

Northern Kentucky University  
Chase College of Law  
Law Review Symposium  
March 20, 2025

*Obergefell v. Hodges* – Ten Years Later

**LAVENDER SCARE TO  
LAWFULLY MARRIED:  
FROM DEVIANT TO DIGNIFIED**

Regina L Hillman  
University of Memphis  
Cecil C. Humphreys School of Law

## Secretary of Commerce Charles Sawyer, 1950

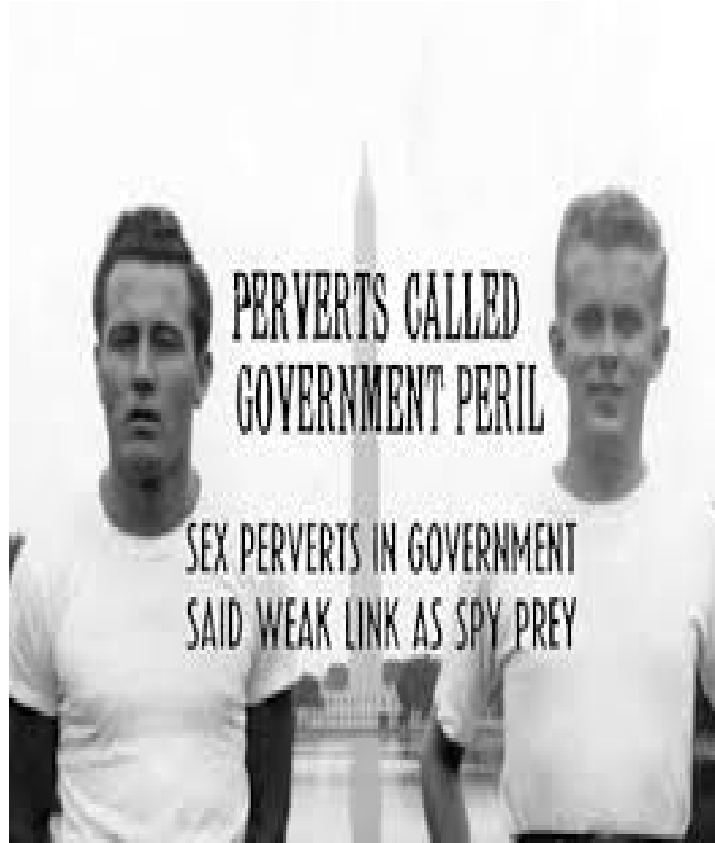
*“The privilege of working for the U.S. Government should not be extended to persons of **dubious moral character**, such as homosexuals or **sex perverts**. The confidence of our citizenry in their Government would be severely taxed if we looked with tolerance upon the employment of such persons.”*

**Justice Anthony Kennedy, 2015**  
*in Obergefell v. Hodges*

*“They ask for equal dignity in the eyes of the law. The Constitution grants them that right.”*

# To Dignified

## From Deviant







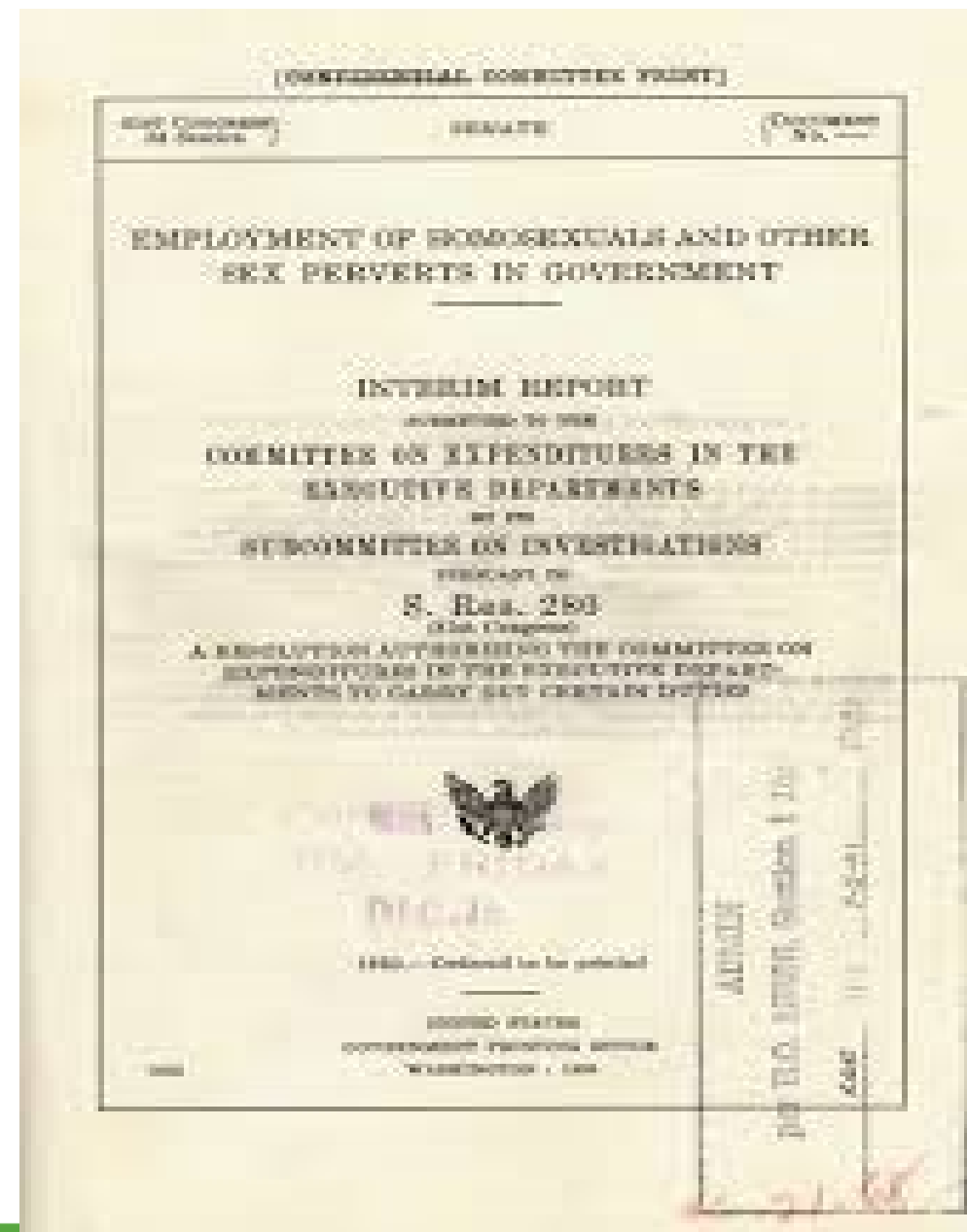
# THE LAVENDER SCARE

Late 1940s – mid-1970s

# The Hoey Report (12/1950)

(marks the first time Congress explicitly discriminated based on sexual orientation)

*“One homosexual can pollute a Government office”*



# 400 More Homosexuals Ousted from Gov't Jobs

Washington, D. C., March 26.—A prompt drive to kick 400 known homosexuals off the Government payroll may overshadow the showdown scheduled for next week in the Congressional probe of alleged State Department spies, it was predicted here today.

The climax in the disloyalty investigation is set for Monday when a Senate Foreign Relations subcommittee questions FBI Chief J. Edgar Hoover on charges that his secret files prove there is a "top Russian spy" still connected with the State Department. The charges were made by Senator



## PERVERTS CALLED GOVERNMENT PERIL

SEX PERVERTS IN GOVERNMENT SAID WEAK LINK AS SPY PREY

# Senator Hill Proposes Complete Inquiry Into Hiring of Undesirables

## "Communists & Queers"

# 18 Homosexual Lose U. S. Jobs

State Department security officers weeded 18 homosexuals from the ranks of the Department and the Foreign Service in the past...

The FBI knew some two weeks ago that the boys had already moved off to Moscow. How many more pointers do we have, in strategic spots, on contacts by routing Communist agents, to be used up...

Behind The Scandal Of These Two Traitors:

## HOW THE REDS BLACKMAIL HOMOSEXUALS INTO SPYING FOR THEM!



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# HOW TO SPOT A POSSIBLE HOMO

PERVERTS CALLED GOVERNMENT PERIL. Special to THE NEW YORK TIMES. Special to THE NEW YORK TIMES. New York Times (1923-Current/Ally), Apr 19, 1950; ProQuest Historical Newspapers The New York Times (1851 - 2007) pg. 25

## PERVERTS CALLED GOVERNMENT PERIL

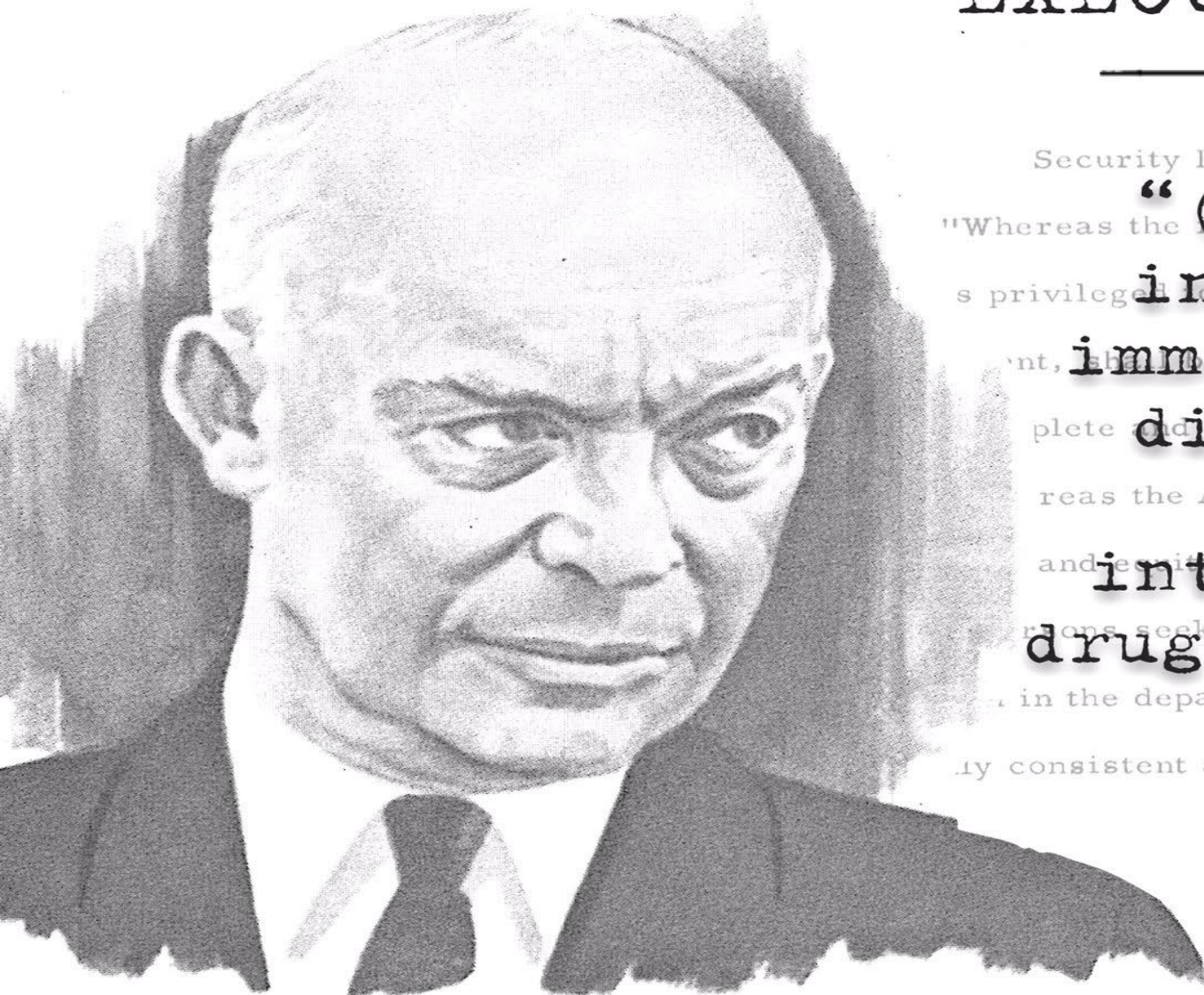
Gabrielson, G.O.P. Chief, Says They Are as Dangerous as Reds—Truman's Trip Hit





# EXECUTIVE ORDER 10450

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Security Requirements for Government Employment

"Whereas the interests of the National Security require that all persons privileged to enter the departments and agencies of the Government, should be of high moral character, trustworthy, of good repute, and of complete and unblemished loyalty to the United States; and whereas the American Constitution that all persons should receive fair and equitable treatment at the hands of the Government, requires that persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by the Government to be consistent and no less than minimum standards and procedures

**"(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction, or sexual perversion"**

*Dwight D. Eisenhower*

April 27, 1953



# Organized Picketing in the 60s



Frank Kameny leading marches during a protest in front of Independence Hall in Philadelphia and in front of the White House in 1965.



# Stonewall Inn, NYC Greenwich Village: June 28, 1969

**Stonewall Uprising (Riots):** Widely considered watershed event that transformed the gay liberation movement/Twentieth Century fight for LGBTQ+ rights

**June 28, 1970** – “Christopher Street March” to mark the first anniversary; now annual Pride celebrations internationally

*“We’ll never have the freedom and civil rights we deserve as human beings unless we stop hiding in closets and in the shelter of anonymity.”* – Stonewall Organizer



# Anita Bryant – Save Our Children, 1977

**RALLY** *for* **DECENCY**

**OCT. 7th** INDIANA FAIR GROUNDS **COLISEUM** **8:00 P.M.**

**DR. JERRY FALWELL**  
Pastor of  
Thomas Road Baptist Church  
Lynchburg, Virginia

**DR. DON BOYS**  
State  
Representative

**OUR GOALS:** TO REINSTATE SODOMY AS A FELONY IN THE STATE OF INDIANA — TO STRENGTHEN THE LAWS ON RAPE, PORNOGRAPHY, CHILD PORNOGRAPHY, ETC. — TO ELECT RESPONSIBLE LAWMAKERS LOCAL, STATE AND FEDERAL. WE ALSO OPPOSE ABORTION ON DEMAND AND E.R.A.

**MARCH for DECENCY** Downtown  
Indianapolis to Monument Circle  
**October 8th • 10:30 A.M.**  
MARCH AS A CHURCH, SCHOOL,  
SUNDAY SCHOOL CLASS, Etc.  
MEET AT OHIO AND WEST STREETS

**ANITA BRYANT**  
IN CONCERT  
SINGING INSPIRING SONGS  
TAKING A STAND FOR DECENCY

- **Gays & Lesbians recruited and threatened children:** “[They] cannot reproduce, so they must recruit. And to freshen their ranks, they must recruit the youth of America.”
- **Her core argument:** Gay people were evil & didn’t deserve rights. *“If we label homosexuality a civil rights issue, what is to stop the murderer from shouting ‘murderer rights’”?*
- Dade County ordinance was repealed, but opposition to the bill led to a kind of new LGBTQ activism.



# VISIBILITY

**“Come Out, Come Out, Wherever  
You Are” -1980s/1990s Mantra**

*“We will not win our rights by  
staying quietly in our closets.”*

*“Rights are won only by those who  
make their voices heard.”*

**– Harvey Milk, 1978**





# Bowers v. Hardwick, 5-4, 6/30/86

**GA Law:** Up to 20 years for a single, private, adult consensual intimate act.

**Issue:** “Whether the Constitution confers a fundamental right upon homosexuals to engage in sodomy.”

**Holding:** No. Majority opinion compared same-sex intimacy with adultery, incest & other sexual crimes & found protecting homosexual sodomy as a fundamental right would “cast aside millennia of moral teaching.”

**Impact?** Criminals; Custody, Discrimination

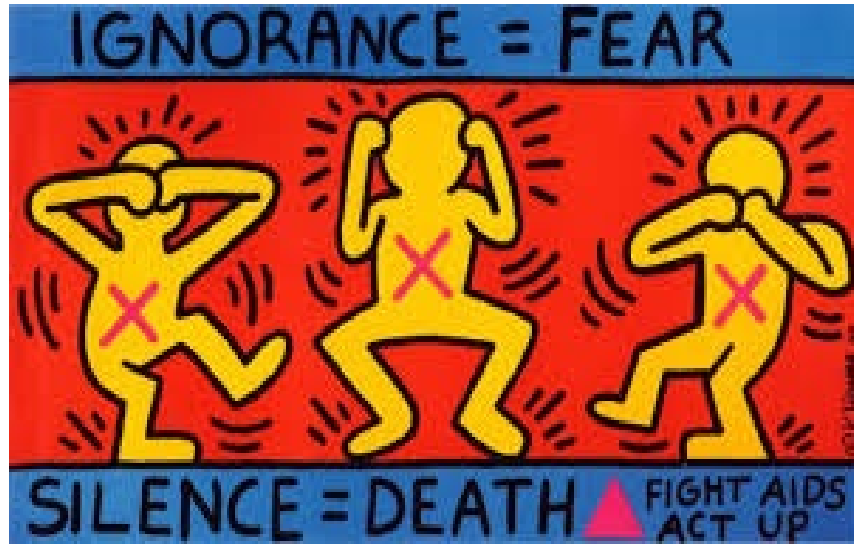


Privacy in the

Bedroom: Bowers

v. Hardwick

# AIDS & Activism in the 80s/90s



# Romer v. Evans, 6-3 May 20, 1996

Boulder County's  
Independent Newspaper  
10001 Four Mile

## Daily Camera

May 21, 1996  
Monday, Colorado  
\$1.00

# '2' struck down

## Supreme Court rejects anti-gay rights law



CLARENCE THOMAS

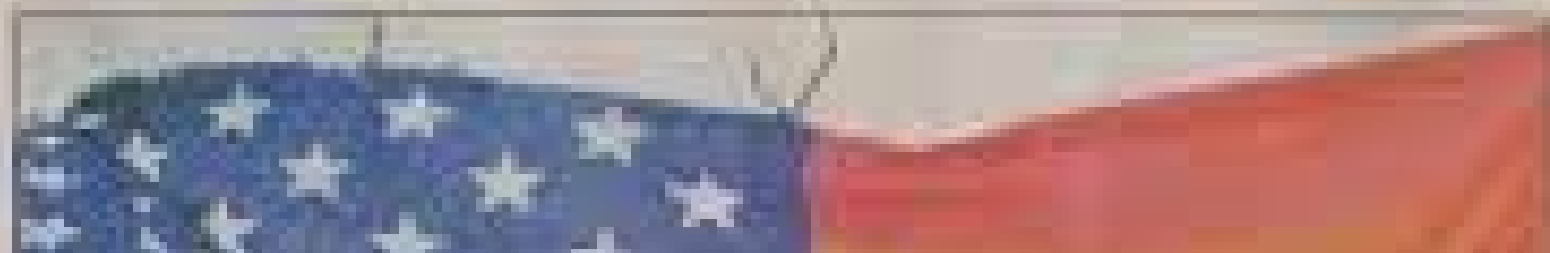
"A modest attempt by seemingly tolerant  
Colorado to preserve traditional sexual  
morals against the efforts of a politically  
powerful minority to reverse those laws  
through use of the laws."



ANTHONY KENNEDY

"We must conclude that Amendment 2  
classifies homosexuals not to further a  
proper legislative end but to make them  
unequal to everyone else. The Colorado  
can't do."

Boulder  
filled with  
jubilation



6-3 ruling  
ends 4-year  
controversy

# Lawrence v. Texas, 6-3 June 26, 2003



LGBTQIA+  
HISTORY  
MONTH

## The New York Times

*JUSTICES, 6-3, LEGALIZE GAY SEXUAL CONDUCT  
IN SWEEPING REVERSAL OF COURT'S '86 RULING*



Bowers was not correct when it was decided, and it is not correct today. It ought not to remain binding precedent. Bowers v. Hardwick should be and now is overruled.”



# Marriage in the States

- 2003: Massachusetts Supreme Judicial Court ruled in *Goodridge v. Department of Public Health* that it was unconstitutional under MA's Constitution to abridge marriage on the basis of sex.
- From 2004 to 6/26/15: Various state court rulings, state legislation, direct popular votes & federal court rulings established **same-sex marriage in thirty-six of the fifty states plus D.C.**



Massachusetts Marriage License



This is to certify that

\_\_\_\_\_ and \_\_\_\_\_

Were united in marriage on this day

the \_\_\_\_\_ of \_\_\_\_\_ in the year \_\_\_\_\_

Witnessed \_\_\_\_\_ and \_\_\_\_\_

\_\_\_\_\_  
Bride

\_\_\_\_\_  
Groom

# The Repeal of Don't Ask, Don't Tell

September 20, 2011



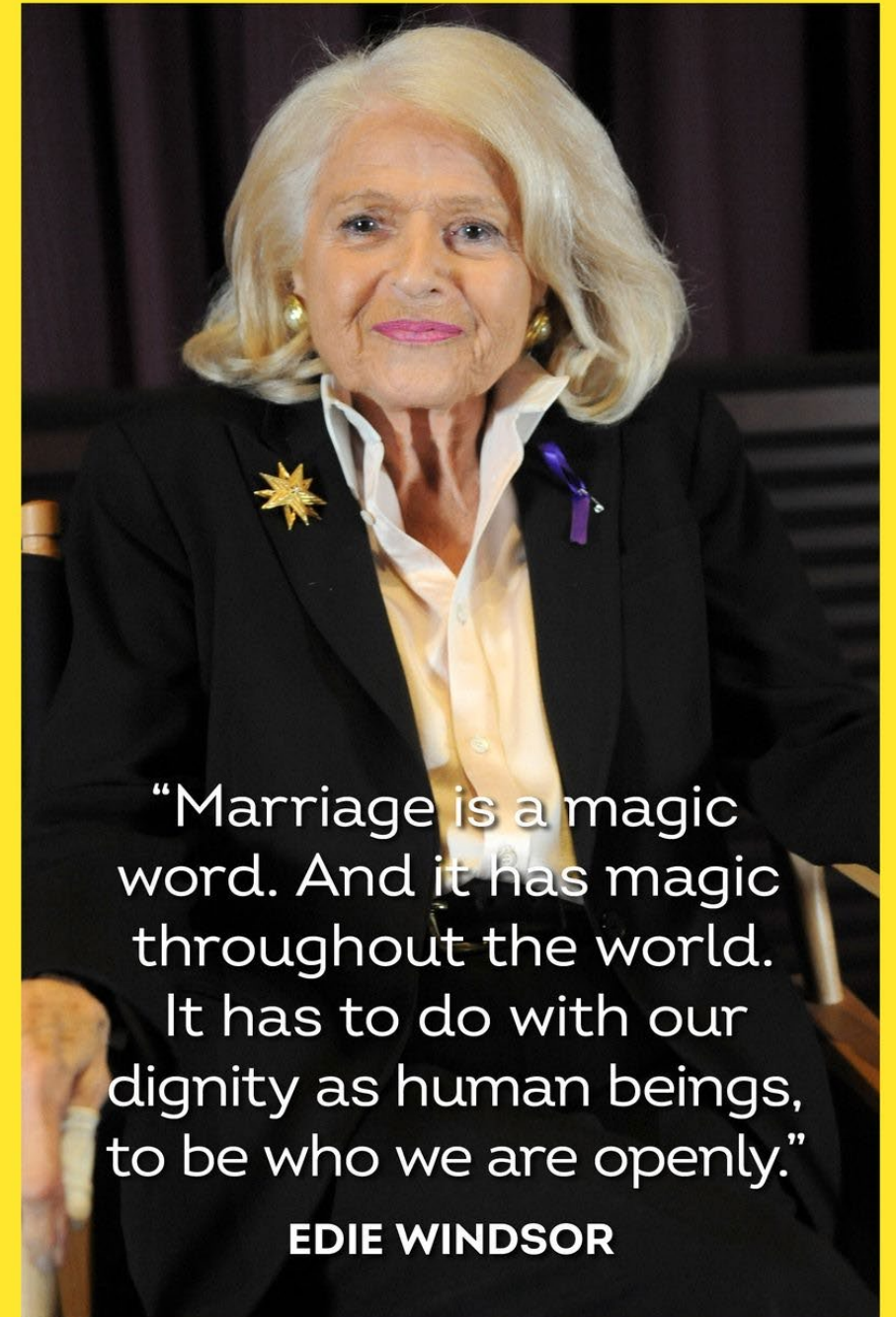
*“As of today, patriotic Americans in uniform will no longer have to lie about who they are in order to serve the country they love.”*

President Barack Obama

# United States v. Windsor

## June 26, 2013

The Court's language elevated gays & lesbians to a place of **constitutional dignity** & introduced the principle of **equal dignity** for **LGBTQ+ citizens**.





# Obergefell v. Hodges

June 26, 2015

“They ask for **equal dignity** in the eyes of the law. **The Constitution grants them that right.**”





# The Cure at Troy

Seamus Heaney

History says, *Don't hope*  
*On this side of the grave.*

But then, once in a lifetime  
The longed-for tidal wave  
Of justice can rise up,  
And hope and history rhyme.



Thank you

Regina