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**NOVEMBER 1957** 

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THE

WOLFENDEN

REPORT

Is It a 'Magna Carta' for Homosexuals?

CASTING A SPOTLIGHT ON HUMAN SEX PROBLEMS - FOR THINKING ADULTS

OFFICE OF THE BOARD OF DIRECTORS

### Mattachine Society, Inc.\_

## Mid-20th Century Scene... CHANGING PUBLIC OPINION

In April 1955, the American Law Institute issued tentative draft No. 4 of its Model Penal Code, covering sexual offenses (article 207). This article and the comment pertaining to it were published in full in the September 1956 issue of Mattachine Review.

Largely at the recommendation of retired Judge Learned Hand of the U.S. Court of Appeals, New York, the Council of ALI voted 35 to 24 to remove sodomy and adultry from the criminal code, when such acts were committed in private by consenting adults. Penalties remained, however, when force, violence or fraud were involved; the recommendations also were written to protect minors and to maintain high standards of public decency. (See also Mattachine Review. July-August 1955.)

A comparable effort in Great Britain resulted in the Wolfenden Report in September 1957, details of which are outlined in this issue. In it, homosexual acts in private between willing males over 21 would no longer be a concern of the law, but would become solely a matter of morals for the church and other social institutions to deal with.

The significance of these two documents lies in the fact that responsible bodies in both countries are willing to wrestle with the difficult problem of trying to make accumulated legal sanctions just and fair on reasonable grounds These documents are, of course, only initial steps--laws remain unchanged until legislators act, no matter how many recommendations are made. And in the U.S., it must be remembered. 48 states of mind must act in unison before any changes in law can become national.

But legislators can be presumed to act, at however late a date, on public opinion and its constantly - though slowly changing shifts of direction. To provide a basis for sound public opinion in matters of the sex sphere is the mission of Mattachine Review. Thus the provisions of the Wolfenden Report in this issue are published in detail to let American readers know what responsible Britons are thinking. Another side of the story will be presented in the next (December) issue when we will report on the general reception of the Report in the British daily and weekly press, as a possible guide to current public opinion in Great Britain.



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Volume III

#### November 1957

Number 11

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MATTACHINE REVIEW is published monthly by the Mattachine Society, Inc., 693 Mission Street, San Francisco, San Francisco 5, Calif., a non-profit, non-partisan organization founded in the public interest for the purpose of providing true and accurate information toward the solution of problems of human sex behavior, particularly those of the homosexual adult. The REVIEW is available on many U.S. newsstands (six alternate-month issues per year).

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### Next Kinsey Book Soon

#### By Wes Knight

The outlook is bright once again for scientists at the late Dr. Alfred C. Kinsey's Institute for Sex Research — thanks in large part to Uncle Sam.

For a time last year it looked as if the institute's monumental 15-year-long inquiry into American sex practices would be abruptly halted. Science foundations, apparently responding to pressure, had withdrawn financial support for the institute's work. Operating funds were at a low ebb. Then Dr. Kinsey, quietmannered biologist who had switched his attention from the gall wasp to human sex, died of a heart attack.

At the institute's darkest hour, the U.S. Public Health Service came through with a \$151,693 grant for a three-year-long study of what factors produce a sex offender.

The project was passed upon by the PHS' National Institute of Mental Health. The reviewing committee, certainly aware of the strong opposition stirred by the two Kinsey reports on the American male and female, showed no hesitancy in approving the grant.

According to Dr. Paul H. Gebhard, the institute's new executive director, the sex-offender study has as its aim a "discovery of those personality and environmental backgrounds that lead to the sex offense."

Case histories of some 1755 male and 485 female sex offenders will be analyzed. Included are individuals whose offenses involved rape, prostitution and homosexual acts.

These histories were compiled over the last five years on the basis of court records and personal interviews. Mattachine Society leaders in San Francisco and Los Angeles in 1954 and 1955 helped obtain some of the subjects for interview by the Kinsey staff at times when the scientists were in California. Those interviews obtained with Mattachine's help were individuals living an adjusted life in society, whereas interviews in state institutions were with people in the prison population.



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## SIN v. CRIME

#### By Norman Reider, M. D.

The fallacy of regarding homosexual acts as a crime instead of sin is only one of the strong points made by the author in the following aricle. This paper was published in CALIFORNIA MEDICINE, June 1957, under the title, "Problems of Homosexuality," and is reprinted here in full with the permission of both that journal and the writer. Dr. Reider is on the staff of the Department of Psychiatry, Mt. Zion Hospital, San Francisco. He presented the accompanying paper before the California Academy of General Practice, Los Angeles, on October 14, 1956. Mattachine Review is grateful for the opporlunity to present Dr. Reider's viewpoints to its readers, and requests that other professional persons in contact with the homosexual problem submit their findings in articles such as these.

HARDLY ANY MEDICAL SUBJECT is more ambiguous and confused than that of homosexuality, and it is a most difficult subject for the clinician to delineate in a scientific or even empirical way. For centuries homosexuality has been more a moral and legal than a medical concern. Throughout the ages people have tried to make criminal law enforce their ambitions regarding moral law, especially in their attempts to control sexual behavior. Among sex laws, none are so punitive or inequitable as those concerning homosexual acts, particularly male homosexual activities.

Religious traditions and attitudes against homosexuality have thus been extended into substantive law out of all proportion to the social damage involved in most homosexual acts. Sin is confused with crime, and vague laws about sexual behavior give law enforcement officers a dangerous discretionary power. Sexual acts are not differentiated from criminal acts. Of course there are sexual acts that harm others and against which society must protect itself. But these are not clearly differentiated from sexual behavior that merely "tends to affront certain people"; and men are imprisoned for acts that did no damage to another person.

The great majority of homosexual acts do not endanger the social structure or disrupt the family. No doubt many early societies considered homosexual activity a threat to family and societal solidarity, and taboos arose; but when these are examined they can be seen as

Moral religious and legal attitudes in attempts to control sexual behavior have interfered with a clear view of the medical and psychological aspects of homosexuality. This phenomenon is probably much less destructive of social aspects of our society and culture than is generally believed, since it is actually more widespread than is generally acknowledged.

Homosexuality probably has hormonal and undoubtedly social and psychological factors, the latter of which are the only ones which can be worked with successfully in our present state of knowledge. A general practitioner's task is to aid those who wish and need help with this problem in finding psychiatric treatment in the same way that persons with any other emotional disturbance are referred. This should be carried out without bias just as with any other emotional disturbance.

part and parcel of man's fears of his own impulses—drives for which he sought controls. Modern studies like those of the late Dr. Kinsey and his associates serve to show that society has little to fear from homosexual activity.

Yet the fear remains, in that a homosexual person continues to be the object of extraordinary punishment or the butt of derisive jokes and contempt. We should remember, when we participate in such attacks, that we follow the age-old formula of trying to fight off or laugh off something that we either do not understand or fear. This extension of old taboos into moralistic and legal attitudes still muddles the issue of what is essentially a biological and psychological phenomenon and only secondarily a social one.

#### THE EXTENT OF HOMOSEXUALITY

The problem of homosexuality is even more extensive than the Kinsey data showed. According to Kinsey, about a third of white males between adolescence and old age have had some type of homosexual contact to the point of orgasm, but only four or five percent are exclusively homosexual. A much smaller proportion of females at any age are primarily or wholly homosexual; and very few continue their homosexual activities as long as do men. Men are likely to be far more promiscuous than are women; only about half restrict their relationship to a single partner or two, as compared to three-fourths of the women. These and other Kinsey data point to a greater extent of homosexuality than is commonly believed.

#### CLINICAL VIEW OF HOMOSEXUALITY

The Kinsey studies reported the amount of homosexual behavior in various persons, but did not determine clinically who was a homosexual. Are all 37 percent of males who have had at least one homosexual contact homosexuals—or just the 4 percent who have only homosexual outlets? If we define a group midway between these extremes as homosexual, we ignore the fact of a gradation of sexual activity, interest and preoccupation that ranges from one to the other extreme. We overlook the historical and developmental ap-

proach that denotes both biological and psychological roots for homosexuality.

The biological roots are clear: A phase in our ontogenetic development when the undifferentiated organism has the potential of developing into either sex. Psychologically, too, we receive tenderness, affection, abuse and cruelty at the hands of both men and women. So many factors in the history of each person shape his sexual destinies that to make the cause of homosexuality a simple one is not to face the facts.

Some observers believe that homosexuality is merely a matter of constitution and biochemistry, although present knowledge shows no basic difference in either constitution or biochemistry between the homosexual and the heterosexual. One should therefore strongly suspect claims about a cure of homosexuality by hormonal treatment. A British report on recent developments in psychoendocrinology stated that homosexuals cannot be changed to a more masculine attitude "In most of them," the report said, "testosterone merely accentuates the homosexuality. In general, its action is to increase the quantity of the sex drive without in any way altering its main direction." Far more evidence indicates that environmental and developmental factors help to shape the individual's avenues of sexual outlet. But research in the whole area has only begun to tackle the problem of cause.

A story of my clinical experience in Southern California some years ago will illustrate the complications involved in the evaluation of hormonal treatment. The medical literature at that time contained favorable reports of treatment of homosexuality by androgens, and it acquired a certain vogue. Several California jurists who knew the futility of sentencing homosexuals to jail began sentencing the convicted person to undergo treatment. Some persons were sentenced to have hormonal treatment, others to have psychiatric treatment. As a result of these efforts further articles reported successful treatment with androgens—successes that I as a psychiatrist envied.

One day a young man came to my office to consult me about a problem that only skirted on his homosexuality. A confirmed homosexual, he had little anxiety about his activities because he considered himself a constitutional homosexual and felt relatively blame less. In the exploratory course of our discussion he said that he had once been treated by androgens not entirely of his own will, as the result of a court sentence. He then described how he and several of his associates had contrived to "respond" to the treatment, varying their stories so as to give them the hue of veracity. He said that he arrived late for his first appointment and grumbled at the injection. The nurse reminded him to return for his next one "or else." Next time he complained of noticing no improvement at all. On the third visit he told the nurse he was depressed and said that he and his boy friend had fallen out and might separate. Next time he was more depressed and was moving out, he said, because he could not tolerate his boy friend. The fifth time he carefully implied he was less de-

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In the etiology of homosexuality, constitutional and hereditary factors cannot be ruled out as possible factors. From a pragmatic view, a large amount of evidence points to developmental factors, chiefly those connected with masculine or feminine identifications, as probably the most important ones. There are multiple reasons why a young boy might fear to identify himself with what he considered masculine trends and so be forced to adopt feminine attitudes, habits and wishes. In our society a happy male child evidently goes through various stages of identifications and choices of the object of his affections. At first he prefers himself, then he is greatly attached to his mother. In later childhood, under the molding influence of environment, the boy for a period prefers his father and spurns as "sissy" any show of affection toward women. With adolescence his interests begin to shift once more toward girls. The things that may block this normal development or stop it at any stage because of one trauma or another— threats as to sexual activity, rejection by one or the other parent-are too many to list and even more difficult to evaluate. Even in clear-cut histories of early seductions, their role in the causation of homosexuality is hard to determine.

However obscure the etiologic trails, we know more about the

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Gay Bar by Helen P. Branson. (Sh	ipped Nov. 30 \$3.00
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Sex Variant Women in Literature	Jeanette Foster. Vantage 5.00
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vicissitudes under which homosexual manifestations take place. The homosexual is not alone in taking only a member of his own sex as object choice. We all have homosexual object choices which indeed most of us satisfy in so-called sublimated ways. Our pursuits with pals, our most intimate intellectual and social friendships, our armin-arm singing at the piano after a few beers, our sports activities—all have in the broad sense some sort of homosexual connotations. These we value and enjoy without guilt or shame. No one is so masculine as not to expect some friendship or tender affection from a member of his sex. These things stem from our early childhood sexual wishes— sexual in the widest meaning—from the emotional life so intimately connected with our physical beings and the spiritual aspects of love. This point needs emphasis because of too much palaver about spiritual expressions of love as somehow being unconnected with our biological history.

Besides the mild and socially acceptable expressions of sublimated homosexuality, many other manifestations appear. Although not particularly abnormal or peculiar in the course of ordinary masculine activity, they yet indicate how protean are the forms and relics of homosexual wishes. For example, many a man is more potent and has a much more satisfactory heterosexual relationship after "a night out with the boys." Many a man, often without realizing it, feeis keener, more intense interest in the woman's sexual experience than his own. Indeed his partner's frigidity may cause him much frustration in his sexual life not only because he feels he is not proving himself a man but also because she does not let him share in feminine pleasures. Many men secretly envy women's creating and nurturing qualities and activities. Fortunately, the social trend now makes acceptable such masculine envy of women; the tables turn and we hear much less about feminine envy of men. The line is hard to draw between these normal manifestations of homosexuality and near-pathological activities. Surely a patient addicted to prostatic massage satisfies some homosexual needs that may bear scrunity under a psychological microscope. Likewise a physician who unwittingly plays partner to this game may well scrutinize his role.

Such psychological attitudes clearly show that psychologically we are not wholly one sex or the other. Our deeper understanding of homosexuality has also affected our nosological concepts of mental illness. For instance, often homosexuality, as such, harms a person less than does the fear of homosexuality. Many homosexual conflicts that bring a patient to a physician or psychiatrist for the first time have little to do with homosexuality. The patient really fears some dissolution of his psychic apparatus or of his integrity as a person, and he picks on homosexuality as a first sign of dissolution. Many schizophrenic breaks first began with fears of homosexuality; that is, the concern about homosexuality is symptomatic, just as alcoholism is symptomatic of a much more important underlying emotional illness.

#### TREATMENT

Very little is known about therapy of homosexuality. Just as the extent of homosexuality is greater than commonly believed, so the recoveries from distressing homosexual conflicts are probably more than we think. Doubtless a good many persons through experience, kindness, tenderness and understanding are helped to get over their difficulties in ways we can now only speculate about. Many a homosexual person embarks upon heterosexual experience or even marriage in the attempt to cure himself and sometimes he is successful. Clinicians do not see these successes, but rather the failures of such heroic attempts. Sometimes hormonal treatment is successful. I get the impression in review of such "successes," that psychological, suggestive factors have had more importance than the chemical ones, and that no real cure has resulted.

Psychological treatment does not offer a much brighter picture. Homosexuality as such can hardly be treated because treatment of the underlying emotional disturbance is the essential thing. If homosexuality is touched, all to the good; if not, treatment can often enable the patient to accept his condition with more grace and ease, with less shame and guilt, so that he tends to get into less trouble than before. With some gain in clinical knowledge, satisfactory cures by psychiatric and especially by psychoanalytic treatment have slowly increased, but as yet the number is very small. Treatment is long and most difficult, and the course of a successful treatment very hard to report and explain.

To understand part of the difficulty, take one analogy: It is in general just as hard to change a homosexual's object choice as it would be to change a heterosexual into a homosexual. A case in point is that of a man prominent in public life, who consulted a well known psychoanalyst, saying bluntly: "I'm a homosexual with many compulsions and obsessions. I can't pass a gate without wanting to run my fingers or cane along the pickets. I have to go back tentimes to make sure I've locked the door. I have to count to a certain number before starting any undertaking. I feel perfectly comfortable with my homosexuality. I have many agreeable companions who share my views. But my compulsions interfere with my life and I would like treatment for them without touching the homosexuality. Will you treat me under these conditions?"

The analyst replied that because homosexuality is so extremely difficult to cure they could undertake treatment, with the patient's understanding how small the chance for such outcome. The man entered treatment and at the end of two years he was cured of homosexuality. He married happily and had two children. But, alas, ail his compulsions and obsessions remained intact and untouched.

### THE GENERAL PHYSICIAN AND THE HOMOSEXUAL PATIENT

The general physician in his role with homosexual patients had best restrict his activities to what may be called minor psychiatry. To practice it, he must form his attitudes from some understanding of medical psychology and not from the statute books. He or anyone

If the physician believes that a real problem exists because of a conflict to be resolved, the patient should be referred to a psychiatrist for evaluation and a consideration of means of treatment. If psychiatric help is advised and the patient refuses it, the general physician at best can only counsel him to keep out of trouble—to choose his companions discreetly, not to pick up strangers in public toilets or invite them to his home for homosexual purposes—and in form him about the chances of blackmail or other entrapment and arrest. Because treatment is so difficult, only those with the greatest knowledge, training and experience should attempt it.

At times the patient will refuse even a referral for psychiatric evaluation. He may try arguments, persuasions, even threats. Often he will insist that because he has great confidence in him, the general physician continue the attempts at therapy. This places the physician in a most difficult dilemma. Sometimes he may be strongly tempted to work some magic trial of hormonal treatment or to delve into the patient's psychic apparatus. The physician would do best to withstand the temptation to an involvement that may indeed carry him away into dark seas of interpersonal relationships where even the most gifted mariners may lose their way.

It is encouraging to see that a favorite treatment of a generation ago has waned— the attempt at cure by arranging a sexual alliance with a prostitute or a knowledgeable substitute, a device not infrequently used even by some psychiatrists. Such attempts to teach the homosexual the facts of life or to make a man of him have precipitated more than one schizophrenic break.

The general physician, often the first to be consulted by the homosexual, must be prepared to deal at the start with cases of great psychological complexity. Homosexuals are liable to be hostile or paranoid and to present problems bordering on addiction or psychosis. Again, however offensive the behavior, shaming or reviling has no more place in the treatment of such persons than in the treatment of any other medical condition.

#### GAY BAR DELAYED

GAY BAR, by Helen P. Branson, Pan- Graphic's first publishing venture, has been delayed. Delivery of the first copies from the bookbinder is expected on or before November 20; advance mail orders will be ship-

ped before November 30. Ample supply of the books for Christmas gift shipments has been guaranteed.

GAY BAR will have a dark blue cloth cover and colorful dust jacket. Price is \$3, with 12c sales tax in California.

#### Britain Faces Challenge of the

## WOLFENDEN REPORT

#### **By Gregory Trout**

Three years and twelve days after the Departmental Committee on Homosexual Offences and Prostitution was appointed to consider (a) the law and practice relating to homosexual offences and the treatment of persons convicted of such offences by the courts; and (b) the law and practice relating to offences against the criminal law in connection with prostitution and solicitation for immoral purposes, and to report what changes, if any, were in their opinion desirable, the full report of their deliberations and conclusions was made public.

Sir John Wolfenden had been named chairman of the committee of twelve men and three women and it is thus that the public has come to call it "the Wolfenden Report", though this title is purely colloquial. Two members of the committee resigned midway in the deliberations, the Rev. R.F.V. Scott in March, 1956, and Mr. Goronwy Rees in April of the same year. Their meetings, which extended over 62 days with a little more than half of them devoted to the oral examination of witnesses, were held entirely in private, primarily in order that the witnesses could speak with the full frankness needed for such an inquiry.

#### Summary of Recommendations

The following is their summary of their Recommendations, applicable to England, Wales and Scotland except where otherwise noted (in these cases the committee felt that Scottish law fell sufficiently in line with the recommendation to require no official change):

#### (a) Homosexual Offences

We recommend:

- (I) That homosexual behavior between consenting adults in private be no longer a criminal offence.
- (II) That questions relating to "consent" and "in private" be decided by the same criteria as apply in the case of heterosexual acts between adults.
- (III) That the age of "adulthood" for the purposes of the proposed change in the law be fixed at 21 years.
  - (IV) That no proceedings be taken in respect of any homosexual

act (other than an indecent assault) committed in private by a person under 21, except by the Director of Public Prosecutions or with the sanction of the Attorney-General. (Applicable only to England and Wales.)

(V) That the law relating to living on the earnings of prostitution be applied to the earnings of male, as well as female, prostitution.

(VI) That the law be amended, if necessary, so as to make it explicit that the term "brothel" includes premises used for homosexual practices.

(VII) That there be introduced revised maximum penalties in respect of buggery, gross indecency and indecent assaults.

(VIII) That buggery be re-classified as a misdemeanor (England and Wales.)

(IX) That except for some grave reason, proceedings be not instituted in respect of homosexual offences incidentally revealed in the course of investigating allegations of blackmail.

(X) That Section 29 (3) of the Larceny Act, 1916, be extended so as to apply to all homosexual offences (England and Wales).

(XI) That the offence of gross indency between male persons be made triable summarily with the consent of the accused. (England and Wales).

(XII) That male persons charged with importuning for immoral purposes be entitled to claim trial by jury. (England and Wales)

(XIII) That except for indecent assaults, the prosecution of any homosexual offence more than 12 months old be barred by statute.

(XIV) That subject to any necessary special safeguards, managers and headmasters of approved schools be allowed the same measure of discretion in dealing with homosexual behavior between inmates as that enjoyed by those responsible for the management of any other educational establishment.

(XV) That the organization, establishment and conditions of service of the prison medical service be reviewed.

(XVI) That a court by which a person under 21 is found guilty of a homosexual offence be required to obtain and consider a psychiatric report before passing sentence.

(XVII) That prisoners desirous of having oestrogen treatment be permitted to do so if the prison medical officer considers that this would be beneficial.

(XVIII) That research be instituted into the etiology of homosexuality and the effects of various forms of treatment.

#### (b) Prostitution

We recommend:

(XIX) That the law relating to street offences be formulated so as to eliminate the requirement to establish annoyance. (England and Wales).

(XX) That the law be made of general application.

(XXI) That consideration be given to the possibility of introducing more widely the more formal system of cautioning prostitutes which is in force in Edinburgh and Glasgow.

(XXII) That consideration be given to the practicability of extending the practice of referring to a moral welfare worker particulars of a prostitute cautioned for the first time.

(XXIII) That the maximum penalties for street offences be increased, and that a system of progressively higher penalties for re-

peated offences be introduced.

(XXIV) That courts be given explicit power to remand, in custody if need be, for not more than three weeks, a prostitute convicted for the first or second time of a street offence, in order that a social or medical report may be obtained.

(XXV) That researches be instituted into the etiology of prostitution.

(XXVI) That magistrates' courts be empowered, on convicting a tenant or occupier of

- (i) keeping or managing, or acting or assisting in the management of, a brothel; or
- (ii) knowingly permitting the premises to be used as a brothel, or
- (iii) knowingly permitting premises to be used for the purposes of habitual prostitution,

to make an order determining the tenancy or requiring the tenant to assign the tenancy to a person approved by the landlord. (England and Wales)

(XXVII) That the landlord have the right to be heard in regard to the making of such an order. (England and Wales)

(XXVIII) That the courts be empowered to require a tenant or occupier charged with any of the offences mentioned in Recommendation (XXVI) to disclose the name and address of the person to whom he pays rent; and that there be similar power to require each lessor of the premises, in turn, to disclose the name and address of his superior lessor. (England and Wales)

(XXIX) That a landlord letting premises at an exhorbitant rent in the knowledge that they are to be used for the purposes of prostitution be deemed, in law, to be "living on the earnings of prostitution"; and that the same apply to any agent knowingly taking part in the transaction.

(XXX) That prosecutions in respect of premises used for immoral purposes be undertaken, as a general rule, by the police. (England and Wales).

Signed: J.F. Wolfenden, James Adair, Mary G. Cohen, Desmond Curran, V. Auguste Demant, Kenneth Diplock, Hugh Linstead Lothian, Kathleen Lovibond, Victor Mishcon, Lily Stopford, William Wells. Joseph Whitby.

The pathway to these recommendations could not have been any easy one. Six of the 13 committee members signed the report, subject to their appended reservations. Mr. Adair, a Scotsman, appears to be the least happy with the Report and Recommendations as they stand. He cannot condone homosexual acts between consenting adults in private and argues at considerable length to justify his re-

servations. It would appear, in reading them, that the committee must have heard these arguments from a good many sources since they stem in large measure from what we might call "emotionally biased common sense." His main argument appears to be that criminal laws against homosexuality reduce its incidence and that repealing them will result in "homosexuality extending its scope." Yet the report specifically says:

We have caused enquiry to be made in Sweden, where homosexual acts between consenting adults in private ceased to be criminal offences in consequence of an amendment of the law in 1944. We asked particularly whether the amendment of the law had had any discernible effect on the prevalence of homosexual practices, and on this point the authorities were able to say no more than that very little was known about the prevalence of such practices either before or after the change in the law. We think it reasonable to assume that if the change in the law had produced any appreciable increase in homosexual behavior or any large-scale proselytising, these would have become apparent to the authorities.

Altogether, Mr Adair has seven explicitly detailed major reserva tions about the Recommendations, all with a view to establishing wider range of criminal offences and harsher punishments for them.

Mrs. Cohen, Dr. Curran, Lady Stopford and Dr. Whitby, in a joint reservation, do not agree that there is any justification for the legal distinction between buggery (usually referred to as "sodomy" in the U.S., though not in the legal sense of that term as used in many state penal codes) and other forms of homosexual behavior. Even in the extreme case, so far as punishment is concerned, where the recommendation is that buggery with a boy under 16 be punishable with a maximum sentence of life imprisonment, they feel that all such cases should be included in the category of indecent assaults, which carry a maximum penalty of ten years' imprisonment under these circumstances.

#### More or Less Protection for Females?

But Dr. Whitby in a "Further Reservation" argues that, so far as penalties are concerned, there is no justice in separating acts of gross indecency with young men between the ages of 16 and 21 from acts of gross indecency with older men. He finds it hard to believe that a young man needs to be protected from would-be-seducers more carefully than a girl and points out that seduction per se of a girl over 16 is not a criminal offence at all. The clarity of his thinking, which in general is typical of the committee's deliberations as reported can be seen in his final argument.

The very fact an offence with a young man may attract a heavier sentence would serve to invest it with a disproportionate seriousness in the minds of parents and relatives, and so lead to unnecessary fuss and concern over something which, from the point of view of the victim, is best forgotten as quickly as possible.

How many times, in the application of legal sanctions everywhere,

the "victim" is further victimized by publicity and notoriety is evident to everyone who has had any connection with the courts. Punishment of the guilty may frequently be less serious than the penalty exacted from the innocent.

Dr. Curran agrees with Dr. Whitby except for one point. His "Further Reservation" would make the maximum penalty for indecent assault two years instead of ten years in all cases. He furthermore can see no reason for a heavier scale of penalty being imposed for male importuning than for the female prostitute's soliciting:

The idea of male importuning is unquestionably more repellant to the general public than is the idea of female solicitation. But in fact male importuning is far less of a public nuisance than female solicitation. This is not, I think, only due to the much smaller numbers involved. Males seldom importune other males who do not give them encouragement. Their activities are less obvious, and more subtle and discreet, than is the case with female solicitation. Consequently, as I believe, the general public greatly underestimate (as do the criminal statistics) the amount of male importuning that goes on. Further, the number of male importuners who are prostitutes is admittedly extremely small; very few male importuners are out for financial gain.

Finally, Mrs. Cohen, Mrs. Lovibond and Lady Stopford present their Reservation concerning the maximum penalty for living on the earnings of prostitution. Under the view that the law must, in prescribing maximum penalties, have regard to the worst case that could arise, they feel that the maximum of two year's imprisonment is quite inadequate to deal with a person who makes a business of exploiting prostitution on a large scale. Seeing the possibility that the increased penalties for street offences might encourage closer organization, with new classes of "middlemen", they recommend that the maximum penalty for the offence of living on the earnings of prostitution be increased to five years' imprisonment.

### SO MUCH FOR THE ACTUAL RECOMMENDATIONS. BY WHAT REASONING AND UPON WHAT EVIDENCE DID THE COMMITTEE ARRIVE AT THESE CONCLUSIONS?

First, they did not consider it to be within their province or competence to make a full examination of the moral, social, psychological and biological causes of homosexuality or prostitution, or of the many theories advanced about these causes. Their concern was entirely with the criminal law. It's function, as they see it, is to preserve public order and decency, to protect the citizen from what is offensive or injurious, and to provide sufficient safeguards against exploitation of others, particularly those who are specially vulnerable because they are young, weak in body or mind, inexperienced, or in a state of special physical, official or economic dependence.

#### Distinction Between "Crime" and "Sin"

They recognized that certain forms of sexual behavior are regarded by many as sinful, morally wrong, or objectionable for reasons of conscience, or of religious or cultural tradition; and such actions may

At all times they make a clear distinction between "homosexual acts" and "homosexuality", the latter being a state or condition which, as such, does not and cannot come under the purview of the criminal law. Furthermore, they were agreed that a transient homosexual phase in development is very common and should usually cause neither surprise nor concern. In addition, they were aware of the homosexual-heterosexual continuum which Dr. Kinsey described and considered it important for two reasons: "First, it leads to the conclusion that homosexuals cannot reasonably be regarded as quite separate from the rest of mankind. Secondly, it has some relevance in connection with claims made for the success of various forms of treatment."

#### Some Common Fallacies Shown

They did not consider themselves qualified to pronounce on controversial and scientific problems, such as whether homosexuality was a disease, but did feel themselves bound to say that the evidence put before them did not establish to their satisfaction that homosexuality was indeed a disease. They were left with the distinct impression, however, that those whose homosexual offences stemmed from some mental illness or defect, or at least occurred concurrently with such an illness or defect, behaved in a way which increased their chances of being caught.

Nor were they convinced that homosexuality is necessarily any more widespread or prevalent at the present time than it was more than fifty years ago. Many factors contribute, they feel, to a much greater public awareness of the phenomenon and its manifestations, but "it does not necessarily follow that the behavior which is widely discussed is more widespread than it was before."

The committee, in making its major recommendation regarding homosexual offences that "homosexual behavior between consenting adults in private should no longer be a criminal offence," was aware that the key words, "consenting", "in private", and "adult" must be carefully defined.

As would be expected, it was the definition of "adult" that proved to be the most troublesome. The committee could simply recommend that the usual legal definitions of "consenting" and "in private" which apply to heterosexual behavior could be equally well applied to homosexual acts. Witnesses' recommendations about "adult" ranged from 16 (since heterosexual acts committed by consenting partners over that age in private are not criminal to as high as 30.

But, within the two extremes, the ages most frequently suggested were 18 and 21.

The committee wrestled with four sets of considerations which did not seem to lead to the same answer: first, the need to protect young and immature persons; second, the age at which the pattern of a man's sexual development could be said to be fixed; third, the meaning of the word "adult"; and fourth, the consequences which would follow from the fixing of any particular age. The committee's reported deliberations are involved and, one feels, uncomfortable. They are aware that their final complicated recommendations, involving the "less than adult" ages of one or both of the partners, are not to be taken literally but must be handled with an attempt at justice and fairness. They would not like to see, for instance, a young man a few days short of 21 receiving the full penalty of the law for an act that would not be punishable two weeks later. Nor do they want his 22-year-old companion to be imprisoned as a child molester.

Although the committee struggles with the problem of giving greater legal protection to the late adolescent male than to his sister of the same age (at least in so far as her possible heterosexual seducer is concerned, for British law still takes no cognizance of the fact that she may be homosexually seduced), Dr. Whitby alone holds out for the only logically defensible view: that, if British women are adult at 16 insofar as giving sexual consent is concerned, the British man should be too.

The section dealing with punishment, police procedures, medical treatment and "prison as treatment procedure" are closely reasoned and illuminated with relevant actual histories.

The other half of the Report, on Prostitution, is concerned almost exclusively with the regulation of soliciting, the activities of the pimp or brothel-keeper, and the legal responsibilities for the real estate properties where acts of prostitution take place. Throughout their deliberations they appear to have been guided by a realistic awareness of the situation which they state as follows:

Prostitution is a social fact deplorable in the eyes of moralists, sociologists and, we believe, the great majority of ordinary people But it has persisted in many civilizations throughout many centuries, and the failure of attempts to stamp it out by repressive legislation shows that it cannot be eradicated through the agency of the criminal law. It remains true that without a demand for her services the prostitute could not exist, and that there are enough men who avail themselves of prostitutes to keep the trade alive. It also remains true that there are women who, even when there is no ecenomic need to do so, choose this form of livelihood. For so long as these propositions continue to be true there will be prostitution, and no amount of legislation directed toward its abolition will abolish it.

Nor, in the last analysis, does anything the Wolfenden Report has to say about legislative attempts to abolish homosexuality indicate that they anticipate any more successful efforts to be achieved in this direction.

### READERS WRITE ...

REVIEW EDITOR: Please send a sample copy of your magazine, together with information on the purposes of your organization.

—Mr. H.K., Istanbul

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REVIEW EDITOR: The C.C.L. club in Brussells has given me information about your Society. Will you send me information about it, together with information about your publications and other literature on the subject?—Mr. H.H., Koln/Rhein, Germany

EDITOR'S NOTE: Each of the above letters also requested information about photographs. Our replies stated that neither Mattachine Review nor the Mattachine Society had any such information, since the Society has no connection with any model photographic agency or publications whatsoever.

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REVIEW EDITOR: I understand there is a Mattachine Society in New York City which holds discussion meetings on occasion. Could you supply information concerning this group, including their mailing address?—Mr. W.J.R., New York

EDITOR'S NOTE: Several active chapters of the Mattachine Society have been organized in New York City, dating back some two years, and operating under the coordination of an area council. This branch of the Society also maintains an office and telephone, publishes a monthly newsletter, and otherwise forms an integral part of the national organization. Office of the chairman of the board of directors is now located there, as well as offices of the legal-legislative, research and public relations directors, and the secretary of the board of directors. Address of the New York office is 1183 Avenue of the Americas, New York 36, telephone Circle 5-1868.

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REVIEW EDITOR: Please send August 1957 and following issues. I am especially interested in following the bibliography of homosexual literature.—Mr. D.F., Quebec

EDITOR'S NOTE: This bibliography, started in the August issue, will continue monthly for the next several months, and will include fiction and non-fiction subjects. Back issues from the beginning of the bibliography are available at 50c each to all readers, or may be included as the starting numbers on any new subscription for the time being. The bibliography is being compiled by persons with experience in library and bibliographical work in New York City, and

promises to be one of the most complete such projects ever published for the public.

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REVIEW EDITOR: I came across Mattachine Review for the first time. I had just a few minutes to glance through it. I enjoyed it very much. I had no idea such a publication was on the market. I would also appreciate information about the Mattachine Society.

—Mr. C.G., California

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REVIEW EDITOR: Recently I was discussing about homosexual literature with a friend of mine and was quite surprised to know that magazines and book services of this type exist. Even more so, I was pleased to hear that you have been making publications for a period of time; I hope your efforts in this field reach a wide enough audience to enlighten, at least, some segment of the straight population.—Mr. R.K., Massachusetts

EDITOR'S NOTE: Many letters similar to the above arrive in the offices of Mattachine Review. One, Inc., and Daughters of Bilitis. In spite of the fact that Mattachine dates from a beginning in Los Angeles in 1950 and started its magazine in 1955, and in spite of the fact that One Magazine has been published continuously since 1953, and the Daughters of Bilitis began publication of The Ladder more than a year ago, many interested persons have still not heard of these three pioneer sex education and research organizations and their publications in the U.S. Friends and readers of any or all of these publications can perform an important service by telling others about them. How many times do we learn that uninformed individuals do appreciate this!

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REVIEW EDITOR: I am a regular contributor to The Circle, and having recently moved to Canada from England, I feel that I should like to contribute to an American magazine.—Mr. R.C., Alberta

EDITOR'S NOTE: Thanks indeed for the offer. Contributions in the form of manuscripts, significant press cuttings, financial aid, subscriptions, and letters from readers are solicited from any and all readers.

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REVIEW EDITOR: I would like information about the Society, and to know if there is a chapter in Seattle-Mr. R.M.M., Washington

EDITOR'S NOTE: There is no Seattle chapter at the present time, although indications of interest in starting one have been received. Any four interested adults may apply to form a provisional chapter in any city or locality in the U.S., by writing to the Board of Directors of this intent, and enclosing a charter fee. Such provisional chapters are thereafter submitted for charter at the next general

convention. All such interested groups are invited to write to the National Headquarters for information.

4

REVIEW EDITOR: I'm enclosing our check for another year's subscription to M.R. Wish we could send more but that will come later. After missing an issue I don't know how we got along without it. We missed the August issue which, I believe, contained the first installment of what appears to be an excellent bibliography. For all the meat in Mattachine articles, I think its greatest value to us has been the monthly reminder that our numbers are legion . . . that the world is full of homophiles without criminal records, credits to the society that rejects them. The service you can perform can never be exaggerated. Count us among your fastest friends, if not your most affluent.—Mr. B.F., Oregon

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REVIEW EDITOR: I shall be obliged if you will send the Review.. enclosed is a year's subscription. I have been most interested to read about the fascinating story of its birth and ever-growing success in "Homosexuals Today" (Published by One, Inc., Los Angeles). I sincerely hope that the recent Wolfenden Report from England may help you on your uphill way. The Austrians who were very hostile have, I see, now decided to recommend similar changes, so the mills are grinding, if only slowly—Mr. H.C., Monaco

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REVIEW EDITOR: With regard to Janet Thompson's article (See "Transvestism: An Empirical Study" in the December 1956 Review), I want to state that this is one of the best articles on the subject I have ever read. It is concise, detailed and pervaded with common sense, distinctly superior to works on the subject by standard psychologists . . . One thing, however, needs clarification. The reason that women can get by with wearing trousers while a man in skirts provokes an immediate reaction is that our culture still relegates women to a position of inferiority. They may claim equality, and they may have it, legally, but it will be centuries, if ever, before women stand on a wholly equal footing. Because of this difference, a woman who imitates a man gains status thereby. On the other hand, a man in skirts is like a man in baggy parts-a clownish figure, and, as soon as recognized, a figure of fun, a man degraded. This, and not an arbitrary dictate of society, is the reason we find a lowering of the clothes-distinction barrier in one direction only. Also, while agreeing with Miss Thompson that the motivations may differ totally from case to case, I would argue that the energy released is sexual energy an that "dressing" is correctly classified as a sexual problem whatever factors act to channel the energy in this direction. I can offer no evidence on this, however, save introspection. Congratulations on your editorial acumen in republishing this article.-Mr. S.T., Ohio

## BOOKS

#### LUST over lightly

THE LUST MARKET, by Harold H.U. Cross, E.E., Ph.D., D.P.M.; New York, The Citadel Press, 1956, pp.256. Reviewed by Joseph A. Moore.

It is difficult to discover from this volume just how the author intended it to be taken. Although he follows his stated policy to "begin . . . by entering into the general realm of sexual promiscuity . . . follow with studies of the houses, agencies and clubs specializing in perversions . . . and conclude with studies of the sexual impulse," no clear line or purpose is apparent to this reader. The author claims that this book differs from others on the same subject in that its material has been gathered, wherever possible, at the actual locale and under the actual circumstances in which the behavior described was observed. But the observations are uncoordinated, unsystematized, and seem to follow no particular pattern except perhaps that of a travelogue through a few "lust markets." And when one realizes that the majority of these first-hand observations date from 30 and 40 years back, one wonders what they might have to do with conditions in 1956, the date of publication. Occasional quotes from other authors are spotted throughout the book, along with many undocumented but nevertheless dogmatic "scientific" statements of dubious fact, but nowhere are they related to any comprehensive theory of sexuality or even of observed sexual practice.

The superficiality with which each of the 40 chapter headings is developed can be seen in the one "Case Histories of Passive Male Homosexuality." Two histories are given in the "objective" style of 50 years ago and in one, "the patient's homosexuality never reached the point of overt homosexual practices." Nor do either of them have any bearing on the opening discussion of the chapter topics:

"There are many recorded cases of passive types of homosexuals who have successfully masqueraded as girls and married normal men! These unfortunates hoped that, after the truth came out, the young man's love would continue. This, naturally, never happens; and, in some instances, the poor homo has been beaten to death by the infuriated "husband."

In one way, however, progress has been achieved. The book is priced at \$4.00; the reviewer in his boyhood, bought publications of similarly dubious worth for five cents in the form of Haldeman-Julius Blue Books.

#### SINS of the father?

LA TARE, by Marguerite Schoell-Langlois: Paris, Les Editions du Scorpion, 1956, pp. 255. Reviewed by Warren B. Wickliffe.

This novel treats of a grave and deadly problem—hereditary syphilis—with appropriate seriousness, but when it is all over, we wonder what the author's aim really was in writing the book. The sins of the father (Louis) are visited on his child (Marthe) and transmitted to her child (Theodore), but the adventitious way in which events occur and the rental-romance immorality do nothing to reinforce the writer's message

Marthe knows of her father's having contracted the disease before his marriage, but she does nothing to find out whether it has been transmitted to her until she has been made pregnant by Pierre, whose offer of marriage has been turned down more than once. This, after some other bed-mussing with a sculptor named Frederic and a tentative foray into lesbianism, leads one to inquire whether Marthe's insistence on remaining single springs so much from her avowed un willingness to pass on the taint to her children as from a greater unwillingness to narrow her field of operation.

There is more to the novel than this, but it all seems to boil down to the point that Marthe will suffer nobody to stand in the way of her enjoying what turns out to be a rather drab life. Pierre, Theodore, the two orphans Abel and Elaine, and others suffer from Marthe's selfishness and pride.

The end is perhaps just retribution—death by cancer (described with clinical exactitude that appears elsewhere in the book in an account of a Caesarian delivery) with no one by her save the hare-lipped monster Theodore (who is homosexual, it develops), who uses her as a specimen for notes to help him in his laboratory work.

This is an unsatisfactory and baffling novel, for it combines excellent characterization with slipshod plotting, as well as a serious concern with dreadful problems that somehow get mixed with wholly untenable attitudes toward human behavior. The total effect is as if Grace Livingston Hill had tried to write an existentialist novel.

Would you like to read about American Law Institute's recommendations in the U.S. which parallel Britain's Wolfenden Report? See page 26 of this issue.

#### YOUR LEGAL RIGHTS

This 12-page booklet, adapted for Illinois law, gives basic information applicable to all jurisdictions on rights under the law, questioning by law enforcement agencies, procedures, etc., and includes an appendix of significant Illinois statutes which are similar to those in effect in most states. Per copy, 25 cents from Chicago or San Francisco offices.

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### LOOKING AHEAD

December Issue, due off the press on November 20, will present these outstanding headline features:

- 1. ADJUSTMENT OF THE MALE OVERT HOMOSEXUAL—an important and fully documented paper read by its author, Evelyn Hooker, Ph.D., of the Department of Psychology, University of California at Los Angeles, at a recent convention of the American Psychological Association.
- 2. PANEL DISCUSSION ON HOMOSEXUALITY—First installment of papers read at the recent Mattachine convention where a panel of five experts discussed the topic, "Must the Individual Homosexual Be Rejected in Our Time?"
- 3. PRESS REACTION TO WOLFENDEN REPORT—Taking up where the November presentation left off, this article will describe the pros and cons of Wolfenden report recommendations as voiced by the press in Great Britain and the U.S.

### DID YOU MISS THE ISSUES CONTAINING AMERICAN LAW INSTITUTE REPORTS?



Two previous issues of Mattachine Review, containing reports and recommenations of the American Law Institute which largely parallel the Wolfenden Report recommendations are available for readers who wish to have the American side of changing public opinion on sexual acts. Send \$1.00 to Mattachine Review for the two issues in which this subject was discussed previously: July-August 1955 and September 1956. The copies will be mailed postpaid, first class.

### mattachine REVIEW

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#### mattachine REVIEW

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