

Editors

Eva Freund
Richard Schaefers

Newsletter of The Mattachine Society of Washington

P.O. Box 1032, Washington, D.C. 20013

Telephone 363-3881

September 1969

IT'S WHAT'S UP FRONT THAT COUNTS
Upcoming Events in Mattachine

- September membership meeting.....
September 4.
- Hear a report on the NACHO Conference
in Kansas City.
- Election of September Board Member.
- Hear a report on the progress of the
recent Wentworth case.

SIR GOES TO COURT OVER POLICE ENTRAPMENT

In California, the Society for Individual Rights (SIR), the largest and most active West Coast homophile organization, has filed a suit in the Superior Court of California seeking an injunction against the vice squads of Oakland and Berkeley to prevent them from using plainclothesmen to entrap homosexuals in public restrooms. SIR calls the present situation of using enticing-looking plainclothesmen to encourage homosexuals to commit crimes outrageous; and, cites evidence of brutal beatings and even shootings resulting from homosexuals allegedly "resisting" arrest. SIR claims that the policemen's conduct is clearly unconstitutional and find ludicrous the vice squad's contention that the very same "lewd and lascivious" acts which they themselves engage in for the purpose of entrapping homosexuals do not constitute violations of the penal code because "their concealed and intentionally disguised intent is not to engage in such acts, although they are in fact engaging in them."

The two sections in question of the Penal Code of California make it a misdemeanor for anyone "to solicit another person to engage in or to engage in himself lewd or dissolute conduct in any public place" or "to loiter about any toilet open to the public for the purpose of engaging in or soliciting any lewd or lascivious or unlawful act." SIR claims that, in fact, these sections are actually used to arrest homosexuals for being homosexual rather than for any unlawful conduct, and that the use of plainclothesmen to entice homosexuals is a sadistic method of encouraging crime by the police rather than their preventing it. As a result, both due process of law and equal protection under the law are being violated as well as each officer's oath of office to uphold the laws and the Constitution of the state.

SIR claims also that its own image as a homophile organization has been damaged in that nonmember contributors have withdrawn their support in the mistaken belief that the conduct of the officers is in fact that of aberrant homosexuals. They also state that all homophile organizations with like

goals "have been irreparably injured in the same manner and substantially to the same extent as the plaintiff."

Since they claim that an actual controversy exists over the interpretation and application of the Penal Code sections in question, they ask for declaratory relief against all the defendants. They state that proper interpretation of the solicitation section would require that an actual solicitation take place independent of any encouragement on the part of an officer. They claim that the acts of the plainclothesmen constitute criminal acts themselves and that the laws are being used as a roundabout way of arresting persons for being homosexual. They recommend that uniformed policemen could adequately patrol restrooms and prevent unlawful solicitations without encouraging more criminal acts to be committed. They also suggest that psychological tests be given to such officers to determine that they themselves "have a normal perspective of the subject and are not themselves the victims of intense sado-masochistic tendencies." In addition SIR complains of the officers' notifying suspects' employers for the purpose of causing their disengagement and also of using spying devices in restrooms which constitute violation of privacy.

SIR's case is well prepared and well written. It uses very strong language against what it documents as hostile harassment of homosexuals in the Bay area. The fact that it includes all similar homophile organizations in its complaint is itself a constructive effort toward the strengthening of the homophile movement.

BUTTON, BUTTON, WHO'S GOT THE BUTTON

MSW has more buttons and pretty soon will have lots more buttons. Now you will not have to beg, borrow, or steal for MSW because now you can give a fair trade-off. Bring these buttons to bars, parties, and to the beaches and spread the word about MSW without saying anything except that a donation to MSW in return for the button would be appreciated. Call 363-3881 or 864-2217 to get your supply.

BE AN INSIDER

You can help the editors of The Insider by clipping and sending to us news articles, book, movie, and play reviews which pertain to the homophile movement or to homosexuals. We also are interested in eye witness reports of pertinent events, letters to the editors, and analyses of the current scene as you see it. Send your contributions to Richard Schaefers, 1000 Sixth Street, S.W., Washington, D.C. 20024.

HARVARD LAW REVIEW
POINTS FINGER AT GOVERNMENT

Some months ago a representative of the HARVARD LAW REVIEW came to Washington, D.C. to gather information and documentation of the legal aspects of homosexuality. The gentlemen spoke at some length with Frank Kameny as well as with representatives of the Civil Service Commission and of the Department of Defense. "Government-Created Employment Disabilities of the Homosexual" (HARVARD LAW REVIEW, Vol. 82: 1738-1751) came about as a result of this earlier visit. The following is a brief summary of that article.

The legal basis for the exclusion of homosexuals from the federal civil service and from private employment demanding industrial security clearance is discussed in this unsigned article.

Part I discusses the statutory basis for the hiring and firing of individuals in the Civil Service. The proscriptions of Congress mention only the efficiency of the Federal Service while delegating to the Civil Service Commission the responsibility for establishing suitability standards. Whether taken in a broad context or in the most narrow of frameworks, the intent of the statute seems to be aimed at the "efficiency of the service."

However, "the Commission's Director of Personnel Investigations indicated that homosexual employees have not been found less efficient than heterosexual employees," but rather such exclusion is based on the assumption that the presence of known homosexuals would mean a reduction of public confidence in the Federal Service. Thus the standard becomes less of a legal or statutory one and more a matter of what is considered to be morally repugnant by a majority of society.

For example, although criminal conduct is a basis for dismissal or disqualification, the Commission will not take action against fornication, adultery, heterosexual fellatio or even the use of contraceptives in the State of Connecticut because, although illegal, these are assumed to be no longer morally repugnant. In the same vein, female homosexuals are less vigorously investigated than male homosexuals because the public supposedly finds them less morally repugnant.

Ed. Note: Perhaps MSW ought to ask the courts for a writ of mandamus to force the Civil Service Commission to follow its own written regulations and disqualify for specific criminal conduct such as fornication or adultery.---- Wonder how many investigators would be employed to investigate the other investigators??

In a rare display of realism THE HARVARD LAW REVIEW discusses the subtle inability of the homosexual to resort to the judiciary to plead his case. Once an individual has exhausted administrative remedies he

may petition the courts for a review of his case. This petition may be either a district court or the Court of Claims. Although this alternative is available, few cases involving homosexuality ever reach the courts because of fear of publicity and the fear that an adverse finding would severely limit future employment outside the Federal Service.

In the few instances where cases involving homosexuality reached the judiciary, the Commission was obviously reluctant to allow judicial consideration. In *Dew v. Halaby*, the government reinstated the defendant with back pay and thus mooted the case. In the case of *Scott v. Macy*, the government sent Scott a letter stating he was eligible for federal employment and thus mooted Scott's case against the government.

The writers of this article suggest that a method exists to subvert such governmental actions.

An applicant disqualified solely for homosexual conduct might bring a class action on behalf of all other potential applicants of homosexual inclination who are in no other way unqualified for employment. If he could show that homosexuals are, in fact, dealt with as a class it would become possible to question the existence of statutory justification for the Commission's policy. The posture of such an action would make it impossible for the Commission to insulate its policies from judicial review by focusing on failure to answer relevant questions or by mooted the case through reinstatement.

The Industrial Security Clearance program, which covers over 2.2 million workers in private industry, is covered in the second part of this article. The Defense Department justifies its position of no security clearances to homosexuals on the ground that homosexuals are susceptible to blackmail and such clearances must be denied to preserve the integrity of classified information. To support this position the Department points out that organized crime has made a practice of blackmailing homosexuals and that homosexuals themselves take an inconsistent position, pleading their susceptibility to blackmail in seeking protection against extortion, while insisting that they are not a security risk.

On the other hand there is no documentation of any existing relationship between homosexuality and the specific tendency to disclose classified information. The Department does not maintain statistics concerning the causes of security leaks.

Like the Civil Service Commission, the Department of Defense refers to regulations dealing with criminal conduct in its refusal to grant clearances to homosexuals while steadfastly ignoring the criminality of fornication, heterosexual fellatio, etc. The Department argues that even the professed homosexual is subject to blackmail for "a given act," while those who fornicate are not considered to be subject to

blackmail. Such casual application of regulations indicates that the spectre of "morally repugnant" behavior rears its head.

Ed. Note: Much of this reasoning is a carryover from the McCarthy era when some individuals in the government were paranoid in their concern for "morally repugnant" attitudes and political philosophies.

In summary,

The inability of the courts to intervene in the case of homosexual employment, coupled with the lack of nonhomosexual spokesmen for the interests of homosexual workers, creates a situation where the governmental process does not offer adequate protection to a minority group which lacks the political resources to protect itself.

Thus, the responsibility for establishing rational and equitable employment policies rests squarely on the Department of Defense and the Civil Service Commission.

A POINT OF VIEW --

NOT AN MSW POSITION STATEMENT

INTRODUCTION:

Homosexuals are not the only group of individuals who find themselves harassed and intimidated (physically and mentally) by some representatives of the existing system. For too long homosexuals, like other minorities, have been unwilling or unable to fight back by using the tools and techniques of those oppressing them. The following is intended to demonstrate how other persons and groups have begun to fight back in a manner which could be utilized by the homosexual community.

. . .

There are many individuals who believe the system is just and that changes can be brought about within the framework of existing values and regulations. These persons think that logic and reason will effect a more permanent change than will confrontation. They may be right.

Sometimes issues become very emotional. When this happens, those involved often forego rationality in favor of emotionality. Strange things happen at this point. . .

Jersey City, N.J. The local Black Panther Party chapter obtained a show-cause order against the Jersey City Police Department, whom the Panthers accuse of "harassing and intimidating" them and interfering with their constitutional rights. The Panthers alleged intimidation and threats of physical violence by the police, and also claimed police brutality, kidnapping, and arrests for trumped-up charges.

New Britain, Conn. Dr. Kenneth W. Clement, outgoing chairman of the National Selective Service Appeal Board, charged that Selective Service Director, Gen. Lewis B. Hershey, runs roughshod over supposedly independent boards. Clement suggested that Hershey be replaced by a civilian since "for some time now, he has been unable to distinguish between himself and the Selective Service."

Additional charges were made that Hershey's maneuvering and meddling impeded justice and that board members were told that "he (Hershey) is the one to take charge. . . he is the one who is going to furnish us the people and that we. . . have no authority. . ."

Los Angeles, Calif. A story in the Los Angeles Free Press titled "Know Your Neighborhood Narc" has forced a majority of the 80 named state narcotic agents to move from their homes and has resulted in two lawsuits totaling \$25 million in damages against the anti-Establishment paper. The Free Press listed the names, addresses and phone numbers of 80 agents in Los Angeles, Santa Ana, San Francisco and San Diego. The rationale for publishing the list was that "there should be no secret police."

A hearing on the restraining order (enjoining from additional such publication) will be held on August 25th in Los Angeles Superior Court.

Baltimore, Md. A 29-year old warehouse clerk filed a suit in Federal District Court seeking to force the city police department to specify why his application for a probationary patrolman's job was rejected. Bruns asserted that his rejection came after police officials questioned him about his association with a nudist club. His suit contended that he had the highest written examination score among a group of applicants.

Washington, D.C. "House Approves Prohibition of Demonstration at Pentagon." The provisions would bar demonstrations at the Pentagon or on adjacent federal land with the intent of interfering with or obstructing Pentagon business or influencing defense officials. Mendel Rivers, Chairman of the House Armed Services Committee, told members to vote for the provision "if you want to protect your very existence."

These excerpts are not isolated examples of malfunction but rather they are a kaleidoscope of human events, of human quirks, of human fears.

At an Urban League luncheon session on July 27th, Rep. Shirley Chisholm (D-NY) stated, "We have got to understand where the power is in this country and we have got to come together to begin to exercise our quest for that power. There are common enemies in this society who are determined to prevent us from getting our full share of the American dream."

An example of how homosexuals are DEMANDING their full share of the American dream is evidenced in the following quote from the MSW press release dated Aug. 13, 1969. The subject of this press release was the re-hearing of the Benning Wentworth industrial security clearance case.

1. We cannot and will not allow the imposition upon Homosexuals of a more stringent requirement for disclosure of the details of private life than is imposed, in actual fact, upon heterosexuals as a condition for issuance of a security clearance.

2. We cannot and will not allow the imposition upon Homosexuals of a more restrictive standard of conduct than is imposed, in actual fact, upon heterosexuals as a condition for issuance of a security clearance.

GAY IS

It was one of those rare but beautiful nights in a gay bar, when everyone was happy and laughter flowed as freely as beer. We had come from Philadelphia and from Washington to meet at this midway Baltimore bistro and were feeling pretty fine ourselves, sitting among strangers who would soon be friends, with our "Gay Is Good" buttons pinned prominently to our shirts.

The first person to give more than passing notice was a lanky blonde, the kind of strikingly handsome woman who turns all heads, no matter what their bodily persuasion. "Where did you get them?" she asked. And Eva, being always Eva, answered her by dashing out to the ever-present Volkswagon for her portable "Gay Is Good" kit, consisting of a carton of buttons, a few dozen bumper stickers, and other miscellaneous propaganda.

"How much are they?" someone else asked, over the wail of electric guitars and a growing number of amateur singers.

"Whatever you want to give," Eva shouted. "It's a contribution to Mattachine."

"To who?"

"Mattachine!"

"I don't know him," yelled the girl, "but here's a quarter toward his rent." She grabbed a button and squeezed through the expanding crowd to the bar.

We didn't drink much after that; we were too busy handing out buttons and bumper stickers and trying to explain that Mattachine is not a "who" but a "what."

At nearly midnight, just six days from the moment Neil Armstrong had stepped onto the surface of the moon, the band played

"God Bless America." We, who had not been exactly dry-eyed the week before, looked up at the ceiling in an effort to remain suave. There, bold as you please, was a purple sticker proclaiming "Gay Is Good."

There were stickers over the bar, on the side of the drums, pasted across sweat-shirts like a diplomatic sash. Every blouse, every jacket announced brazenly that "Gay Is Good." We looked around and suddenly didn't care at all about remaining suave.

"From the mountains to the prairies...". 150 stranger-friends, arms around each other, tied together by a fluke of nature and a need for companionship. "To the oceans far and wide...". One body of people, for a moment being unafraid and proud. "God bless America...". With its slums and its secrecy and its sickness far removed from this bar.

If the people in that crowd sometimes had doubts, sometimes wondered, they didn't on that night. All anyone had to do to be sure was to look up at the ceiling: "Gay Is Good."

ON TARGET..

A Round-up of Pertinent Happenings in the Bullpit of Homophile Reform...

The Village Voice, July 1969. The first gay vigil demonstration started in Washington Square with the distribution of lavender ribbons and arm bands. "Brothers and sisters," began Martha Shelley from the Daughters of Bilitis, standing on the fountain's rim, "welcome to this city's first gay-power vigil. We're tired of being harassed and persecuted. If a straight couple can hold hands in Washington Square, why can't we?" Eruptions of applause, a delirium of screams. "Sock it to 'em! Sock it to 'em!"

Marty Robinson from the Mattachine Society, one of the demonstration's co-sponsors, took over: "Gay power is here. Gay power is no laugh... We will not permit another reign of terror," urged Robinson. "Let me tell you, homosexuals, we've got to get organized. We've got to stand up. This is our chance!"

The march to Sheridan Square began then, an orderly four-by-four column, with cadenced clapping and gay-power cheers. As the traffic up Sixth Avenue ground to a halt, the marchers gathered confidence. The chants and the cheers rang out more defiantly.

Gay power had surfaced. Sick and tired of police harassment, of prehistoric sodomy laws, of "park protection" in Queens, and of vicious busts in the underground where public decency had driven them, homosexuals struck back. A mild protest, to be sure, but apparently only the beginning.

UPI, Washington, August 7. White-haired Miss Vivien Kellems sat smiling in the Senate gallery today as Sen. Eugene J. McCarthy, D-Minn., introduced a bill to equalize Federal income tax rates of single persons with those of married persons filing joint returns. "I paid over \$48,000 more than a married couple in my same tax bracket for the past 20 years," said Miss Kellems, who has stopped paying federal income taxes. She has received "some really lovely letters" from the Internal Revenue Department.