

# Wedding Bell Blues

## Will the Birth of Gay Marriage Be the Death of Gay Rights?

By Stuart Timmons

**P**eople are lining up hard and fast on one side or the other," says gay attorney Tom Coleman. Even on the phone from Hawaii, where Coleman's been invited to testify about same-sex legal arrangements before the state legislature, his exasperation is clear. "The gay-marriage issue is being presented as an all-or-nothing bandwagon. There's just no compromise."

But Coleman and a handful of other activists are suggesting that a compromise is not only possible, it's crucial to the future of gay rights. While most gay leaders regard the battle over same-sex unions as a sure winner, Coleman fears that, given the current political climate and the lack of open dialogue in the gay community, the gay-marriage campaign could turn into a debacle far worse than the notorious gays-in-the-military effort. "The risk is tremendous that gay rights will go *backwards*," he warns.

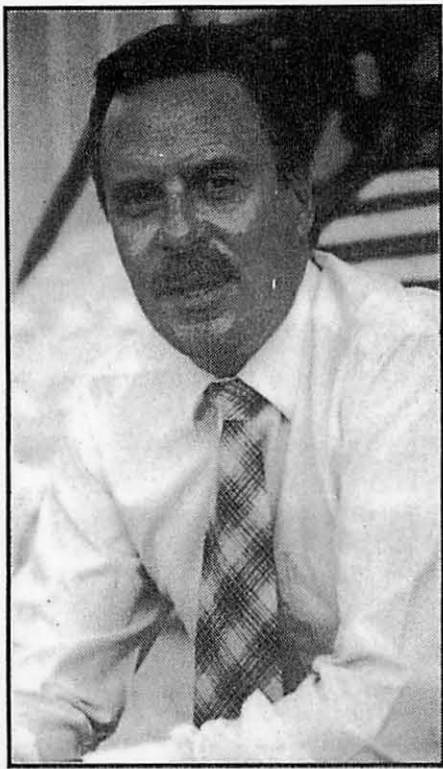
The compromise that Coleman advocates—and has promoted for more than fifteen years—is known as domestic partnership. A civil arrangement, domestic partnership entitles all couples, gay or straight, who register their intent to live as committed partners to share most of the benefits associated with marriage, including health coverage, tax advantages, and next-of-kin status in case of illness or death. Large firms, including Levi Strauss, Apple Computer, and the Walt Disney Company, are increasingly adopting domestic-partnership policies, as are cities from Laguna Beach to Madison, Wisconsin. (The L.A. City Council has such a law on the books.)

Though Disney's recent move applies only to gays and lesbians, domestic partnership is traditionally blind to sexual orientation. As a result, it is usually not seen as a referendum on homosexuality, and thus can serve as an effective tactic for advancing gay rights. Nevertheless, Coleman—director of the Spectrum Institute, a nonprofit organization that promotes inclusive definitions of family and respect for family diversity in public and private policy—has been called all but homophobic by some gay leaders. "Of course I can't support the current treatment of same-sex couples as nobodies," he replies. "But I'm trying to offer a solution to the problem that won't cause more problems."

**T**he trouble Coleman foresees is already starting to build. Upon hearing of the impending Hawaii decision, conservative legislators in South Dakota and Alaska introduced bills that would deny legal recognition to same-sex marriages from other states. In California last week, Pete Knight (R-Palmdale) introduced a similar measure in an Assembly committee; the bill passed by a ten-vote margin. Such preemptive strikes underscore the conservative mood of politicians all across the country, an atmosphere which bodes ill for the domino effect gays are banking on.

"It's the timing that prevents this from being workable," says Coleman. "Public opinion is still two to one against gay marriage, and you cannot discount those types of numbers in politics. Almost 20 states still criminalize gay sex."

Coleman parts company with the gay establishment, which seems convinced that once Hawaii approves same-sex unions, all states will be bound to respect the legal rights of couples who marry there. "A lot of people in the gay community



Andie Cherny/NEW

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feel that the Full Faith and Credit clause [of the U.S. Constitution] means that the rest of the states will have to honor their Hawaii marriage contract. But there's an exception in that clause. If a law would violate the fundamental policy of the home state, it does not carry legal weight."

The U.S. Supreme Court would ultimately decide the issue, says Coleman, noting that the high court ruled against gay rights as well as certain privacy rights in the 1983 decision *Bowers v. Hardwick*. "I think the court will say it's a matter of comity, that the states may accept it but don't have to. We're a long way off from saying that most states will treat homosexuality the same as heterosexuality."

Many Hawaii legislators have come to recognize that "silence equals same-sex marriage," says Coleman, and are promoting their own domestic-partnership bills as a way to keep their state out of the crossfire that may result from a federal dispute. Still, if the Hawaii Supreme Court rules that marriage licenses be issued across the board, the fallout could be intense. "When that

happens, I think the reaction will not be as 'soft' as the Knight measure, which only disallows gay marriages. You may well see amendments to state constitutions preempting that as well as existing or nearly won gay civil rights, such as coparent adoptions or domestic-partnership ordinances. Once they have an opening, they'll throw in the kitchen sink. That's how the right operates. That's how lots of things that voters would not pass individually will pass—if they're on a list topped by 'No Gay Marriage.'"

**W**hile Coleman is in the minority among gay activists and organizations, he's not a lone dissenter. "There's going to be a violent reaction," says conservative gay attorney Jim Baird. "It's already started. All this does is invite litigation and responses to it. In California, we have already fought a number of anti-gay initiatives that we've won, but they drain the community every time. We can't do that continuously. The political fallout of pursuing same-sex marriage could deter gay equality for a generation."

"The political climate is not conducive to proceeding and winning in this area," Baird continues. "When you have 'sex' and 'same' in front of anything political, you have a lot of moral and emotional arguments which politicians seem to love to throw into the debate. From a conservative standpoint, you take the gender out, you eliminate a lot of the objections." Baird, a member of the Log Cabin Club, a gay Republican group, supports the concept of gay marriage, but he believes that "now is not the time to push for it. [We should] work for some interim step, such as domestic partnership."

For his part, Coleman predicts that reaction could be severe. Opponents could go so far as to propose an amendment to the U.S. Constitution forbidding marriage between members of the same sex, or impose restrictions on block grants to states that allow same-sex unions. "I see all sorts of possibilities, from the most minor reactions to the most major. Can you honestly rule out overreaction with this Congress?"

Other voices dissent from the party line, and not always for strategic reasons. The *Guide*, a left-leaning gay newspaper based in Boston, published an editorial last October condemning gay marriage, pointing out the patriarchal roots of the institution and arguing that under an expanded definition of marriage, loners, bisexuals, and other sexual nonconformists will be penalized more harshly than ever. Marriage should not be reformed to make it more inclusive, declared the *Guide*, it should be abolished.

Harry Hay, founder of the Mattachine Society and widely considered the father of gay liberation, opposes same-sex marriage on an even more radical basis. "The idea of our attempting to duplicate heterosexual relationships misses the point," he says. For 50 years, Hay has advanced the notion that gay life is defined not merely by sexual variance, but by a distinctive consciousness and social role that accompany homosexual behavior.

"I feel that we have important spiritual, intellectual, and cultural contributions to make to the greater society. For the past 3,000 years, we have been making them, though Christianity has obliterated our record of community service. My concern is that the relationships of gays are the basis of our existence. To insist that our relationships be in a set, limited pattern is the height of arrogance—an arrogance that may be more dangerous than anyone thinks."