

LOSE FIRST ROUND CHALLENGE

Gay sex abnormal: city attorney

Gay sexual acts are "abnormal sexual desires," according to the Los Angeles city attorney's office, and "there is no important interest involved in a person performing lewd or dissolute acts with members of the same sex."

A brief filed in Superior Court by James M. Hodges, assistant city attorney, didn't define exactly what he meant by lewd or dissolute acts.

But he did say that "reasonable men of common intelligence need not guess" at the meaning of the words lewd and dissolute. And in Los Angeles officialdom, the words mean any kind of gay sex.

The case in which Hodges was defense counsel involved precisely the issue of the definition of lewd and dissolute conduct. Attorneys Al Gordon and Tom Coleman had filed a taxpayers suit asking the court to issue a preliminary injunction halting enforcement of the state's lewd conduct statute because the law is "vague and overbroad."

The suit was filed against Los Angeles Police Chief Ed Davis and County Sheriff Peter Pitchess.

Gordon and Coleman contended in their briefs and in oral arguments before Superior Judge Campbell Lucas that the statute does not warn people what lewd and dissolute crimes they might be performing, thereby violating the 14th Amendment to the Constitution.

They also pointed out that arrests for lewd and dissolute conduct involve mainly gay people.

"It was urged that the right to perform lewd or dissolute acts with members of the same sex should receive the same consideration under

the law that the marital relationship receives," said Hodges in his brief for Chief Davis.

"However, the indiscriminate satisfaction of one's abnormal sexual desires is very different than the right of married couples to practice contraception," the brief noted. "The married couple and their family are the foundation upon which our society rests, while there is no important interest involved in a person performing lewd or dissolute acts with members of the same sex."

Marriage Protected

Reference to contraception by Hodges related to a court ruling cited by Gordon and Coleman that the state of Connecticut could not govern the sexual behavior of a married couple.

Hodges contended also that the words lewd and dissolute are not vague and do give a person charged with such conduct "sufficient warning of the nature of the offense." Then the assistant city attorney cited a definition of dissolute in Webster's Second Edition to prove his point: "loose in morals and conduct; wanton; lewd; debauched."

Judge Lucas denied the request for a preliminary injunction, saying he could not overturn at this stage a state statute that had been in existence since 1963. He added, however, that this was only a preliminary injunction and there will still be a "full exposition" of the issues when the case comes to trial for a permanent injunction.

THE ADVOCATE

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