

TREATMENT OF THE ACCUSED"
Honorable Charles Baird,
Justice, Texas Court of Criminal Appeals

By Phyllis:

The Justice on the Texas Court of Criminal Appeals. For those of you who do not know, Texas has two courts of highest jurisdiction. We have a State Supreme Court for civil matters and the Court of Criminal Appeals for criminal matters. In other words, the man you are about to meet and hear from is one of the 18 highest judges in the state. I think we should be honored, and we are certainly privileged that a person of this distinction in judicial and legal knowledge has come here to visit with us. I've known Charlie for about two years. He's a good person. He's a dynamic jurist. I know that you will understand why when you hear him speak. I introduce to you the Honorable Charlie Baird.



By Charlie Baird:

Good evening. I want to begin by thanking Phyllis Frye for inviting me to speak tonight. Phyllis called me several months ago, and I readily accepted her request. You see after everything Phyllis has done for me and the type of person that she is, I feel somewhat obliged to do whatever Phyllis asks of me.

I will never forget the first day I met Phyllis. She immediately impressed me as being a very warm caring and generous person. I had just begun my campaign for the Court of Criminal Appeals, and I was trying to raise some funds. I approached Phyllis, told her of my campaign and what I would do if elected. And I asked her to contribute \$50. Phyllis said, "Charlie, let me explain to you my situation. Next week my mother is going into the hospital for bypass surgery. Without that surgery, she simply has no chance of survival. She has no insurance, and the surgery will cost \$19,000. On top of that, my brother was in a tragic automobile accident and needs an artificial arm to keep his job and support his wife and three children. That will cost \$12,000. And if that were not enough, my son injured himself playing football many years ago, and now he needs reconstructive hip surgery just to be able to walk. That will cost \$10,000." Phyllis then looked at me in the eye, kind of sad, and she said, "now Charlie, how can I say yes to you after saying no to my own family?"

Seriously, I am both honored and pleased to be with you today. I am pleased to be back in Harris County, where I lived and practiced law for a number of years. It is nice to be home, and I am truly honored to participate in this, the First International Conference on Transgender Law and Employment Policy.

I think this is important, what we started here this year. As a judge on the Court of Criminal Appeals, I am asked to speak at many seminars across the state. Most of the participants in those seminars are there to fulfill the number of hours of legal education required to maintain their licenses to practice law. I have found for those of you who are lawyers that there is something magical about being a judge. I can speak for approximately 20 minutes, and everybody gets roughly an hour of credit for hearing me speak.

I routinely address those seminars and speak on some area of criminal law to provide what is known as a view from the bench. In that regard, there are several areas of our criminal justice system where the transgendered community is or has been directly affected. History is replete with instances of discrimination in the transgender community.

Crossdressing, as Phyllis told you, was illegal in the City of Houston since 1904 until 1980 when the ordinance was repealed. We really do owe Phyllis a debt of thanks and gratitude for her work in repealing that ordinance. There are still ordinances on

the books, restroom ordinances that do not require some type of culpable mental state or some intent to disturb and disrupt, that can still be used to harass those in the transgender community. Furthermore, when those in the transgender community are arrested or imprisoned they should be segregated, both from the straight and gay community while in confinement.

And the attorneys representing members in the transgender community should be worried of disposing of a case of a transgender defendant at the first court setting. I feel the transgender defendants may not be in a position to make an informed decision regarding their cases. Too often, they are deprived of their medication, harassed while in confinement, and appear in court with little sleep. Perhaps the attorney can better serve his client if he secured a bond and the defendant were released from custody allowing the case to be discussed without any pressure, rather than disposing of the case on the first day, at the first court setting.

Finally, and this is probably the most important thing I would like to say about it, it is imperative that those confined in either jail or prison not be deprived of their medication. Others in confinement have access to their medication, and no one should be denied such access on the basis of sexual orientation.

I view this opportunity to speak with you tonight differently from any other seminar for two reasons. First of all you are not here merely to get credit for your time. Although, that may be a side benefit. Rather, I believe, you're here as Phyllis said, to gain knowledge which will lead to empowerment for those in the transgender community. Secondly, I am not here to provide a view from the bench. Rather I see my role as perhaps providing a perspective on the transgender's community position in our society and how you can achieve the empowerment you seek, the empowerment you seek of equal opportunity under the law.

When Phyllis and I met to discuss my remarks, we discussed the possibility that politics might come up. As a statewide elected official who was presently running for re-election, my speeches these days normally refer to politics. That's second nature to me. So I asked Phyllis if it would be appropriate for me to discuss politics. She said it would be appropriate so long as I gave you a warning and so please consider yourselves warned.

The most important thing any segment our society can do to achieve empowerment is to organize. Only through organization can there be unity, only through unification can there be strength, and only through strength can there be empowerment. The most appropriate and effective way to achieve empowerment is through the elective process. Arm yourselves with knowledge, inform yourselves, question the candidates, be they Republican or Democrat. Find out their positions on the issues important to you.

It is easy to arm yourselves with information this year. It is clear where the parties stand on the important privacy issues

of choice and sexual orientation. In the copyright story recently by the Baltimore Sun, the Sun reported that the GOPs will publicize the differences between the party platform on the issue of homosexual rights. The remaining remarks of mine will address and deal a lot with homosexual rights. I realize that is not the only thing that the transgender community is concerned about, but as Phyllis said, the things that affect the homosexual community and sexual orientation are going to affect the transgender community without question.

So let's talk about the two platforms for just a second. The Democratic platform reads, "Democrats will continue to lead the fight to ensure that no Americans suffer discrimination or deprivation of rights on the basis of sexual orientation or other characteristics irrelevant to ability." The Republican platform reads, "We oppose efforts by the Democratic Party to include sexual preference as a protected minority receiving preferential status under civil rights statutes at the federal, state and local level."

At the Republican Convention, Patrick Buchanan launched the attack describing the Democratic ticket as the most pro-lesbian, pro-gay ticket in history. In just two days, in an effort dubbed "September Storm" according to the Dallas Morning News, the GOP will kick off an intense effort to try to Governor Clinton as an extremist on social values and a supporter of gay rights. According to the Dallas Morning News, GOP strategists plan to distribute quotes from officers of a gay and lesbian political action committee noting that Governor Clinton is the best candidate the Democratic Party has ever nominated on gay and lesbian issues. The article continues. The Republicans said they will remind conservative Texas voters that Mr. Clinton, get this, that Mr. Clinton has promised homosexual advocates that he will appoint them to high levels in his administration.

Last week at the Republican Convention right here in Houston, speaker after speaker referred to traditional family values. Those speeches were nothing more than attempts to drive wedges between the state and gay communities, because according to the Republicans, Gays and Lesbians are immoral. This is the position of the GOP even as this administration has prohibited patriotic and qualified men and women from serving in the military based solely upon sexual orientation. This is the position of the administration even though gay and lesbian Americans have shown family values when caring for people with AIDS, whether they be straight or gay, and isn't that the ultimate in family values -- to care for those who cannot care for themselves.

On May 18th in 1992 at the Palace Theater in San Francisco, Governor Clinton made a very significant speech. In this "September Storm" his comments will be taken out of context to make Governor Clinton sound as if he is against family values. You can rest assured that those most critical of the homosexual and transgender community will demagogue the homosexual rights issue to inflame those to vote against candidates who are sensitive to

such issues and your concerns. That is because people have a predisposed bias against the transgender community and the expansion of gay rights.

Well, before "September Storm" hits, let me spend my time with you tonight setting the record straight. Let me share with you some of the remarks made by Governor Clinton in his speech to the gay and lesbian community of San Francisco. Governor Clinton said, and I quote:

"We can't afford to waste the capacities, the contributions, the hearts, the soles, the minds of the gay and lesbian Americans. For everyday that we discriminate, that we hate, that we refuse to avail ourselves to the potential of any group of Americans we are all less than we ought to be.

If I become the President of the United States, I owe it to my country to find the best and most gifted and most knowledgeable people in the United States of America to solve the problems and embrace the challenges of this time. We cannot afford to do otherwise. I want to crack down on those who practice hate crimes, that the Justice Department should move against, and perhaps most importantly, and more importantly than anything else right now, I'd like for there to be a real war on AIDS.

When children are shot going to and from school, they are our children and we cry. But well over a hundred thousand Americans have died of AIDS, and they are our children too. Over a million people, over a million Americans are now HIV positive, and yet the administration is curiously silent until the famous fall like Magic Johnson or Arthur Ash. Then someone says something appropriately touching. But this administration ignores its own commission reports, underfunds research and treatment, leaves red tape binding, and says behavior modification is the issue. But then refuses to embrace the cause of sex education in our schools which would give our children a fair chance to save their lives and the lives of other people as well.

And I want to say something, and I want to say something which is not part of a political program. I just want to thank the gay and lesbian community for your courage and your commitment and your service in the days of the terror of AIDS. When no one was offering a helping hand, and when it was dark and lonely, you did not withdraw, but instead you reached out to others. And this whole nation has benefitted already in ways most people cannot even imagine from the courage and commitment and sense of community which you practice. It was your community who created the first AIDS service organizations, who did the most important work in pioneering AIDS drugs, who sounded the alarm and created the first education programs, who stood strong in the face of all governmental opposition and discrimination in the killing

silence. This nation owes you thanks for that and I want to give you my thanks and respect for that struggle today.

Finally, let me say again this is not an election about race or gender or being gay or straight or religion or age or region or income. What kills this country is not the problems it faces. There will be problems until even the end of time. What kills the country is to proceed day in and day out with no vision, with no sense that tomorrow can be better than today, with no sense of shared community. When I came here today to tell you -- what I came here today to tell you -- in simple terms is that I have a vision, and you are a part of it. I believe tomorrow will be better than today if we act. And we are all a part of the same community, and we better start behaving as if we are. If I could wave my arm for those of you who are HIV positive and make it go away tomorrow, I would do it, so help me God. Let us never forget there are things we can and cannot do. But the beginning of wisdom is pulling together and learning from one another and being determined to do better."

Those are the words of Governor Clinton. Those are the words the GOP believes shows a lack of family values. Those are the words the Republicans will take out of context and use to divide this nation in our communities if we let them. You can prevent that division but only if you vote. Show your strength at the ballot box. Only through strength can there be empowerment, and only through empowerment can there be equal opportunity under the law.

Those sensitive to the pride of the transgender and homosexual community can stand with you only if you have the courage to stand with them. Thank you for having me tonight, and God bless you.