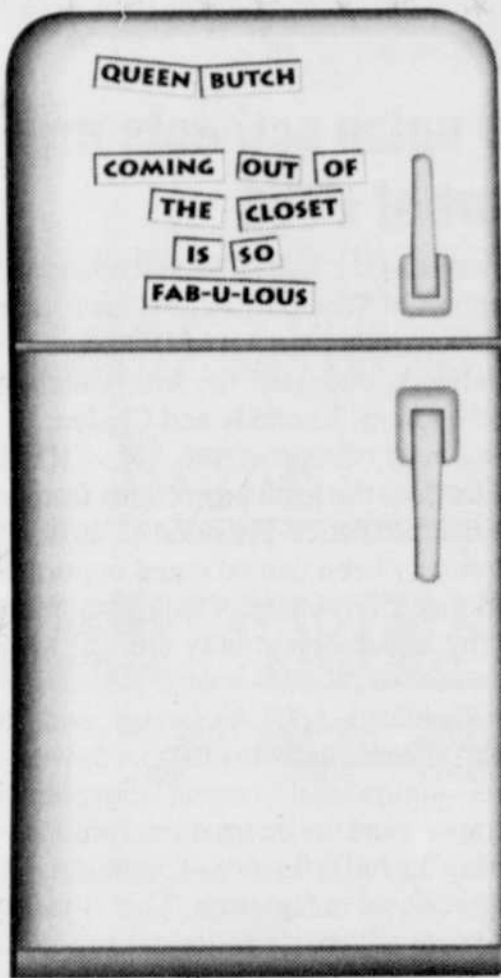


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national news

Clinton's political fig leaf

The "new" military policy regarding gay men and lesbians is not working

by Bob Roehr

A Navy board of inquiry has recommended that Lt. Tracy Thorne be kicked out of the service for being gay. Thorne's prosecution under the "old" regulations had been dropped by mutual consent, and he was now being prosecuted under the "new" regulations commonly known as "Don't ask, don't tell." Several hundred others have already gone through a similar process since the new regulations went into effect in March.

What differentiates Thorne's case from all others is that it is being followed by the ABC news program *Nightline*, hosted by Ted Koppel. Thorne revealed that he was gay on that program May 19, 1992. He was back on, more than two years later, after the board ruling July 14.

"The Clinton administration, which came into office apparently committed to resolving the issue by presidential mandate, long ago retreated behind a political fig leaf," said Koppel in opening remarks on the program.

Keith Meinhold's case was heard last December by a three-member panel of the 9th Circuit Court in California.

Some observers are surprised that the decision has not yet been issued.

Other guests that night were David Mixner, a friend and major fund raiser for Clinton in the gay community, and Tom Stoddard, former head of The Campaign for Military Service, the ill-fated coalition assembled in 1993 to fight the ban.

"What it used to be is, if the military found out you were gay, they would kick you out," Thorne said. "And now if they find out you are gay, they are going to kick you out."

Thorne attacked the double standard of "rebuttable presumption" under the new policy, which assumes that gay men and lesbians engage in prohibited sex in violation of the Uniform Code of Military Justice. Thorne said that the military's own research indicates over 80 percent of heterosexual service members engage in conduct prohibited by the code, yet there is no rebuttable presumption that they engage in such conduct.

"I think the policy has failed and failed totally," Mixner said. "We are seeing, once again, people who believe in God and their country and their family, whose only crime is that they want to serve their country, being persecuted by our government as they attempt to serve their nation."

"The courts have taken up the issue because the political branches of government have defaulted," Stoddard said. "They have failed to take seriously the constitutional requirement of equal protection of the law."

"The policy is, in essence, unenforceable, because in the military commanders have great discretion over people's lives," Stoddard said. "We now have learned of quite a few circum-

stances in which commanders, psychotherapists and clergy members have asked people the question that is now supposed to be impermissible."

Thorne's case now goes before Navy Secretary John Dalton for final review, with no expectation that the recommendation for dismissal will be reversed.

Thorne promised to continue the fight in federal court. His case will join several others in progress, and he will likely obtain an injunction allowing him to continue service in the Navy while the case works its way through the courts.



Keith Meinhold

The last five federal court decisions concerning gay men and lesbians in the military have gone against the government. Those cases are based on the "old" policy.

Joseph Steffan's challenge is the longest running. His appeal was heard in May before the full District of Columbia Circuit Court, often called second only to the U.S. Supreme Court in importance. A decision could come down any time between now and the fall.

Keith Meinhold's case was heard last December by a three-member panel of the 9th Circuit Court in California. Some observers are surprised that the decision has not yet been issued.

Margaret Cammermeyer was reinstated into the National Guard on June 1 by a federal judge in Washington state.

The first challenge to the new policy was filed in March, a few days after the regulations went into effect. The Able case involves six members of various branches of the service. It is being heard in the 2nd Circuit Court in New York. Preliminary motions have been resolved favorably for the plaintiffs; the trial should start in the fall.

On *Nightline*, Koppel gave Thorne the last word when he asked, "Was it worth it?"

"I'd do it again in a heartbeat," Thorne said. "My dad used to tell me, the right thing to do is not always the easy thing to do.... This has been the right thing to do, and people have got to continue to stand up for those things."

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