

# national news

## Hope, fear and loathing

Landmark ENDA hearings begin in the U.S. Senate

by Bob Roehr

**D**rama, tension and people filled to overflowing the hearing room of the Senate Committee on Labor and Human Resources on July 29, for hearings on S. 2238, the Employment Non-Discrimination Act of 1994. The act, called ENDA, is the first piece of federal civil rights protection for lesbians and gay men that has some chance of passage.

The tone was set even before the session began. "This whole brigade of very big...men walked past all of us who had been waiting in line [to get into the hearing room]," said Tanya Domi, lobbyist for the National Gay and Lesbian Task Force. "Clearly it was done to intimidate people, because they were all men, and they were generally pretty big people."

The men were led by the Rev. Jerry Kelly, Virginia state coordinator of the Traditional Values Coalition. The anti-queer hate group was founded in California, by the Rev. Lou Sheldon.

"They tried to insert themselves at the beginning of the line and were told they couldn't do that," Domi said. So the men stood at the other side of the door, arms crossed on chests.

An aide of conservative Sen. Dan Coats (R-Ind.), a member of the committee, soon led the men around the corner and through an anteroom in an attempt to get them into the hearing room.

Once inside the anteroom "they started shoving people against the wall," according to Domi. "They actually shoved Ernest Dillon," she said. Dillon is a gay African American man who was set to testify on his experience of job discrimination.

"It got very violent...trying to push and shove us," said Cheryl Summerville, a lesbian witness who was in the anteroom. "The hate spilled over more in that room than anywhere I have ever seen before."

"Police! Police here quick," came the cry from a committee staffer. Several police jogged across the hearing room as sounds of the disturbance spilled into the larger chamber. Witnesses were ushered out another exit. The Traditional Values group was escorted back to the main corridor and eventually let into the hearing room.

**T**his bill is not about granting special rights—it is about righting senseless wrongs," said Sen. Edward Kennedy (D-Mass.), committee chair and chief sponsor of the bill. "Today's hearing brings us closer to the ideals of liberty and equal opportunity."

"This isn't easy for me. But it is important to me, and that's why I'm here," said Summerville, her voice cracking with emotion.

She choked back tears as she described her four exemplary years as a cook for the Cracker Barrel restaurant and her being fired by that company when it adopted a policy to fire employees "whose sexual preferences fail to demonstrate normal heterosexual values."

Summerville struggled to maintain her composure, often unsuccessfully, and Kennedy filled the pauses with soothing words of appreciation for her efforts.

She spoke of her small-town roots, of her fears of losing her job, of having mortgaged her home. She said, "My son was in high school and had dreams all his own. He was depending on me."

"Since people heard my story," Summerville continued, "I have received harassing and obscene phone calls. I had to take my son out of his high school because the school couldn't assure his safety."

"All of this because I wanted a little piece of the 'American dream'—a loving family, a decent home and a good job—just like everyone else."

Most in the hearing room were moved by Summerville's testimony, and many a lesbian and gay eye welled with tears at its telling.

Ernest Dillon, the second witness, told his story of long-term harassment and assault on the job as a postal worker in Detroit, and of how there was little redress for his problems.

Dillon described an incident where he was beaten while working: "He threw me to the ground, kicked me, and beat me until I was unconscious. He left me in a pool of blood, with two black eyes, and a severely bruised sternum, and gashes in my forehead."

"I turned to my union, my supervisors, my doctor and the court—only to find that in America I am not entitled to be able to work without fear for my life. Well, that's just wrong. That is not how

I was raised, that is not what I was taught to believe in. Something has to be done, and soon."

**A** clarification challenge to religious-based opposition to ENDA came from Justin Dart, a moving force behind enactment of the last great piece of civil rights legislation, the Americans with Disabilities Act.

"Nothing is wrong with denouncing that which you believe to be immoral," Dart exhorted from his wheelchair. "Everything is wrong with acquiescing in vicious discrimination against American citizens just because you disagree with their personal views and activities—activities which in no way infringe on the rights of others."

"Mr. Chairman, when Thomas Jefferson wrote that all people are endowed by their creator with certain inalienable rights, he did not say, except gay and lesbian

people. Bigotry is bigotry. Bigotry against gays and lesbians is un-American. It is personally obnoxious to me, and, frankly, I think it is obnoxious to God."

Steve Coulter, vice president of Pacific Bell, spoke of that company's experience with a gay and lesbian non-discrimination policy in place since 1981. He said the policy "is just plain common sense. It is not an added burden. It is not a significant added expense. It reflects our values as a business."

"It is time to stop this blatant workplace discrimination," said Richard Womack, director of civil rights for the AFL-CIO. He labeled the current non-



Lou Sheldon

coverage of gay men and lesbians "a serious failure within our federal and state systems of justice."

**T**hat sentiment stuck in the craw of the next two witnesses. They contend that lesbians and gay men are an economic elite seeking "special rights," and are out to destroy the family.

"It [ENDA] will result in special privileges for an elite group that has unjustly played the victim card to advance," said Joseph Broadus, professor at the George Mason University School of Law.

"As a Jew, I have a real problem with what you say," said Sen. Paul Wellstone (D-Minn.), barely containing his rage. "That is precisely the kind of argument that has been made...in behalf of the worst kind of discrimination against Jewish people."

Broadus was impervious to the Senator's arguments. He went on to label ENDA "the Gay Bill, which might better have been titled the Sexual Liberation Act of 1994."

Robert Knight, testifying for the Family Research Council, said ENDA "is less about tolerance for homosexuals than about government-enforced tyranny over those who believe in sexual morality."

The final witness was Chai Feldblum, a professor at Georgetown University Law Center, and legal counsel in drafting ENDA. She testified on behalf of the Leadership Conference on Civil Rights, a broad-based coalition which has been the legislative arm of the civil rights movement for the last 44 years.

Feldblum exposed the flaws, distortions and lies of the two previous presenters.

Through personal testimony and submitted documents she presented her "evidence of discrimination." It is on the basis of this sort of information that Congress has passed all other civil rights legislation.

"Gays and lesbians haven't suffered as much as African Americans and therefore don't deserve civil rights protection," was how Feldblum summarized the "comparison argument."

"To try to create a hierarchy of oppression misses the point entirely.... The relevant question is not who has suffered more among minorities, I would never want to answer that question. The relevant question for Congress is: Does discrimination exist? It does exist, and therefore it is appropriate for Congress to act."

Feldblum attacked the argument that lesbians and gay men can change, by labeling it "totally irrelevant for passage of this civil rights law."

"An individual's access to protection under federal civil rights law has never been tied to whether that individual could lose that characteristic." She cited the example of religion, which is not genetically determined and yet is protected by law from discrimination.

"No matter which way you turn this bill, it is not [about special rights].... There is a flat out prohibition in this bill against quotas...preferential treatment...and disparate impact claims. Laws generally don't get clearer than that."

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