

LEGAL



BRIEFS

And Now For Something Completely Different

BY SUSAN MURRAY AND BETH ROBINSON

By request, we're departing from our usual column style in order to report on a conference we recently attended.

The fifth annual "Sexual Orientation and the Law" conference was held at Vermont Law School on March 19, 1999. While past conferences focused mainly on gay and lesbian family law issues — adoption, estate planning for couples, and relationship contracts — this year's conference had a much wider focus and featured several prominent guest speakers.

New York Law School professor Arthur Leonard, editor of the Lesbian/Gay Law Notes, reported on the status of state sodomy laws.

He first discussed the infamous US Supreme Court *Bowers v. Hardwick* decision. In that 1986 case, the court ruled that the Constitution doesn't give gays a right to privacy against police intrusion into our own bedrooms and that a state can criminalize private consensual sex between adults of the same gender.

Leonard said that ever since

Bowers, gay rights activists have fought sodomy laws in state, not federal, courts, and have been very successful. In the last few years, state courts in "conservative" states such as Kentucky, Louisiana, Montana, and Georgia have struck down sodomy laws, ruling that they violate the constitutional right to privacy. Maryland has also voided its sodomy law, simply saying that the law doesn't apply to consenting adult homosexual conduct.

Similar cases are pending in Arkansas, Texas, and Puerto Rico; lawyers are optimistic that intrusive, discriminatory sodomy laws in those places will fall as well. Vermont's sodomy law, which applied to gays and straights alike, was repealed by the legislature in the 1970s.

Another panel at the conference discussed the suit three VLS student groups have filed against the Department of Defense. It challenges the federal Solomon Amendment requiring VLS to allow military recruiters on campus, even though the military discriminates against gays and both Vermont state law and VLS prohibit such discrimination.

VLS Professor Sheldon Novick and Burlington attorney

Eileen Blackwood told conference attendees that the students in the suit enrolled at VLS because the school promised tolerance and inclusion; the federal government's insistence on discriminatory recruiting on campus deprives students of their fundamental sense of well-being.

The students are still waiting for the federal government to answer their complaint. In the meantime, Massachusetts Democrat Barney Frank and California Republican Tom Campbell have filed a bill in the US House of Representatives to repeal the Solomon Amendment.

A third panel discussed marriage. Both of us were privileged to talk about the Vermont marriage case, along with Mary Bonauto, our co-counsel from Gay & Lesbian Advocates & Defenders. VLS professor Greg Johnson updated the audience on the status of the Hawaii and Alaska marriage cases, both of which are still pending despite unfavorable votes by the public to prohibit gays from marrying.

Finally, John Fisher, director of Egale, Canada's gay civil rights organization, discussed an unfavorable ruling by a Canadian trial court on the issue of gay

marriage. He talked about Canadian gay rights leaders' strategic decision to pursue "incremental" rights such as employment and immigration rights. He explained that leaders do not think the Canadian court system is ready to grant full marriage rights — and the broad range of protections it would automatically provide — to gay citizens at this time.

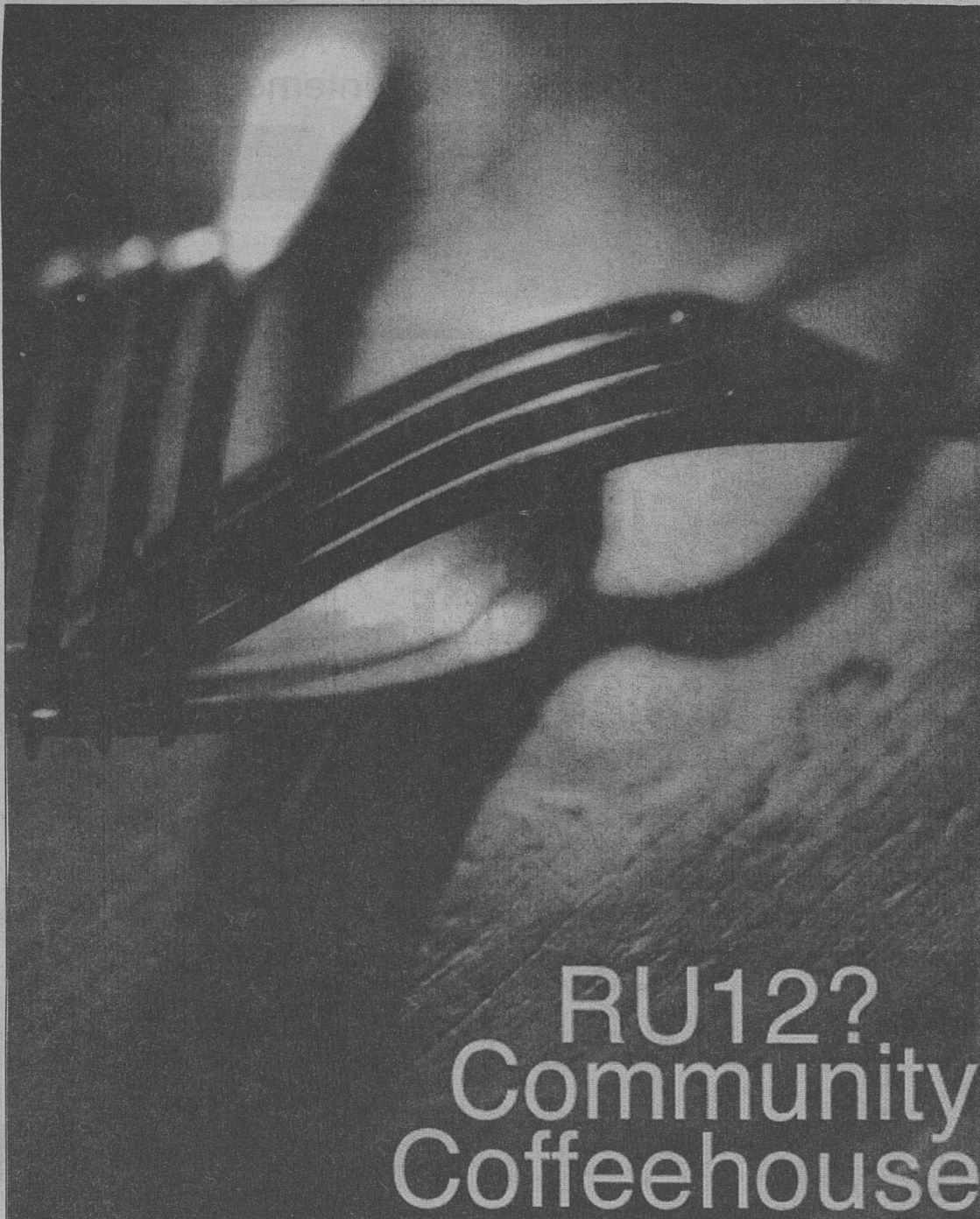
The conference keynote speaker was Cheryl Chase, Director of the Intersex Society of North America. She provided a heart-wrenching description of the physical and psychological pain suffered by those subjected to unnecessary genital surgery as children, simply because their genitals are not typically male or typically female. We'll talk more about this issue in our next column.

The final event was a reception at which the VLS gay student alliance presented its inaugural Vermont Vanguard Award recognizing "those visionary members of the surrounding legal community whose dedicated efforts in achieving equality before the law and furthering civil rights inspires action and respect by others."

Since our editor requested that we "report on the conference," we'll report, somewhat sheepishly, that the Vanguard Award was presented to yours truly, the authors of this column, as well as to our terrific co-counsel Mary Bonauto. We were honored, flattered, and humbled to be chosen by the incredibly dedicated and energetic VLS students. We know they will be terrific advocates for the rights of gay people.

The conference was sponsored by an impressive array of groups: the VLS Alliance, the Equal Justice Foundation, the Asian Pacific American Law Student Association, the Jewish Law Student Association, the Student Bar Association, and the Deans' Office at VLS. The conference owes its success to several hard-working students, including Michael Mercer and Andrew Tarasevich, as well as Professor Greg Johnson, who organized the conference (our apologies to anyone we left out). They all did a terrific job bringing this important conference to the Vermont community.▼

Susan Murray and Beth Robinson are attorneys at Langrock Sperry & Wool in Middlebury whose practices include general commercial and civil litigation, employment, family, estate, personal injury and worker's compensation cases. If you'd like our column to cover a particular legal issue of interest to our community, please write OITM or call us at 388-6356.



the first of our monthly Burlington GLBT Community Coffeehouses

at the Penny Cluse Cafe (Cherry and S. Winooski) Saturday, April 10 from 7:30-11:00pm

during which Yolanda serves and protects the open mic.

hors d'oeuvres, coffee, pastries, and softdrinks come included with your \$5 donation. (More if you can, less if you can't)

A substance-free, all-ages event proudly sponsored by:

Burlington R.U.1.2? Community Center with generous support from Outright Vermont, UVM Free to Be: GLBTA, Vermont Gay Social Alternatives (VGSA), and Mountain Pride Media