

REMARKS - HON. MICHAEL R. SONBERG
INTRODUCING HON. WILLIAM J. THOM
TWENTY YEARS OF SERVICE AND PRIDE - A CELEBRATION OF LESBIAN
AND GAY JUDGES
NEW YORK COUNTY LAWYERS' ASSOCIATION
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On August 28th, 1984, New York City Mayor Edward I. Koch swore in William J. Thom as a judge of the Civil Court of the City of New York, making Judge Thom the first openly gay or lesbian person to be appointed or elected to a court established by the New York State Constitution.

Twenty years later, it's difficult to describe the excitement that caused, especially in New York's lesbian and gay legal community. Bill Thom wasn't just a lawyer who happened to be gay. Bill Thom, along with a precious few others of that time, was a very publicly out gay lawyer. If you were active in New York's small but growing lesbian and gay legal community in 1984, you knew Bill Thom, or at least who he was.

That's because Bill Thom had been a – if not the – leading force in New York's gay legal community for more than a decade, starting at a time when you could count the openly lesbian and gay lawyers in New York on the fingers of your two hands. It wasn't real popular to be an openly lesbian or gay lawyer in the early 1970's. Let me give you a brief historical perspective. In 1970, the year after Stonewall, the Gay Activists Alliance submitted an application to be incorporated as a not for profit corporation with New York's Secretary of State. It was rejected on two grounds: that the word "gay" was inappropriate for a corporate name and that GAA sought to promote activities contrary to specific provisions of the Penal Law, namely those

relating to consensual sodomy. When GAA went to Supreme Court in Albany County, on an Article 78 proceeding; that court denied the petition, saying

The troublesome posture of the petitioners is that by identifying themselves as a “homosexual rights organization,” they are professing a present or future intent to disobey a penal statute of the State of New York While the court has no personal experience upon which to rely, it would seem that in order to be a homosexual, the prohibited act must have at some time been committed or at least presently contemplated.”

The Appellate Division, Third Department, unanimously reversed in March 1972, holding that the word “gay” was neither “obscene nor vulgar, even though it is considered synonymous with homosexual,” and that it was not unlawful for a group of individuals to peaceably agitate for the repeal of any law.

It was one thing to try to form a gay organization; it was another thing to try to form a gay legal defense organization. Bill Thom had graduated from Princeton and from Yale Law School, and had practiced for several years with a midtown law firm. He left that firm in the early 1970's and formed a partnership with E. Carrington Boggan, practicing law as openly gay men, nearly unheard of at the time. And less than three years after Stonewall, Bill Thom was one of the founders and the incorporator of Lambda Legal Defense and Education Fund, now the nation's oldest and preeminent lesbian and gay legal defense organization.

In November 1972, six months after the Third Department's reversal in the Gay Activists Alliance case, the First Department, in the Matter of William J. Thom, unanimously refused to approve the application of Lambda Legal Defense and Education Fund as a legal assistance corporation. The court held that its stated purposes, which included “providing without charge

legal services to those situations which give rise to legal issues having a substantial effect on the legal rights of homosexuals and to promote the availability of legal services to homosexuals by encouraging and attracting homosexuals into the legal profession,” were not, on their face, benevolent or charitable, nor was there a demonstrated need for this corporation. “A supplemental affidavit does indicate a lack of desire on the part of some attorneys who work pro bono publico to take the cases of homosexuals, but this appears to be no more than a matter of taste.”

In July 1973, the Court of Appeals reversed, in a 6-1 decision, holding that the determination of the Appellate Division was unsupportable, although the Court of Appeals chose not to explain its conclusion. Even on remand, the First Department felt obliged to strike one of Lambda’s purposes, namely “to promote legal education among homosexuals by recruiting and encouraging potential law students who are homosexuals.” By the way, on the same day as it reversed in *Matter of Thom*, the Court of Appeals also directed the Second Department to reconsider its denial of admission to Harris Kimball, who had been disbarred in Florida in 1957 after conviction for consensual sodomy.

Throughout that period from the early 1970's until his appointment in 1984, Bill remained active and visible in the community, in Lambda and in the profession. There was not a single lawyer in New York City in 1984 whose name meant “gay rights” more than Bill Thom’s.

Since Mayor Koch isn’t here, we don’t know the official explanation as to why it happened in 1984 and why it was Bill Thom. I can make an educated guess. California’s Governor Jerry Brown had appointed the first openly gay judge in the United States, Judge Steve Lachs, in 1979, and had appointed a lesbian and three other gay men before he left office in January 1983. There was, undoubtedly, much pressure on Mayor Koch to appoint an openly gay

men or lesbian to the Criminal Court or the Family Court. There was also significant displeasure with the Mayor in the lesbian and gay community for having agreed to renew City contracts with the Roman Catholic Archdiocese, despite then-Archbishop O'Connor's refusal to sign the non-discrimination agreement required by the Mayor's Executive Order. Koch marched in the 1984 Pride March, for the first time. He was heading towards running for a third term in 1985. Bill had gone into the Democratic Screening Panel for a Civil Court seat in Manhattan, had been reported out and was already running in the September 1984 primary. So Mayor Koch appointed him to fill the last four months of an interim vacancy on the Civil Court, letting Bill advertise himself as a sitting judge in the less than two weeks between his appointment and the primary.

Unfortunately, it didn't work. Bill didn't win. And, to his credit, Mayor Koch reappointed Bill to another interim vacancy for 1985. Bill ran again that year and lost in the primary again.. Bill received two more interim vacancy appointments from Mayor Koch and served on the Civil Court through December 1987. Those of us who've had multiple interim appointments - I had five before my appointment to Criminal Court in 1995 - know that they're not fun. After going through the process four times, Bill retired from the bench at the end of 1987. In the meantime, Mayor Koch had appointed Dick Failla to the Criminal Court in 1985, Mary Bednar to the Family Court in 1986 and Marcy Kahn to the Criminal Court in 1987. After Bill's retirement from the bench in December 1987, he joined the Corporation Counsel's office, where he served through 1994, at which time he retired from practice.

It is my pleasure to introduce New York State's first openly gay judge, the Honorable William J. Thom.