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THE GAY WEEKLY OF THE NATION'S CAPITAL

Able decision a 'step forward'

Ruling questions military ban on homosexual 'acts'

by Lisa Keen

In a surprise result, a federal appeals court in New York this week said it may be constitutional for the military's so-called new policy on Gays to discharge servicemembers who only say, "I am Gay." But, in a surprise victory, the court sent the key Gay military case back to district court, saying the lower court must make a ruling on whether the policy can constitutionally ban homosexual "acts" before it can determine whether the policy can ban speech.

"The remarkable legal breakthrough in this case," said Lesbian legal activist Chai Feldblum, "is that this is the first court in the United States of America that has directly questioned whether the military may indeed constitutionally treat Gay and straight sexual activity differently."

The case, *U.S. v. Able*, was considered by many



by Clint Steib

Attorney Matt Coles said the ruling is neither a loss nor a victory but is still a "very important step forward."

legal activists to be a likely candidate through which the U.S. Supreme Court will decide the constitutionality of the military's new "don't ask/don't tell" policy on Gay servicemembers. Legal activists also expected the three-judge panel to uphold a lower court's ruling that the policy violates the First Amendment guarantee to freedom of speech by discharging almost anyone who says, "I am Gay."

The case may still be one that goes before the Supreme Court, but other cases are now likely to beat it there because the three-judge panel of the 2nd Circuit U.S. Court of Appeals sent *Able* back to district court for a new ruling. The panel said the key issue is one the lower court failed to rule

on — whether the military can constitutionally discharge someone for engaging in sodomy with a

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10 YEARS LATER

HARDWICK

Hardwick was a quake with terrifying aftershocks

REVISITED

by Lisa Keen

If law stood still, the Gay-hostile Georgia Attorney General's office today might be run by Lesbians. After all, Georgia Attorney General Michael Bowers has, in recent years, had to defend his department's honor against intimations that its heterosexual attorneys may have engaged in felonious behavior — sodomy.

More than 50 years ago, Georgia tried to convict two women of sodomy, but the state supreme court said it couldn't.

"[T]he crime of sodomy can not be accomplished between two women," said the court. Two men could do it; a man could do it to a woman; but two women just can't do it.

Well, the law does not stand still. Thirty years later, in 1968, the Georgia legislature revised the law so it would apply to everybody.

Of course, it hasn't been applied equally to everybody. Attorney General Bowers didn't fire all his heterosexual attorneys when their sex lives came under scrutiny in prosecuting a recent case against a heterosexual couple accused of engaging in sodomy. But when he learned that a woman he had just hired was a Lesbian, he fired her, claiming he was concerned about signaling tacit approval for presumed conduct.

And therein lies the rub, really. Laws prohibiting sodomy — which basically amounts to oral or anal sex — are out of whack with time and people.

Sodomy laws originated in centuries past out of a concern that various plagues might decimate the population; society needed babies and it didn't have a sperm to waste.

In recent decades, medical science has pretty much alleviated any real fear that disease might lead to global extermination; if humanity suffers such a calamity now it will likely come from nuclear fission and no amount of sex is going to remedy that catastrophe.

Still, sodomy laws, like sodomy, are part of today's reality.

Sunday, June 30, marked a special landmark for Georgia and for sodomy laws. It was the 10th anniversary of the U.S. Supreme Court decision upholding Georgia's sodomy law as it applies to same-sex couples. The law on the books still covers everybody — heterosexual and same-sex couples — but the high court simply ignored the heterosexual implications and upheld the law only as it pertains to Gay people.

Strangely, the 5 to 4 majority explicitly declined to offer its opinion "on whether laws against sodomy between consenting adults in general, or between homosexuals in particular, are wise or desirable." Except to say, of course, that it could see "no connection between family, marriage, and procreation on the one hand and homosexual activity on the other." And to add, too, that "Proscriptions against that conduct have ancient roots"; thus, to suggest that "such conduct" is "deeply rooted"

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Paramedics refuse treatment

Victim was bleeding profusely after Dupont Circle attack

by Lou Chibbaro Jr.

D.C. Fire Department rescue workers told a Gay man he would have to treat his own wounds Monday after he suffered severe cuts from a Gay bashing attack in Dupont Circle.

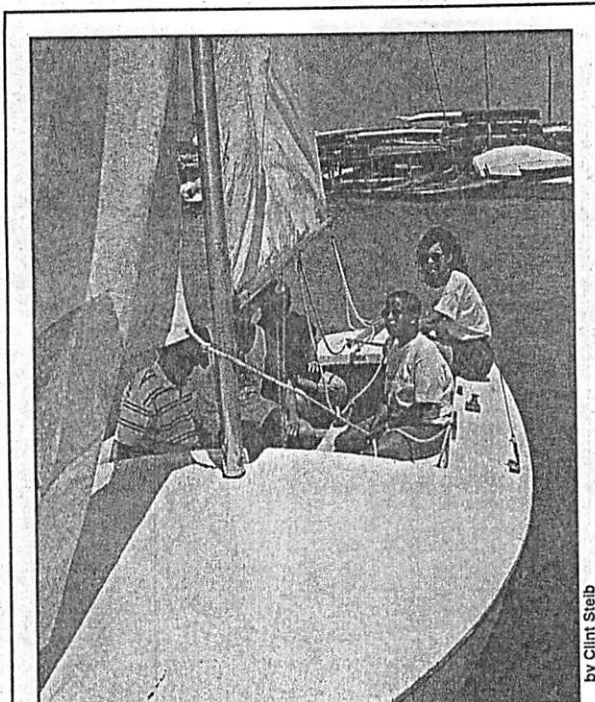
The rescue workers, who were called to the scene by D.C. Police, handed Loron Lavoie, 29, several cotton gauze pads and instructed him to apply them to a slash wound on his face that was bleeding profusely, according to Lavoie's companion, Ken Ludden.

A Fire Department spokesperson said the department is investigating the incident.

Ludden said the rescue workers arrived on a fire truck about 15 minutes after a man wielding a six-foot-long pole and reciting passages from the Bible attacked Lavoie and Ludden as they sat on a park bench in front of the fountain inside Dupont Circle.

"He was asking us if we knew about Sodom and Gomorrah," said Ludden, in describing the assailant. "He kept coming at us and coming at us."

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by Clint Steib

Wind in their sails

For avid sailors like the Rainbow Spinnakers, wind on a sultry day is a divine gift. For more on this Gay sailing group, see page 49.