

# matachine REVIEW



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**MARCH 1957**

- SHOULD COURTS  
HAVE POWERS  
OF CENSORSHIP?

- ACLU STAND ON  
HOMOSEXUALITY

- BOOK REVIEW:  
"SEX IN HISTORY"

- REPORT TO SUBSCRIBERS

## Sexual Offenders and Social Punishment

Casting a Spotlight on Human Sex Problems — For THINKING Adults

## EDITORIAL

WE MEMBERS and friends of the Mattachine Society are the spearhead of a movement which is to gain momentum in the coming years. We are the avant garde of one of the final struggles for the liberation of the human spirit from social inequality and outright declassment.

Our avowed task to ameliorate inter-relationship between homosexuals and the general public, through education and favorable social contact, is an effort of supreme significance. Though we are still crawling, the important thing to remember is that a beginning has been made.

The great battles for human freedom stand before us in a radiant aura of history and universal approbation. Time has graced the outlaws of the past, the rebels who questioned the validity of certain laws and decrees.

We are a small organization but our work is no less important than the other noteworthy landmarks in the dissolvment of human injustice. None of us need feel that we lack the ability to do our part in furthering the effectiveness of the Mattachine Movement. Our presence at meetings and functions of the organization, especially those of a public nature, are vital if we are to make any headway.

If we are aspiring for recognition from the public, we must earn it by dispelling erroneous or lopsided conceptions of the homosexual. How can we best do this? Certainly not by isolating ourselves among our own kind. We must place ourselves before the eyes of the public in a positive and constructive way. Our monthly dinners and discussion meetings afford a splendid opportunity for this necessary contact. Every time we conduct such a meeting with dignity and propriety, we chip a small fragment off the great wall of intolerance. Whenever we, as individuals, conduct ourselves in an irreproachable manner, we are reducing the great pyramid of prejudice and misunderstanding by a small fraction. Remember that countless rivulets can make an Amazon or a Nile.

We need all our members and friends at our functions. If we are casual and lukewarm toward our own programs, how can we expect our movement to be successful? The importance of our work can easily be underestimated in the monotonous and repetitious but necessary duties. It is easy—almost natural for us to allow ourselves to become lethargic. But we must always hold before us the awareness that what we are doing is not without social and historical significance. We are the vanguard of a movement that will someday widen and strengthen Democracy in the world.

We can each help immeasurably by our participation in Mattachine's projects—by our presence at meetings, by acquainting new people with our cause, by our writing and publishing articles, and by our financial support. The plight of the homosexual can be removed if we but will it and work for it. And the individual homosexual himself can wield a valuable influence toward that end.

--Los Angeles Mattachine Newsletter, January 1957

# Mattachine REVIEW

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# Obscenity Law Makes Court Censors of Art, Literature

*In its monthly publication, "The Open Forum," the American Civil Liberties Union of Southern California in January released the following discussion of the right of courts to rule on matters of obscenity in the light of the First Amendment to the Constitution (freedom of religion, speech, press, assembly, etc.)*

• In a recent U.S. Court of Appeals decision, the court unanimously upheld the conviction of a Samuel Roth for mailing obscene matter in violation of the federal obscenity statute. Circuit Court Judge Jerome N. Frank, concurring in the opinion, said he was "constrained by the opinions of the Supreme Court to hold that legislation valid." However, he said, none of those opinions has carefully canvassed the problem in the light of the Supreme Court's interpretation of the First Amendment. In a separate appendix he set forth some of the factors which should be considered in passing on the constitutionality of the statute. Excerpts from Judge Frank's study follow.

To date there exists, I think, no thorough-going study by competent persons which justifies the conclusion that normal adults' reading or seeing of the "obscene" probably induces an-

ti-social conduct. Such studies do conclude that so complex and numerous are the causes of sexual vice that it is impossible to assert with any assurance that "obscenity" represents a ponderable causal factor in sexually deviant adult behavior. Although the whole subject of obscenity censorship hinges upon the unproved assumption that "obscene" literature is a significant factor in causing sexual deviation from the community standard, no report can be found of a single effort at genuine research to test this assumption by singling out as a factor for study the effect of sex literature upon sexual behavior.

Most federal courts now hold that the test of obscenity is the effect on the "mind" of the average normal adult. However, there is much pressure for legislation, designed to prevent juvenile delinquency, which will single out children, i.e., will prohibit the sale to young persons of "obscenity" or other designated matter.

## Socially Dangerous

If the obscenity statute is valid, then it would seem that its validity must rest on this ground: Congress, by statute, may constitutionally provide punishment for the mailing of books evoking mere thoughts or feelings about sex, if Congress considers them socially dangerous, even in the absence of any satisfactory evidence that those thoughts or feelings will tend to bring about socially harmful deeds. If that be correct, it is hard to understand why, similarly, Congress may not constitutionally provide punishment for such distribution of books evoking mere thoughts or feelings about religion or politics, which Congress considers socially dangerous.

I have no doubt that a jury could reasonably find that many publications are obscene within the current judicial definition of the term. But so, too are a multitude of recognized works of art found in public libraries. Catalogues of famous art museums, almost equally accessible and also often mailed, contain reproductions of paintings and sculpture by great masters, no less "obscene."

## The Classics Excepted

To the arguments that such

books (and paintings and works of sculpture) fall within the statutory ban, the courts have answered that they are "classics"—books of "literary distinction" or works which have "an accepted place in the arts," including, so this court has held, Ovid's "Art of Love" and Boccaccio's "Decameron." There is a curious dilemma involved in this answer that the statute condemns "only books which are dull and without merit," that in no event will the statute be applied to the "classics." The courts have not explained how they escape that dilemma, but instead seem to have gone to sleep (although rather uncomfortably) on its horns.

## Basic Flaw

This dilemma would seem to show up the basic constitutional flaw in the statute: No one can reconcile the currently accepted test of obscenity with the immunity of such "classics" as Aristophanes' "Lysistrata," Chaucer's "Canterbury Tales," Rabelais' "Gargantua and Pantagruel," Shakespeare's "Venus and Adonis," Fielding's "Tom Jones," or Balzac's "Droll Stories." For such "obscene" writings, just because of their great artistry and charm, will presumably have far greater influence on readers than dull inartistic writings.

The truth is that the courts have excepted the "classics" from the federal obscenity statute, since otherwise most Americans would be deprived of access to many masterpieces of



literature and the pictorial arts, and a statute yielding such deprivation would not only be laughably absurd but would squarely oppose the intention of the cultivated men who framed and adopted the First Amendment.

Governmental control of ideas or personal preferences is alien in a democracy. And the yearning to use governmental censorship of any kind is infectious. It may spread insidiously. Commencing with suppression of books as obscene, it is not unlikely to develop into official lust for the power of thought-control in the areas of religion, politics and elsewhere.

In our industrial era when, perforce, economic pursuits must be, increasingly, governmentally regulated, it is especially important that the realm of art — the non-economic realm — should remain free, unregimented, the domain of free enterprise, of unhampered competition at its maximum. An individual's taste is his own, private, concern.

To vest a few fallible men — prosecutors, judges, jurors — with vast powers of literary or artistic censorship, to convert them into what J. S. Mill called a "moral police," is to make them despotic arbiters of literary products. If one day they ban mediocre books, as obscene, another day they may do likewise to a work of genius. Originality, not too plentiful, should be cherished, not stifled.

**I**N THIS life we get only those things for which we hunt, for which we strive, and for which we are willing to sacrifice. It is better to aim for something that you want—even though you miss it—than to get something that you didn't aim to get, and which you don't want! If we look long enough for what we want in life we are almost sure to find it, no matter what the objective may be.—George Matthew Adams

*The American Civil Liberties Union is often asked where it stands on matters of homosexuality. Its position is made clear in the statement below.*

*We believe that the serious interest of ACLU in matters of civil rights and due process of law merit the praise of Mattachine members and friends, and urge readers to support the organization's effort with memberships and donations whenever possible.*

## ACLU Position **On Homosexuality**

*Adopted by National Board of Directors, Jan. 17, 1957*

The American Civil Liberties Union is occasionally called upon to defend the civil liberties of homosexuals. It is not within the province of the Union to evaluate the social validity of laws aimed at the suppression or elimination of homosexuals. We recognize that overt acts of homosexuality constituted a common law felony and that there is no constitutional prohibition against such state and local laws on this subject as are deemed by such states or communities to be socially necessary or beneficial. Any challenge of laws that prohibit and punish public acts of homosexuality or overt acts of solicitation for the purpose of committing a homosexual act is beyond the province of the Union.

In examining some of the cases that have come to our attention, however, we are aware that homosexuals, like members of other socially heretical or deviant groups, are more vulnerable than others to official persecution, denial of due process in prosecution, and entrapment. As in the whole field of due process, these are matters of proper concern for the Union and we will support the defense of such cases that come to our attention.

"Some local laws require registration when they enter the community of persons who have been convicted of a homosexual act. Such registration laws, like others requiring registration of persons convicted of other offenses, are in our opinion unconstitutional. We will support efforts for their repeal or proper legal challenge of them.

The ACLU has previously decided that homosexuality is a valid consideration in evaluating the security risk factor in sensitive positions. We affirm, as does Executive Order 10450 and all security regulations made thereunder, that homosexuality is a factor properly to be considered only when there is evidence of other acts which come within valid security criteria.

# BOOKS

SEX IN HISTORY, by G. Rattray Taylor (London: Thames & Hudson, 1953. 306 pp.)

Originally published in the Newsletter of the Chicago Mattachine Society, by Harold G. O'Leary. This is another in a series of reviews of serious and provocative books.

It was perhaps inevitable, in this generation of theorists of history, that Freud should eventually be invoked in the persistent attempt of historians to bring order and coherence into the bewildering spectacle of the human past. Mr. Taylor's book is essentially a Freudian theory of history. In itself this would seem to be a promising sort of approach: the game of historical interpretation, as typified by Toynbee, his followers, and his opponents, has often seemed to me to be one in which the rules were determined solely by the prejudices of the historian himself. Whether history was to be seen as a "progress" or as a perpetual alternation or as a meaningful procession towards a meaningful goal; what was "significant" and what could be ignored; what was a "main current" and what was a minor digression -- all these seem to be determined by the personal bias of the individual historian toward Humanism, Materialism, "Hebraism," or Mysticism. Not that Mr. Taylor is unbiased: he is perfectly straightforward about his Freudian and Humanist orientation. But what is promising is that in basing his interpretations on psychoanalytic theory, he is employing a fairly precise tool, developed and sharpened by others and not wholly dependent upon his own whim. Furthermore, Mr. Taylor is interested in more or less ultimate historical causes: the fact, for instance, that the idea of the "divine" mistress (leading to the tradition of the adulterous, courtly love, which flourished among the Provencal minstrels in the midst of severe sexual repression imposed by the Church) was probably "influenced" by elements in Arabic poetry, or the fact that the marked rise of homosexuality among the English clergy and laity in the twelfth century may have been "influenced" by the Norman invasion -- these appeals to "influence" do not satisfy the author. He wishes to ask why there should have arisen at these times in history groups of people who were willing to accept these "influences" and to act upon them.

The rationale of his approach is simple: society consists of individuals; the Freudian theory has a number of illuminating things to say about the development of individuals and the basic psychic dispositions which mold their future behavior and the choices they make among the many influences in their environment; their attitudes toward sex are significant indexes of their basic psychic dispositions; ergo -- a history of human sexual practices and attitudes, interpreted by the Freudian theory.

The author's procedure is likewise simple -- perhaps too simple. He operates essentially with only two sets of terms: (1) Eros and Thanatos: these he defines as opposite forms of man's basic irrational libidinal drive: when Eros, the drive toward love, creation, and pleasure, is blocked of normal outlets, it forces itself out deviantly and obsessively in forms of destruction, pain, and death -- Thanatos. (2) Matrism and Patrism: given two parents, the child is, in most human societies, more or less forced in the process of becoming an individual to make a basic identi-

fication with one or the other of them and with the qualities they represent. (The mother, in general, is conceived of as the loving, permissive, protective giver of life and nourishment; the father, as the stern commander, disciplinarian, and inhibitor of basic drives.) Thus the mother-identifier or matrism tends to become a permissive, spontaneous, pleasure-loving, progressive individual, who accords women a high social status, worships a loving, forgiving, Mother-like deity, is more interested in human welfare than in chastity -- but who harbors a deep, constant fear of incest as the most horrible of crimes and as an ever-present threat. The father-identifier or patrism, conversely, tends to develop a conservative, authoritarian character, fearing pleasure and spontaneity, valuing chastity above human welfare, looking upon women as inferior, unclean, sinful creatures, worshipping a stern, repressive Father-like deity -- and harboring a deep fear of homosexuality as the most horrible of crimes and as an ever-present threat.

Armed with these neatly opposed concepts, the author marches through European history, from the Mother-religions of the ancient world, through the patrism replications of Paulist Christianity, to what he believes is the growing matrism of the twentieth century. What he shows us is, essentially, a perpetual alternation of ages dominated now by patrism, now by matrism, pointing out the evils which have resulted when either of these orientations toward sex was carried to excessive, obsessional limits by the dominant group. He is at best exposing the dark eruptions of Thanatos in the patrism ages. The outbreaks of mass hysteria, the possession by demons, the epidemic of incubi, the witch-burning and torture, the brutality of the Crusades, and the masochistic perversions of some of the Christian saints of the Catholic Middle Ages he attributes to the obsessional attempts of patrism Church rulers to repress their own sexual fears by suppressing almost all the normal sexual outlets of both clergy and laity. Similarly, he ascribes the condemnation of the arts, of dancing, and of almost all other forms of human spontaneity and pleasure in the Puritan Reformation to the obsessional patrism of Calvin, Knox, and other Protestant leaders.

He takes pleasure in revealing the obsession with sex that underlay the surface purity of nineteenth-century Victorian prudery, and the sadistic quality of the devices employed by stern Victorian fathers to suppress the sexuality of their sons. To these dark periods he opposes the creative, permissive matrism epochs of history: the Troubadors, the cult of the Mary-worshippers, the Italian and English Renaissance, the Restoration and early eighteenth century, the Romantic movement -- pointing out that these eras, too, had their evils of excess: public lawlessness, mob violence, corruption and cynicism among the clergy. These excesses he attributes to the failure of extreme mother-identifiers to form a conscience strong enough to control their impulses. Despite his apparent partiality to the relative sanity of the matrism periods, the author mildly deplores the endless rounds of violent oscillation engendered by either of these exclusive identifications and several times holds up a hypothetical ideal of a civilization which would allow its children to mold themselves upon the best qualities of both their parents. He does not seem to believe very seriously, however, in the possibility of the actual accomplishment of this ideal.

Plausible and attractive as the author's scheme is in its simplicity, one must point out that there are many questions which it fails to answer. Does this sexual history correlate with the intellectual and political history of the same periods? For instance, were the execution of Charles I, the challenge of the divine right of kings, and the establishment of a Commonwealth by the English Puritans (hidebound



patrists, according to the author) typical of the patrist character? Or again, if patrists fear women as unclean temptresses to sin, why did the Medieval patrists choose to express their fears by burning witches, while the Victorians followed the strikingly dissimilar course of insisting that women were smooth-surfaced statues, entirely devoid of sexual feelings? Is not the actual state of psychic affairs in each of these ages somewhat more complex than Mr. Taylor's neat scheme would indicate? It almost certainly is in the present century. Mr. Taylor sees the present as a progressive matrist revolution among the masses, held back by the laws, institution, and ethics of an earlier patrist generation, supported by modern patrists who have gotten themselves into positions of social authority. To an American reviewer, however, this picture looks unconvincing. He lives in a society in which, though women enjoy higher status than ever before, they achieve it by imitating men; in which, when boys identify with their mothers, they identify with mothers who are the law-givers and conscience-inflictors of the family; in which the stereotyped male ideal is such an obsession among the masses that the fear of homosexuality approaches panic proportions; in which "beating up fairies" is a recognized social custom, condoned by many. This scarcely looks like a tolerant matrist majority being oppressed by patrist laws. It is, though, a truism to point out that historians with simple, clear-cut theories always do better with the past than with the present, which is bound to look much more complex to those who live in it than it probably will to future historians.

With or without its faults, Mr. Taylor's book deserves a more careful study than there is room for here. It is full of illuminating and stimulating ideas, and it offers what is perhaps the most sobering and yet optimistic historical proposition ever put forth - that more significant revolutions in human history are determined in the cradle than on the battlefield.

#### THE CORY BOOK SERVICE REACTIVATED

For several years the Cory Book Service, originally founded by Donald Webster Cory, filled an important need by making available books that dealt with homosexuality. This service was interrupted by the sudden death of its owner well over a year ago. Although there was no lack of persons of integrity anxious to continue the service, nothing at all was done until December, 1956, when the mailing list was finally sold and became the Winston Book Service, of 250 Fulton Avenue, Hempstead, Long Island, New York.

Only time will tell what the new ownership will mean to its subscribers, but we can report that our first impression has been most favorable indeed: a new owner of the highest integrity, devoted to the cause, and - something that might make an important difference - not financially dependent on it.

Our most sincere wishes for the success of the Winston Book Service.

Looking over the material which is to appear in the next (April) issue of the Review, we predict that some readers will write to tell us that the table of contents is something like the other side of the same record played in February.

However, we think most readers will welcome and appreciate the fact. Few issues have brought in the number of letters applauding the articles as have arrived less than a month after February issue went into the mail.

Each of the two lead articles, "Values and Responsibilities" and "The Tender Trap," have received favorable comment from persons who are looking forward to the future installments of each of the two series. One letter was critical, however, and asked us to "trim" the length. But in April, we promise, we shall endeavor to avoid duplication of paragraphs (an error in makeup noted in "The Tender Trap" last month). Someone slipped in an extra repro proof, and we didn't catch it until it was too late!

Miss Alice LaVere brings another nail-on-the-head viewpoint on the subject of therapy in a second article, "Emotions That Destroy Your Health and Personality." We hope this will appeal to many readers.

But one of the outstanding "scoops," we think, comes from Peter Wildeblood of London, who has given us permission to reprint an excerpt from his newest book, "A Way of Life," not yet available in this country. The story we shall bring to our readers will be entitled "There are Many Mansions..." and we hope it will spur many to want to read the entire book.

Book reviews and an expanded letters section will complete the issue.

Response to renewals (our largest block of subscriptions expired last month) has been gratifying. Many are taking advantage of a last opportunity to renew for up to four years at the current low price of \$2.50 because on April 1 the rate goes to \$4 per year in the U.S., Canada and Mexico, \$5 elsewhere. We can't produce magazines and mail them first class for that rate, we found, but any present subscriber may also extend his subscription up to February 1961 at that price.

September isn't here yet, but it's not far away at that. The Labor Day weekend (August 30-September 2) will see the Mattachine Society's 4th annual convention staged at San Francisco. Highlight of the event will be a full day of lectures on a central theme, and a committee is already at work choosing speakers for the main day and the evening banquet. Experts in their fields will appear on the program. Why not begin now to plan to attend the meeting in person and learn first hand the way Mattachine is trying to provide a vital service to the American public? Our meetings are not closed (except the business session for members)—anyone over 21 may register and attend. The convention will be held in one of the city's hotels and further announcements will be made in the Review and Mattachine newsletters.

# Seized on Plane From Europe in '55 Deaths of 3 Chicago Boys

Here is the BEFORE and AFTER of a modern trial by newspaper in America. Eloquently reported by newspapers in New York, the first story, appearing under a 3-column headline, used the combined ability of two reporters, because the quarry promised to become a substitute for the dull situation in Israel or some other prosaic event. But when the bomb fizzled, a rewrite man was entrusted to clip the lead paragraph from an Associated Press dispatch, and the whole affair was neatly buried on page 19.

By CARL J. PELLECK and CHARLES GRUENBERG

A mild-mannered engineering expert listed as a possible suspect in the unsolved sex slaying of three boys in Chicago was arrested at Idlewild Airport today as he stepped off an airliner.

His name had been spotted on the passenger list by an alert airline employee, who tipped off police.

██████████, of Chicago, protested he did not know he was wanted in Chicago. He indicated he would waive extradition.

██████████ was indicted in absentia at Chicago Jan. 11 on three felony counts of committing "crimes against nature" involving young boys. He was then in ██████████ making a survey for an oil company. His employer called him home at the request of Chicago police.

Sixteen cops and detectives were on hand at 8:15 a.m. today when a KLM airliner from Amsterdam landed. ██████████ was grabbed as he walked off the plane with 19 other passengers.

██████████'s name had been discovered about 2 a.m. on the passenger manifest by Richard

Sweet, 23, of 311 E. 21st St., a traffic agent for the airline. Police had alerted the airline several days ago that ██████████ might be on his way back to the U. S.

The crew kept from other passengers the fact that ██████████ was to be greeted by police. The alert had said he might be armed but no weapon was found in his baggage.

██████████ did not resist. He asked detectives what he was being arrested for, and when he was told he was wanted by Chicago police, he said mildly:

"I don't know what for."

He later asked newspaper photographers:

"What is this all about?"

According to Chicago police, ██████████ left the U. S. Dec. 2. Later, according to Chicago's Detective Chief Patrick Deeley, a parole violator suggested that ██████████ be investigated about the unsolved murders of John Schuesler, 13, John's brother Anton, 11, and Robert Peterson, 13, on Oct. 18, 1955.

In checking ██████████, police learned that at the time of the triple killing he was employed by a metal products firm near where the bodies were found and had

two apartments, one in the general area where the boys disappeared.

Police said that before leaving for ██████████ stored his possessions in a warehouse. When these were checked, cops found a newspaper telling of the discovery of the murdered boys and also a quantity of obscene photographs involving men and boys, Deeley said.

██████████ was indicted subsequently by a Cook County grand jury on charges of unnatural sex acts and contributing the delinquency of a minor. Lt. Joseph Morrissey said ██████████ was "definitely a suspect" in the triple murder.

██████████, 39, who formerly lived with ██████████, was convicted of earlier this month of committing unnatural sex acts with youths of 18 and 19, and was sentenced to one to five years.

██████████ writes detective stories as a hobby and has had at least two printed in national magazines. He served in World War

II and the war in Korea as an officer, rising to the rank of captain. He is a major in the reserves.

Four days later....

## Suspect Cleared In Boy Killings

CHICAGO, Feb. 3 (AP).—

Lie detector tests have cleared a 39-year-old efficiency expert of any connection in the 1955 sex slaying of an Evanston, Ill., Boy Scout, police say ██████████

██████████ was absolved in the killing of Peter Gorham, 12, who was found shot to death Aug. 14, 1955, near Muskegon, Mich., and he also has been cleared in the strangling of three boys found Oct. 18, 1955, in Robinson Woods, northwest of Chicago.

(The Review blotted out names of persons involved because they were innocent of crime and added nothing to the story. However, it should be understood that the Review supports responsible effort aimed at bringing the murderer in question to justice. But this does not mean that we sanction the infliction of unnecessary guilt by accusation upon the innocent. Rather, we ask: Would justice have been served less if no notice of the investigation had been released to the press until it was determined that the above party was an indictable suspect?)

COMING IN APRIL--Dr. Bergler's book, "Homosexuality: Disease or Way of Life" has now been touched twice in the REVIEW, and here and there in other publications. Comments by Review readers plus extracts of reviews from other sources will make up a "final discussion" of the book in the April issue.

# Sexual Offenders and Social Punishment

Being the evidence submitted on behalf of the Church of England Moral Welfare Council to the Departmental Committee on Homosexual Offences and Prostitution, with other material relating thereto.

Compiled and edited by  
**DERRICK SHERWIN BAILEY, Ph.D.**  
*Study Secretary, Church of England Moral Welfare Council.*

The publication in 1954 of an interim report of a committee of the Church of England Moral Welfare Council on the problem of homosexuality made a deep impression on responsible public opinion in England; it may even have played some part in moving the then Home Secretary to appoint a departmental committee, under the chairmanship of Mr. J. F. Wolfenden, C.B.E. Though it was intended as no more than an interim report, and so was allowed to go out of print, enquiries received show that great interest in it continues.

In this new volume the substance of that Report has been amplified, and appendices have been added upon the moral and pastoral aspects of homosexuality.

*Material on the following nine pages has been reproduced directly from the above named volume. It is reprinted here because significant comment appears in this particular appendix, and perhaps this comment will tend to affect thinking in America as it has in England.*

## EXTRACTS FROM THE INTERIM REPORT, THE PROBLEM OF HOMOSEXUALITY

### VARIATIONS IN THE HOMOSEXUAL PATTERN<sup>1</sup>

Since discussion of homosexuality is often confused by the use of vague or inaccurate language, we think it will be well first to define our terms. We are aware that there is a variety of technical usage among experts, and that others may prefer a different terminology, but we hope that the expressions used in this report will make for clarity of discussion.

It is most important to understand that homosexuality is not in any sense a kind of *conduct*. It is a term used to denote a *condition* in male or female characterized by direction of the sexual and emotional impulses towards others of the same (Gk. *homos*) sex. Such a condition is certainly due to psychological causes arising in adolescence and sometimes in early childhood (see page 105), and may in some cases perhaps also be innate. In serious cases, it is usually unalterable, either because a 'cure' is impossible in the nature of the case, or because the subject is psychologically inhibited from according that degree of co-operation with a psychiatrist which is necessary for successful treatment. Compulsive urges to carry the condition into overt acts may, however, be relieved by psychological or other medical treatment. The *condition* is itself morally neutral, but it may (though it does not always) *find expression* in various homosexual acts upon which a moral judgment must be passed.

We shall refer to the person so conditioned as the *invert*; he is to be distinguished carefully from

- (a) the so-called *bisexual* (or ambivalent) in whom there appears to be a sexual propensity indiscriminately directed towards the same and the opposite sex. Such a person may marry and have children, or may remain unmarried; but in either case there will be a capacity for homosexual as well as heterosexual physical expression. In those who seek such expression, homosexual and heterosexual experiences may occur as and when opportunity allows, following no obvious pattern; or homosexual and heterosexual phases of some duration may alternate. (We recognize the difference of opinion among experts as to the nature, the cause, and even the existence of the true bisexual, but the type we have described is sufficiently well attested by experience and case-history to warrant distinction from the genuine invert, and from the pervert.)

<sup>1</sup> On this section of the report, see the comments in the Evidence, pp. 27 f.]



(b) The *pervert* is not a homosexual, but a heterosexual who engages in homosexual practices. Perverts may be of two kinds:

- (i) *the casual* (to be distinguished from the bisexual): i.e. the person who, from motives of curiosity, or in exceptional circumstances—life in the services, or in prison, or in a situation of peculiar temptation or emotion—may engage in one or more homosexual acts, but who easily and rapidly assumes again a heterosexual orientation when conditions are normal, and thereafter continues to live a normal heterosexual life.
- (ii) *the habitual*: i.e. the person who may engage regularly in homosexual practices, either as a 'tout' or prostitute for money, or for the purpose of blackmail or in search of new sensual satisfactions, or simply because "to do evil for evil's sake" has a fascination of its own. The habitual pervert is found more frequently among men than among women.

We shall refer to sexual acts between persons of the same sex as *homosexual acts* or *practices*, distinguishing, if necessary, between *acts of inversion* and *acts of perversion*.

#### Variations in the pattern of male inversion

It is a mistake to assume that inverts conform to one or two types, for the pattern of male inversion is one of considerable complexity.

The male invert is not by definition a misogynist, and many inverts are not necessarily always averse to the society of women, though they will naturally avoid close or specific attachments which might lead to embarrassing situations. Many women do not understand this, and spurn a friendship offered for its own sake, when they perceive that no matrimonial prospects are implied; they fail to realize that such friendship may itself materially contribute to the invert's social adjustment.

Other inverts, however, display a natural diffidence in mixing with women, though for psychological reasons they may show less disinclination for older women than for those of their own age.

All inverts have a definite and sometimes an exclusive preference for male companionship; *there may be no other specific factor present*, but on the other hand the following features may be found:

- (a) There may be an active desire to be of social service to boys in youth groups and the invert may find it difficult not to have special favourites among them.
- (b) In mixing with boys he may be conscious of urges to touch or fondle them, but on moral, religious or other grounds, he refrains from such acts.
- (c) He may give in to such desires so far as to engage in manual stimulation.
- (d) He may seek further expression of his desires in *coitus* of several varieties with men and boys.

In assessing moral guilt or criminal responsibility it is important to recognize the variety and complexity of the pattern, and especially the diversity of types to be found among inverts.

Where inversion is the settled condition of a person (innate or acquired) it will be important to make a very clear distinction between this *condition* (which is morally neutral) and the invert's homosexual *practices* which are

within the range of choice and to which moral categories therefore apply. Perversion raises quite different moral issues, and bisexuality hardly less so, but neither falls within the scope of the present discussion.

#### PREDISPOSING AND PRECIPITATING CAUSES OF INVERSION

Inversion appears to be basically a psychological condition. Physically, the invert is in the great majority of cases normal, and attempts to identify an organic or physical cause such as endocrine deficiency or imbalance have so far met with little success. The possibility of a congenital origin cannot be ruled out in some cases. There are homosexuals whose inversion is so inherent, or acquired so early in life, that their condition is irreversible. It appears that the true invert is a victim of a deviation from the normal heterosexual pattern and is, so far, neither more nor less pathological than the man who suffers from some other deviation not connected with his sexual nature.

The deep and distinctive personal relationship between man and woman, which we term 'sexual love', is impossible for the invert. He feels a comparable and equally compelling attraction towards another man, and it is important to understand that his regard may be as sincere and genuine, and the relationship which may develop can be as honourable, as in the case of the heterosexual. The idea of any physical relationship with a woman is as abhorrent to him as homosexual practices are repulsive to the heterosexual man.

Both the heterosexual and the homosexual are from time to time confronted with strong inclinations to give expression to their respective natures in sexual acts. The homosexual is not unique in this respect. Ordinary moral principles apply equally to both types: each is under the obligation "to do all to the glory of God". *The invert has no right to ask for a wider moral latitude than has his heterosexual brother.* The special aspect of his problem, which arises because for him the normal outlet in marriage is denied, is dealt with later [this section is omitted].

The homosexual is normally no more disposed to commit sex offences against children than is the heterosexual. He may, however, associate with boys under conditions of secrecy through the fear of blackmail if he were to seek the companionship of adults. The seduction of boys may indicate moral degeneracy as much as, but no more than, the seduction of girls by the heterosexual.

It should further be recognized that homosexual love is not always at a genital level. The homosexual is as capable of a virtuous love as clean, as decent, and as beautiful as one who is normally sexed, though it is, as we shall show, a love essentially different in certain respects from that of man and woman for one another.

Both the attitude of society and the administration of the law as they are today impose a burden of guilt upon a not inconsiderable minority of people in the main inoffensive, often talented and socially useful—a burden which presses heavily although there is no question of immoral homosexual behaviour. It should be a matter of grave concern that suicides are known to have been committed by homosexuals for reasons directly arising out of society's attitude to their homosexual condition, and unconnected with blackmail.

Homosexuality is a tendency which is present in every individual par-

ticularly during adolescence. This inclination to fix attention on a person of the same sex is the root of friendship and of many forms of team games. Conscious sexual desire in such relationship is normally wholly absent. There is merely a healthy and normal affection and loyalty for the other person.

When this homosexual phase passes into the more specific condition of definite inversion, or an existing latent inverted condition becomes apparent, we often find a history of broken or unsatisfactory parental relationship. The otherwise normal boy may have moulded his personality too much upon his mother to the detriment of his relationship with his father. The father may have been away from home (note here the responsibility which war must carry), or he may have been a drunkard, or so cruel to his wife that the son has identified himself with his mother in her defence.

The fault, again, may have been on the mother's side. She may have been 'clinging', over-concerned with her son's welfare. Or she may have been dominating or possessive, forcing or holding her son away from natural father-son relationship. A proud or adoring mother, lavishing all her affection upon an only son, may prevent him achieving emotional maturity. Desperately wanting a daughter, a mother may make up her mind that the child she is to bear will be a girl, and finding her hopes unrealized, she may treat her son as a daughter. If she lets him know of her disappointment, she may engender a sense of guilt for which he tries to compensate by over-affection for her.

Or the cause may lie exclusively at the door neither of the father nor of the mother. The parents may have been divorced, sharing access to their son. To gain power, and possibly from motives of revenge, a mother may have attempted to undermine her son's affection and respect for his father by exploiting her emotional needs, or in the proceedings that led to a divorce the father may have gravely shocked his son, who comes to blame him for the loss of home security.

In all such cases, the resultant inversion may be the result of psychological fixation. Such fixation, as we have said, will exempt an invert from responsibility for his homosexual condition *but cannot absolve him from responsibility for immoral homosexual practices. The distinction is a vital one*, and that it is often forgotten is proved both by the fact that to call a person a homosexual is, in popular language, tantamount to calling him immoral, and by the common use of such a phrase as "the evil of homosexuality" instead of "the evil of homosexual acts".

### PRECIPITATING FACTORS

(i) A precipitating factor leading to discovery of one's inverted condition may arise through wider social contacts outside the home. The young man, conscious of his preference for companions of his own sex, expects that he will eventually form girl friendships as easily as his other friends have done. When the opportunity comes for associating more closely with women—in college, in sport or in business—he then discovers an inability to enter into normal relations with them. The precipitating factor here is the *actual opportunity which comes his way of mixing with women*.

(ii) This self-discovery of his inverted nature may come *through school experiences*. He may be involved in mutual masturbation with other boys.

If the boy is sexually normal, he is extremely unlikely to be diverted into a homosexual pattern by such experiences, and quickly outgrows them. If there is, however, already a latent tendency to inversion, experiences of this kind can precipitate a homosexual condition which, in other circumstances, might have remained latent.

Although female inversion is not the concern of the present study, it should be recognized that where a girl is involved in emotional relationships with a woman teacher, a precipitating factor may occur if the situation is handled unwisely by the older woman. A girl may offer a genuine and simple love to a teacher who takes advantage of it in order to supply an emotional need so far unsatisfied by adult love (as indeed sometimes happens between a schoolmaster and a boy pupil).

A frustrated and unsatisfied teacher who loves young people may find it difficult not to grasp at this gift from an adolescent. So an experience, which on the child's side is normally soon outgrown, becomes an emotional fixation from which there is no later development into a normal heterosexual pattern.

(iii) An adult homosexual who seeks *physical sexual intimacy* with a boy who has a latent condition of inversion may precipitate the boy's condition. A hitherto apparently normal boy slips over into self-conscious homosexuality, with all the moral danger of homosexual practices. There appears to be little evidence that precocious stimulation or seduction are at most more than *contributory* causes of inversion.

### THE LAW AND THE MALE HOMOSEXUAL

It is a duty of the State to protect young people from seduction or assault, to protect society from nuisances and to preserve public decency. This duty of the State is recognized in general on every side, by the decent homosexual no less than by the normal man and woman. Any proposal for a change in the law must be judged in terms of the likelihood there may be that such a change would endanger the welfare of young people,<sup>1</sup> for this is part of that justice which the law exists to serve whether homosexual or heterosexual attacks are concerned.

The following considerations should be studied with this recognition of the moral duty of the law-maker. At least in one respect we shall see (page 110 (c)) that there is reason to believe young people *are actually put into moral danger by the law as it is today*.

Until 1828 the penalty (under an Act of 1533—25 Henry VIII c. 6) for the commission of homosexual acts by males was death. They were referred to as "the abominable crime not to be mentioned among Christians". The maximum punishment for certain homosexual offences today is imprisonment for life. By the Criminal Law Amendment Act of 1885, homosexual practices between adults, whenever or wherever they took place, became criminal offences to which the consent of the other party was under no circumstances to be a defence. In most European countries today the influence of the Code Napoléon has removed such acts between consenting adults from the cognizance of the law altogether.

By the 'Offences Against the Person Act, 1861', indecent assault on a male is subject to a maximum penalty of 10 years' imprisonment. Indecent behaviour is liable to imprisonment or fine.

<sup>1</sup> See the end of this section for a note on the "age of consent".



## LEGAL ANOMALIES

There are the following apparent legal anomalies regarding homosexuality.

The first is the different attitudes of the law to the two sexes. Unless Section 52 of the 'Offences Against the Person Act, 1861' (penalizing assault upon a female without reference to the sex of the accused) be interpreted as such, there is nothing in English law which regards homosexual practices between women as criminal. We have not been able to trace any actions in this sense which are on record as having been taken under the 1861 Act. Theological and moral presuppositions, some of them based upon the imperfect medical knowledge of antiquity, may no doubt partly account for this differentiation between the sexes, but it can hardly be accepted as tenable today.

There is, however, a very much more serious legal anomaly. In no other department of life does the State hold itself competent to interfere with the private<sup>1</sup> actions of consenting adults. A man and woman may commit the grave sin of fornication with legal impunity, but a corresponding act between man and man is liable to life imprisonment, and not infrequently is punished by very long sentences, five, ten or even more years.

Such interference would only be warranted if there were proof that homosexual practices between males gravely affect society. Even if this were true, it could with justice be maintained that fornication and adultery threaten the well-being of society still more seriously than homosexual practices. With fornication there is the risk—and the common result—of the birth of illegitimate children who may be deprived of the security of a home and the love of a father and a mother. Adultery undermines the unit of society, the home and family.

Yet no legal penalty is now imposed for either fornication or adultery *as such*. The latter is only a ground for civil damages or divorce *at the instance of the person aggrieved*. Formerly (by an Act of 1650) adultery was punishable—like homosexuality—with death. G. M. Trevelyan, in *English Social History* (p. 231), writes of the seventeenth century: "The clear modern distinction between offences punishable by the State on the one hand, and sins not cognizable by a court of law on the other, was not yet so rigid in men's minds as it afterwards became. . . . The attempt to punish sin judicially lapsed after the Restoration and was never seriously renewed south of the Border."

In view of this, the only grounds upon which the prosecution of adult consenting homosexuals can be justified is not because what they do is morally wrong—a sin—but because the community is affected by such private acts. Can this be substantiated?

Sir William Norwood East, a former medical member of the Prison Commission argued (see *Journal of Criminal Science*, 1, 63) that the knowledge that the law did in fact punish such private acts had a deterrent effect and helped the invert to control his desire to engage in homosexual acts. Even if it could be proved that this was the effect of the law it would not justify its existence, for in no other instance does the law exist *merely* to help men to refrain from private immorality.

Sir William's argument might, however, be taken to imply that the law's treatment of homosexual private acts as criminal deterred men from

<sup>1</sup> I.e.: not anti-social. Incest is biologically and domestically anti-social.

assaulting young people. If this were admitted, then there is an even stronger case for penalizing fornication and adultery, because of the damage to children that both so often cause. But in fact it is well known that the attitude of the law sometimes acts as an incentive rather than a deterrent to certain homosexuals, who get a psychological satisfaction from knowing the risks they run.

Can we find evidence of social injury caused by private homosexual acts which would validate the action of the law? It has been suggested that homosexual practices make a man of less use to society by rendering him secretive, undependable and nervous. In reality, however, these defects of character are due, not to homosexual practices, but to the fears of punishment or of blackmail engendered by the law. It is arguable that if legal reform removed the occasion of these fears, such blemishes of character would not be associated specially with the homosexual.

A third apparent anomaly in the law is seen in the different penalties attached to male and female importuning. A woman prostitute is liable to a maximum fine of £2: a male prostitute may be fined or imprisoned for 2 years as a "rogue and vagabond". This difference seems difficult to explain. It can hardly be that male importuning is taking place throughout the length and breadth of the country on a bigger scale than professional and amateur female prostitution; nor that male importuning constitutes a greater public nuisance than female prostitution. It may be alleged that male importuning more often involves the young person than does female prostitution, and that in order to protect boys and youths from seduction and from yielding to the temptation to 'tout' their services in order to get easy money, the law has to impose a penalty which acts as a real deterrent. It must be borne in mind, however, that the selling of the 'services' of the boy and the girl who are soliciting depends upon the desire of the 'customer' to buy what *they*, especially, have to sell (see page 110 (c)).

We think that evidence concerning the comparative incidence, character, and effect upon the young of male importuning and female prostitution needs to be authoritatively gathered and examined, and correlated with historical, sociological, and moral factors—e.g. the tendency in a male-dominated culture such as that of the West to ignore or tolerate female prostitution.

## SUBSIDIARY CONSIDERATIONS

If grounds of justice indicate that the law in this respect should be changed, humanitarian reasons also lend reinforcement to such a step being taken.

(a) We have evidence which points to the *suicide of men who have been charged* with committing homosexual acts with an adult. The sense of shame at public exposure appears to be a motive. This sense of shame by itself would, of course, be no reason for changing the law; but if the law is unjust, then the longer it remains responsible for human tragedy, the more inexcusable does its retention become.

(b) A further consideration of the same type is the *opportunity for blackmail* which the present law affords. The young 'tout' or male prostitute offers himself for money, and *being already a vicious person* is able to threaten his companion with a report to the police that he has been seduced. A strong-minded man so threatened would himself go to the police, but a homosexual may be so conditioned to fear of the police



(perhaps over a number of years) that the last thing he is ready to do is to draw the attention of the police upon himself. The special circumstances of the invert thus make him peculiarly susceptible to blackmail. If the law were revoked, this threat would be gone.

(c) We have reason to believe that inexperienced boys are in some cases seduced by the older homosexual because the latter is afraid of becoming involved with a fellow-adult who might turn and blackmail him. The continuance of the present law may well be the indirect cause of harm to children who are sought out as less likely to think of blackmail and whose pledge of secrecy can be often bought or extorted under threats. If so, the law is endangering the young, not protecting them.

(d) There is no doubt that as long as the present law exists many a normal man who would like to offer an invert the ordinary friendship he craves for dare not take the risk. Amongst inverts there is often a camaraderie of a remarkable kind, and the association of one of their number with a new friend may not only lead to personal jealousy where a particular fellow-invert is concerned, but this jealousy may drive the latter to threaten with 'exposure' the normal man who has befriended the homosexual. So the law which penalizes private homosexual acts between adults unwittingly removes the one most likely source of liberation.

(e) If in any department of life persons feel that they are being treated unjustly and there is no redress, moral deterioration sets in. "I may as well be hung for a sheep as for a lamb" is a popular way of expressing this fact. So with the homosexual. If he should feel it is radically unjust that he should be picked out by society for a legal punishment which is meted out to no one else, he easily persuades himself that such social injustice towards him exonerates him on his side from any obligation to observe canons of justice and morality. It is sometimes the types who have this grievance who refuse to examine their own homosexual acts in moral terms at all, and who take the path of uncritical self-indulgence. So injustice in one department breeds immorality in another.

(f) The whole subject of Inversion lacks proper scientific examination, and a difficulty in the way of such examination has been in the past at least the unwillingness of the homosexual to offer first-hand evidence of his own condition. Too often scientific research has to depend on material deriving from pathological examples which come to a psychiatrist in a clinic or prison for treatment when they have encountered trouble with the police, or when in other ways grave factors have already supervened. There is no doubt that once the law were revised as suggested, this fear of self-exposure to examination would largely disappear, and the path would be opened for better diagnosis and more effective treatment.

(g) It is against the British conception of sociological principle to use the law in such a way as to create an aggrieved and self-conscious minority which becomes the centre for dissatisfaction and ferment. That the present state of the law has done this there is no doubt. If on other grounds it is found that the law is in fact going beyond its province, then the speedy repeal of the law is necessary before the sense of persecution takes more serious forms.

(h) It has been alleged (see *New Statesman and Nation*, October 31st, 1953) that police are sometimes used as agents provocateurs in order to trap homosexuals into disclosing their nature. Since the police in such cases will be obviously adults, such action offers no direct protection to young people. The main purpose of such agents is to entrap homosexuals

who may engage in private homosexual acts with fellow consenting adults. If in fact it is found that the law here lacks justification, its repeal would put an end to an unsavoury type of police action, and no longer would there be the risk that an innocent smile or "passing of the time of day" of a normal man to another would be misinterpreted as an invitation to homosexual practices. An end would also be put to a danger of police corruption.

## AGE OF CONSENT<sup>1</sup>

The question of what is meant by an 'adult' is important when dealing with homosexual practices. As far as heterosexual intercourse is concerned, the "age of consent" today is 16 for both boy and girl. Homosexual intercourse, however, involves a different principle, as it is an unnatural activity of the sexual organs, and as we have seen it may also precipitate a lifelong condition of inversion from which there may be no recovery.

There is, therefore, no valid reason why the same age of consent which is regarded as suitable for both sexes in cases of heterosexual relationships should be held to apply to homosexual coitus. If changes are to be made in the present law governing homosexuality, consideration should be given to defining the "age of consent" for males as 21, thus protecting the young National Service man who is compelled to live for two years in a predominantly male community and faces rather special risks of mixing with homosexuals.

### Conclusion

We have largely been content in this report to set out the main facts which arise today in a study of homosexuality; and it is our hope that such facts may be regarded as of sufficient importance to deserve a full official enquiry.

[<sup>1</sup> In the Evidence the proposal here made was not endorsed, but it was urged that the age of consent be raised to 17 for both sexes for homosexual and heterosexual offences alike; see p. 41 above.]

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