

DIRECTORY



mattachine REVIEW

PUBLISHER

The REVIEW is published bi-monthly by the Mattachine Society Inc., Los Angeles 53, Calif. Office of publication (to which all communications should be addressed): 693 Mission Street, San Francisco 5, Calif. Telephone EXbrook 7-0773.

MANUSCRIPTS—for publication in this magazine are solicited. At the present time, such manuscripts, articles, reviews, etc., must be accepted on a no-fee basis. Manuscripts not accompanied by postpaid return envelope become the property of Mattachine Review.

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SUBSCRIPTIONS

U.S., Canada and Mexico: \$2.50 per year; single copies, 50c.
All other countries: \$3.50 per year. All copies mailed first class in plain, sealed envelope.

MATTACHINE SOCIETY, INC.

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Post Office Box 1925

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Long Beach Area Council

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Long Beach 2, Calif.

NEWSLETTERS: Area newsletters are published by each of above area councils (Los Angeles-Long Beach are combined). Subscription, \$1 per year for 12 issues. All Mattachine publications, including newsletters, Review and information booklets, are always mailed first class in sealed envelope.

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VOLUME 11

NUMBER 2

APRIL 1956

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ADDRESS OF THE REVIEW

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by James (Barr) Fugate



The author is one of the most controversial writers on the subject of homosexuality in this country today. Author of two books on the subject. Quatrefoil and Derricks, his first play, "Game of Fools, with produced in Switzerland last year and a second play is scheduled for production in London in the spring.

a homosexual looks at the CHILD MOLESTER

OUR LOCAL HEADLINES carried the story even before the facts of the case were known to the police and I heard myself saying with so many others, "Oh no! No! Not that again!" The story was like a nightmare that couldn't have happened, but I knew it had.

In addition to the horror felt by the average reader there was a keener edge to the sorrow that I as a confessed homosexual felt, an edge that would cut deeper for I knew what I must face in the days to come, the grim looks of doubt, contempt, hatred, directed at me as

another "pervert." Though people who know me seem to accept and trust me as a member of our community with equal rights, responsibilities and privileges, still they do not always differentiate between the terms used so loosely in the newspapers. To the average person the terms **homosexual**, **pervert**, **degenerate** and **sex fiend** all mean the same thing. To them, as a confessed homosexual I am a potential child molester, perhaps even a killer. To the average newsman I am a future headline. To the police I am one of the known deviates in the area to be rounded up after every sex crime and held until I can prove my innocence. (If I can't I may stand trial, and conceivably even be executed for a murder I did not commit, and all because I cannot live a lie by pretending to a heterosexuality that I do not feel as do so many homosexuals today.) To the average parent I am a menace to warn their children against: "Never talk to strange men, and never, never get into a car with anyone you don't know! As for James down the street, always speak to him kindly, but don't ever be friendly with him. He can't help being what he is."

Credit and character references mean nothing here. Acts of kindness and generosity, a clean record with the police are cancelled out. Responsibility and trust held for years are forgotten. And in the light of what happened in Chicago these parents, neighbors and police cannot be blamed for taking all possible precautions to insure their children's safety. Truly, those of my stamp have inherited the furious winds of ignorance, suppression of knowledge, censorship and other such evils whether we deserve them or not. Yet the question that haunts the parents, haunts the homosexual too. What can we do to stop this hideous

slaughter?

A week after the Chicago murders a radio commentator widely known for his radical views called for newer, stronger laws against all sex deviates. He criticized the Kefauver committee, the "mealy mouthed protectors of minority rights," the existing laws, the parents themselves for not condemning immediately all sex deviates, without so much as a hearing. His solution was simple: "Round 'em up and operate on their brains! We must protect the majority!"

This attitude is no stranger to the Might Makes Right school of politics. Yet if one stops to think a moment it becomes clear that such a legal panacea might do as much harm as good. For instance, to apply this same reasoning to the companion headlines beside those of the Chicago tragedy which told of a young father who, while drunk, beat his infant daughter to death because



she had cried to go to the bathroom, shall the law then round up and robotize all young fathers who get drunk in order to protect all infant daughters in this country? Or, by the same standard, because of a 15-year-old son who shot his father to prevent his mother's taking a beating, shall we force all 15-year-old boys with fathers who occasionally beat their mothers to undergo brain surgery that will reduce them to

helpless automats the rest of their lives? Obviously one cannot judge a barrel of apples by a few rotten ones.

To educate, to discuss freely, to study without prejudice is to protect and to arm equally against actual danger and possible error. But who will dare come forward these days and proclaim strongly as two-inch headlines that all deviates are not sex killers, or even potential killers? Most people would laugh at the suggestion that all malaria victims are Typhoid Marys. No one would seriously think of recommending lobotomy to arthritis or polio sufferers as a cure. Yet how many of these same people listen to the radicals who are ready to compound existing miseries by loosing vigilante bands on new witch hunts of comparative innocents?

Obviously there are degrees of sex deviation the same as there are degrees of everything else. In homosexuality a complete range of behavior patterns can be cited by any practicing psychiatrist from the intellectually platonic ties of the chaste to the most savage and sadistic rites of the most bestial. Who is to say all are sex killers when those who study the infinite subtleties of personality will not?

Stronger laws are not the answer to sexual deviation. Law never stopped a disease, nor was a seriously disturbed mental patient ever legislated into healthy and normal behavior. But if enough money were legislated to make available ade-

quate treatment for all who needed it, many sex crimes could be prevented in the years to come. Stronger laws means stronger social stigmas, which in turn breed more individual fears and hiding and frustrations driven underground to ferment

until they explode into more Chicago tragedies. Give the deviate a chance to come out in the open and declare himself by exposing his troubles to a competent doctor, rather than suppress and compound them in prison, and chances for his recovery will multiply rapidly.

Certainly laws must be made and enforced to protect children and preserve public decency. Intelligent people, homo and heterosexual alike agree on this. But there must be common sense and humanitarian consideration in the law too. Yet the age-old argument arises anew: shall our laws aim at collecting an eye for an eye, or shall there be an attempt at understanding and helping through study and knowledge? Vengeance is an ever narrowing circle of fears and hatreds. Charity can be compared to an investment in peace and security. The isolationist, the advocate of any Maste: Race theory, is perhaps as dangerous in the eyes of history as any pervert or group of deviates, for where one's crimes are passion, the others are guilty of crimes of intellect—or more properly, the lack of it.

Let us look, for instance, at the pervert who has committed a heinous crime against a child. Why did he do what he did? How could he have been prevented from doing it? What were the original causes that made him a killer?

In the first place, it is generally agreed that homosexuality is a product of environment problems, not hereditary weaknesses. Probably nine out of ten sexual inverts have been allowed (or even forced) to become so because of parental ignorance. The mother who devours the son as an infant, the father who rejects him as a teen-ager, the teacher who is not allowed to answer his questions because of conventionally

false modesty and prudery, the shortage of doctors, (or their expensive fees), which makes consultation and counseling financially impossible when the time is ripe for it, all have contributed to the sex crime that makes headlines and causes such violent rage in the minds of the readers and radio commentators. The actual murderer is perhaps no more to blame for what he has done than is a can of inflammable cleaning fluid left carelessly in a room where children play. (Yet are we to outlaw cleaning fluids simply because they are sometimes dangerous?)

Chances are the invert (or pervert, as you wish,) has made many attempts to adjust to society. If nothing more, since misery loves company, he has probably tried to find and make friends with others in society that suffer the same torments that are his. But because the homosexual is a criminal in the eyes of the law, where is he forced to go to find those of his own kind so that he may not be jailed in a possible raid? In short, when he cannot fraternize with others of his nature, he is forced to do his hunting for companions on the streets where jungle law is too often in evidence. There he may be preyed upon by thugs and blackmailers who find him a foolproof mark because he dares not go to the police no matter what is done to him. Eventually, in his turn, he comes to prey on those who are weaker than himself—unfortunately, this sometimes means children. Thus, crimes are committed and headlines are made. How can these things be prevented? The answer seems to be in laws which treat the invert justly, but fairly, and medicine to treat him or confine him as individually necessary. Recently there have been two healthy steps taken in this direction.

In a special report on Sanity. Newsweek magazine, (October 24, 1955,) highlighted the need for a greater government-supported mental health program by spelling the situation out in figures that will make anyone stop and think. For instance, the report points out that there are less than 600 mental hospitals in this country of 160 millions, just half of what is needed! Only 1/20th of our doctors are psychiatrists: 12,000 are needed immediately against an increase of only 250 per year! Were every person needing psychiatric care to apply for it today, existing psychiatrists would have about 2500 patients each!

Is it any wonder that newspapers can feature almost a complete catalogue of crimes daily on their front pages? How many murders of all varieties might never have been committed if there had been some place for the criminal to go for medical aid before it was too late? Information such as this disseminated over wide areas of the population will eventually make available the funds needed to help those who need help. Until then we can expect more headlines.

Still more encouraging, and striking at the very root of the stigmata that prevents so many sexual inverts from identifying themselves and seeking aid openly, last summer in Philadelphia the American Law Institute in adopting its Model Penal Code decided that acts of adultery and sodomy must not be considered criminal so long as they are practiced privately and without force between consenting adults. This does not mean that laws preserving public decency are to be altered or laws punishing those who molest children are to be any less strict. Under this new Penal Code, the invert would be encouraged to acknowledge his sexual status in the very beginning

without fear of being blackmailed the rest of his life for his honesty. He would be free to associate with those of his own stamp and thus find an outlet for those frustrations and feelings of isolation that can become so dangerous when they are bottled up for long periods. In addition to this, thousands of homosexuals might hope to lead the lives of normal men if psychiatric treatment is administered early enough, and at prices they can afford to pay.

All this is a far cry from those who demand blood, law, brain surgery and prison brutality to stop the perverts. Which will it be for us as the leader of nations—the enlightened ways of civilization, or a legal reversion to the instincts of a pack of beasts? Homosexuals are not po-

tential killers any more than heterosexuals. A few are driven to kill, but the percentage seems much smaller than the percentage of heterosexuals who are involved in crimes of passion. Homosexuals have contributed as generously to the progress of mankind, and especially to his cultures, as any other group. At various times they have written his books and music, painted his pictures, made his laws, spread his religions, doctored his sick, farmed his land, fought his wars as has everyone else. Because of those few who have become killers, are we to deprive the country and the world of the talents and services of an entire group? The answer is up to us; and, thank God, there is still time to decide this most important question fairly.

A Meeting of Minds

(EDITOR'S REPORT)

In his article which begins on page 12, Author Lyn Pederson presents a starkly frank summary of the situation of the homosexual in England today. Essentially a digest of recent events in the United Kingdom, the writer makes reference in streamlined style to previous articles of his own, as well as to press clippings, books, reviews and first hand reports obtained by him from British Isles.

Readers will find evidence of significant trends woven between lines that describe the shocking treatment of a subject made less shocking by comparison. While Pedersen intended no "English Confidential" tag to this material, some readers may choose to judge it so. On the other hand, all readers should realize that a "slant" definitely exists in this article, from the eye-stopping title to the final word. Further, it should be remembered that more than one approach, outlook, attitude or interpretation of this subject is possible. Presented here perhaps is the homosexual's side.

Long badly mauled in the British press (which includes the circulation of the world's largest newspaper), homosexuality and crime are kept in the spotlight in England, and the result has certainly been fluid in recent months. Church, science and state are all three busily engaged (often with muddled action leading to conclusions they hesitate to face) in seeking causes, measuring the changing attitudes of the public, and

recommending a course for the future. Capital punishment has been abolished for all effective purposes. Lawmakers are also approaching a revision of sex statutes. A number of intelligent people are guiding some of this change through the medium of the printed word—in articles, books and letters.

Actually, the first chapter of "Queens Country Revisited" appeared in the May 1954 issue of One Magazine under the title of "England and the Vices of Sodom." Past issues of the Review have also carried material on the homophilic situation there. In addition to the article here, another important review of the subject appears, written by the same Dr. West to whom Pedersen refers. It's called "Should Laws Be Changed," and is essentially a condensed thesis of that author's new book.

Finally, a more complete review of Dr. Bailey's new Book is presented in the Books section. This review was written by a U. S. clergyman, a fact which makes the material even more significant. Many readers will remember that a dialog sketch of "Homosexuality and the Western Christian Tradition" appeared in the Review last year.

Finally, a review of the book, "The Three Trials of Oscar Wilde," in this issue, will serve to complete the graph of change that has taken place in a little more than a half century. It also appears in the books section.

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Queen's Country REVISITED

By

Lyn Pedersen

Even since the start of the second Elizabeth's reign, the prim and prissy in England have been upset about homosexuality, as if the matter had never before disturbed the realm.

A member of parliament was arrested early in 1953 in a public urinal. Rumors quickly gathered about the alleged sexual deviations of the missing British diplomats, Burgess and MacLean. An Aussie paper reported that Scotland Yard (reorganized) was hard pressed by the U. S. State Dept. to "clean out" prominent British invert. Just after all the coronation foderol, actor Sir John Gielgud, Lord Montagu of Beaulieu, novelist Rupert Croft-Cooke and hundreds less prominent were arrested (often with improper police methods) and tried with great fanfare on various homosexual charges. In the widely publicized affair of Lord Montagu, Peter Wildblood and Michael Pitt-Rivers, and in the Croft-Cooke case, the police used forged documents, blackmailed witnesses and general gestapo methods.

Purists, editors, clergymen and run-of-the-mill Cassandras bewailed this new wave of sodomitic sin which would surely invite divine wrath. Some more thoughtful weekly papers suggested the subject deserved more rational treatment. A few Lords and M.P.s criticized in Parliament the wisdom and effectiveness of the present law. Committees were appointed by the government, the Church, the Medical and Magistrates Associations, etc., to study the subject as dispassionately as possible, and recommend any necessary legal changes. (For a detailed account of all this, see my May 54 article in One.)

The Interim Report of the Church of England Moral Welfare Council (ONE, June 54) was quite revolution-

ary, classing homosexual acts as sinful (less so than adultery) but the condition of being homosexual as morally neutral, since it is not changeable at will. Legislation against such acts (except to protect juveniles) was not felt to be a proper state function.

By this time, politicians and papers were embarrassingly tired of the subject. The nation seemed ready to take it in a calmer light, perhaps even to modernize the law. This was less newsworthy than lurid trials. Yet the matter was rehashed every time a parson, teacher or scoutmaster was charged with offense with boys, (statistics later proved acts by men of this class not out of proportion to their percentage of the population) every time any new mention was made of Burgess and MacLean, or every time any book was published on sex.

Montagu and his associates ultimately were released from prison. He has since been occasionally in the papers for parking tickets and such. Novelist Rupert Croft-Cooke, after his release, published an excellently vivid memoir, *THE VERDICT OF YOU ALL* (Seker and Warburg) which I highly recommend. Journalist Peter Wildblood, on his release, also wrote a strong account of his life and trial, *AGAINST THE LAW* (Wedenfeld & Nicolson) and became one of the first public figures to say frankly, "I have nothing left to hide."

The Rev. D. Sherwin Bailey, of the Church's Moral Welfare Council, published an exceptional study, *HOMOSEXUALITY AND THE WESTERN CHRISTIAN TRADITION* (Longmans) challenging the notion that God punished Sodom so dramatically because of sodomy, which must therefore be especially repugnant.

Since most English newspapers beat a path straight down the gutter, anyone following them these past three years must have felt the tight little island constantly rocked by scandals of all sorts, murders, sex-crimes, censorship, peeping toms, hangings, suicides, armed services cruelties, plots and such. Of course, *THE TIMES* and the *MANCHESTER GUARDIAN* never speak of such matters, and the *OBSERVER* and *NEW STATESMAN* do so only with common sense. But the hoi-polloi read the *MIRROR*, the *SKETCH*, *NEWS OF THE WORLD* and such by the millions. To satisfy such a public, someone is always being caught swimming nude in the Thames or suggestively attacking obscenity, or chopping someone else up in little bits.

Along with the violence and flesh go many oddments: Viscount Churchill, unemployed, hoped to take his seat in Lords, found his peers' robes (worn recently by solicitor's clerks, who danced about their office, singing, "Look, I'm a peer") badly rotted away. . . . Houseworkers' Journal says; let boys play with dolls. . . . Judge grants injunction to Mayfair neighbors who complain men parading into house on swank street caused them to suffer "unpleasant interference with the enjoyment of their own houses". . . . Day & night "peeking tom" patrol kept five years at womans' college by police after one complaint. . . . Choir including 14 boy sopranos rehearsing for concert of German and Latin songs, shocked by translations. Songs were about love, in detail. . . . Husky army cadet, dolled up as princess; prize in mock war between army units. . . . Professor freed of indecent exposure charge after being reported nude in his beach tent. . . . Vicar, opposing capital punishment, preached sermon

in noose, called his parishioners hangmen . . . Mayor of Doncaster in hot water over hobby: photographing nude models . . . Father tried to tell son about birds and bees, shocked at book son had from school which also tells details about flowers and things . . . Flurry about virgin mothers dies after some cases exposed as hoaxes . . . Bookshop in Soho closed when enterprising flat-foot finds "Anglo-Saxon" language in Copy of LADY CHATTERLY'S LOVER on premises, returns to seize 37 books, 93 magazines and several photographs.

Homosexual angles also appear frequently in the scandal sheets. Three women propose to headmaster charged with luring boy students to room he called his "temple of love" . . . Baronet Sir David Ronald Milne-Watson arrested for importuning . . . 75 per cent of boys at "approved school" engage one another in sex acts . . . Police were proven to be liars in two recent entrapment cases . . . Baronet Sir Harry Leonard D'Arcy Waechter, of Suckley, Worcs, denies charges of two soldiers' Boy, 15, and grandparents accused of blackmailing man who kept boy. Boy in court denies charges made to detectives about man . . . Mar. arrested powdering nose in Hyde Park, dressed as woman . . . Blackmailed man a suicide . . . Man who beat and robbed Australian author-lecturer Russel Brandon (THE NAKED ISLAND) alleged improper suggestion . . . Public registration of all private schools will be required after 9-30-57 to bar teachers with molesting records . . . Harley St. doctor, involved in greyhound-doping plot, got off by testifying a patient of his, also involved, was a man "who could charm the birds out of the trees." He said he was a victim of the man's "irresistible wiles" . . . Dunkirk vet's army pension stopped

because he seems to be changing into a woman, due to something that happened on the beach. He has appeared in "freak show" to raise money for operation to halt process . . . Mr. Justice Hilbery of Cambridge-shire Assizes, hearing several reports by psychiatrists, asked, "What is normal? Which of us is normal? What is meant by a normal human being?" . . . A good question, which more judges ought to ask . . .

The Margaret-Townsend affair led to much discussion of the relationship between Church and State, with many clerics among the disestablishmentarians. They felt dependence on the government sapped Church vitality and resented Church leaders being chosen by state . . .

St. Paul's Canon, Rev. John Collins, criticized Sweden's "new morality" as sex on a free-for-all basis, but approved frank sex education. He said Christian morality had become badly confused with the unnatural theory that all physical things are evil and with obsessive worship of virginity. But a vigorous society needs a "big degree of self-discipline." He agreed with the Swedes it was wrong to condemn sinners out of hand, but insisted sin must be condemned . . .

The CHESSER REPORT, representing four years research headed by Dr. Eustace Chesser, analyzing sex education and marital problems and discord, presented results of interviews by family doctors of over 6,000 women and girls . . .

Methodist leader Dr. Leslie Weatherhead, decrying "so-called liberty" says the game of love must be played by the rules. "Christian ideals were not decreed by Victorian spinsters who decided it was wicked to express sex physically with a person to whom one was not married"

Sidney Jacobsen in the SUNDAY

PICTORIAL: "Laws that have forfeited the respect of the public inevitably poison relations between the police and the public. Unworkable laws confuse and sap the pride of the good policeman doing his vital job. "He attacked those laws on betting, prostitution, drinking, etc., which, since they cannot possibly be generally enforced, are a direct



incitement to corruption and other irregularities in police action. (What about laws on homosexuality, Mr. Jacobsen?) "Until we get . . . honest and well-esteemed laws . . . the tragic and dangerous rift between police and public must inevitably widen."

Discussion in the press of the allegedly forged diaries of Irish National hero, Roger Casement. Their publication, "Revealing" his homosexuality, hurried his treason execution in 1916 . . .

Stonemasons at Chiselmurst looking for way to invade Walsingham tomb to discover if Lord W. (Christopher Marlowe's patron) secreted away the supposedly murdered poet (who was to stand trial for sodomy and blasphemy) allowing Marlowe in retirement to write Shakespeare plays, making Walsingham, the Mr. WH of the Sonnets . . .

National Health Service, reported that 33 of 34 doctors asked about homosexual offenses recommended liberalizing the law, removing penalties affecting consenting adults. Of these, 29 also recommended changes in the law affecting minors . . .

The British Medical Assn's publication recently of its report on HOMOSEXUALITY AND PROSTITUTION was handled by the press in

widely contradictory fashion. The staid TIMES reported a recommendation (actually an appendix to the report) that homosexuals should cure themselves by getting religion. THE MANCHESTER GUARDIAN noted the doctors' concern with good and bad aspects of the law. DAILY EXPRESS headlines: "DOCTORS MAKE GRAVE CHARGES AGAINST MEMBERS OF PARLIAMENT." DAILY MAIL headlines: "BMA SPOTLIGHTS MEN OF SINISTER LOYALTIES." The lurid MIRROR barely mentioned the matter and the sexy SKETCH didn't at all.

The B.M.A. report itself was highly uneven, hedged at directly recommending changes in the law, though saying, "Jail isn't the answer," and emphasized even more than earlier Church report the fiction that homosexuals generally threaten minors. It said in passing, there were even homosexuals in Parliament, (this raised angry cries from both houses) the Church, etc., warned these men might be more loyal to their kind than to their jobs.

On one essential point they seemed unequivocal, stating flatly that homosexuality is not now generally curable (except in borderline cases), and condemned most cure talk as uninformed and unethical. Most homosexuals can only be "adjusted" to their condition. For this point alone their little essay is historical.

The ups and downs of the Magistrates' Assn. recommendation for liberalizing the law have been previously reported in the REVIEW. They did recommend newspapers omit names of persons under 30 involved in homosexual cases. The Press Council refused.

There were further bits from the clerics: Rev. W. P. Wylie of the moral Welfare Council issued a booklet,

THE CHURCH CARES, a liberal view of sex problems generally. The Rev. Kenneth Ross' LETTER TO A HOMOSEXUAL, a pamphlet published by the SOCIETY FOR PROMOTING CHRISTIAN KNOWLEDGE, showed considerable understanding with a touch of pollyanna.

Perhaps the best general book in the field since Cory's is Donald West's very excellent HOMOSEXUALITY (American title: THE OTHER MAN, Wm. Morrow.) For any homosexual, or his friends and family, this is an outstanding survey, despite very minor criticisms.

Less to be recommended is THEY STAND APART, a symposium published by Macmillan at \$3.75, edited by Tudor Rees. Some parts are quite good and valuable to researchers. Dr. Bailey's chapter is largely a condensation of his book. The survey of the law in various countries is useful. The editors make great pre-

tention to impartiality, but their "un-bias" seems to ask, "What should we do about these awful fairies, castrate them, or just shoot them?" Still, useful to students.

Meanwhile, all this discussion focuses on the government's DEPARTMENTAL COMMITTEE ON HOMOSEXUALITY AND PROSTITUTION, which will decide, after studying all the recommendations, whether to put new legislation before Parliament, and whether to make it more or less severe. A joint committee representing the Institute for Study and Treatment of Juvenile Delinquency and the Portman Clinic added its memorandum to those urging a liberalized law.

But for the present, of 45 million Englishmen, only Peter Wildeblood, who in his own words, has nothing left to hide, can dare stand up in public and say, "I am a homosexual."

Quotable Quotes

"After Fascism and Communism and Capitalism and Socialism are over and forgotten as completely as slavery and the Old South, that same headstrong human heart will be clamoring for the old things it wept for in Eden—love and a chance to be noble, laughter and a chance to adore something, someone, somewhere."—*Lanterns on the Levee* by William Alexander Percy (Alfred A. Knopf, New York, 1941).

"How can a man follow the way of his heart except by keeping it a secret way? Crooked as it goes, and far from home, he still must follow it, else he has no right to name himself a man."—*This Crooked Way*, by Elizabeth Spencer, (Dodd Mead & Co., New York, 1952).

Legal reform of the penalties for homosexual offences would remove a heavy burden of fear and resentment

should laws be changed ?

D. J. WEST, M.B., D.P.M.

No thinking person can maintain that homosexuality concerns just an insignificant minority of freaks. The appointment of a Home Office Committee to look into the law relating to homosexuality shows that the Government takes the problem seriously.

Thousands upon thousands of seemingly respectable citizens lead a Jekyll-and-Hyde existence, part of the time posing as normal and part of the time moving in the homosexual underworld.

For example, in July, 1954, twenty-eight men came before the

Birmingham Assizes on charges of homosexuality. The judge spoke of "these disgusting practices which corrupt the life of the community" and awarded prison sentences totaling thirty-six years.

The exposure of the men was reported to have come about through one man giving up to the police an address book containing the names of 213 homosexuals with whom he had associated.

In 1953, in England, a detective who had served twenty years in the police force was sent to prison for indecency in a Turkish bath.

As most Review readers know, and as Author Lyn Pedersen points out elsewhere in this issue, England has given considerable attention to religious and legal aspects of homosexuality in the past half-decade. Reprinted here is one of the most recent and most significant articles on the subject, in line with the kind of attitude that is becoming more widespread in Great Britain today. The material here has been extracted from the book by Dr. West, "HOMOSEXUALITY," published in London by Duckworth, and re-published in the U. S. recently under the title, "THE OTHER MAN" (Wm. Morrow & Co., 1955. \$4.00) The author is registrar of the Psychiatric Clinic of Marlborough Day Hospital, London. His article originally appeared in the British magazine, DIGEST.

THE fact that English law classifies sodomy as a felony means that any citizen who knows of such an offence, or knows that such an offence is likely to be committed, has a legal duty to apprehend the guilty persons and notify the police.

The letter of the law does not always reflect the feeling of a community. Some sections of society preserve a tolerant attitude regardless of the law. This applies to theatrical circles almost everywhere. In England, an actor convicted of a homosexual offence can pursue his career without interruption, but a lawyer, doctor or clergyman under similar circumstances would be ruined.

Homosexuals naturally gravitate to those circles where they are more or less accepted. This factor, more than any innate artistic aptitude, is probably the reason for the seemingly large number of noticeable homosexuals among musicians, designers, actors and men in personal service occupations.

One undesirable consequence is that where homosexuals gravitate normal men shy away, so that certain types of employment become the almost exclusive domain of cliques of sexual deviants.

WHATEVER some sections of society may feel, or however tolerant the law may become, Christian dogma pronounced categorically that homosexual practices in any shape or form are morally wrong.

Dr. Fisher, Archbishop of Canterbury, in the *Diocesan Notes*, declared: "Let it be understood that homosexual indulgence is a shameful vice and a grievous sin from which deliverance is to be sought by every means."

The Bishop of Rochester, in the *Practitioner*, explains that "Christianity reveals . . . that complete fulfilment of personality can only be

attained when the sexes express the love divinely born in them, according to the will of God". He further states that "homosexual practice is always a grievous sin and perversion. Defective sexual intercourse can only be gross indecency under the guise of expressing affection".

NEVERTHELESS, the Church of England Moral Welfare Council pamphlet, *The Problem of Homosexuality*, points out that homosexual indulgence is not, as a rule, so far-reaching and devastating in its third-party consequences as ordinary pre-marital or extra-marital sexual relations and recommends that the State, which does not interfere with the private acts of consenting adults in these latter cases, should cease to do so in the case of homosexuality.

It thought the control of adult homosexuality a matter more appropriate for the individual conscience than for statutory legislation. There was a danger that sensational and prejudiced reports in certain sections of the Press might inflame the

SOME of mankind's foremost thinkers and creative artists are considered to have been active or latent homosexuals—among them Plato, Socrates, Oscar Wilde, Tschaiowsky, Walt Whitman and Leonardo da Vinci.

Since the beginnings of history, attempts have been made to legalise homosexuality out of existence.

Should homosexuality be regarded as a crime or as an illness from which crime may sometimes result? Is it subject to treatment and cure? Biologists answer: "Very likely." Psychiatrists and social scientists say: "No doubt about it."

IN the psychiatric view, the homosexual suffers from stunted emotional growth; he has a child-like emotional equipment in the body of a grown man.

Psychiatrists' reasoning is this: young boys are extremely devoted to their mothers, whom they idealise and who are the objects of their earliest sexual feelings. But they soon absorb the judgment that such feelings are socially taboo.

The most frequent damaging consequence is an unconscious sense of guilt which is liable to be carried into later life and applied to the female sex in general; relations with women are shunned because such intimacies would be the psychological equivalent of incest.

—Coronet.

public to the point of demanding persecution as well as prosecution.

In advocating legal reform they emphasise the anomalies in British law as it now stands. The law ignores lesbian acts, but punishes men severely. For importuning, a woman prostitute receives a maximum penalty of a £2 fine, whereas a male importuner may be imprisoned for two years as a "rogue and vagabond" under the Vagrancy Act.

THOUGH moral or legal justification may be found for punishment, imprisonment under present conditions seems a most unsatisfactory way of dealing with the problem. Confinement in gaol embitters the individual victim without reforming him and, moreover, serves to spread homosexual habits among men who might otherwise not indulge in them.

Many authorities have spoken against the system of incarcerating sex-offenders, among them Judge Tudor Rees, who has said:

"I have had talks with governors and medical officers of prisons, and with probation officers and others, and I am sure that, instead of reforming the offenders, a prison sentence aggravates the cause of the trouble, and so inevitably leads him into further mischief when he leaves prison."

ONE of the most disturbing accounts of the effect of imprisonment is a book entitled *Sex in Prison*, by J. F. Fishman, one-time Inspector of Prisons. He explains how the impersonal discipline with no outlet for affection, the bar on all contact with women, the enforced idleness, the perpetual salacious talk, the loss of self-respect and normal standards, all conspire to lead prisoners into homosexual habits.

Ernst Toller, the famous German dramatist, remarks in the introduction to Fishman's book that in the German prison where he was incarcerated: "Men, who were so conditioned that previously they condemned the slightest deviation from the norm of sexual activity, became homosexuals."

NEARLY every modern book on prisons mentions the homosexual problem. L. W. Fox remarks: "The problems of homosexuality in prisons are patent to all familiar with prison life." He then goes on to discuss the possibility of controlled concubinage for prisoners as an antidote to homosexual influences.

Books by ex-prisoners often describe most vividly the impact of the homosexual prison atmosphere on hitherto sexually normal men. One such work, by Anthony Heckstall-

Smith, paints a dismal picture of the sexual habits of youths in Borstal institutions.

As Wilde put it:

*The vilest deeds, like prison weeds,
Bloom well in prison-air;
It is only what is good in Man
That wastes and withers there.*

The convicted homosexual feels he has been made a scapegoat for behaviour for which thousands of others go unpunished. On his release, when he finds himself snubbed by friends and rejected by employers, his outlook on society comes close to that of the confirmed criminal. Notwithstanding his "vice", he may not have been a really vicious personality before, but he is likely to become one as a result of experience in and after prison.

LEGAL reform, in the sense of removing the penalty for homosexual acts between consenting adults, would go a long way towards the abolition of a particularly nasty form of blackmail and intimidation, and would help remove a heavy burden of fear and resentment from the minds of a considerable section of the community.

It would be fairer if the laws were the same for heterosexuals and homosexuals, and penalties for prostitution, abuse of children, and seduction of minors did not take account of the sex of the participants.

Some persons fear that, given liberty to indulge, homosexual practices would spread so widely as to endanger family life and lower the birth-rate. Such fears are grossly exaggerated. No such dramatic result has been observed in Holland or in other countries that already exercise legal tolerance.

It is clear that the use of harsh measures in an attempt to block the homosexual outlet does not succeed, and may well make matters worse by reintroducing that atmosphere of fear that is the root cause of the trouble.

Perhaps the most civilised attitude towards sexual deviants would be similar to the present attitude to unmarried persons. While recognising that they are missing a rewarding experience and are not contributing directly to the task of child-rearing, we realise that they may be temperamentally unsuited to married life, and that they may serve the community usefully in other ways besides bringing up a family of their own.

But toleration of sexual deviants is not the same as encouragement. No doctor should advise a young person to rest content with a homosexual orientation without first giving a grave warning about the frustration and tragedy inherent in this mode of life.

"YELLOW BOOK" of General Information—

The history, organizational structure, aims and principles and operation of the Mattachine Society are told in a 16-page general information booklet. It's called "The Mattachine Society Today." Send 25 cents for your copy to the Board of Directors, Mattachine Society, Inc., P.O. Box 1925, Los Angeles 53, Calif.

HARRY S. TRUMAN on

Security Risks

In discussing Congressional hearings before the Senate committees on Armed Services and Foreign Relations, following the recall of Gen. Douglas MacArthur in 1951, the former president aptly touched the subject of security risks in his memoirs which appeared in LIFE, February 13, 1956:

“To be sure, arrangements had been made to delete from the published record such passages as might be objectionable on security grounds. But, with as large a committee as they had and all other senators invited to attend, the newspapers were generally able to find out what had been deleted from the record.

The problem, of course, is that members of Congress, and the newspapers too, consider, and rightly, that the government's business is the public's business and therefore everybody's business. "Everybody," of course, includes everybody who can read the Congressional Record, the hearings and reports of committees, and not just the newspapers. We worry a lot about the chance that some employe of the government might give away secrets, and we fire and humiliate people because of the mere suspicion that they might, perhaps some day, be indiscreet. Yet for the price of a good clipping service an enemy of the United States can acquire untold items of information about our plans and intentions and even about our installations and our equipment. This is made public because "the people are entitled to know."

Since no two people are likely to agree where the security needs end and the public interest begins, all an enemy of the United States has to do is to stir up a good fuss that will lead to a congressional probe. Then he will probably receive at no extra charge all the information he wants.”

(From THE TRUMAN MEMOIRS, by Harry S. Truman. Copyright 1956 by Time, Inc.)

Searches And Seizures In California and the Protection Of Constitutional Rights

By Honorable Jesse W. Carter
Associate Justice, California Supreme Court

Let us not fool ourselves into thinking it wise to permit police officers and crime investigators to break one law while seeking evidence against a private citizen whom they may suspect of breaking another. This important statement appears in the article below which resulted from a majority decision of the California Supreme Court not long ago. The author delivered this paper as an address before the Blackstone Post of the American Legion, San Francisco, recently.

It seems paradoxical to me, that in this year of our Lord 1956—165 years after the adoption of the Bill of Rights, which includes the Fourth Amendment to the Constitution of the United States, it should be necessary to speak in defense of the rights there guaranteed to all of the people of this country. But when I read in the public press and hear over the radio the intemperate protestations of law enforcement officers and some law professors against the recent decision of the Supreme Court of California in *People v. Cahan*, I feel constrained to re-examine this constitutional mandate in the light of conditions as they exist today.

First, let us see if we understand what the *Cahan* decision holds. It seems very simple to me—that evidence illegally obtained is inadmissible in a criminal case. In other words, law enforcement officers must obey the law in obtaining evidence of law violation or the evidence obtained cannot be used in a criminal prosecution. This would not seem to cast too great a burden upon the law enforcement agencies. But some prosecutors and peace officers seem to think that it does. After the decision in the *Cahan* case was announced, Mr. Clarence Linn, Chief Assistant Attorney General

of California, was credited with the statement that the *Cahan* decision was a Magna Carta for the criminals, and Chief of Police Parker of the City of Los Angeles declared: "The ruling in the *Cahan* case is catastrophic in its effect on efficient law enforcement and places insurmountable handicaps upon police officers."

Speaking of law enforcement officers, I wish to state very frankly and sincerely, that in general, our law enforcement officers are a very fine, outstanding group of people

engaged in a very difficult task. I say this advisedly because twenty years of my official life were devoted to law enforcement.

There is probably no problem more delicate or fraught with more serious consequences to both the officer and the private citizen than the proper exercise of official power in a criminal investigation. We have on one side, the right of the citizen, protected and guaranteed by the Constitutions of the United States and of California—to be secure in his person, home, office, papers and effects, which should include his automobile or other means of transportation, against an unreasonable search or seizure. On the other side, we have the officer, whose sworn duty it is to detect law violation and apprehend those who may be guilty thereof. On this side the interests of the public are at stake. If this were a new question—if a new public policy were to be declared, I am sure there would be a sharp division of opinion as to both policy and practice as they might relate to the enforcement of different laws.

But our public policy has been declared—written with indelible ink on permanent parchment, vouchsafed by over a century and a half of tradition, that the right of privacy of the individual as declared in the Fourth Amendment to the Constitution of the United States transcends the right of the public against its violation unless there is reasonable cause to believe that the individual has committed a public offense. In the words of the late Justice Robert H. Jackson: "We meet in this case, as in many, the appeal to necessity. It is said that if such arrests and searches cannot be made, law en-

NO GESTAPO TACTICS IN THE U.S., PLEASE

"The American system of ordered liberty does not lend itself to methods employed by the Gestapo, the storm trooper or the commissar for the preservation of the totalitarian state under Nazi, Fascist or Communist regime."

--Judge Carter

forcement will be more difficult and uncertain. But the forefathers, after consulting the lessons of history, designed our Constitution to place obstacles in the way of a too permeating police surveillance, which they seemed to think was a greater danger to a free people than the escape of some criminals from punishment. Taking the law as it has been given to us, this arrest and search were beyond the lawful authority of those who executed them."

In the *Di Re* case from which I have just quoted, Justice Jackson was simply applying the rule that the United States Supreme Court had applied in cases of this character for over 40 years. It is true that this rule has been referred to as a judicial policy—a refusal by the courts to permit officers of the law to use evidence in a criminal prosecution which they obtained in violation of the law. As Mr. Justice Holmes declared in his great dissent in *Olmstead v. United States*, "We have to choose, and for my part I think it a less evil that some criminals should escape than that the Government should play an ignoble part."

However, the critics of this rule want the right to violate the Constitution—to commit a crime themselves in order to obtain evidence

to be used in a criminal prosecution against others. It must be remembered, that the constitutional provisions both of the United States and of California prohibit only unreasonable searches. All searches based upon reasonable grounds may now be made without

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If it were not for the rule in the Cahan case an officer could stop any automobile and not only search the automobile but the people riding in it, and if they had suit cases, brief cases or packages, could open all of them and examine every article contained therein. If they found anything in the nature of contraband, they could then arrest the occupants of the automobile and use the evidence so obtained in their prosecution. If they found no contraband, the victims of the search would have an action for damages against the officers, but anyone familiar with such cases is aware of the utter futility in obtaining redress which would justify the bringing of such an action.

Law enforcement officers are generally not people of wealth, and there would be little satisfaction to the victim of obtaining an uncollectible judgment after paying counsel fees and court costs necessary to the prosecution of a law suit of this character.

It is obvious that what the critics of the Cahan decision are seeking is a nullification of the Fourth Amendment to the Constitution of the United States and Section 19 of Article 1 of the Constitution of California which is a counterpart of the Fourth Amendment. I have long contended that the provisions of the Fourteenth Amendment should be extended to cover the Fourth Amendment making an illegal search and seizure a deprivation of due process of law on the part of the state which would render a judgment based on evidence obtained as a result of such search, absolutely void.

In the case of *Rochin v. California*, the Supreme Court of the United States reversed the Su-

a search warrant the same as before the Cahan decision. What these critics want is the right to search anybody or any place at any time without a warrant or cause for belief that a crime is being committed.

reme Court of California in a case involving illegally obtained evidence. You will no doubt recall his case as the so-called "stomach pump" case where the officers broke into the defendant's home, and observing him attempting to swallow what they thought was a narcotic drug, seized him by the throat and tried to prevent him from swallowing it, but finding they were too late, carried him from his bed, took him to an emergency hospital, strapped him to a board, and forcibly pumped out the contents of his stomach, which they used as evidence against him in a criminal prosecution. All this was done without a search warrant or proof that they had reasonable cause to believe that the defendant was engaged in the commission of a crime at the time of the illegal entry and search. While the reversal of this case by the Supreme Court of the United States was not based upon the Fourth Amendment but upon

(Continued on page 29)

san francisco

3rd Annual Convention

Dates of the 3rd annual meeting of the members of the Mattachine Society are May 11-13 at San Francisco. Beginning with a reception on the evening of Friday, May 11, the main day's program on Saturday will feature several speakers from professional fields of law, medicine, psychology, journalism and religion. An evening banquet will also feature a prominent person in the sex research field.

Business meeting of the Society will be held on Sunday afternoon, following a session in techniques of writing to be held on Sunday morning.

Immediately after the Society's business meeting and election of officers, the new Board of Directors will hold its first quarterly meeting, which event will conclude the convention.

The convention will be held in the Hotel Bellevue, corner of Taylor and Geary streets. Registration at 10 a.m. May 12 will cost \$5.00, which includes a ticket for the banquet to be held in the Princess room that evening. Room number of the general meeting sessions will be announced at the time when delegates and guests register.

In contrast to past conventions of the Society, the meeting this year will feature outsiders interested in our work who are in a position to advise and help guide the organization in its work in the future. Reports from departmental directors and officers will be received in advance and published in booklet form, making it unnecessary for program time to be devoted to these routine subjects.

Subscribers to the Review and friends of the Society may attend all but the Sunday business meeting. Reservations for all events should be made in advance and addressed to Convention Chairman, San Francisco Area Council, Room 307, 693 Mission street, San Francisco 5, Calif. Registration fee and the amount for the banquet ticket should be enclosed (\$5.00).



BOHEMIAN SATURDAY NIGHT—San Francisco's North Beach area is famous among tourists and natives alike as one of the most colorful yet cosmopolitan places in America. Gourmets know it as a place where, within a distance of a few blocks of the six-pronged intersection of Columbus Avenue, Broadway and Grant Street, some of the finest chefs in the hemisphere prepare native foods which would qualify them to serve the United Nations. Filipino, Chinese, Italian, Basque, Mexican, Hawaiian, French, Tahitian, Spanish, Armenian and many other national menus are regular bills of fare in this area. Yes, and Swedish smorgasbord, Creole cookin', Suki-

yaki and Kansas City steaks too...

But above the heavy odor of garlic and charcoal, an electric kind of worldliness grips this area—recognized by every visitor from provinces East or Pacific ports West.

For here entertainment such as can be found nowhere else is the nightly event: Bimbo's 365, swank and expensive; Finocchio's, with its aging gents still impersonating "Two Old Bags From Oakland;" Ann's 440, with its gay pantomime acts and parodies; Barnaby Conrad's Matador with its el toro scenes and talk; International

Settlement's Barbary Coast gyp-joint hangovers from a lush day since fled, and the Black Cat, Bohemian bistro with gawkers from the Grey Line tour staring amazedly at the locals tanked with beer, the sawdust on the floor and the murals on the ceiling. Here pizza joints, the hungry i and chop suey jade rooms are all but a few yards (and a world) apart.

Artist Bruce Balfour has captured one facet of this moving scene in a tense pen and ink drawing above. The scene, the locale, and the scarcely defined people are San Francisco—nothing else.

Kinsey Links Teen Crime To Sex Curbs

Dr. Alfred Kinsey says that increasing legal and social restrictions against sex are "sources of many of our crime problems among teen-agers."

The author of the much-discussed books on the sex behavior of the humans told newsmen at the City of Hope Medical Center recently that while "there are certain sex acts which society needs to protect itself against," sex restrictions "tend to increase sex problems."

The University of Indiana zoologist declared that restrictions have greatly increased in

this country in the last 75 years. These include the raising of the level of consent among girls.

"In every State in the Union a boy can be jailed for petting," he said, adding that for the last six years he and his staff have been studying the legal and penal aspects of sex.

"Sixty per cent of the persons in penal institutions are there for sex crimes," Kinsey declared. "California has three times as many sex offenders in prison as the average State. And I don't think it's because of the climate or smog, either."

Because youngsters, especially boys, reach sexual maturity in their early times, the scientist said, homosexuality is encouraged by the wall of restrictions against early normal sexual relations.

Does he have any ideas on how to lessen the problems?

"As a scientist it is my job to record the facts," he replied.



SEARCHES & SEIZURES (Continued from page 24)

the due process clauses of the Fifth and Fourteenth Amendments, it cannot be denied that the decision of the supreme Court of the United States in the Rochin case was a warning to the Supreme Court of California that it should not permit such practices to be tolerated in this state.

In that case the Supreme Court of the United States declared that the abuses practiced on Rochin were of such gravity and so inhuman as to shock the conscience of mankind and that such course of proceeding by agents of government to obtain evidence is bound to offend even hardened sensibilities. Needless to say that both Justice Schauer and I dissented in the Rochin case when that case was before the Supreme Court of California. After the decision in the Rochin case, the case of Irvine v. California came before the Supreme Court of the United States and the record there disclosed that police officers, without a warrant and by means of a skeleton key entered the home of the defendant, placed a so-called "bug" in his bedroom by means of running an electric wire through a hole which they had bored through the roof and then recorded the conversations taking place therein for several weeks. They later used this evidence to prosecute Irvine for violation of the so-called "bookmaking law" of California.

Irvine was convicted, and his case ran the gamut of the California courts, Justice Schauer and I dissenting against the denial of a hearing when it came before the Supreme Court of California. The case finally reached the Supreme Court of the United States. There, four of the justices voted to reverse the case because the officers

had violated the rights of the defendant under the Fourth Amendment, but because of the rule in Wolfe v. Colorado, the majority held that the Fourteenth Amendment could not be invoked to prevent state courts from using illegally obtained evidence in a criminal prosecution, and the conviction was affirmed notwithstanding the scathing denunciation by all of the justices of the conduct of the peace officers in thus illegally invading the rights of the defendant.

After the decision in the Irvine case, the Attorney General of California, the Honorable Edmund G. Brown, rendered an opinion to the District Attorney of Los Angeles County, the Honorable Ernest S. Roll, in which he declared that illegally obtained evidence should not be used in criminal prosecutions in California. Notwithstanding the strong position taken by the Supreme Court of the United States in the Rochin and Irvine cases, against the illegal conduct of the law enforcement officers of California in obtaining the evidence used in those cases, and the position of the Attorney General of California as evidenced by his opinion, we are met with blasts of criticism from certain prosecutors and law enforcement officers because a majority of the Supreme Court of California felt that it was time to say to the peace officers of California: "You must obey the law yourselves in obtaining evidence of law violation or the evidence you illegally obtain will not be admissible in the courts of this state." This the Supreme Court of California said for the first time in People v. Cahan. The only trouble with this decision is that it is 35 years too late.

I say this advisedly, because it has been my observation that since the decision of *People v. Mayen* in 1922 there has been a rising tide of lawless conduct by some of the law enforcement officers of this

state in their attempt to obtain evidence of law violation and this lawless conduct by law enforcement officers has been given the sanction of the courts of California until the Cahan decision.

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During the more than 16 years I have been a member of the Supreme Court of California some 40 or 50 cases involving this question have come before the court and I have dissented against the approval of this rule in every one of these cases.

It is true that the constitutionally guaranteed right of privacy is an impediment against indiscriminate searches and seizures which would enable peace officers to obtain evidence of law violation. As heretofore stated, it is not necessary for a law enforcement officer to obtain a search warrant before making a valid search in every case.

It is only necessary that the officer have reasonable cause to believe

that a felony is being committed to justify a lawful search. But without a search warrant or reasonable cause for the belief that a felony is being committed, a search or seizure is invalid and constitutes a violation of the individual's constitutional right of privacy.

While I do not believe that the application of the rule in the Cahan case is an impediment against law enforcement in this state and there is no justification whatsoever for the public criticism directed against this rule, I think it proper to call attention to some of the other constitutional safeguards which may likewise be said to make it more difficult to bring criminals to justice. There can be no question but that the constitutional mandate against depriving a person of life, liberty or property without due process of law, which is contained in both the Fifth and Fourteenth Amendments to the Constitution of the United States and also in the Constitution of California, may have this effect. These provisions have been interpreted to mean that a coerced

confession may not be used to convict in a criminal case. In other words a person under suspicion for the commission of a crime may not be starved or beaten or threatened or otherwise intimidated into confessing his guilt. By a long line of decisions of both the Supreme Court of the United States and the Supreme Court of California, convictions based upon such confessions, have been held absolutely void as having been obtained in violation of due process of law. Many other safeguards including the right of an accused person to counsel, the right to procure witnesses and be confronted with the witnesses against him, the privilege against self-incrimination, and many other safeguards guaranteed by the Bill of Rights, are all impediments against the conviction of the guilty as well as the innocent and interfere with the over-zealous conduct of prosecutors and law enforcement officers in seeking to convict the guilty and make it hot for the innocent.

We are told that the Nazis, Fas-

cists and Communists found the above mentioned safeguards too onerous for the speedy dispatch of those whose existence they determined would be detrimental to the welfare of their totalitarian state. And I feel disposed to state to those who would break down any of these safeguards that the American system of ordered liberty does not lend itself to the methods employed by the Gestapo, the storm trooper or the commissar for the preservation of the totalitarian state under a Nazi, Fascist or Communist regime.

It must be remembered that the Fourth Amendment to the Constitution of the United States was adopted for the protection of all of the people of this country, and that section 19 of article I of the Constitution of California was adopted for the protection of all of the people of this state. The object and purpose of the framers of these constitutional mandates was to guarantee and make secure the fundamental right of privacy to every person—the right to be secure against police surveillance unless the police have reasonable

cause to believe that an offense is being committed. This does not mean mere suspicion as some of our courts have recently indicated. The obvious reason for the rule that evidence obtained as the result of an illegal search, cannot be used against the victim of the search, is to protect innocent people by discouraging such searches. It is a matter of common knowledge that it has been the practice of law enforcement officers of this state to make searches of the persons and property of individuals whenever they saw fit regardless of whether reasonable or any cause existed, and many innocent people have been subjected to the indignity and humiliation of having their persons, homes, offices and automobiles searched by law enforcement officers with impunity when nothing of an incriminating nature was found and no arrests or prosecutions resulted therefrom. Many of these invasions of the constitutional right of privacy received no public mention because the victims did not wish to incur the expense and endure the inconvenience and publicity incidental to seeking redress in the courts.

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It is probable that for every case where evidence of a crime has been found there have been numerous illegal searches which uncovered no evidence whatsoever, and we know from the reported cases that the practice of illegal searches in this state has increased many fold in recent years. If the above mentioned constitutional provisions have any meaning whatsoever, then the victim of an illegal search may assert the right of privacy guaranteed to him and resist such search. If he does so, either he or the officer may be injured or killed. If this should occur, where should the blame fall? Obviously, a prosecutor who favors such illegal conduct on the part of law enforcement officers would be disposed to prosecute the victim of the illegal search if he should injure or kill the officer in

his effort to resist the search, and would not prosecute the officer who injured or killed the victim

in the forcible execution of his illegal project.

From the intemperate and misleading statements appearing in the public press recently as having been made by heads of police departments and prosecuting officers of this state against the rule in the Cahan case, we are forced to assume that they feel that great credit and high praise should go to those law enforcing officers who ruthlessly violate the above mentioned constitutional guarantees, and that hatred, contempt, ridicule and obloquy should be heaped upon those who insist upon their observance and preservation. I will again repeat what I have said many times both as a private citizen and as a public official of this state, that I have a sincere devotion to the American system for the administration of justice as postulated by the Constitution of the United States and the Bill of Rights; that I can conceive of no emergency short of a threat to our national security which would justify striking down any of the safeguards for the protection of the rights of the people embraced within that system. The impediments against law enforcement, the escape of some criminals from conviction and punishment, and the cost to the public incidental to the operation of such a system, fades into insignificance when we offset and balance against those factors the glorious feeling which stems from the consciousness that, because of this system, we live in an atmosphere where we may enjoy life, liberty and the pursuit of happiness with dignity and self-respect, secure against any invasion of our fundamental personal rights without due process of law.

The Elder Pitt, in his speech on

the Excise Tax, gave expression to what later became the Fourth Amendment. What he said then is just as important today. He said that "The poorest man may in his cottage bid defiance to all the forces of the crown. It may be frail; its roof may shake; the winds may blow through it; the storms may enter; the rain may enter—but the King of England cannot enter. All his forces cannot cross the threshold of the ruined tenement." Yet, prior to the decision in the Cahan case, the police and other so-called law enforcement officers in California could ruthlessly force their way into the home of a private citizen, and without a search warrant, seize whatever they found and use it as evidence in our courts notwithstanding they violated the constitutional right—the right of privacy—of the citizen in obtaining it.

Another great Englishman, Lord Coke, had this to say on this same subject: "The house of everyone is to him as his castle and fortress, as well for his defense against injury and violence as for his repose."

Every student of history recognizes that the abuse of official power has been the source of the major ills inflicted upon mankind since the existence of organized governments. This is true notwithstanding the effort of those who believe in a democratic form of government to establish a system of checks and balances so that boundless power is not reposed in any single official or branch of government. Hence the provision in both the Fourth Amendment to the Constitution of the United States and section 19 of article I of the Constitution of California, that before a search may be made or evi-

dence seized, proof under oath must be submitted to a magistrate—a judicial officer—that probable cause exists for such search and seizure, and a warrant issued by such magistrate "particularly describing the place to be searched and the person or thing to be seized." Those constitutional mandates were designed to place a curb or restriction upon the power of the law enforcing branch of the government, requiring it to obtain judicial sanction, in cases where a search is necessary to obtain such evidence. It is sheer nonsense to say that those who drafted those constitutional provisions ever had any other thought in mind than that evidence obtained in violation thereof would not be accepted by any court or accorded judicial sanction. As Mr. Justice Douglas so aptly stated in the McDonald case, "We are not dealing with formalities. The presence of a search warrant serves a high function. Absent some grave emergency, the Fourth Amendment has interposed a magistrate between the citizen and the police. This was done not to shield criminals nor to make the home a safe haven for illegal activities. It was done so that an objective mind might weigh the need to invade that privacy in order to enforce the law. The right

of privacy was deemed too precious to entrust to the discretion of those whose job is the detection of crime and the arrest of criminals. Power is a heady thing; and history shows that the police acting on their own cannot be trusted. And so the Constitution requires a magistrate to pass on the desires of the police before they violate the privacy of the home. We cannot be true to that constitutional requirement and excuse the absence of a search warrant without a showing by those who seek exemption from the constitutional mandate that the exigencies of the situation made that course imperative."

In conclusion, may I suggest that this organization, which seeks to advance the American way of life, sponsor a declaration by our Legislature that a public official, who has taken a solemn oath to support the Constitution of the United States and the Constitution of the State of California, is guilty of serious misconduct in office when he openly encourages the willful violation of any of the provisions of those Constitutions, and may be removed from office for such misconduct. I can think of no better way to perpetuate those fundamental guarantees which are essential to the preservation of our democracy.

DER KREIS LE CERCLE

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(monthly) published since 1936, in German; also articles in French and English (no translation duplications) drawings and photos; \$7.00 yearly, first-class sealed \$11.

DER KREIS/LE CERCLE Postfach 547, Fraumunster, Zurich 22
SWITZERLAND

the problem of HYPOCRISY...

Does it affect homosexuals?

by Ward Summer

AS A MEMBER of a significant minority group, the homosexual is subject to the same kinds of pressures and difficulties as the members of other minority groups. And yet, often how different are his reactions! Where a Jew or a Negro tends to be more tolerant of other minority groups, more concerned with the welfare of his fellow-members, and more at least with the majority group, the homosexual seems inclined to be less so, on all these counts. How often it is true and how sad, that he adopts either one extreme attitude or the other. Either it is a cowed attitude of a dog waiting to be whipped, or it is the carrying of a perpetual chip on his shoulder. Hypocrisy, which he so assiduously condemns in others, is his own most obvious fault. Why is it so? Because he feels that deception and cruelty are his only weapons against a hostile world. But this is fortunately not so. He is laboring under a terrible delusion.

How often have you heard a homosexual say, "He's a nice guy, but he's such a kike!" or some such thing? Of course, heterosexuals say these things too, but it goes without saying that the homosexual should know better. A statement like "They ought to send all the negroes back to Africa," does not speak very well for our learning ability. Haven't we homosexuals learned anything from our own persecution? Can't we remember what it's like when people

EDITOR'S NOTE: While Ward Summer's article represents, to a degree, a kind of "special pleading" for which inverts have been criticized, his opinion is presented here because the subject is significant. The REVIEW realizes that the matter which follows is strictly in an editorial form, but views expressed here are a strong argument for substituting truth and honor for fear, flippancy and falsehoods. From time to time, other such opinions of readers will also be presented in the REVIEW. Have you a particular opinion you would like to express? Let us hear about it.

have said the same things about us? The temptation to find scape-goats is very strong. The Germans fell for it in the last war. Whenever a man feels that he is hated by others, it is only natural for him to cast about for someone that HE can hate. It makes him feel safer and at the same time gives him an opportunity to feel, in a way, as if he were getting revenge. It is not just that it is unfair. The trouble is, it can backfire. In our civilization, anyone can become a scape-goat, even you and I.

As if this kind of intolerance were not bad enough, too many of us are not content to rest with running down other groups, we run down our own as well. Under the misguided notion that he is protecting himself in a blanket of hypocritical preju-

dice, many a homosexual only succeeds in drawing unwanted attention to himself. I recall a man I once knew saying to a group of heterosexuals, "I certainly don't want to keep out of the army when there's a war on! What? Stay home with all the 4-F's and queers!" When you consider that this man was himself a homosexual, and had been deferred by the army because of it, his patriotism seems a trifle strained. For some reason he thought that such talk helped to throw suspicion off himself, but the heterosexuals only wondered why he made such a strangely vehement statement, and began to suspect the truth about him from that moment.

Many "latent" homosexuals criticize overt homosexuals without realizing their own natures. If they had any hint as to the significance of their actions, they might be horrified. This is bad enough, but at least they are acting unconsciously. For the man who consciously admits the fact of his own inversion and still persecutes the members of his own group, this is too unforgivable. The reason many homosexuals hate other homosexuals is that they hate themselves. They look upon themselves as loathsome or contemptible, consequently when they see the same characteristics in another person, that person becomes loathsome and contemptible too. This is a sick attitude and lamentably too prevalent. Still, it is the homophiles who run down others in their group for so-called "practical reasons" that are the most disappointing, at least to me. Certainly it is true, for example, that one's profession might suffer if one associated and were seen associating with "dubious" characters, but, is that any reason for making an issue of homosexuality? There are dubious characters in other groups too. When injustice occurs it



should be fought, whether the victim is homosexual or not. Society will never accept us as long as we try to avoid issues as they arise, or worse yet, actually add fuel to the fire! Whoever won anything without a struggle, or by joining sides with the enemy?

Homophiles should not be afraid of society. Fear breeds hypocrisy and hatred, and one gets in return what one gives. Act persecuted, and you will be. Act with anger, and you will be met with anger. But a man who sticks up for himself is always respected. People admire courage and self-confidence (although they do not admire arrogance) and they will meet it appropriately. In other words, people have not power over us unless we give it to them. Everyone has a right to lead his own life, and need not feel guilty about it. The trouble is that many of us act as if we were guilty, and consequently the world, which is quick to oblige, automatically reacts with punishment. People do not hate minority groups unless they are taught to do so, or unless they have been badly treated by them. It is the job of the minority group itself to correct this ill-will when it occurs. Who else is going to bother? When we have learned to re-evaluate our emotions with regard to society, maybe then

society will begin to do something about the way it feels towards us.

We homosexuals should not adopt the hypocrisy of the age in which we live. Of all people, we should avoid the trap of leading "double-lives", a smug "respectability" on one side, and insane "degeneracy" on the other. It is a miserable existence at best. Since the pendulum of action and reaction swings in ever widening arcs, rising on one side to higher and higher social conformism and falling on the other side to lower forms of rebellion, the double-life is nearly always exposed in the end causing extreme unpleasantness for all concerned. These are the people whom the blackmailers have caused to become known as "typical" homosexuals, bad security risks, and other annoying epithets which other homosexuals have to live down. We are all guilty by association. Any male homosexual, for instance, who carries his hypocrisy so far as to marry a woman without telling her anything about himself, will sooner or later become the victim of his own cowardice. And his wife will not be the least person to suffer from it.

But there are other hypocrisies. Any adult homosexual should inform his parents of his problem when and if it becomes necessary. Refusing to do so is usually disastrous. Lying only increases the agony for all concerned. No mother has ever to my knowledge borne out the prophesy. "It would kill her if she knew!" All this concern for the feelings of the parents is only cowardice. If the parents are understanding, as most are, they feel it is their responsibility to share the burdens of the children, and they will do so gladly (to the relief of the homosexual). If, on the other hand, the parents turn out to be cruel or unrealistic, then they are certainly not worthy of

respect, and one is at least relieved of the burden of feeling sorry for them. Real love does not ever turn into hate.

Each homosexual has a right to be as happy as possible in this difficult world. He should not allow his fears to stand in the way. Lying and hypocrisy are the results of fear, no matter how well they may be disguised. We need not bear banners on our sleeves proclaiming what we are, but neither do we have to hang our heads in shame or try to be something we are not. It's about time we began to act as though we were sure of ourselves. Lately when some nosey neighbor asks me why I haven't married, I tell him politely but firmly that it's none of his business. Why should I make up some ridiculous story about a girl I'm going with? I have lots of girl-friends but I think too highly of them to use them as alibis, to parade them around on my arm as if to say to the world "See, I'm not gay, after all. I have a girl!" And when people actually have the gall to come right out and ask me whether or not I am homosexual, I have recently found it impossible to refrain from telling the truth, even in the most embarrassing circumstances. At least I have the satisfaction of watching them squirm when it was they who expected me to lie and squirm. I feel that anyone who goes this far in his interrogation has already made up his mind anyway, and no matter what you say, he will not change his mind. Why add further ignominy to yourself by lying.

In short, let's put an end to the bad reputation we have given ourselves. No matter how much we may be despised, let us at least show the world that we have some idea of honor among ourselves, and that as individuals we have not lost our integrity and self-esteem.

MATTACHINE

library
project

Library projects have taken on new importance in two areas of the Mattachine Society. At present two main divisions of the library have been established: one at Los Angeles and another at San Francisco.

The Los Angeles Mattachine library is being collected and catalogued by the secretary of the Board of Directors, with assistance from both Los Angeles and Long Beach area councils. It already contains many leading volumes on sex variation. It is located in the Los Angeles office, 357 Belmont Ave.

At San Francisco the library is a joint project of the Publications Department (Mattachine Review) and the San Francisco area council. It is located at 693 Mission street.

Each library is anxious to receive contributions of books or funds donated for the purpose of purchasing volumes needed to increase the scope of subject material. Readers everywhere may give valuable aid to the libraries by donating books and money. In the case of contributions of books, request is made that donors first submit a list of volumes they are willing to donate, so that such lists may be returned with books already on hand checked off. Such lists, whether submitted to the Review office at San Francisco or the Board at Los Angeles, will be cross-checked by each before the list is returned.

Each library will be the exclusive property of the Society and used principally for research and source material, also for reference by professional persons in the areas.

Particularly needed are copies of penal codes of the 48 states, copies of booklets outlining the program and operation of mental health organizations, state and local, over the U. S., and sex research studies made by legislatures and delegated agencies in all states. Also of value are copies of legal decisions and opinions in the several states which relate to sex statutes. Often these appear in law journals.

Communications and contributions to the library projects should be addressed to either of the following: Mattachine Review Library, 693 Mission street, San Francisco 5, or Mattachine Society Library, P. O. Box 1925, Los Angeles 53.

READERS write

Review Editor:

I think the world of Mattachine objectives and the Review is far better than I thought it would be.—Mr. R.S., Calif.

Review Editor:

I am pleased to receive the Review with its many interesting articles...but in (Sept.-Oct. 1955) you print an article captioned "Culture and Sexuality." Why use time, paper, ink, and so on, in printing words without point or reason?

—Mr. H. W., Florida

Review Editor:

What a wonderful job you are doing to help the homosexuals... I recently read your magazine in the home of a friend of mine and I do want to tell you that I enjoyed it very much...I see things every day that normal males do and think, and it makes me sick....all they can talk about is how many women they can seduce. When my family found out that I was a homosexual, the shock was great. They had never been told about homosexuality. But I asked our family doctor to come to the house and explain it to them...with the result that there is no longer a feeling of revulsion. I have been asked to speak to several men's clubs and I have discussed the homosexual problem. When the public is enlightened it will not feel so badly toward other people.—(Rev.) G. W., Calif.

Review Editor:

The 1957 Oregon legislature will take under consideration a new criminal code, with proposed changes in sex laws. We plan an educational feature thereon at the right time. I hope to find a local newsstand that might handle the Review. Congratulations on your grit, courage and apparent selflessness.

—Mr. M. T., Oregon

Review Editor:

Your last two issues are the best yet. Now it would be nice to have a monthly issue and on time. I realize that's a large order, and hope you don't have too many "deadheads" to contend with, but I do wish you continued success.—Mr. T. S., New York

Review Editor:

I become more pleased with the Review each issue. It has already proven itself. In line with this thinking, I am enclosing a check for \$7.50 with the request that you renew my own and start two new gift subscriptions (one to a doctor, the other to a college psychology professor). Thank you again for just "being." Of particular interest is the lessened fight between you and One. This, among other reasons has made me believe you both are growing up.—Mr. F. M., New York

Review Editor:

Your courage and efforts in conducting such an enterprise as Mattachine Review should be admired and appreciated by all concerned. Attached is money order for my renewal.

—Mr. E. H., Mass.

Review Editor:

Your magazine is as fine as ever and I try to get other people to subscribe, but most of them only want to read it without paying for it. Some are distrustful and believe that it is a racket and that names of the members might be given away for blackmail, etc....how silly! However, I often wish we could be more outspoken in our country which boasts of its freedom of the press.—Mr. H. G., Dist. of Col.

Editor's Note: The Review and the Society have been investigated by several police departments, including that of San Francisco. They have found all activities conducted legally and properly. These police departments have asked for names of no one and no names (except of members of the Board of Directors and the Review staff) have been given. None will be. Fears you mentioned are commonplace, we have found, but nevertheless groundless.

Review Editor:

Enclosed is a check for \$10 for a renewal for four years. The magazine has been greatly enjoyed....but pages 16 and 29 of a recent issue were missing. Could you send a complete copy?

—Mr. E. S., Dist. of Col.

Editor's Note: Thanks for the renewal, your vote of confidence, and accept a complete copy sent under separate cover. Unfortunately, our press sometimes grabs two sheets, leaving one a blank. Readers receiving such copies should notify us, and perfect copies will be sent promptly. These "slips" do get by us sometimes.

Review Editor:

I wonder if your attention has been called to a very fine book entitled "Young Törless" by Robert Musil. The English language edition was published in 1955 by Pantheon Books, 333 6th avenue, New York 14.—Mr. C. E., Mass.

Review Editor:

Congratulations for Luther Allen's article, "Homosexuality, Morality & Religion," in the February 1956 Review. I have often wished I could write something which would reflect what I've learned about homosexuality in my practice....I would have liked to reveal what I have discovered to be the healing elements that understanding and knowledge can provide to the tortured soul whose expression of love has been found unacceptable by the collective world. In my reflections about such an article, the main theme has always been in line with that of Allen. Even the very evidence he used to support his thesis was almost the identical quotations I would have used.

But he did a much more convincing job that I could have done. I was delighted to find his article and I intend to use it as part of my biblio-therapy of recommended reading to all who have difficulties with loving and being loved. While it has certain specific application to the homosexual, it also has a universal application, because it deals with a human problem that everyone has. The article is far and above all others I have read on the subject before. This puts that edition of the Review in a most superior class because you have presented many other very fine articles. I think I'll also blow off a little steam about the series by Ellis...I hope that you will continue to emphasize that you presented the series not because you believed it to be the gospel, but because it was controversial. I can see much value in his presentations, but I can also see how what he says and the way he says it can do no more than intensify the guilt of the individual—he should not be taken to be representative of the attitude of all leading psychotherapists, because he is not that. Finally let me add my gratitude to you and your staff for being the source of greater understanding of the homosexual problem to me personally and in my therapy work.—Mr. J. Z., Calif.

IN MEMORIAM

ROBERT LINDNER, Ph.D.—Author of "Rebel Without Cause," "Fifty Minute Hour," "Must You Conform," and many other articles on sex behavior, prison life; noted lecturer; chief psychologist, department of corrections, State of Maryland prison system; member of faculty, University of Maryland; age 41. In Baltimore, February 23, 1956.

DER RING

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HOMOSEXUALITY, MORALITY & RELIGION - II
TWILIGHT MARRIAGE, a true story
FAIR EMPLOYMENT PRACTICES - II

Mail subscriptions out May 20; on news-
stands May 25. DON'T MISS THIS ISSUE!!



EDITOR'S NOTE: In the third issue (May-June, 1955) of the REVIEW, an article entitled, "The Invert and His Job" was published, taken from the Chicago News-letter of the Mattachine Society. The following is essentially a continuation of that discussion, and it likewise appeared in the same newsletter. Author Robert Kirk states that employment practices which discriminate against known or suspected sex variants is an even more basic problem than adjustment of the invert to his job.

A MAJORITY of persons discharged as "security risks" by one branch of our federal government—the State Department—were, as publicly stated by an official spokesman, "suspected homosexuals."

Classifying homosexuals as security risks traces back to an incident in international espionage circles in mid-19th Century. An Austrian intelligence officer was blackmailed into revealing his government's military secrets to Russian agents who threatened to expose him as a homosexual. Whether this method of obtaining military information is still an effective tool of modern intelligence corps is doubtful. More questionable yet is the need for firms producing under government contract (and this means almost all sizeable industrial firms) to apply this same theory.

Depriving homosexuals of the opportunity to gain a livelihood for the purpose of "lifting standards of morality" presents another instance

of curiously selective discrimination. Why not also bar from employment adulterers, fornicators and others who deviate from "approved sexual behavior?"

Why should the government or any private firm foster or perpetuate public approbrium for sexual inverts? Homosexuals are a sizeable but barely understood minority; to describe this group as completely immoral and deserving of public contempt is an ill-informed judgment.

The question inevitably arises: "How does sexual behavior affect a person's employability?" To consider homosexuality as completely debilitating is hardly supported by facts. On the contrary, there is every indication that these persons have served their country and communities well. In addition, because of fewer domestic demands, homophile employees can generally be expected to devote themselves to their work with greater fervor than the married person.

The means of rejecting persons for employment on the grounds of homosexuality forms an interesting paradox with traditional democratic institutions. No proof that the individual has committed homosexual acts is needed—only circumstantial evidence.

Our federal government relies upon its FBI to collect information, mostly in the form of interviews from persons who know (or think they know) the individual under investigation. A review board, comprised of executive appointees, evaluates the reports and renders a yes or no de-

cision, without explanation or qualification. Should a hapless individual be judged primarily on reports from unfriendly or unreliable sources, he is powerless to defend himself. In short, he is deprived of potential income from a job without recourse to the judicial processes normally guaranteed to American citizens as their constitutional right.

This system, conceived by the federal government for the sake of national expedience, has been widely adopted by private business. Investigative agencies purporting to be miniature FBI's have sprung up. They have acted to meet this demand for employee screening. Listed on the letterhead of one of these (Chicago) agencies are the "undesirables"—this agency specializes in ferreting out and "Homosexuals" stands out in bold print. Whether the means used by such private agencies are entirely legal is difficult to judge; their operations are not open

to public view, and the agencies are not bound to a code of ethics demanded of an organization like the FBI.

Homophiles everywhere see a ground for protesting the denial of the right to earn a living solely on grounds of sexual behavior when this behavior does not involve force, corruption of minors, or public offence. As American citizens, all of us should deplore the means by which suspected inverts are judged and condemned by invisible tale-bearers, without proof or possibility of refutation.

A serious shortage in the nation's work force has been predicted for the next 20 years, at a time when the nation's economy will be under tremendous pressure to expand. Perhaps economic need plus a greater respect for the individual's individuality will halt this reckless pursuit of a mythical standard of conformity before the damage is too great.

mattachine salutes

So seldom do the "confidential" and "crime" magazines ever print anything of serious value to the cause of public education on the homophile subject, that when such an article does come along, it can be overlooked. The present volume of such newsstand clutter is too much to hope to scan, let alone read.

But the current issue of *TRUE CRIME* is an exception.

In an article declaring that "You Can Be Framed on a Per- version Rap," this magazine points up a situation long in need of public attention from sources that count.

"A NEW kind of blackmailer," the article begins, "perhaps the lowest of all, is waiting in bars and taverns, ready and willing to be 'friends' with innocent strangers..."

It concludes with this paragraph: "In this climate of fear the blackmailer flourishes like a foul, ugly weed. He cannot be trampled out permanently unless we change narrow, intolerant sexual attitudes. As long as fear of exposure remains a terrifying threat to a man's social and economic well-being, there will always be blackmailers."

For casting light on this dark subject, *Mattachine salutes TRUE CRIME* magazine. Read the article!

mattachine REVIEW

BOOKS

Religious Viewpoint Defined

HOMOSEXUALITY AND THE WESTERN CRISTIAN TRADITION, Derrick Sherwin Bailey, PhD, London and New York: Longmans, Green & Co., 1955. This book was the subject of a "book review in dialogue form" which appeared in the November-December 1955 issue of the Review. Here is an actual review of this fine book, written especially for this magazine by an American Episcopalian priest whose name has been withheld at his request.

Among homosexuals one often finds much special pleading for tolerance and understanding of their particular problem, while on their part one is often aware of unfair criticisms of the Church's position based upon rash judgements and ignorance. There is now no longer any excuse for such ignorance of what is the Christian Tradition concerning homosexuality.

Father Bailey, an Anglican priest and Central Lecturer of the Church of England Moral Welfare Council, has made an invaluable contribution to the study of homosexuality by providing an accurate, historical examination of the Scriptures, Canon Law and Councils of the Western Church as they concern homosexual practices. Beginning with a textual study of the Sodom-Gomorrah story in Genesis and continuing with an account of the specific statements in Scripture, in Roman Law until the time of Justinian, and in the legisla-

tion, teaching and opinion of the Church from the Fathers through the Middle Ages, and in the law of England, Dr. Bailey provides us with an accurate account of the growth and development of the thought of both Church and society concerning homosexual acts. †

In his summary, (pp. 172 ff), Fr. Bailey reaches the following conclusions:

- I. It is evident that the Western Christian Tradition is:
 - a. erroneous, in so far as it represents the destruction of Sodom and Gomorrah as a Divine judgement upon homosexual practices, such as ought to determine both the attitude of society to the homosexual offender, and the punishment inflicted upon him by the law; whereas this story, in fact, has no relevance to the matter in question.
 - b. defective, in that
 - I. it is ignorant of inversion as a CONDITION due to biological, psychological, or genetical causes; and consequently of the distinction between the invert and the pervert. . . . Therefore,
 - II. it assumes that all homosexual acts are, so to speak, "acts of perversion"—a term which does not happily or accurately describe the acts to which the invert may be impelled by his condition.
 - III. it takes very little account of female homosexuality, and

makes a wholly unwarranted discrimination between the sodomist and the lesbian.

- IV. it unjustifiably regards male homosexual offenses as both intrinsically and socially more serious than heterosexual offenses, such as the seduction of young girls by men, fornication in general, and above all, adultery.
- V. it tends to think too exclusively in terms of the act of sodomy.
- VI. by maintaining for so long (at least in theory) that homosexual acts, and especially sodomy, merited capital punishment, it has encouraged the imposition of disproportionately severe penalties upon the homosexual offender.
- VII. it is by no means entirely a tradition founded and built upon reason, for it has been strongly influenced by emotional and psychological factors into which enquiry needs to be made.

As Dr. Bailey points out, for these above reasons, the tradition cannot be regarded as an adequate guide for the moral theologian, the legislator, the sociologist, nor the magistrate. True as this is, however, there are some positive factors of the tradition which must be maintained.

- a. It emphasizes the duty of the law to protect the young.
 - b. it bears witness to the principle, overlaid in the English Law since the Reformation, that the homosexual offender
- "AnContinued on Galley 4

is not only a criminal who may deserve punishment, but also a sinner who needs repentance; and that justice must therefore be tempered with mercy.

- c. It affords useful guidance as to the treatment of perversion and the pervert.

Fortunately, Dr. Bailey does not restrict himself to theoretical discussions, but adds some thoughts concerning necessary legal and social reforms.

1. Legal discrimination between different types of homosexual acts should be abolished, and no account should be taken by the law of such acts when committed in private by consenting individuals.
2. Some of the maximum penalties at present laid down need amendment in accordance with the dictates of humanity, and in order to introduce a general consistency into the punishment of sexual offenses at a whole.

In conclusion, Dr. Bailey points to the need of a greater understanding on the part of society of the problems peculiar to the homosexual. In the light of this historical survey, Dr. Bailey further notes that much study must be made of the causes and nature of the condition of inversion, and to the possibility of a "cure" in certain cases. Above all, something must be done positively to help the invert to accept his abnormality and to take his place as a useful and accepted member of society. In order to make this possible, society must be educated to understand homosexuals and to accept responsibility for them.

The book is a "must" for all those who are confronted with the problem of homosexuality either personally or as those who are in the position of moulding public opinion.

Underlying the whole study of Dr. Bailey's book is the spirit of our Lord who said: "Ye shall know the truth and the truth shall make you free."

Heyday for Blackguards

THE THREE TRIALS OF OSCAR WILDE. Edited by H. Montgomery Hyde, with a foreword by Sir Travers Humphreys, Wilde's junior counsel. New York: University Books, 1956. 384 p. \$5.00. Several pictures and important appendices are included in this work which the reviewer, Mack Fingal, regards as "must" reading.

Sixty years have elapsed since Oscar Wilde went through the ordeal of three wearisome, fateful trials at the Old Bailey in London in the spring of 1895.

British author and barrister Montgomery Hyde has brought together in excellent form the transcripts of those trials, which for several reasons are an important contribution to literature. The book is not only a tribute to the memory of Wilde and a vindication of him; it is also a further contribution to the continuing social problem of homosexuality, and a book which should throw light in the paths of legislators and judges everywhere.

This book is the first complete account of the three trials. First published in England in 1948, with three printings, it is now being published in America. In 1912, Christopher Millard (pseud., Stuart Mason) published *Oscar Wilde: Three Times Tried*, a book now out of print and which did not attempt to give the proceedings verbatim. The present work by Hyde omits certain unnecessary and repetitious questions and answers in the transcripts, and gives the reader additional introductory and supplementary material. It has

a foreword by Travers Humphreys, Wilde's junior counsel and the lone surviving person who was actively connected with the trials; an introduction by Hyde, outlining the trials and supplying the reader with the necessary background; the proceedings of the trials; and six appendices. Appendix F, for example, tells of the known prevalence of homosexuality in England since the 11th Century.

There are several pictures, including pictures of the lawyers and judges in their wigs. And you will roar with laughter at Wilde's witty, amusing replies to the Crown's prosecutors.

But the book is essentially serious. As one reads the proceedings and sees the parade of witnesses which were lined up against Wilde—unemployed young men, juvenile delinquents, blackmailers and extortionists, landladies and chambermaids—one can see how justice is sometimes arrived at. Some of the most eminent lawyers and judges of the day were there, however, in the packed, tense courtroom. Wilde had retained Sir Edward Clarke, one of the greatest advocates of the day and a former Solicitor-General, as his chief counsel. Among the spectators was the great essayist, Max Beerbohm.

The "gross indecency" law under which Wilde was indicted and convicted, was Section 11 of the Criminal Law Amendment Act of 1885. It had been introduced by Henry Labouchere, M. P., of the House of Commons. Since it provided for acts committed in private as well as in public, it naturally threw the gates wide

open to blackmail and extortion. Testimony during the trials revealed that three of the young blackmailers whom the Crown put in the witness box to testify against Wilde—Wood, Allen, and Charles Parker—extorted somewhere between 300 and 500 pounds (between \$1,461.00 and \$2,435.00) from a well-to-do man, apparently homosexual, which they divided among themselves. Another of the blackmailers who testified for the prosecution, Frederick Atkins, assisted his friend and room-mate, James Burton, in various blackmail activities.

Yet these same blackmailers, who had blackmailed not only Wilde but others, and who had unquestionably had homosexual relations before they were ever introduced to Wilde, were the Crown's chief witnesses. Detectives for the Crown worked feverishly getting statements from these blackmailers and persuading them to testify against Wilde. One of the detectives even visited Alfred Taylor (Wilde's co-defendants) and asked him if he would not give a statement to use against Wilde. Taylor refused, of course, and stood trial with Wilde; but had he consented to give a statement, he could have testified for the prosecution against Wilde and would have never gone to prison. Taylor's apartment had been under surveillance for some time by the police. It is interesting to note that it was through Maurice Schwabe, the Solicitor-General's nephew, that Wilde and Taylor had become acquainted. But Schwabe's name was suppressed by the prosecution during the first trial.

Wilde's conviction by a middle class, puritan jury gave Judge Wills the opportunity to mete out with great relish the maximum sentence—two years at hard labor—which was really a capital sentence, for even

the hardest men could not well survive two years of hard labor at Reading Gaol at that time. We know from other sources that the treatment and punishment were incredible.

Two opinions in Mr. Hyde's book deserve some criticism. In Appendix E, Hyde states that at no time was there ever the "slightest suggestion of effeminacy" about Wilde. This is a very rash statement, because while Wilde may have been of large frame, he had many feminine characteristics and detested sports, games and mathematics. The other opinion is not Hyde's but a quotation from the late Lord Atkin, who thought that homosexual impulses, "like other wicked impulses, are capable of being controlled" and "can be checked by advice and resolution." The experience of the ages, together with scientific evidence, however, do not confirm such a view.

But Hyde's book is **MUST** reading, and it is a safe prediction that it will be widely purchased and read in the United States. It is a story of humor and pathos; of love and passion misunderstood; of perjured testimony throughout, on both sides; of blackmailers and extortionists giving tainted, unreliable evidence for the Crown; of hatred and prejudice fanned to white heat by a hostile press; and of utter tragedy.

As Hyde points out, Wilde's guilt was not proved beyond a reasonable doubt—a traditional requirement in English criminal law. Not only was there a conspicuous lack of direct evidence, but most of the evidence was uncorroborated and a good deal of it contradictory. Also, most of the Crown's witnesses had obviously been coached. But perhaps **THE 3 TRIALS** will be a warning as to the future and will not, after all, have been in vain.

Free From Triviality

DIANA by Diana Fredericks. Berkeley Books, New York, 1955 (paper back) 35 cents. Reviewed by Jack Parrish, this book is considered well worth reading as one of the better works on lesbianism.

Prior to the spate of homosexual novels that commenced with Gore Vidal's "The City And The Pillar", there were extremely few popular works available in English for the general reader. One of them was "The Well Of Loneliness". Another was this.

As with its first reading, one is struck with the lack of dramatic highlighting throughout the first half. It would seem that merely to tell one's life history truthfully is not enough. Yet at the same time it is hard not to be impressed by the author's intelligence, strength of character, and self-honesty. The writing is literate, free from the triviality and cheapness all too often found lately in books of this sort and, if nothing else, the book is worth reading as a minor classic of its type.

It is also hard not to be struck by the fact that quite often it was the writer's fellow deviants who badly hurt her and that quite often her greatest sympathy and understanding came from heterosexuals. Thus when at sixteen she was in a bad state of emotional shock about what

she had discovered about herself. It was her older brother, a doctor, who explained that probably she was merely undergoing a schoolgirl crush and then, to clear up the horror caused by her having read a brutally intolerant book, read aloud to her from Freud and Havelock Ellis. And it was the first person with whom she was intimate who thoughtlessly seduced her and left her.





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mattachine REVIEW

A CITIZEN'S RIGHTS IN CASE OF ARREST

The application of principles of law is a two-way street.

Laws are made for the protection of individuals and their property. Law enforcement agencies are charged with responsibility of arrest of persons who violate statutes enacted by the people for the general welfare and for other specific reasons. But the individual has definite rights under the law, which enforcement officers are forbidden to violate.

As a service to the public, the National Association for Sex Research, Inc., Hollywood, Calif., has prepared a folder listing the rights of a citizen in case of arrest. Included are 13 statements of information everyone should know:

1. An officer cannot arrest you without a warrant unless you have committed a crime in his presence or he has reasonable grounds to believe you have committed a felony. (Calif. PC §36.)
2. If he has a warrant, ask to see it and read it carefully. If you are arrested without a warrant ask what the charge is.
3. You are not required to answer any questions. You may but do not have to give your name and address. If you are accused of a crime of which you are innocent, deny the charge. Go along but under protest. Do not resist physically.
4. Do not sign anything. Take the badge numbers of arresting officers.
5. If you are taken to jail, ask when you are booked what the charges are and whether they are misdemeanor or felony charges.
6. Insist on using a telephone to contact your lawyer or family or the number of the answering service on the reverse side of this card, leave your name and where you are held.
7. You have the right to be released on bail for most offenses. Have your attorney make the arrangements or ask for a bail bondsman.
8. After an arrest without a warrant, a person must, without unnecessary delay, be taken before the most accessible magistrate in the area where the arrest is made. The magistrate must hear the complaint and set bail. (Calif. PC §49.)
9. Report any instances of police brutality which you observe to your attorney.
10. If you do not have an attorney by the time you are brought before a judge to plead, ask for additional time to obtain an attorney; or if this is not possible, plead not guilty and ask for a trial by jury.
11. You are entitled to a written statement of the charges against you before you are required to enter a plea.
12. You are not required to testify against yourself in any trial or hearing. (Fifth Amendment, U.S. Constitution.)
13. If you are questioned by any law enforcement officer including the FBI, remember that you are not required to answer any questions concerning yourself or others.

(Fifth Amendment, U.S. Constitution)

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*just what
is Mattachine
trying to do?*

When they first hear of the Mattachine Society, lots of people ask that question. Some of them think we have a large organization with unlimited funds and an avowed purpose of defending everyone caught in the web of the law. Such is not the case. The organization is very small, and it has no money to fight legal battles.

But a public service more far-reaching heads the program of Mattachine. Education of the public about the true aspects of human behavior, creating an understanding for those persons whose behavior may vary from accepted standards and yet cause no real social harm, and to advocate a code of proper conduct for everyone to follow—these are the principle aims of Mattachine. By aiding recognized research experts, through public discussion groups, and in publications such as Mattachine Review, we hope to make progress toward these goals. YOU can help. YOU can benefit. For specific information, write today to the Board of Directors:



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