

## THE MAYOR'S VETO

Mayor Dianne Feinstein's highly publicized veto last week created a dense fog of discussion about "rights," a word much too important to be abused.

Strictly speaking, legal rights are simply those which our legislatures and courts say are legal rights. Most have to do with contractual rights, telling us what we have a right to expect if we agree to do certain things.

There are <sup>also</sup> the more lofty "rights" which belong to us naturally just because we are human beings; they are not so much created by laws as protected by them. In a free society, we generally have the right to do anything there's no law against. And, in a free society, private thoughts and private behavior are not legislated against, even if we think they are morally wrong.

Most of us believe that it is morally wrong to dislike Jews as such -- but citizens have a legal right to dislike Jews and even to say so. They do *not* have the legal right to physically attack Jews, or to discriminate against them in employment or housing.

And even though there are notably diverse moral beliefs about sexual behavior, there should be no law in a free society regulating private sexual beliefs or private sexual behavior -- nor should discrimination in such matters as employment or housing be permitted on grounds of sexual orientation. This Jewish community has always strongly supported such anti-discrimination laws.

But of course there *is* a connection between prevailing moral beliefs in a society and its laws. A society has an obligation to foster certain consensual moral beliefs insofar as they intersect with public policy. In our society, one of those consensual themes is the traditional family, and the related institution of marriage.

On a practical level, marriage is a formal contractual relationship which defines a system of mutual responsibilities and commitments between two people. Many practical arrangements in our society -- such as health and pension plans -- are calculated to work on the basis of those formal contractual relationships. That is the basis on which current health and pension plans -- and "rights" in those plans -- were legislated. There are no "natural rights" in such plans.

Now, if there is a desire to establish legal "rights" within such plans but outside the legal boundaries of marriage, then a parallel system of contractual obligations would have to be set up, with parallel kinds of responsibilities, commitments and methods of dissolving the contracts.

On another level there is no doubt that the institution of marriage was set as a standard in our laws because the traditional family is a basic consensual moral theme in our society. San Francisco rabbis joined with the Archbishop and Protestant ministers to oppose the proposed ordinance as it was written because they felt that its lax, sub-contractual standards would be a back-door assault on the values of the traditional family.

Perhaps, for purposes of health and pension plans and the like, there could be developed new contractual systems, with parallel formal commitments, which would not be such an assault on the traditional family. But such systems would require a great deal of thought and research, not overnight decisions by panicky politicians.

Mayor Feinstein did not panic -- and for that San Francisco history will always be grateful to her.