

LAMBDA LIBERTY AWARDS

Acceptance Speech of William A. Norris
October 16, 1997
Los Angeles, California

Last month President Clinton went home to Arkansas, joining the state's present governor, Mike Huckabee, in deploring the racist legacy of one of their predecessors, the infamous Orval Faubus. It was 40 years earlier that Governor Faubus stood in the doorway of Little Rock's Central High School, in open defiance of the federal court order and the entire United States government, which included troops sent by President Eisenhower. Governor Faubus stood there, resolute, that no black student would ever cross the threshold of Central High.

Today, we cringe in shame when we think back on Little Rock and realize that it was only 40 years ago that we treated our African-American citizens so dreadfully. And for What? For nothing more than being born in America as descendants of Africans who were brought here in chains to be sold into slavery.

In Little Rock last month, former Governor Clinton and now Governor Huckabee paid tribute to the first nine black students to enroll at Central High -- the "Little Rock Nine" -- for their dignity and courage in publicly confronting the forces of bigotry. Governor Huckabee ended his remarks with a bold pronouncement, "Today , we come to say, once and for all, that what happened 40 years ago was simply wrong. It was evil. An we renounce it."

It was simply wrong. It was evil. And we renounce it. Powerful words, indeed. Surely these words must have stirred Bill Clinton as he listened to Mike Huckabee deliver them. With this words in mind, I take this occasion to issue a challenge to Mr. Clinton. Mr. President, I call upon you to renounce another great evil, the "Don't Ask, Don't Tell" policy of the military. Yes, Mr. President, renounce it. Renounce it because it is wrong, it is evil -- as you surely know in your heart.

Discrimination against lesbians and gay men as official governmental policy has emerged as the most intractable civil rights issue of the nineties. To be sure, other forms of discrimination, such as discrimination based on race or gender, persist as grave social problems in America. But at least they are no longer acceptable as official governmental policy. Regrettably, however, it continues to be acceptable for

the government and government officials to promote hatred, fear, and intolerance against gay men and lesbians.

The most dramatic example of such unapologetic and invidious discrimination is the military's pernicious Don't Ask, Don't Tell policy. Under the guise of a "compromise," the policy invites gays and lesbians to serve in the armed forces, but only if they promise not to be true to themselves. The policy demands that gays and lesbians live a lie if they wish to serve in the military, and fight and die for their country.

As many of you know only too well, when government forces gays and lesbians to remain silent about their identities, what it really does is force them to pretend that they are straight. There is no "agnosticism" when it comes to sexual orientation. I can think of no other instance in which the government has passed a law whose very purpose is to force people to live a lie, to pretend that their true selves don't really exist. In this respect, the Don't Ask, Don't Tell policy is unique.

It is also evil. Yes, Mr. President, evil. Just as the racial policies of Governor Faubus were evil. I will make a prediction tonight. I predict that Don't Ask, Don't Tell will not long stand the test of time. The policy is so wrong-headed that its demise will come much sooner than its supporter may think. Yes, I predict that Don't Ask, Don't Tell will soon be laid to rest in our national cemetery of shame, along side other discriminatory policies that stain our national heritage.

Take the infamous pre-Civil War case of Dred Scott v. Sanford. There, the Supreme Court proclaimed that black Americans had no rights as human beings because they were a "slave race," doomed by God Himself, always to remain in the "miserable condition" of chattel bondage. The Court held that they were merely property, not persons with rights.

Fifty years later, after a Civil War and failed effort at a fair and just Reconstruction, the Supreme Court was at it again, this time in the equally infamous case of Plessy v. Ferguson. Notwithstanding the crowning post-war achievement of the party of Lincoln, which was the enactment of the Fourteenth Amendment with its ringing declaration that no person shall be denied the equal protection of the laws, the Court in Plessy v. Ferguson gave states a free hand to enforce Jim Crow laws in order to preserve what the Court called the "natural separation of the races."

And only a little over 50 years ago, in Korematsu v. United States, the Court put its stamp of approval on one of the greatest travesties perpetrated by the United States government in the 20th Century: uprooting Japanese Americans from their homes in World War II and shipping them off to what were euphemistically called "relocation camps," for no reason other than their ancestral roots.

As dark as such of these chapters in our history has been, each has ultimately been renounced. Each is now dead and buried, but we must never forget them, for they serve both as a reminder of our past mistakes and as a reference point for measuring our collective progress toward a truly just society. The changes have sometimes taken generations, but they have come. However slowly at times, we have moved steadily forward as a nation. In the process, we have learned to look at our history of injustice and say, as Governor Huckabee put it so eloquently, "It was simply wrong. It was evil. And we renounce it."

It is now time for the leaders of our nation to remember this hard-won lesson, and to accept the truth that Don't Ask, Don't Tell is nothing more than another variation on the theme of invidious discrimination. Our leaders should accept the reality that the policy is wrong and out of sync with the civil rights movement of the late 20th Century. They should also accept that the constitutionality of the policy is highly suspect. I believe that Bowers v. Hardwick, which is the only Supreme Court case that gives Don't Ask, Don't Tell even a semblance of constitutional legitimacy, is destined for an early burial in that national cemetery of shame.

In Bowers, a gay man asked the Court to recognize his most basic rights to privacy and decent treatment -- rights that had long been secured to straight people in America. In his opinion, Justice White characterized that claim as, at best, "facetious." Warren Burger -- then our Chief Justice -- went ever further. In a concurrence that is surely one of the most gratuitous and vicious opinions ever written by a federal judge, our Chief Justice wrote that gays and lesbians have been "condemned . . . throughout the history of Western civilization." They were put to death in ancient Rome, Burger self-righteously reminded us, they were condemned in Reformation England as worse than rapists, guilty of "a crime not fit to be named." To hold that gay people have the same rights of privacy enjoyed by straight people, he concluded, "would be to cast aside millennia of moral teaching."

Bowers is only a decade old. But the writing is already on the wall. Consider that Bowers was decided by a razor-thin 5-4 vote, and only two members of the majority remain on the Court today. One of the retired members of the majority, Justice Lewis Powell, has repented publicly, calling his decisive Bowers vote the worst mistake of his tenure on the Supreme Court. And only recently, my one-time Ninth Circuit colleague, Justice Tony Kennedy -- a Ronald Reagan appointee -- authored the Court's opinion in Romer v. Evans, which, in striking down an anti-gay initiative passed by the voters of Colorado, gave gays and lesbians their first major victory in the Supreme Court.

Yes, the writing is on the wall, both for Bowers, which provides the thinnest veneer of constitutional respectability for Don't Ask, Don't Tell, and for that policy itself. We

are witnessing a fundamental shift in the way Americans think about gay men and lesbians and the roles they play in our lives. We see this change manifested in the popularity of Ellen de Generis' out-of-the-closet TV show, and the current box office sensation "In and Out," with its memorable moment of passion between the characters portrayed by actors Kevin Kline and Tom Selleck.

I believe most of the credit for our country's shift in attitudes belongs to all the countless gay men and lesbians -- including those who have served with honor and dignity in our armed forces -- who have had the fortitude to expose themselves to the forces of bigotry, just as the Little Rock Nine did 40 years ago on the steps of Central High. In coming out, they have helped clear the air of irrational fear by putting the lie to baseless stereotyping. And, Of course, credit goes as well to the lawyers from gay and lesbian civil rights organizations -- Lambda most prominent among them -- who, with the generous financial support of many like you here tonight, have tirelessly represented these courageous individuals, against tremendous odds, in fighting to secure the Constitution a promise of equal rights for every American, not just some of us.

As this change has been taking place in the way gays and lesbians are perceived in our society, the American people's strong sense of fairness and decency has been coming into play. An in due course -- which I believe will be sooner rather than later -- it will sweep away any injustice standing in its path.

So, as I stand here proudly tonight to accept LAMBDA's Liberty Award, I call on President Clinton to admit his mistake of judgment and renounce the Don't Ask, Don't Tell policy before it becomes a permanent stain on his legacy. Mr. President, you have before you a rare opportunity to make a major contribution to the great civil rights movement of the 20th Century. Please seize the moment before it is too late, while there is still time for your leadership to make a difference.