

Repeal of homophobic law an idea whose time has come

By Thomas F. Coleman

In 1982, the California Commission on Personal Privacy issued a report recommending the repeal of a state law labeling homosexuality as a mental illness. I remember this quite vividly since I was the Executive Director of the Commission and wrote its final report.

Section 8050 of the Welfare and Institutions Code, a law enacted in 1950, directed the Department of Mental Hygiene (now the Department of Mental Health) to “conduct scientific research into the causes and cures of sexual deviation, including deviations conducive to sex crimes against children, and the causes and cures of homosexuality, and into methods of identifying potential sex offenders.” The law was enacted in response to public outcry over the rape and murder of a woman on November 14, 1949, which was followed by 25 reports of child molestation during the next week.

By adopting this statute, the Legislature not only labeled homosexuality as a mental illness, it put the matter on the same par as crimes involving child molestation – two myths for the price of one.

As the Commission’s report noted, as far back as 1935, Sigmund Freud shared his belief that homosexuality was not a mental illness, but just a variation of sexual development. It took a few decades, but eventually this view was adopted by the National Association of Mental Health in 1967.

A few years later, the American Psychological Association and the American Psychiatric Association declassified homosexuality as a mental illness. The United States Surgeon General and the United States Public Health Service later adopted the same position.

A few years after the Privacy Commission issued its recommendation, Assemblyman Mike Roos introduced a bill to eliminate this offensive language, and the myths it represented, by rewording section 8050 to remove its reference to homosexuality. The bill passed the Assembly and moved onto the Senate for further consideration. Roos then dropped the bill at the suggestion of Life Lobby, the statewide gay and lesbian rights lobby group then in existence.

As I recall it, the leaders of Life Lobby felt that the Roos bill to amend section 8050 was generally symbolic and would have no major impact on gay and lesbian rights. They wanted to put their political capital into issues such as employment discrimination legislation and funding for AIDS and HIV programs. Limited resources called for a limited political agenda.

After this decision was made by Life Lobby and Mike Roos, the bill died. As a result, section 8050 and its offensive language remained buried in a pile of dusty law books, languishing in obscurity, until some future time when symbolic legislation would become a priority.

Assemblywoman Bonnie Lowenthal has introduced Assembly Bill 2199 (D-Long Beach) to repeal section 8050. This time it has the support of California’s LGBT lobby, Equality California. Having been successful in lobbying for virtually every conceivable form of

legislative protection for the LGBT community in recent years, “symbolic” legislation such as AB 2199 now has moved to the top of the group’s agenda.

Some ideas take longer than others to gain momentum and take hold. I am glad to see that after 28 years of waiting for a champion to make it happen, the Privacy Commission’s proposal to repeal the stigmatizing language in section 8050 is finally an idea whose time has come.

When this bill is passed by the California Legislature and signed into law by the Governor, as I am sure it will be, another gay rights domino will have fallen.

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Thomas F. Coleman is author of *The Domino Effect: How Strategic Moves for Gay Rights, Singles’ Rights and Family Diversity Have Touched the Lives of Millions*. (2009) Spectrum Institute Press.

The recommendation of the Privacy Commission can be found at page 42 of the Executive Summary of the Commission’s report which is available online at: www.unmarriedamerica.org/ppc.pdf The Executive Summary was written by Los Angeles attorney Jay M. Kohorn.