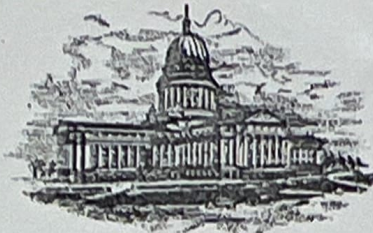


WILLIAM A. BABLITCH
Room 310 South
State Capitol
Madison, WI 53702
Phone: 266.2508



Senator, 24th District
All of Portage and Green
Lake Counties, parts of
Wood, Clark, Marathon,
Waushara, Dodge,
Winnebago and Fond du Lac
Counties

Stevens Point address:
Route 5, Box 465
Stevens Point, WI 54481

WISCONSIN LEGISLATURE
SENATE CHAMBER
MADISON

Member:
Senate Organization Committee
Joint Finance Committee

53702

ASSISTANT MAJORITY LEADER

TO: The Honorable Members of the Assembly Judiciary Committee

FROM: Senator William A. Bablitch

RE: SB 233 - Rape Revision Legislation

DATE: February 3, 1976

The Assembly Judiciary Committee surfaced several questions concerning Senate Bill 233 at its meeting last week. This memo will briefly elucidate the rationale for inclusion of the questioned questions. If further clarification is desired, I will be pleased to assist.

1. First, concerning the question of why one needs to include sexual contact as well as sexual intercourse. There are many other crimes of sexual degradation that do not involve intercourse which must be included.

Fellatio, insertion of a Coca Cola bottle or other object into the vagina, and sexual assault by individuals who are impotent or unable to penetrate are examples of criminal sexual contact which would be included as offenses if this bill was limited to nonconsensual intercourse. Criminal sexual contact will also cover various types of homosexual attack.

The problem with the crime of rape today is that it does fail to adequately cover other acts of sexual assault besides simple penetration. Exclusion of criminal sexual contact from this bill would put us back to the state of the rape law in Wisconsin.

2. The second question relates to the issue of admitting as evidence the victim's past sexual conduct. The bill as it stands provides that any evidence concerning the complaining witness' prior sexual conduct or opinions of the witness' prior sexual conduct and reputation as to prior sexual conduct shall not be admitted in evidence except in the following instances:

- a. Evidence of the complaining witness' past conduct with the defendant.
- b. Evidence of showing source or origin of semen.
- c. Evidence of prior untruthful allegations of sexual assault.

Any attempt to change this evidentiary section to allow as evidence the victim's past sexual conduct would seem to be founded on some illogical thinking that a woman's sexual conduct has some relationship to her willingness to tell the truth. It is fallacious to equate a person's sexual conduct with his credibility. There is no equating the fact that a person had sexual relations ten times during the past ten months with that person telling the truth or not. However, that is exactly what any change in the evidentiary section would do. What sexual conduct has to do with credibility is beyond me.

Incidentally, nothing in this bill changes the burden of proof. The burden of proof in a criminal case is always on the State of Wisconsin. The burden of proof is that each and every element of the offense must be proved beyond a reasonable doubt or the defendant must be found not guilty. If in fact there are four elements in a given crime and the jury is satisfied that three of the elements have been proved beyond a reasonable doubt and they have a reasonable doubt on the fourth, their verdict must be not guilty. This bill does absolutely nothing to change that.

3. Lastly, concerning the issue of why one should be responsible for conveying pregnancy or venereal disease in a criminal sexual assault if the conveyance was not intended.

Any person should be held responsible for his illegal and improper acts--a concept already generally accepted under law. For example, the arsonist or bomber is held responsible for deaths resulting from his crime of arson or bombing, regardless of his stated intent. Similarly, lesser crimes such as bodily injury or mental anguish are given redress, the former with heavier penalties to the convicted, the latter with lesser penalties.

Further, pregnancy and venereal disease are inseparable from the act of sexual intercourse, in or outside the law, unless precautions are taken. The violent act and the physiological results are thus inextricably linked and part of the same crime. To argue otherwise is to continue to indulge in the time-worn and arbitrary distinction between "crimes of immorality" and other crimes.



UNIVERSITY OF WISCONSIN - WHITEWATER

800 West Main Street, Whitewater, Wisconsin 53190

March 1, 1976

Representative Lloyd Barbee
State Capitol
Madison, Wisconsin

Dear Representative Barbee,

I wish to commend you on proposing Assembly Bill 269 however, I cannot understand why all these different kinds of items are lumped together. I suggest you divide the issues presented.

1. I do not support the view that the age of consent should be reduced to age 14. It should be age 18 for both men and women.
2. However, the following statutes should be repealed:
 - 944.22 Possession of lewd... matter.
 - 944.23 Obscene pictures
 - 944.25 Exposing minors to harmful materials.
 - 944.15 Fornication
 - 944.16 Adultery
 - 944.17 Sexual perversion
 - 944.20 Lewd and lascivious behaviour. (Repeal at least item #3)
 - 944.21 Lewd pictures and performances.
 - 944.30 Eliminate prostitution as a crime as well as the following:
3. 944.31, 944.32, 944.33, 944.34, 944.35, etc.
4. Do allow first cousins to marry.
5. Separate out homosexual marriage as a separate item.

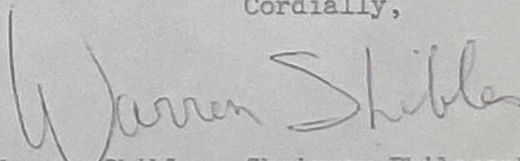
These are excellent statutes to get off the books but each item must be kept separate. Otherwise it looks like a political move to propose them knowing the act will not be approved.

I do hope the statutes mentioned will be repealed.

I don't think lesbians and homosexuals should marry until our divorce laws are changed. There should be no-fault divorce and alimony should be completely eliminated as it is in Pennsylvania. Present divorce laws make any marriage a mockery.

Please follow through on seriously attempting to change these statutes.

Cordially,



Warren Shibles, Chairman Philosophy Dept.



The UNITED METHODIST CHURCH
of Stoughton

OFFICE PHONE 873-3273
PARSONAGE PHONE 873-3640

March 4, 1976

Mr. Lloyd Barbee,
Assemblyman
152 W. Wisconsin Avenue,
Milwaukee, Wi 53203

Mr. Barbee,

It is my understanding that the Judiciary Committee will hold a hearing on Monday, March 8 on Assembly Bill 269, which proposes changes in the state statutes re: morality laws, etc. Since I will not be able to be present, let me give my opinion and raise some questions in this way.

1. Persons of the same sex would be permitted to marry. I favor such a statutory change.
2. Persons nearer of kin than second cousins would be permitted to marry. A question from one who knows nothing about biology: Is the probability not quite high that children resulting from such a union would be physically and/ormentally deformed?
3. The prohibition abainst the advertisement of contraceptives would be repealed. Yes! It's long overdue!
4. All obscenity laws would be repyealed. I regret that I do not know what our obscenity laws are! However, while it does seem rather difficlut to legislatee in this area to the satisfaction of the wide variety of moralities in our culture, it would also seem that we could come to some conclusion about what is absolutely intolerable obscenity in our society!
5. All abortion laws would be repealed. Even laws which provide public funds for abortions for low-income and or indigent persons?
6. The age of consent would be reduced from 18 to 14. Absolutely not! Youth of 14-17, on the average, do not have the maturity they need to decide carefully such a highly emotive matter!
7. The maximum penalty for ...rape... to 5 years. I don't know what to think. I would like to hear the arguments pro and con.
8. Criminal penalties for incest would be removed, etc. As in 7.
9. All laws against prostitution would be repealed... A good, ideal
- 10; All laws prohibiting consensual sexual acts... Sorry to be so ignorant, but what are "consensual sexual acts"?

Thanks for listening!

Ken Gelhaus, Pastor

401 WEST MAIN STREET — STOUGHTON, WISCONSIN — 53589

2124 Blake Avenue
Racine, Wis. 53404

8 March 1976

Rep. Lloyd Barbee
Chairperson, Judiciary Committee
State Assembly
Madison, Wis.

Dear Mr. Barbee:

I wish to register my support for House Bill 269, which I understand would legalize all sexual acts between consenting adults and would also officially recognize homosexual marriages. I hope that the observations below may assist your committee in its deliberations and may help to persuade the committee to recommend "do pass" on this bill. I am writing both as a professor of psychology (at UW-Parkside) with professional interests in the area of sexual behavior, and as a long-time member of the American Civil Liberties Union with a concern to maintain and extend civil liberties.

One reason for legalizing all sexual acts between consenting adults is that at present a large majority of American adults engage in sexual acts, with mutual consent, that are subject to criminal penalties if our anachronistic anti-sexual laws were enforced. For example, survey studies (beginning with that of Kinsey) have repeatedly found that about three-fourths (more or less) of males surveyed have reported engaging in sexual intercourse prior to marriage, and about half of females surveyed have reported the same. Similarly, about one-third of adult men report having had at least one homosexual experience to the point of orgasm, and about one-fifth of adult women report this. About 8% of adult men report having been exclusively homosexual for three years or more, and about 4% report exclusively homosexuality throughout their adult lives; the percentages for women are substantially lower. Again, about 60% of college-educated married couples report practicing oral-genital sexual activities, although such acts are subject to criminal penalties by the laws still on the books in many states. Surveys suggest that from half to three-fourths of adult men, and about one-fourth of adult women, who are married engage in extramarital sexual relations.

Is it desirable to retain on our statute books laws which define as criminals, subject to severe penalties, the vast majority of American adults -- who repeatedly violate those laws? Does this breed respect for the law? Even if the number of violators were small, would it be desirable to outlaw and subject to criminal penalties acts which are engaged in by mutual consent and which harm no one -- and which, in fact, are reported by the participants to increase their satisfaction, well-being, and love for each other? (One might deplore extramarital sexual behavior for often making the absent partner unhappy; but when so large a percentage of the

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Morrow to Barbee, 8 March 1976

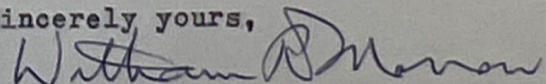
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population engages in such behavior, does it seem wise to complicate marital conflicts by injecting criminal penalties?

It is, of course, common knowledge that these anachronistic laws are not usually enforced. Is not that good reason to remove them -- by adopting House Bill 269 -- rather than retain them as bases for discriminatory harrassment of some individuals and unequal, hence unjust, application? A glaring recent example is the charges of disorderly conduct and lewd and lascivious behavior as a basis for the Wauwatosa police's arresting an unmarried couple, Patrick Thiele and Susan Olsen of Milwaukee, for being in a motel room together on the night of December 25, 1975 at the Midway Motor Lodge in Wauwatosa. The Wisconsin Civil Liberties Union is participating in this case and taking the position that it is a violation of the constitutional right to privacy for the state to interfere in the private conduct of the lives of adults.

A few additional comments regarding the positive values of House Bill 269 in legalizing homosexual acts between consenting adults and in recognizing homosexual marriages. To forestall possible speculations on the part of committee members, I might note that I am a confirmed heterosexual, enthusiastically married, and view homosexuality as personally unappealing; although these points are not really relevant to consideration of the issues on their merits. The civil liberties of practicing homosexuals are regularly violated in this country by police harrassment, inconsistently applied. By contrast, in 1968 England legalized any homosexual act performed discreetly between consenting adults -- with no discernible subsequent ill effects suffered by the British public. The myths that homosexuals are emotionally disturbed, dangerous or criminal have no basis in fact. The Kinsey investigators, after studying homosexuals, concluded, "They do not damage society; they merely do not fit into it," i.e. into the prevailing customs and standards regarding private sexual behavior. Carefully controlled research comparing homosexuals with heterosexuals has revealed no significant differences in personality, "normality" or adjustment. As conservative a body as the American Psychiatric Association was finally persuaded several years ago to remove from its diagnostic manual the classification of homosexual behavior as such as a psychiatric disorder -- thus removing its official support for discriminatory treatment of homosexuals. A panel of experts sponsored by the National Institutes of Mental Health, after completing an extensive investigation of homosexuality, issued a report in 1969 which recommended that the United States follow the example of England in legalizing private homosexual acts between consenting adults. House Bill 269, in accomplishing this end and in recognizing homosexual marriages, would correct present injustices and discriminatory treatment -- and would hopefully end the wasteful use of taxpayers' money to pay for police harrassment of homosexuals.

Sincerely yours,



William R. Morrow

cc: Wisconsin Civil Liberties Union
Milwaukee Gay Peoples Union
Kenosha-Racine Civil Liberties Union

1258a

March 15, 1976

Miss Corinne L. Vander Meulen
Route 1
Krakow, Wisconsin 54137

Dear Miss Vander Meulen:

Thank you for your recent letter pertaining to my bill which would consider 14 year-old individuals to be legal adults.

I am enclosing a copy of this bill. You will note that the analysis summarizes what the bill will do if enacted into law.

The likelihood of this bill passing is very remote. The effects on our economy, schools, employment and our society as a whole are speculative.

My view is that for people who have reached puberty responsibility is best achieved when such persons are given the right to sign contracts and fully participate in decisions which affect their lives. For too long society in the United States has over-babied and coddled infants, children and young adults. This retardation of maturity becomes chronic, if it is not discontinued.

Since most persons 14 years or older have the means and the ability to propogate, think and act constructively, they should not be legally restricted by parents or the state unless it is their wish.

Very truly yours,

LLOYD A. BARBEE
State Representative

LAB:rs
ENC.

Route #1
Krakow, Wisconsin 54137
February 1, 1976

Representative Lloyd A. Barbee
152 W. Wisconsin Avenue
Milwaukee, Wisconsin 53203

Dear Representative Barbee;

I am a 15 year-old reporter for the "Pulaski News" of Pulaski, Wisconsin. An assignment was given to me to write an editorial on your most recent bill (introduced the week of December 13) that, if passed, would consider 14 year-old people legal adults.

Please send me some information concerning this bill. I would like to know what privileges would be gained by people of the ages concerned, and how the passing of this bill would effect our economy, schools, employment, and our society as a whole. Also I would be very interested in knowing your personal feelings about the passing of this bill, it's chances of being passed, and your particular reasons for thinking a person of 14 could fully accept the responsibilities of an adult.

Any information you send, including your personal views, will be a great help to me in writing my article.

Thank-you.

Sincerely yours,

Corinne L. VanderMeulen

Corinne L. VanderMeulen

LLOYD A. BARBEE

AB1258

REPRESENTATIVE
18th District

Capitol Office Address:
Room 329 West
Madison, Wisconsin 53702
Telephone: (608) 266-3787

Milwaukee Office Address:
152 West Wisconsin Avenue
Milwaukee, Wisconsin 53203
Telephone: (414) 273-5755



WISCONSIN LEGISLATURE
ASSEMBLY CHAMBER
MADISON
53702

CHAIRMAN:
Committee on Judiciary

MEMBER:
Committee on Transportation
Judicial Council
Council on Criminal Justice

April 1, 1976

Ms. Linda K. Petersen
115 North Dallas Street
River Falls, WI 54022

Dear Ms. Petersen:

This will acknowledge receipt of your letter of
March 25, 1976.

I recommend that you live and let live; love
and let love.

Freedom and justice are constant struggles.

Very truly yours,

LLOYD A. BARBEE
State Representative

LAB:rs

CC: David Clarenbach
State Representative

LLOYD A. BARBEE

AB1258

REPRESENTATIVE
18th District

CHAIRMAN:
Committee on Judiciary

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WISCONSIN LEGISLATURE
ASSEMBLY CHAMBER
MADISON
53702

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Very truly yours,

LLOYD A. BARBEE
State Representative

LAB:rs

CC: David Clarenbach
State Representative

115 N. Dallas St.
River Falls, Wisconsin 54022
March 25, 1976

Assembly Judiciary Committee
State Capitol
Madison, Wisconsin

Gentlemen:

Enclosed is a copy of a news item from the ST. PAUL PIONEER PRESS, Tuesday, March 2, 1976 containing information about a bill co-authored by Reps. Lloyd Barbee-Milw. and David Clarenbach-Madison. This bill greatly disturbs me. My own religious faith cannot allow me to be silent about the subject in question. I feel it is my right and duty to make my feelings on the matter known to the committee as I feel I represent a great number of citizens who would take the same stand but are not aware that there is such a bill being considered or for some other reason are unable to express their feelings to you.

Since the time I read this article I have become aware of some of the other items that this bill contains. I find it impossible to comprehend the damage that passage of a bill condoning homosexuality and incest, to cite only two examples, could do to the people of our state. These things are morally and scripturally wrong and repeal of civil laws concerning these practices serve to set examples to our young people that they are not wrong. This is to say nothing of the damage done to individuals who become victims under these practices. Instead of seeking to repeal valid laws I feel we should be more concerned with setting up helping situations for these people.

One of the most disturbing points of the bill reported is the lowering of the age of consent to 14 years. It is a rare instance, indeed, when a 14 year old mind is capable of making a rational adult decision. Forcing decisions of this type on the capabilities of the young mind could serve to scar that mind for an entire lifetime. The child of 14 is still in the learning stages of life and placing pressure of this type on them seems a cruel turn of political buck-passing and yielding to pressure exerted by a minority of people needing help rather than license.

I am not one to trample the already down-trodden soul but I think government at all levels has become too conscious of pleasing minorities for "pleasing's" sake and the desire to "look good". Win votes by jumping on the "Minority Bandwagon" without seriously considering and acting with the responsibility entrusted to them --- this seems a political norm these days. Communism vowed some 20 or more years ago to win in the "Free World" not with guns and war but with destruction of moral values in the 1970's. Whether we like it or not, gentlemen, we are in a moral war and our lives are at stake.

I speak as a concerned private citizen but I also speak with a background of dealing for 8 years with young ladies who fall in the 12-20 year age bracket. I am now the Guardian of Bethel 65, International Order of Job's Daughters, a Masonic youth organization. I am the former Secretary-Treasurer and President of the Job's Daughters Jamboree, Inc. and organization arranging for an annual retreat of some 1,400 statewide Job's Daughters. I am presently serving the state Job's Daughters as the Grand Guide (an elected position) and in 1977 I will hold the position of Grand Guardian of the State of Wisconsin.

I am the former Secretary of Ezekiel Lutheran Church in River Falls and have served that congregation's council for 3 years. I have taught Sunday School and Vacation Church School, worked with the Acolytes (both boys and girls) and the church nursery. My husband and I are also former leaders of the Luther League.

My husband and I are involved in local groups to help the chemically dependent person where all too often we have seen the tragic consequences of a young mind attempting to make an adult decision.

I in no way represent the organizations mentioned above at this time, however, I state my work with them as qualifications for a knowledgeable opinion. I do speak as a Christian and a mother and I plead with you not to sacrifice my children for political gain.

In Christ,

Linda K. Petersen
Linda K. Petersen

LKP enc.
cc. Reps. Barbee
Clarenbach
Early

Clergymen, others press for homosexuals' rights

From Wire Services

MADISON, Wis. — Clergymen and spokesmen for the gay community joined Monday in urging a repeal of laws against certain sexual acts between consenting adults.

They told the Assembly Judiciary Committee they favor a provision in the bill which would allow marriages between persons of the same sex.

"Homosexuals no less than heterosexuals are persons of sacred worth," said the Rev. H. M. Talcott of the United Methodist Church of Madison. "When the rights of the minority are jeopardized, the rights of all are in jeopardy."

"Homosexual acts are in and of themselves no sin," he said.

The Rev. Gerard Knoche, pastor of the Lutheran Center on the University of Wisconsin-Madison campus, said present state laws

against sexual acts between consenting adults "are unjust and ought to be repealed."

Also testifying for the bill were Karla Dobinski of Madison, representing the UW Gay Law Students, and Harvey Darwell, representing the Madison Committee for Gay Rights.

Miss Dobinski said the laws discriminate against gay people in many ways, including the income tax, inheritance tax and the right not to testify against one's mate.

"Lovers who have shared everything for many years risk losing everything" under current inheritance laws, she said, noting that a husband or wife now receives a \$50,000 exemption in estates.

Darwell said there are about 20 million male and female homosexuals and that present laws cause many of them "deep emotional anguish" and can be the basis for

"blackmail and shakedowns."

"Laws regulating sexual conduct between consenting adults are not obeyed and cannot be enforced," Darwell said.

The bill drew little opposition at the hearing.

The measure, authored by Democratic Reps. Lloyd Barbee of Milwaukee and David Clarenbach of Madison, also would reduce the age of consent from 18 to 14.

Mrs. William Hiltz, Middleton, who runs a young girls' program for the Masons, was against dropping the age of consent. She said 14-year-olds were at the learning stage, not at the age of a mature mind.

The committee did not vote on the bill Monday.

JAMES P. MOODY
State Representative
25th Assembly District

STEPHEN R. LEOPOLD
State Representative
20th Assembly District

Office:
108 North
State Capitol
Madison, WI 53702
608/266-8594



Office:
113 South
State Capitol
Madison, WI 53702
608/266-2512

WISCONSIN LEGISLATURE
ASSEMBLY CHAMBER
MADISON
53702

April 22, 1977

Dear Friend:

We want to report to you that on Tuesday, April 19th, the Judiciary Committee of the Assembly voted 8-5 in favor of the sexual privacy bill, Assembly Bill 323. This bill would essentially decriminalize sex between consenting adults in private. (Previous to its 8-5 vote, the Judiciary Committee adopted an amendment to the bill which insured that minors would be unaffected by the bill's provisions and defined the term "in public".)

As the bill stands now, it is a very reasonable piece of legislation. Sexual acts in public and sexual acts involving minors continue to be illegal. While some have claimed that this bill is designed to provide protection for Wisconsin's homosexuals, in fact the bill guarantees sexual privacy for all Wisconsin adults. It decriminalizes normal sexual conduct between man and wife, much of which is in fact illegal under current Wisconsin statutes.

Assembly Bill 323 has been scheduled for floor debate on Tuesday, May 3rd. It will probably be a very close vote with most of the resistance coming from suburban and rural legislators around the state. If you know or have friends who know, or are represented by, suburban legislators, please be sure that those legislators receive letters in support of this bill at least several days before May 3rd. Your efforts could mean the difference between defeat and passage of this bill.

Thank you again for your efforts to date and for your continued support of this bill to provide sexual privacy and dignity to all Wisconsin adults.

Regards,

Handwritten signature of James P. Moody in blue ink.

JAMES P. MOODY
State Representative

Handwritten signature of Alyn W. Hess in blue ink.

ALYN W. HESS

STEPHEN R. LEOPOLD
State Representative

JPM/SRL:new