

I think that it was also useful to have Spectrum on board in order to "round out" the viewpoints expressed by the same sex amici. Part of the formula in constructing a winning argument is to assure the court that the result being sought is within the realm of responsible public policy. Spectrum's brief, focusing as it did on extending benefits to unmarried opposite sex couples as well as same sex couples, gave the Court some assurance that it had the benefit of a full spectrum of reasoned public policy.

My clients and I were proud to be sitting at the same table with Spectrum and you.

Thank you again.

Sincerely yours,

William B. Schendel
Attorney at Law

WBS:dde

HOUSE OF REPRESENTATIVES
WASHINGTON, D. C. 20515

PATRICIA SCHROEDER
FIRST DISTRICT, COLORADO

Tom & Chris

Your family diversity report and work are right on target!

Congratulations on great work that's really needed. Cheers & Love

Pat

☐ PLEASE RESPOND TO:
☐ SACRAMENTO OFFICE
STATE CAPITOL
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Assembly
California Legislature

CAROLE MIGDEN
ASSEMBLYWOMAN, THIRTEENTH DISTRICT
Chairwoman
Assembly Committee on Appropriations

COMMITTEES
Natural Resources
Public Employees, Retirement and Social Security
Public Safety
Joint Legislative Budget Committee
Special Committee on Welfare Reform
Select Committee on California Horse Racing Industry
Select Committee on Professional Sports

April 8, 1997

Tom Coleman
Spectrum Institute
P.O. Box 65756
Los Angeles, CA 90065

Dear Mr. Coleman:

I respectfully request your assistance regarding AB 1059.

On Tuesday, April 15 at 9:00 am, AB 1059 will be heard by the Assembly Judiciary Committee in room 4202 of the State Capitol. Your expert assistance is needed in responding to technical questions from committee members regarding domestic partnerships. In addition, it would be particularly beneficial for you to outline the legal issues surrounding domestic partnership and health insurance and how AB 1059 would greatly benefit California citizens.

Thank you for consideration of this request. I look forward to working with you on this important issue.

Sincerely,

CAROLE MIGDEN

would greatly value your help!

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City Council
of
Los Angeles

JACKIE GOLDBERG
Councilmember, 13th District

January 6, 199~~4~~

Dear Friends:

Among my goals upon taking office as a Councilmember in the City of Los Angeles was the unequivocal recognition of the rights of lesbian and gay employees. I am pleased that, as Chair of the City Council's Personnel Committee, I was able to obtain adoption of two important legislative matters affecting our community within the City.

During my first six months in office I introduced a motion to adopt a policy of extending health and dental care benefits to domestic partners and dependents of all City employees. I am very grateful to Henry Hurd, of the Personnel Department, and Thomas Coleman, Executive Director of the Spectrum Institute, for providing invaluable research material and analysis that enabled me to bring forward the legislation much earlier than I thought possible. Without their assistance, many City employees would still be denied the peace of mind enjoyed by employees whose families have been covered by health benefits all along. Please feel forward to contact my office for a copy of the legislative packet on this important issue.

In addition, I was able to break the logjam on implementation of a series of policy initiatives to protect the rights of lesbian and gay employees. The City now has a Sexual Orientation Counselor who is responsible for investigating complaints of discrimination based on sexual orientation. Based on that action, and in response to the Grobeson lawsuit, the Mayor issued an Executive Directive to all Department heads reiterating the City's policy against sexual orientation discrimination. Copies of the directive and policy are available through my office.

I look forward to another year of advancing the rights of our community. Please do not hesitate to contact Sandy Farrington-Domingue, my liaison to the gay and lesbian community, at (213)913-4693 with your input.

Sincerely,

Jackie Goldberg

JACKIE GOLDBERG
Councilmember, 13th District

CITY HALL
200 N. Spring St./Room 240
Los Angeles, CA 90012
213/485-3353

COMMITTEES
Chair, Personnel Committee
Vice Chair, Public Works
Member, Administrative Services

FIELD OFFICE
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Los Angeles, CA 90026
213/913-469?

LOCAL 535 SEIU

SOCIAL SERVICES UNION

AMERICAN FEDERATION OF NURSES

309 SO. RAYMOND AVENUE
PASADENA
CALIFORNIA
91105
818-796-0051
FAX 818-796-2335

May 24, 1996

Thomas F. Coleman, Executive Director
Spectrum Institute
Family Diversity Project
P.O. Box 65756
Los Angeles, CA 90065

Dear Mr. Coleman:

We wish to express our gratitude for your support in our battle towards extending domestic partnership benefits to Los Angeles County employees. Throughout the years, your assistance in our attempts to establish equity of benefits for all County employees was invaluable.

On December 19, 1995, for the first time in Los Angeles County history, the Board of Supervisors voted to include medical benefits for domestic partners of County employees as part of the compensation package. The Family Diversity Project of Spectrum Institute worked diligently with Local 535, the Los Angeles County Labor Coalition, and other dedicated groups to achieve this collective goal.

Again, we thank you for your commitment to providing consultation and strategic organizational services in our endeavors to win this tremendous victory!

In Solidarity,

Karen Vance

Karen Vance, Co-Chair
SEIU-Local 535, Lesbian and Gay Caucus
(310) 497-3419

KV/dt: opeiu#29, afl,cio,clc...F:Darlene/Bullock/Coleman.doc 5/28/96

ACLU FOUNDATION
OF SOUTHERN CALIFORNIA

Liberty and Justice for All

March 1, 1995

Thomas F. Coleman, Esq.
P.O. Box 65756
Los Angeles, CA 90065

Dear Tom:

We very much appreciate how helpful you have been in graciously providing the ACLU Foundation of Southern California with copies of public policy studies, articles, and other information about family diversity.

As I had explained, the ACLU is exploring the possibility of forming a family diversity project. Your activism that led to these studies and the good work you have done gathering materials will prove invaluable as we evaluate what role the ACLU might play in expanding the concept of "family." We look forward to working with you in this effort.

Sincerely yours,

Harold Gunn
Director of Gift Planning
ext. 226

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LESBIAN & GAY RIGHTS CHAPTER

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(213) 977-9500 x237 / FAX (213) 250-3980

25 June 1992

Thomas F. Coleman
EEO Seminars
P.O. Box 65756
Los Angeles, California 90065

Dear Thomas:

I want to thank you for speaking so at our General Meeting. You are a great speaker and I appreciate your taking some of your most valuable time for the Chapter's June general meeting on Domestic Partnership.

Your knowledge and experience gave the Chapter important information as well as wonderful insights. I think that the meeting was very successful and opened a dialog certainly in our Chapter and it's members that will carry on beyond the meeting. We are pleased that you work so hard in helping to recognize our communities relationships and values.

Again, I want to thank you very much for coming to speak to the Chapter, your continued commitment to all peoples civil liberties and rights, and tell you how much I really appreciated it.

Sincerely,

Michael E. Reynolds
Chapter President