

# *At the Capitol*

## Limited Conversation

The efforts in the 1970s to make gay and lesbian concerns more public at Seattle's City Hall forced a parallel quest at the statehouse in Olympia. State laws simply did not reflect the new identity homosexuals were creating for themselves. As was true at city hall, the fight in Olympia would be to join the insider conversation so long controlled solely by heterosexuals.

Although the struggle to publicly join the statehouse conversation would have many fronts, the earliest, most important goal would be to eliminate the legal weapon that posed the most danger: the sodomy law that George Cotterill had helped shape in 1909. Its expansive definition of sex acts that were crimes, even when engaged in by consenting adults, endangered jobs and reputations. Even to associate with known homosexuals—by being found in a gay bar or at the counseling service, for example—was to risk guilt by association with individuals assumed to be sex criminals. Also, the ease with which one could be accused of sodomy, and then convicted even without credible testimony, was well known—the case of Keith Rhinehart in the 1960s had demonstrated that. And the details of what had happened to the minister once he had been sent to the state penitentiary at Walla Walla were sufficiently horrifying that even the most publicly out gay liberationist had to keep in mind the power that a prosecutor and a police force would have should they turn truly intolerant.

As gays and lesbians in 1975 geared to find a way to repeal Cotterill's law, the minister's story was part of what they held as a memory.

With his appeal to the state supreme court defeated, Rhinehart had arrived at the prison in Walla Walla on July 10, 1967. In later court documents filed by his attorney, Malcolm Edwards, Rhinehart would say that once there, he was ordered to meet with a Catholic chaplain, but, as a minister himself, Rhinehart protested that he wanted nothing to do with someone else's religion. During the meeting, he called the chaplain "Mr. McCabe" rather than "Father McCabe," and for that, he said, he was ordered into solitary confinement for two days.<sup>1</sup>

On August 6, 1967, he wrote to Edwards that it was "becoming increasingly apparent to me [that] this state through its various agents intends to keep on going

past all limits of human decency in its treatment of this case. . . . Since my incarceration, the situation has become more than unendurable. . . . The State is nearly depriving me of my own humanity. I am almost no longer human. . . . And what of my church and those dear people??? My God, will the nightmare of this never stop!”

At the bottom of the typed letter, he penned a postscript that read, “I’m sick. No medicine.”

A state prison censor intercepted the letter and refused to send it on to Edwards since, the refusal said, it made “derogatory remarks concerning institutional personnel, the Parole Board, and discusses institutional affairs unrelated to his case.”

When two of Rhinehart’s friends traveled to Walla Walla in the fall of 1967, they found him physically wasted. “He told us that he hadn’t wanted to worry us, but they had been giving him injections of drugs against his will,” one said later in an affidavit. “As we watched during the next 15 minutes to half hour, he became incoherent. He perspired. I watched the muscles knot up on his shoulders and I watched his head being drawn steadily backwards just as if he were on the torturous rack used in ancient times. . . . He got tears in his eyes with the pain. He could no longer communicate with us.”

Rhinehart sat in solitary confinement for thirty-seven days during his first two years, allowed a light only during meals. Prison officials argued that he was sometimes uncooperative, refusing work assignments. Rhinehart explained that he suffered from asthma and dizzy spells.

Throughout his internment, Rhinehart continued to try to plead by letter with his attorney back in Seattle. Several letters made it; others did not. In one written on February 16, 1968, Rhinehart noted ironically that he had seen several prisoners engaging in sodomy during the weekend showings of movies. Prison officials refused to mail both it and a similar letter, written February 21, that reflected on homosexual relationships at the prison.

On June 30, 1968, Rhinehart wrote, “Please help me. I don’t know what to do. I nearly pass out at times. . . . I am very sick and don’t know from minute to minute when the next chamber of horrors is going to occur.” He added that he had “now witnessed nearly one hundred acts of oral or anal sodomy” among the prisoners, usually during the weekend showings of movies. That also was censored, the prison arguing that it had the right to refuse to forward letters that contained vulgar language or that made complaints.

His attorney, Edwards, filed appeals in the U.S. District Court for Western Washington, trying whatever legal arguments still seemed available: denial of due process, violation of religious freedom, discriminatory enforcement of the sodomy law. He entered the testimony from church members who prowled Seattle’s gay bars and described lewd acts that occurred there. Although that seemed a rever-

sal of the Aquarians' support for homosexuals, Edwards was still trying to prove that the Seattle police had selectively singled out Rhinehart.

In April 1968, Edwards lost his argument at the federal district court, but, after an appeal, in March 1969 the U.S. Court of Appeals for the Ninth Circuit ordered a federal trial on two points: whether the sodomy statute had been enforced in a discriminatory manner and whether perjured testimony had been used. The order for the federal trial was a victory in that it at least enabled Rhinehart to be transferred from Walla Walla. He would await the new trial in the King County jail instead.

The state attorney general, Slade Gorton, sent investigators out to find Miller again. They located him in an Oregon jail. Predictably, Miller thought that cooperating could buy him leniency and so, in front of Gorton's men, he once again signed an affidavit—his fifth—swearing that his testimony against Rhinehart had been true. But after federal judge William Gray heard arguments in November 1969, he was skeptical. First, he ordered Rhinehart released without bail; then in April 1970, he ruled that the state had indeed suppressed evidence—the ever-changing testimony of Rhinehart's accuser, James Miller—and he vacated the original conviction. But he did give the county the chance to retry Rhinehart if it wanted to. Still, it looked as if the case might finally be over, and Rhinehart could go free.

Instead, Gorton announced he would appeal Gray's ruling.

For another agonizing year, Rhinehart and his attorney waged their solitary war. Seattle's gay and lesbian community was neither powerful nor public enough to offer much assistance. In March 1971, Gorton won on much the same reasoning that had earlier been used by the state supreme court in ruling against Rhinehart. Several more months of legal jockeying occurred as Rhinehart and his attorney appealed for a U.S. Supreme Court hearing, which was denied in October 1971.

Faced with Rhinehart's imminent re-jailing, Edwards looked again to the original accuser, who was now out of police custody. On November 18, 1971, Miller swore a sixth and final affidavit, saying, "The statement I signed for Stephen C. Way, Assistant Attorney General of the State of Washington and Lee Rickabaugh, Assistant Attorney General of the State of Washington, was false. I was scared and afraid that if I didn't cooperate with them that something bad would happen to me. I wish the police would stop pressuring [me] to sign false statements."

On April 13, 1972, the twisting nightmare finally ended.

Judge Gray, citing the new affidavit, again vacated the original conviction. "This court is of the view," he wrote, "that the 1965 conviction was based on testimony of extremely doubtful credibility and that in light of the entire record as it now stands, the responsible state officials would want to re-evaluate the validity of such a conviction."

It was a declaration that had been obvious from the beginning of the case. King County had a new prosecutor by then, Doug Jewett, and no retrial would be pursued. Nor would the attorney general's office appeal again.

Rhinehart had originally been arrested April 11, 1965. It had taken seven years almost to the day for him to be free again.

The opening for changing Washington's sodomy law would come through a sympathetic heterosexual. The Seattle attorney who agreed to help the Dorian Society incorporate in 1968, Peter Francis, was beginning to eye a run for the state legislature. In June 1968, Francis wrote to the Dorians, saying he had already been talking with the Reverend Mineo Katagiri about his plans and wanted to hear their recommendations about new laws or changes in old ones. His letter added, "I may be way ahead of you philosophically already. More about that when I see you."<sup>2</sup>

Francis, who had graduated from Stanford Law School, was indeed ahead of the Dorians philosophically. A libertarian as much as a liberal, he wanted government out of private lives. He once told a reporter that he sought to curb government's tendency to "force people to do what's best for themselves."<sup>3</sup> He was elected to the state house of representatives and then in 1969 appointed to the state senate to replace Wes Uhlman, once Uhlman became Seattle's mayor. Using the libertarian rhetoric combined with liberal reforms, Francis was often able to recruit conservative legislators to his side while also pleasing the new feminists and gay activists who were part of his Thirty-second District. He saw no reason for police officers to be monitoring bedrooms or worrying about sex crimes that had no victims. He promoted decriminalizing prostitution. Naturally, he fretted about Cotterill's expansive sex laws.

As early as 1962, the American Law Institute had begun encouraging states to eliminate the sodomy penalty, as long as the oral or anal sex occurred in private between consenting adults. The institute argued that the old criminal laws were ineffective at regulating private acts and involved the government in enforcing a religiously based moral code.

At first, the states responded slowly. By 1969, seven years after the recommendation, only Connecticut and Illinois had repealed their sodomy laws. By 1970, at least some legislators in Washington State had concluded that Cotterill's criminal code was also seriously out of date. In addition to the problem with the sodomy punishments, many other misdemeanors and felonies had outgrown their definitions, as had the punishments assigned to them. In 1971, Oregon, Idaho, and Washington all considered the institute's new model penal code eliminating the sodomy penalty, but arrived at different results. In Oregon, a moderate Republican legislator successfully steered the repeal of the sodomy punishment through the legislature and the governor's office. The same happened in Idaho—except that several months after the change, the Mormon Church spearheaded a repeal of the repeal so that Idaho still criminalizes the private sex lives of its citizens.<sup>4</sup>

In Washington State, which also has a powerful Mormon Church, the story became more complex.

The Washington State Bar Association had conducted a study of the state's crim-

inal code in 1967 and had recommended, among many other changes, that the sodomy penalty for consenting adults be repealed. In 1971, when the Washington legislature began to consider significant revisions to the criminal code, including a change to the sodomy law, the proposal failed in the state senate's Judiciary Committee, then controlled by a Democrat who disliked many of the suggestions. Two years later, in 1973, the Democratic leadership put Pete Francis in charge of the senate Judiciary Committee and he quickly introduced a new omnibus bill to revise the entire criminal code, dropping prosecutions for oral or anal sex between adults so long as it was consensual. He successfully guided the bill through a senate vote, but it died in the more conservative house. The omnibus approach included too many changes individually opposed by scatterings of legislators. Among the most controversial reforms was Francis's intention to legalize prostitution.<sup>5</sup>

In 1975, the determined senator decided to try again. Francis still chaired the senate Judiciary Committee, and this time rather than report out a single massive code change as had happened in 1971 and 1973, he split the reforms into six bills and dumped his controversial prostitution proposal. In Senate Bill 2313, which decriminalized victimless sex, Francis proposed the repeal of the sodomy law. He also included a feminist-backed reform that made male customers of prostitutes equally responsible and equally as criminal as the women. Very quietly, behind the scenes, Dorian members encouraged his efforts—but what is more remarkable is how little they seem to have been involved. This was Francis's crusade.

His effort soon ran headfirst into state senator Jack Cunningham, a conservative Republican from Seattle's southern suburbs. Cunningham complained loudly that the proposed sodomy reform would "repeal the Ten Commandments." Then he tried to intimidate those who supported the repeal by asking for their middle initials—he wanted, he said, to be sure their names would be printed correctly in Washington's Catholic newspaper, the *Northwest Progress*. As the bill came to a vote, he and others challenged the prostitution changes. They claimed to be worried that men might be innocently entrapped for agreeing to have sex with a prostitute, even if they had no intention of paying her.<sup>6</sup>

With that kind of rhetoric, Cunningham prevailed in the first critical vote. The victimless crime bill died in the senate, twenty-nine to nineteen. Again, it seemed that sodomy reform, along with all other criminal reform, was dead for another year, but Francis still had a few parliamentary tricks left. With his support, allies on the Judiciary Committee in the house of representatives reverted to the omnibus strategy, putting all six bills into one again, stripping the controversial prostitution section, and sending the rest—including the sodomy reform—back to the senate with house approval.

By then, law enforcement officers, county prosecutors, and the Washington Bar Association were all clamoring for the overdue reforms contained in other sections of the bill. Overall, Francis would tell the *Advocate*, the legislation was a "pro-law

enforcement, tough-on-crime bill” that was getting “a lot of support from conservatives.” Sodomy reform had been reduced to a few lines repealing Part 6 of Chapter 249. Even those critical lines were buried in a bill now eighty-two pages long.

Cunningham maneuvered. He urged the separation of the few lines about sodomy from the rest of the bill so that those who supported the other criminal reforms could vote yes without repealing the penalty for sodomy. His maneuver produced a twenty-four to twenty-four deadlock. Under the senate’s rules, the tie vote meant Cunningham had lost. The senators faced a straight up-or-down vote on the entire omnibus bill.

As he worked to line up support, Francis also maneuvered. He reminded senators that police chiefs around the state wanted the criminal reforms—this year, not next session. On May 30, 1975, he triggered a vote to see how much support he had, but handled it cleverly. According to the legislative rules, senators on the winning side of any vote had the privilege to ask for a revote, while those on the losing side did not. So Francis and a few of his allies voted against their own bill. It lost twenty-six to twenty, with Francis among the twenty-six voting against it. But Francis now had two important pieces of information: how many in that six-vote defeat were senators who would switch back on the recount and which opposition senators he still had to target. He immediately moved for a reconsideration. It was scheduled for several days later—time enough for Francis and his allies to start pressuring reluctant senators.

When the bill came up again, Cunningham tried to turn Francis’s technique against him. He urged the senate to refuse the reconsideration and instead to stand by its original vote. It was a maneuver that would have embarrassed Francis by leaving him on record as voting against his own reform. Immediately, a parliamentary argument began over the legitimacy of Cunningham’s request. One of Francis’s supporters challenged it, but lost a ruling on his point of order. Then debate over the propriety of that ruling started.

As the comments went on and on, a Cunningham supporter at one point demanded that the chair limit each speaker to a single statement. “We will be here forever unless we sooner or later face the issue,” he complained. For what would have ordinarily been a routine vote on a decision about procedure, some senators instead demanded a person-by-person roll call. Tension built as the numbers rolled steadily parallel. When the counting was over, twenty-four senators had voted with Cunningham and twenty-four had voted against him. Again, the tie vote meant status quo: that the previous vote to reconsider still stood. Francis had won—but with no margin to spare.

On June 3, 1975, the actual bill moved to the floor. Francis and his switch-voters quickly added an additional eight votes to the original twenty yeas, driving the new criminal code to a twenty-eight to twenty victory. Francis had prevailed, mostly through parliamentary maneuvering. Now, the final decision was up to the governor, a moderate Republican named Dan Evans who had stayed aloof from the

entire controversy. On June 30, he signed the bill into law, making no statement about it. A spokesman simply said to the *Advocate* that “the governor was not going to substitute his judgment for that of the legislature—on that matter anyway. He’s no fan of victimless crimes.”<sup>7</sup>

Unlike the original 1893 sodomy law, which had contained the emergency clause making the penalty effective immediately, the repeal was more leisurely and would not take effect for another year, on July 1, 1976. Still, eighty-two years after it had first been adopted, the major underpinning of a state-sponsored exile for gays and lesbians had finally been dismantled.

In Seattle, gay political activists of all beliefs finally celebrated together. Middle-class advocate Charlie Brydon told the *Advocate* the change was “a major advance for gay people in Washington,” while the more socialist-minded Sam Deaderick called it “a really necessary kind of groundwork that gives us some good legal ammunition.”

In Seattle especially, legal dominos would begin to fall. The city already prohibited discrimination in job hiring. Now, with the change in state law, openly gay men and women could no longer be presumed to be potential criminals. Thus there was no longer any legal obstacle to prevent openly gay men and women from belonging to the state pension system. And since they could now belong to the state pension system, Mayor Uhlman no longer had a legal reason to refuse them employment in the Seattle police department.

Still, everyone was also cautious. Deaderick warned that the repeal would not necessarily “make the police, landlords, or employers any easier to deal with.” Brydon called it “just the first step.” And Francis, now the pragmatic as well as idealistic politician, predicted there would soon be a backlash. “The fact that the repeal was passed does not mean that the people of this state or the legislature are that enlightened,” he told the *Advocate*. “There’s no doubt that people like Cunningham will continue their efforts. And there’s a lot of people in churches who really feel they have to express their religious beliefs about society through the law.”

Prophetically, he added, “The task of educating the public is just beginning. A great political battle is never over.”<sup>8</sup>

For the next eighteen months, the prophecy skirted the edge of becoming reality as the Gay Community Center on Renton Hill was firebombed and as the pressure grew to close the United Methodist congregation that housed Robert Sirico’s gay Metropolitan Community Church.

Still, during those eighteen months, there was more good news than bad, so the prophecy was not yet reality.

It was just four weeks after Governor Evans signed the repeal of the sodomy law, for example, that the Seattle City Council expanded the city’s Fair Housing

Act by prohibiting landlords and homeowners from discriminating against others because of their sexual orientation.<sup>9</sup>

Then, a few months later, Seattle got its first “celebrity” gay when Dave Kopay, a former University of Washington football player turned professional football star, publicly came out in a story published in the *Washington Star*. Young people, he said, needed to have more role models and to know that homosexuals could succeed in any career, including pro athletics. Seattle’s gay activists quickly enlisted him as a kind of poster boy to assist in their arguments for more public acceptance.<sup>10</sup>

Emboldened by success, Charlie Brydon sent a letter to Governor Evans, urging him to issue an executive order prohibiting anti-gay discrimination in state jobs, to create a commission to study other changes in state laws to protect homosexuals, and to review all sodomy convictions and grant paroles to anyone in prison because of consensual homosexual acts. Brydon would find a cordial welcome, invited to meet with members of the governor’s staff to discuss the possible commission and assured, in a later response by the governor, that the parole board had investigated and had found “no one incarcerated in Washington prisons on pure charges that would relate to sexual acts between consenting adults.”<sup>11</sup>

In April 1976, David Goodstein, the owner of the *Advocate*, arrived in Seattle to honor Brydon’s accomplishments, telling Dorian Group members that Seattle had made more progress than almost any other American city in accepting gays. That was due, he said, to the state’s liberal attitude and to the professional way in which Brydon and his organization had worked to promote civil rights.<sup>12</sup>

As 1977 opened, then, it appeared a very hopeful year for the gay and lesbian activists who were working for statewide changes.

For one thing, the Washington State Supreme Court had agreed to rule on the case of a Tacoma high school teacher, James Gaylord, who had been fired five years earlier simply because, on his private time, he had joined the old Dorian Society and had driven thirty miles from Tacoma to Seattle to socialize with people like Nick Heer and Martin Gouterman. The facts suggested a clear violation of Gaylord’s constitutional rights of free speech and free association. The thirty-four-year-old social studies teacher had never discussed homosexuality in his classes or been public about his sexual orientation. He had not lobbied for or spoken about homosexuality in public. At most, he had responded to a blind ad in the old *Columns* newsletter looking for companionship. Everyone acknowledged he was an outstanding instructor. But on October 24, 1972, a former student told the vice principal at Wilson High School that he thought Gaylord was homosexual, and when the vice principal asked, Gaylord answered honestly and said yes. Outed by the school’s administration itself, Gaylord was then fired by the Tacoma School Board on November 21, 1972, because of what the board termed his “immorality” and the effect his now publicly known homosexuality would have on his teaching.



Ironically, just two weeks earlier the board had adopted a district policy promising to eliminate “discrimination, bigotry, abuse and all forms of mistreatment.”<sup>13</sup>

Gaylord’s lawsuit had been working its way through the courts ever since, and Gaylord himself had had to turn to housecleaning and working part-time jobs to eke out a living on six thousand dollars a year, instead of his twenty-one-thousand-dollar salary.

At the beginning of 1977, the state supreme court seemed to be looking skeptically at the firing. Two years earlier, in 1975, it had reversed a lower court’s decision to uphold the firing and had returned the issue for a new trial. When the lower court still supported the firing, the justices had voted to accept Gaylord’s appeal once again. That suggested they might overturn the dismissal and perhaps accord some statewide civil rights protections for gay workers.

On a second front, members from Charlie Brydon’s new Dorian Group were mobilizing to lobby for an even more positive reference to homosexuals at the statehouse. In 1977, they planned to propose for the first time that the legislature add sexual orientation to the state’s antidiscrimination law. That would protect both heterosexuals and homosexuals from arbitrary acts of prejudice—acts such as the one that had cost Gaylord his job. Among a long list of speakers who agreed to testify for the bill was Dave Kopay.

Third and finally, 1977 had also been declared International Women’s Year. Regional and national meetings about gender rights and equality were planned throughout the twelve months. Publicity about the meetings was expected to highlight the need to overturn sodomy laws in other states and the need for civil rights laws forbidding anti-gay discrimination.

But then Francis’s warning about the long political battle ahead began to come true. Quickly, 1977 became perhaps the bleakest for Seattle’s homosexuals since the days of George Cotterill.

The state supreme court delivered the first blow. In a stunning surprise, on January 20 it ruled six to two to uphold Gaylord’s dismissal. The court asked, Was Gaylord immoral because he was homosexual? Writing the majority opinion, Justice Charles Horowitz answered yes, citing religious works such as the *Encyclopedia Judaica* and the *New Catholic Encyclopedia*. Horowitz went even further and introduced a dangerous distinction into Washington legal precedent. He distinguished between “overt” and “latent” homosexuals. “Latent,” closeted homosexuals willing to seek treatment for their “problem” could be tolerated in government jobs, he said. Had Gaylord remained closeted and sought psychiatric help, Horowitz wrote, “this finding [upholding his firing] would not necessarily apply.” However, by joining the Dorian Society, Horowitz said, Gaylord had risked discovery. That made him an “overt” homosexual, and the jobs of overt homosexuals were not to be protected.<sup>14</sup>

Just as the legal and psychiatric exile of homosexuals was beginning to end, Horowitz’s opinion offered, in effect, a kind of legal bribe. If homosexuals stayed

quiet and sought psychiatric help, the court might protect them from being fired if their sexual orientation happened to be accidentally discovered. But if gays or lesbians did anything “overt” that looked like coming out or socializing with other homosexuals, they lost that protection.

To some observers, that was a blatant trampling of First Amendment rights of free speech and association. Horowitz turned aside all such concerns. He ignored the fact that the state’s sodomy law had just been repealed so that gay sex itself was no longer criminal. He ignored the fact that no evidence had been presented that Gaylord had engaged in any illegal sexual behavior. He ignored the American Psychiatric Association’s determination that homosexuals were no longer to be considered sick, a determination reached earlier the same year that Gaylord was fired. Whatever its new legal status, he wrote, homosexuality was still immoral, and since Gaylord was not seeking psychiatric help for his immorality, that was sufficient cause for dismissal. “Plaintiff desired no change,” Horowitz wrote, “and has sought no psychiatric help because he feels comfortable with his homosexuality. He has made a voluntary choice for which he must be held morally responsible.”

The U.S. Supreme Court refused the appeal, leaving the Gaylord decision as the opening shot at keeping homosexuals in Washington in hiding out of fear for their jobs, undoing what Francis had accomplished with his sodomy reform. The decision still stands as state precedent.<sup>15</sup>

For his part, once Judge Charles Horowitz retired, he became one of the major leaders in anti-gay political campaigns in Washington State throughout the 1980s and 1990s.

Suddenly, Horowitz’s decision in the Gaylord case made the Dorian Group’s effort to secure a statewide law prohibiting job discrimination even more urgent.

Within a few weeks of the Gaylord decision, a committee in the state house of representatives agreed to consider adding the words “sexual orientation” to the state law prohibiting discrimination in jobs, housing, and public accommodations. It was the first time the notion of a state “gay rights bill” achieved official consideration. Appropriately, the house sponsor was a representative from Gaylord’s hometown of Tacoma, a moderate Republican named Ted Haley. More than it had with the repeal of the sodomy law, the Dorian Group went into action. Brydon persuaded Mayor Uhlman to testify, as well as Councilwoman Jeanette Williams. In the state senate, Pete Francis announced he would sponsor an identical civil rights bill. In the house, the Social and Health Services Committee scheduled a hearing for March 23, 1977.

In what would be its first time before the legislature, the bill gathered influential endorsers, among them religious groups like the Washington Association of Churches and the Seattle Church Council, as well as the state teachers’ federation and, from the eastern part of the state, the Spokane YWCA. The state’s three Catholic bishops all endorsed the bill, rebuffing those—like state senator Cunningham and Justice Horowitz—who wanted to cite Catholic moral teach-

ings about homosexuality as a rationale for discrimination in jobs. Dave Kopay appeared too, the *Seattle Gay News* noting that when Kopay spoke to the house committee “there was a noticeable hush in the room.”

“Some committee members seemed uneasy and almost embarrassed,” the *Gay News* reporter wrote. “For after all, here was a man they themselves had cheered to victory at Husky stadium, a man who served as a role model for their children, now standing before them proudly proclaiming his homosexuality.”

Kopay told them, “I am not asking for my rights . . . I am demanding my rights.”<sup>16</sup>

Although it had been the state house of representatives that had helped to rescue the sodomy repeal two years earlier, the legislative committee now listened warily. Some worried the change would require affirmative action for homosexuals, forcing quotas on employers. Brydon assured them that was not so. Gays and lesbians, he testified, were already part of the economic system because they were not as readily identifiable as racial minorities. They simply wanted protection for jobs and homes they had already acquired or for which they were qualified. Some legislators talked of passing the bill, but thought school districts should be exempted so homosexual teachers like Gaylord could still be fired. The hearing seemed to go rationally, without much fiery rhetoric about the evils of homosexuality.

Then came a delicate moment—the legislative pause between a hearing and the actual committee vote. It was at that moment that the state’s most visible Mormon made his move.

Lloyd Cooney was a recent transplant to Seattle and a fervent convert to Mormonism. He had arrived in the city to preside over one of the church’s many properties: the CBS affiliate KIRO-TV. As legislators pondered the civil rights bill, Cooney decided to launch a series of televised editorials. Twice in April he attacked the gay civil rights bill, taking pieces of Horowitz’s ruling as his theme.

“If a homosexual does not have the right to teach your children,” Cooney said in one editorial, “does he or she have the right to rent your house or work in your company?” Where even Horowitz had restricted his rhetoric to the nexus between the “immorality” of homosexuality and the sensitivity of the particular job of teaching, Cooney joyed in expanding the rhetoric of fear. An overt homosexual could not be a teacher; therefore, according to Cooney, his or her right to work in any company or rent any apartment should also not be protected. If the amendment passed, he warned direly and inaccurately, even small business owners might be forced to hire minimum numbers of homosexuals.

In no time, opposition mail began to rain on Olympia, and quickly, the first attempt to pass a gay civil rights bill was smashed.<sup>17</sup>

In May, gay and lesbian activists received more bad news. President Jimmy Carter had announced he would pick Brock Adams, the congressman from Seattle’s Capitol Hill, to be his new secretary of transportation. On the one hand, gay voters on the hill celebrated; Adams was both liberal and sensitive to gay concerns,

and now he would be in the president's cabinet. On the other hand, Adams represented an odd district that included not only Capitol Hill, but also suburbs south of Seattle where the voters were very different. They were the ones who had sent Jack Cunningham to the state legislature.

In a special election called to replace Adams, Cunningham himself declared, and with a small turnout and an already established name recognition in the suburbs, he won. Now the congressional representative for the Northwest's largest concentration of gay men and women was also one of its most hostile opponents.

Also in May, encouraged by his role in derailing the bill that would have protected gays from job discrimination statewide, KIRO's Cooney turned his editorial wrath on Seattle's civil rights laws. Unleashing what a *Post-Intelligencer* reporter called "an unprecedented four-in-a-row attack," Cooney began urging voters to overturn the job and housing ordinances and to consider "repealing" the council members who had adopted them. Cooney acknowledged that the station had never before broadcast so many editorials on a single issue, and with a council and mayoral election due in the fall, Cooney's urgings seemed more than idle threat.<sup>18</sup>

In June came worse news. Miami had done what Cooney wanted to do in Seattle. Conservatives led by actress Anita Bryant had wrapped themselves in a religious veil and had repealed Dade County's law protecting gays and lesbians from job discrimination. The popular vote had gone overwhelmingly against homosexuals.

Later that month, Capitol Hill's new congressman, Jack Cunningham, endorsed a conservative protest of the upcoming Seattle Gay Pride celebration. "The promotion of homosexuality," he wrote to the Concerned Christian group that planned to stage the protest, "is yet another example of the erosion of moral standards in the country to the ultimate detriment of family relationships." And on the sunny afternoon of June 30, some 150 Christian protesters, met by about 90 gay counter-demonstrators, turned out on the downtown corner at Fourth Avenue and James Street for what the *Seattle Post-Intelligencer* called "an hour laden with songs, prayers, shouts, band music, hyperbole and some good ol' down home hate." While a Christian loudspeaker proclaimed "This city can be destroyed like Sodom and Gomorrah," the Shriners' Nile Temple band played "Onward Christian Soldiers," met with counter-chants of "Workers, women, minorities, and gays—we want our rights and we want them today."<sup>19</sup>

The attempt to influence the insiders' conversation about political reform had now definitely moved into the public realm.

Then came the Ellensburg rout.

To celebrate International Women's Year, women nationwide had planned state conferences to discuss political goals and to elect delegates to a national meeting in Houston. At each of the state meetings, resolutions supporting gay and lesbian civil rights were being hotly debated. The National Organization for Women was holding to its support, but these meetings were not just tents for NOW support-

ers. All women were welcome. The meetings were supposed to have been an affirmation of feminism; instead, the conference became the next signal that opponents of homosexuals were mobilizing faster to control the public conversation than gays and lesbians were.

In Washington, the Mormon Church telegraphed a call for members to attend the conference. A public relations spokesman would later describe the effort as low-key compared to what could have been done. "All the Church did on the Ellensburg conference," he explained to a *Seattle Sun* reporter, "was to say, 'This is going to affect you, sisters. We would encourage you to go and take a stand.'" The Mormon women, he said, "were not told how to vote. They were simply told, 'You know our stand on abortion. . . . You know our stand on lesbianism.'" That was enough.<sup>20</sup>

On the opening day of the conference in July, some two thousand Mormon women arrived at the campus of Central Washington University in the small ranch town of Ellensburg two hours east of Seattle. They wore blue and white ribbons so they could identify one another. Surprisingly for a women's conference, they were accompanied by men who appeared to be giving them instructions—at least that is the way it seemed to feminists who staffed the registration tables. The Mormon numbers quickly overwhelmed the conference organizers. Feminist activists arriving later would complain in stories in *Pandora* that they had to stand in line five hours to get their credentials, only to discover no information packets remained. Dorm rooms had been booked and paid for—then left empty, leading some to suspect why and by whom.

"We've been screwed," one conference organizer was quoted in *Pandora* as saying.<sup>21</sup>

In one case, what was to have been a small workshop about lesbian concerns instead drew almost five hundred people, most sporting the blue and white ribbons. After a panel discussed the stereotypes harmful to lesbians, the floor opened to one Mormon comment after another about sickness, perversion, and the need to exterminate homosexuality. Only maneuvering and delaying headed off a Mormon resolution tying homosexuality to pornography and prostitution.

The feminists avoided a complete rout only by staging marches of their own supporters through the campus and negotiating their own sometimes acerbic disagreements about platforms and delegates before votes came to a plenary session. Many concerns the feminists had hoped would produce resolutions were instead sandbagged. For years afterward, Ellensburg was a symbol of the tougher battle that lay ahead.

The Lesbian Resource Center's Kathy Boyle, who chaired the workshop on lesbian concerns, said in *Pandora*, "I still have nightmares about it. That workshop was a war. The only thing missing was the guns."

Then, to cap the whole bad year, Pete Francis announced he would resign as state senator. He told reporters that extra long legislative sessions were making it

just too hard for him to support his family and manage his legal business.<sup>22</sup> He was the best supporter that gays and lesbians had so far had in the legislature.

Although few, there were still some hopeful signs for the gay rights quest during 1977.

One was national. In Washington, D.C., Midge Costanza, as a special assistant to President Jimmy Carter, had been given the highest post ever held by a woman in the White House, and she had decided to invite voices seldom heard to come to meetings. In March, she asked gay and lesbian leaders for the first time, and Charlie Brydon was one of fourteen selected to attend. While there would be little immediate national impact—and Costanza herself would become so controversial that she would soon be out of a job—it was certainly the first time that an openly gay activist from Seattle had made it to an official White House meeting. Brydon, the Vietnam vet, urged a reexamination of Pentagon policies that excluded openly gay and lesbian military personnel.<sup>23</sup>

The other positive signs were in the conversation with Seattle's city hall. Brydon managed to secure pledges from Mayor Uhlman and eight of the nine Seattle City Council members to "vigorously oppose" any Anita Bryant-like attempt to repeal Seattle's nondiscrimination laws.<sup>24</sup> At the end of June, to emphasize the point, Uhlman for the first time declared an official Gay Pride Week in Seattle. Nineteen seventy-seven in particular, he said, was a time to recognize efforts "to make this community one which truly does treat all its citizens in a fair and equal manner." Uhlman, who was not running for re-election, had now dropped his earlier hesitations about an endorsement that would be controversial.

In response to Uhlman's proclamation, the Cunningham-supported Christian protesters picketed City Hall and filled Uhlman's mail with warnings that Seattle would meet the fate of Sodom.<sup>25</sup>

Gay Pride Week that year was a turning point for the city's gays and lesbians. From 1973 until 1977, they had commemorated the Stonewall uprising with a mélange of events, no one of them more important than the other. There had been social gatherings, films and plays, the inevitable political workshops. Most had been held inside and had occurred in scattered areas—at the bars still in Pioneer Square, an ethnic hall on Renton Hill, the Seattle Center north of downtown, Volunteer Park atop Capitol Hill, the Radical Women's home in Freeway Hall.

In 1977, with Bryant, Cooney, and Cunningham marching the parapets, gays and lesbians focused the celebration outside and added what became its central feature—a public march along city streets. It was a significant turn in the rhetoric of public visibility, introducing what would become a new summer ritual for gays and lesbians and eventually, as it grew into the city's second-largest celebration, for Seattle as a whole.

About fifteen hundred people joined that first march. Intended or not, it was rich in symbolism, with gays and lesbians following an exodus route out from the

center of the mudflat, skirting Denny's knoll by walking up First Avenue, and then arriving at downtown's center, Westlake Mall. Along the way, the crowd passed what had been Mac Wells's old 614 Tavern. Although the timing of the march memorialized a rebellion a continent away, it unconsciously also marked the advances sparked by a locally brewed revolt that had begun the birth of Seattle's own public gay community one decade earlier.

There was another hopeful sign in 1977, but again limited to Seattle. In the fall elections for mayor and city council, the campaign rhetoric—which could indicate how the city's public acceptance of homosexuals was faring—failed to turn ugly.

Uhlman had decided not to run for a third term, and during the summer some of the "downtown" gays, notably Charlie Brydon and the city clerk Wayne Angevine, organized an elections committee to evaluate candidates and to launch the first major drive to register gay and lesbian voters. Cunningham's victory had stung them and shown them the need to organize "get-out-the-vote" efforts. The new group, called the Seattle Municipal Elections Committee or SEAMEC for short, signed about seventeen hundred new voters in time for the primary, more than any other political organization in King County that year. SEAMEC also institutionalized a practice of rating candidates, originally begun by the now faded Seattle Gay Alliance. In a sign of assertiveness, SEAMEC began circulating its evaluations publicly so they could reach all gay and lesbian voters; in earlier years, the old SGA ratings had occasionally been passed secretly to avoid causing trouble for any candidates favorable to gays and lesbians.

In its ratings, SEAMEC reported good news. Only one minor candidate, from the U.S. Labor Party, scored a "0," indicating open hostility to homosexuals. Two city council members running for mayor received a rating of "2," meaning they were "neutral or passively sympathetic," but both of those had also signed the pledge to resist repeal of the antidiscrimination ordinances. The candidates who would eventually move to the general election both earned a "3." Each was considered "a friend, a supporter of gay rights" with some restrictions.

Those restrictions, as it turned out, focused on Uhlman's declaration of Gay Pride Week. Only one candidate supported it—and she was from the Socialist Workers Party and not likely to win. All the major candidates distinguished "not discriminating" against homosexuals from promoting "pride" for homosexuals. Even the candidate who received the highest score of "4" said she thought the Uhlman proclamation "not productive."<sup>26</sup>

Although the hedge about "pride" was useful for politicians, it was frustrating for gays and lesbians who hoped for a more public valuing of different sexual expressions. Still, it had to be counted as progress that in this second citywide election in which gay issues were being openly discussed, even the most hesitant candidates were not talking about ridding the city of "these people," as Mayor Braman's memo a decade earlier had. To honor the special friendship that Uhlman, Brydon, and



the gay community had developed, the Dorian Group sponsored a party for the outgoing mayor aboard one of the state's new super ferries, drawing more than eight hundred people.<sup>27</sup>

When the general election was over, a former television newsman named Charles Royer emerged as mayor. Royer was a liberal and a Democrat, cut from the Uhlman cloth. Interestingly, he had worked at KING-TV, which was a rival of Cooney's KIRO and—through corporate links extending all the way back to the 1960s *Seattle* magazine article about Peter Wichern and the Dorian Society—had proven itself more favorable to reporting about the need for civil rights for the city's lesbians and gays. Indeed, during the election campaign, KING-TV had been preparing what would be the city's first major documentary about homosexuals, a thirty-minute special titled "Who Are These People and What Do They Want?" But it had decided to wait until after the election to air the show.

That autumn, during the campaign, Brydon had been growing tired. In a letter to a friend that November, he confided, "The only problem with these things is that I don't get to enjoy them much since I'm so closely involved with the planning and execution. Workaholics like you and I need to find a cure so we can shake the guilt or whatever it is that drives us and get out for some relaxation and enjoyment." Seattle's most visible gay leader was beginning to realize that in fighting to ensure the rights of other homosexuals to their private lives, he was not having much of a private life himself. His relationship with his lover in the navy had ended three years earlier, shortly after he had moved to Seattle. It had been replaced with a network of political friends, but not a close companion. "I ought to get out of this maddeningly demanding gay movement," he wrote to his friend, "and devote more time to myself and to cultivating friends and perhaps even a lover."

To the Dorian board that month, he sent another letter saying he was exhausted "from the battles [mostly with other gay activists] that have been waged to create a viable reformist, middle-of-the-road gay civil rights and public education organization."<sup>28</sup>

Still, Brydon hung on for a few more weeks and, as 1977 drew to its close, he was there at a Dorian Group luncheon when mayor-elect Royer gave a hopeful signal to the city's lesbians and gays. Royer noted that Police Chief Robert Hanson would be retiring, and he promised that when the city selected a new chief, gays and lesbians would be asked—for the first time ever—to assist in the search. Brydon and the Dorians responded with a standing ovation.<sup>29</sup>

The same month, KING finally aired its documentary—well placed on a Friday night during prime time. It was hosted by U.W. football star Kopay who, along with several others, talked of how it felt to be discriminated against and sometimes forced to hide in bars for a social life. Perhaps more importantly, though, in what was then an unusual segment, the show featured a mother and her gay son, Sandy and teenager Greg Kucera. Previous news reports in the city had focused solely on homosexual adults—like Peter Wichern or the anonymous "Jim" interviewed in



the U.W. *Daily* in the 1960s—and they had most often been quoted about their fear of coming out to their parents, or about the tension their homosexuality had caused within the family. In the Kuceras' case, Sandy instead spoke at length about how important Greg's decision to be honest had been and about how positively it had affected their relationship. Before he had come out, she said, there had been a great deal of emotional distance and even aggression, at one point causing her to hit him, but once he came out, "our whole relationship relaxed tremendously."

"I now have a part of his life I would not otherwise have," she added. In this segment, then, the show's reporter, Frank Tenczar, and KING presented a young gay man not as someone at odds with family—as had so often been the image—but as someone situated and accepted within a very well adjusted family. Far from causing a problem, his coming out had created closeness. A writer for the *Seattle Gay News* called the documentary "a pioneering effort" and "a tribute to how far gay awareness has come, not only among the historically enlightened Public Affairs crew which put the show together, but among the rarefied air surrounding KING's upper management." Without their approval, he noted, the ten-thousand-dollar budget for shooting the documentary, and its airing during prime time, would not have been possible. "Thanks to KING's courageous and innovative programming decision," he added, that important first step toward understanding gays—and gay understanding—has been taken."

Tenczar would win an Emmy for the program. The younger Kucera, so accepted by his family, would eventually study with noted artist Jacob Lawrence at the University of Washington and then open one of Seattle's leading art galleries, the Greg Kucera Gallery in Pioneer Square. There he would make his name partly by sponsoring some of the city's most controversial shows—of artists such as Robert Mapplethorpe, Sally Mann, and Andres Serrano.<sup>30</sup>

With a new and supportive mayor elected, with the Dorian Group well established, and with one of the city's major television stations willing to present the gay voice, it must have seemed an appropriately safe moment for Seattle's weary "gay mayor" Charlie Brydon to also complete his term and to tend more to his own private life. At the end of 1977, he announced he would no longer serve as president of the Dorian Group. He needed a rest, he said.

At the police department, though, one patrol officer in particular had been growing increasingly angry about the new political clout gays and lesbians seemed to have in Seattle. And about the time Brydon was announcing his retirement, David Estes was determining to put an end to the new gay power Brydon and others had so carefully nurtured.

Estes had joined the Seattle police force six years earlier, in 1971, when he was in his mid-twenties and when George Tielsch was trying to set a new moral direction not only for the police, but also for the whole city. Estes had grown up poor, raised by a father he once said had bootlegged in Georgia. At age seventeen, he

dropped out of high school and joined the army, fighting in Vietnam, eventually being discharged at Fort Lewis in Tacoma, and then coming to work in Seattle at the Bon Marché department store as a security guard. Newspaper interviews portray an almost Huck Finn childhood, complete with an absorption in moral wondering and wanderings. In Estes's case, the reflections had resolved themselves firmly in favor of traditional strictures. As a child Estes had moved several times; he once told a reporter that only the local police officers in each new location had taken much notice of him and befriended him. They were the ones who told him to "hang in there." At about the age of twelve, he decided he wanted to be a police officer. Many years later, when he was in his own prowler car one night, the reason he had chosen law enforcement arrived in a kind of Damascene revelation. He would recall later in an interview with the *Seattle Sun* that he had been asking himself, "Why are you here?" The answer that had suddenly arrived as he was driving along Seattle's streets was, "Hey, you stand for the good."

He added, "I made up my mind that from then on I would react the way I perceive is right."<sup>31</sup>

He was assigned to patrols of Pioneer Square and Capitol Hill. In 1973, another police officer took him to one of the porno arcades downtown and then introduced him to the gay bars that still remained on the mudflat. "I was shocked," Estes told the *Sun*. "It was like seeing someone killed in front of you. Then [the other officer] showed me a guy dressed as a beautiful girl, took me around to lesbian and homosexual bars, showed me the various people and lifestyles. It was the first time I really thought about pornography."

Estes's reaction was a bit like the one the young George Cotterill had in 1884 when his tugboat from Tacoma puffed into Elliott Bay, revealing on the one hand a splendid gem of a city and on the other squalor on the mudflat. Seattle's landscape of sexuality did not at all fit with the good that Estes believed he represented or with the Northwest he thought should exist.

A few days after Tielsch quit in March 1974, Estes wrote a letter to the *Post-Intelligencer*. The newspaper gave the letter unusual front-page play and pictured the young patrolman smiling and being hugged around the neck by his two young children. It described him as "resentful of the recent criticism" of the police department, particularly that levied by municipal court judge T. Patrick Corbett, whose note to Mayor Uhlman criticizing the department because of reports of brutality had helped trigger the final confrontation with Tielsch. In the letter, Estes addressed the issue of police raids of the downtown arcades, saying, "What value do these X-rated movies and peep shows really have? These places in reality are little more than parasites that feed on human weakness." He seemed genuinely concerned, wanting to help the people who frequented the shops—although in his own fashion. "Doesn't it make more sense to send individuals to psychiatrists for help rather than 'keeping them off the street' by allowing them to masturbate, engage in oral copulation, and engage in other perverted sex acts while watching a machine. We

are copping out on our responsibility toward these individuals when we hide them in a filthy little room with an unfeeling, unthinking machine.” He also warned, “There is no assurance they will stay in their dark rooms.”<sup>32</sup>

In the nearly four years that had elapsed since the letter, Estes had developed a reputation as a maverick in the department. In December 1976, he had gotten into trouble with Police Chief Hanson while conducting his own independent investigation of what he thought was renewed corruption in the police force. Supposedly, he had relayed alleged payoff information from a prostitute to the U.S. Attorney’s office. Also, at a time when some officers felt their regular ammunition was not strong enough to drop a fleeing felon, Estes had been caught carrying more powerful, unauthorized “hot-load” ammunition. Chief Hanson personally demanded he turn over his gun and badge and then suspended him indefinitely. Estes claimed he had been set up. In January, a review board shortened the suspension to thirty days, and Estes returned to work by March 1977.<sup>33</sup>

When Uhlman proclaimed a Gay Pride Week in June of that year, Estes refocused his mission of pursuing what he defined as “the good.” “That’s what really started the whole thing,” he told the *Seattle Sun* later. “Homosexuals were marching up and down the streets. I saw pictures of it in the paper.” Estes stood with four or five other policemen in the locker room one day, talking about Seattle’s job ordinance protecting homosexuals, and about how gay rights were “starting to affect the police departments, to get into all walks of society.”

He recalled, “The other guys said if I’d write up an initiative, they’d support me.” He did not relish the notion of politics, because he knew it included compromise, and “I don’t compromise easily. To me, everything is black and white, right or wrong. Either I’m for it, or I’m against it.”<sup>34</sup>

The initiative process was the perfect device. With it, Estes could directly repeal Seattle’s civil rights ordinance.

“I don’t hate homosexuals,” he told the *Sun*. “I’m the first to admit, hey, I’ve seen homosexuals do some good things.” But, he added, gays are “emotionally disturbed.” To him, homosexual sex was the same as bestiality, pedophilia, and necrophilia. The solution: psychiatric care. “What we should do,” Estes said, “is say this is somewhat of a sickness, and we should start treating it, like we do alcohol.”

In January 1978, Estes made his way to the city clerk’s counter at City Hall and told the clerk he wanted to start a citizen’s initiative. Protecting the job a gay man or woman held was not a civil rights issue, he thought. It was a moral transgression. He wanted a citywide vote to repeal the law. For that he first had to gain enough signatures on a petition whose text had been approved by city officials. He showed city clerk Wayne Angevine a copy of what he wanted to circulate. Point one of his argument asked: “Are you concerned with homosexuals teaching your children?” Point two said, “Are you concerned with homosexuals actively recruiting your children?” Two other questions asked employers whether they were “being forced to hire homosexuals.”

Angevine was somewhat taken aback. The city clerk had been in politics for twenty years by then, having been elected at age twenty-three to the state senate as the youngest Washington legislator. He had married, fathered children, and then in the early 1970s as gays asserted more visibility, he had realized and accepted his own sexual orientation. Angevine was gay—a downtown gay. Discreetly, he said nothing to Estes. Professionally, he knew, his job did not “include moralizing over the counter.” Instead, he helped the patrolman meet the legal technicalities, and on January 25, 1978, it was a gay man who gave Estes the go-ahead to begin collecting signatures.<sup>35</sup>

With little warning, gays and lesbians in Seattle would suddenly be challenged to find a new rhetorical strategy—one that would work in a contest no longer in the control of political insiders. Charlie Brydon would have no retirement.