

denied the benefit routinely accorded to married heterosexual couples." The UAHC resolved that full equality under the law for lesbian and gay people requires legal recognition of lesbian and gay relationships.

In light of this background,

Be it resolved, That the Central Conference of American Rabbis support the right of gay and lesbian couples to share fully and equally in the rights of civil marriage, and

Be it further resolved, That the CCAR oppose governmental efforts to ban gay and lesbian marriage.

Be it further resolved, That this is a matter of civil law, and is separate from the question of rabbinic officiation at such marriages.

UNIVERSITY OF CALIFORNIA,
SCHOOL OF LAW
Berkeley, CA, June 14, 1996.

Senator DIANNE FEINSTEIN,
Hart Senate Office Building,
Washington, DC.

DEAR DIANNE: Thank you for inviting me to give you my views on the Defense of Marriage Act, I do so from the perspective of a law professor who has taught both in the areas of family law and the conflict of laws.

As I said to you on the telephone, I think that the Act is ill-advised regardless of what one's attitudes may be toward the legalization of same-sex marriage.

The Act, as presently drafted in H.R. 3396, contains two substantive provisions. Section Two exempts sister states from any obligation imposed by the Full Faith and Credit Clause of the United States Constitution or its implementing statute "to give effect to any public act, record, or judicial proceeding of any other State . . . respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, . . . or a right or claim arising from such relationship." Section Three defines the terms "marriage" and "spouse" for the purpose of federal law, including eligibility for federal benefit programs, as follows: "the word 'marriage' means only a legal union between one man and one woman as husband and wife, and the word 'spouse' refers only to a person of the opposite sex who is a husband or a wife."

Section Three changes a uniform and long-standing federal practice of deferring to state law on questions affecting the family. Eligibility for federal entitlement programs, such as social security, Medicare, and veteran's benefits traditionally have been measured by state, not federal law. Similarly, marital status for the purpose of applying federal statutes such as tax codes and immigration laws has been defined by state law. This long-standing practice appropriately recognizes the prerogative of state legislatures to regulate the family as a matter of local policy, and the greater experience of state court judges, charged with implementing the state laws governing family dissolution as well as matrimony, in determining marital status. The Defense of Marriage Act would reverse that wholesome tradition by creating a federal law of marriage for purposes of the federal code. As Professor Laurence H. Tribe observed, in the *New York Times* on May 26, 1996, "[i]t is ironic . . . that such a measure should be defended in the name of states' rights."

Moreover, despite the claims of proponents who assert that the Act does not prohibit states from legalizing same-sex marriage, Section Three would make even-handed administration of such a state's family law impossible. Take, for example, the ability of married couples to split their income for purposes of the federal income tax laws. Single-earner opposite-sex married couples could take advantages of the lower tax bur-

den made available by this provision, while similarly situated same-sex married couples could not. This difference would arise, not from the state law defining marriage, but from the federal policy against same-sex marriage. Same-sex couples would thus have less available assets for the support of their families, perhaps placing a burden on the state. This outcome might influence a state in deciding whether to permit same-sex marriage in the first place. The impact of Section Three on other federal benefit programs is open to a similar analysis.

Section Two is designed to excuse states that do not wish to legalize same-sex marriage from any supposed obligation imposed by the Full Faith and Credit Clause to recognize such marriages that may be validly performed in other states. This section is both unnecessary to achieve its desired end and pernicious as a matter of sister state relations.

The usual conflict of laws doctrine governing the recognition of a marriage performed in another state is that the state where recognition is sought need not recognize a marriage that would violate its public policy. A state with a clear prohibition against same-sex marriage could, if it chose to do so, invoke that prohibition as declaratory of its public policy and as a justification for refusing recognition. The provisions of Section Two merely confirm what such a state may already do for itself, and are therefore superfluous.

Finally, Section Two does not facilitate sister state relations: rather it intrudes federal authority into a state's decision whether to extend voluntary recognition to another state's action. This is contrary to prior congressional action, which has been confined to requiring recognition of one state's action by other states, and thus has acted as a unifying force. By stating instead that recognition is unnecessary, Congress would be approving dissent among the states.

I hope these comments are helpful. If you have any questions, please feel free to let me know.

Sincerely,

HERMA HILL KAY,
Dean.●

THE FIREMAN'S MUTUAL BENEFIT ASSOCIATION'S 100TH ANNUAL CONVENTION

● Mr. LAUTENBERG. Mr. President, today I rise to salute one of New Jersey's finest enduring examples of public service. On September 10, 1996, the New Jersey Firemen's Mutual Benevolent Association will meet for the 100th time at its annual convention in Atlantic City.

Since it was established on December 11, 1897, the New Jersey Fireman's Mutual Benevolent Association has had a tremendously positive impact on its members, their families and the general public. For the past century NJFMB has conducted fire safety programs in our schools. They have worked tirelessly for burn victims through their fund raising efforts, and they have helped to establish state of the art burn centers in several New Jersey hospitals.

Mr. President, the life of a firefighter is among the most demanding of professions. They answer every alarm and risk their lives to protect our communities. They hold the line against our most devastating natural enemy, un-

controlled fire. We live and work every day under the security and safety that firefighters provide.

Mr. President, it is with great pleasure and gratitude that I acknowledge the efforts, accomplishments and heroism of the 5,000 members of the New Jersey Fireman's Mutual Benefit Association.●

AN EXCEPTIONAL PRESS SECRETARY

● Mr. SIMON. Mr. President, Bob Estill, an experienced and distinguished columnist in the Washington Bureau of the Copley News Service, recently wrote a column paying tribute to my departing press secretary, David Carle.

Since the 1960's Mr. Estill has covered Illinois politics and worked closely with the Illinois congressional delegation. Press secretaries, especially the very good ones like David, rarely are mentioned in the media. But David's outstanding work, his honesty, and his loyalty and commitment to family and friends truly merits special mention, so I submit this column for the RECORD.

The column follows:

LONGTIME SIMON AIDE EXITS TO KUDOS
(By Bob Estill)

WASHINGTON.—Retiring Sen. Paul Simon's highly regarded press secretary, David Carle, is leaving the cornfields and gently rolling hills of the "Prairie State" for the Green Mountains of verdant Vermont.

The longtime spokesman for the Illinois Democrat will begin work after Labor Day as press secretary for Sen. Patrick Leahy, D-Vt., a four-term veteran from a state so sparsely populated it has only one congressional district.

Spending most of his adult life as Simon's spokesman, the 44-year-old Carle has worked with reporters from small weekly newspapers to metropolitan dailies, from rural radio stations to the major television networks.

"It was an exhilarating ride that included two Senate campaigns and a presidential campaign," noted Carle, who had planned to return to graduate school in his native Utah if he hadn't landed the job with Simon in January, 1981.

Usually, the comings and goings of congressional press secretaries are frequent, routine, and scarcely noteworthy.

But the soft-spoken, unassuming Carle is exceptional in longevity, dedication and performance, creating a model congressional press operation that mirrors Simon's reputation for integrity.

Simon extols Carle as a "fine human being" and an "incredibly hard worker" who is on the job before Simon shows up at 8 a.m. and, even on weekends, keeps Simon posted on any news breaking anywhere.

The Senator, a onetime newspaper owner and longtime columnist, said Carle's philosophy on dealing with reporters meshes with his own.

"Sometimes you have to say 'no comment' or sometimes you duck a question by giving an evasive answer," Simon noted. "But you never lie to anyone."

Carle also has earned the respect of Republican and Democratic staffers and lawmakers, as well as reporters covering the Illinois congressional delegation.

As Major League Baseball's lobbyist, Springfield native Gene Callahan knows a "most valuable player" when he sees one.