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By

William Parker

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Many books and articles have been written on the subject of homosexuality. Some of them are very good, but many of them are of little value. Not much of a serious nature has yet been written from the point of view of the homosexual; and little of that has received wide circulation. Various homophile organizations have undertaken to publish and distribute a series of "Essays on Homosexuality" which will discuss subjects of interest and importance to the general public as well as the homophile community in a serious, informative, and constructive manner.

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Introduction

Until about 1950 the employment of homosexuals, like homosexuality itself, was rarely mentioned. This silence may sometimes have reflected an attitude of indifference; but more often, it was due to ignorance or embarrassment about a taboo subject. Till then high federal officials and private employers seem not to have known or done much about their homosexual employees. However, in the years following World War II, as the Communist scare spread, American political life became increasingly preoccupied with national security. Quite by chance, concern over the employment of homosexuals became a by-product of this anxiety. Once the subject of homosexuality had been raised in the name of national security, a wave of emotionalism, expressed in stridently moralistic and legalistic tones, engulfed the nation. For two decades the United States has been on a sort of anti-homosexual binge. Only now are we beginning to recover. Only now are we bringing some degree of reason and moderation into the discussion.

On the advisability of employing homosexuals, there exist three distinct attitudes. First, many employers, both public and private, refuse to hire or retain known or suspected homosexuals on the grounds that they are immoral and unreliable persons as well as criminals and security risks. Until recently this view has received general support (whether open or silent) from public officials, the courts, the press and the general public. Second, there are employers, public officials, and others who feel homosexuals should be excluded only from "sensitive" positions – for example, jobs in government or industry which directly relate to the national security or jobs such as teaching and counseling which involve persistent contact with the young. And third, more and more people are coming to feel that an adult's sexual orientation and private sex life as such should be no more a bar to any employment than his ethnic background, his religious beliefs, or the color of his skin and that when a problem of suitability arises, the decision should be made on the merits of each individual case.

The Senate Report of 1950

In February 1950, while testifying before a Congressional committee on the removal of security risks, Assistant Secretary of State John Peurifoy off-handedly remarked that 91 employees recently separated from his department were "not Communists, just homosexuals." Before recovering from this "shock," Congress was informed by a District of Columbia vice officer (who later admitted his figures had no basis in fact) that 3,750 of Washington's 5,000 homosexuals were federal employees (between 300 and 400 of them in the State Department). This same officer added that his men had often raided homosexual parties and arrested government officials, both high and low. When it was discovered that 23 of the 91 dismissed men had been hired by other federal agencies and that neither executive officials nor the police took homosexuality as seriously as the Senate thought they should, that body voted to make an investigation of homosexuals in all federal departments and agencies. The task was assigned to a special subcommittee of the Committee on Expenditures in the Executive Departments. Its report, entitled "Employment of Homosexuals and other Sex Perverts in Government," appears to be the major base on which present federal exclusionary policies rest.

At secret hearings, several physicians and psychiatrists and a number of law enforcement officials, but no homosexuals, testified. Though claiming that it "sincerely" believed homosexuals "should be considered as proper cases for medical and psychiatric treatment," the subcommittee nonetheless demanded that persons who violate moral codes and laws and deviate from accepted standards of conduct "be treated as transgressors and dealt with accordingly." Restricting the scope of their investigation to practicing homosexuals and other "sex perverts" (defined only as persons engaging in "unnatural acts"), the investigators excluded from consideration persons merely possessing "unnatural" tendencies. In its own words, the subcommittee's primary objective was "to determine the extent of the employment of homosexuals and other sex perverts in Government; to consider the reasons why their employment is undesirable; and to examine into the efficacy of the methods used in dealing with the problem." It is interesting to note that the subcommittee did not seek to determine *whether* homosexuals should be employed but looked only for reasons against employing them.

The investigators found (1) that homosexuals were employed in 36 of

the 53 branches of the federal government, (2) that between January 1, 1947 and April 1, 1950 a total of 4,954 "sex perverts" had been separated from government jobs, (3) that most of the cases (4,380) had been in the armed services but that 574 were civilian employees – including 143 in the State Department, 101 in the Veterans Administration, 47 in the Commerce Department, and smaller numbers in various other departments or agencies, and (4) that of the civilian cases, 213 had resulted in resignation, 207 in dismissal, and 85 in retention for lack of evidence, with 69 pending.

The employment of homosexuals, the subcommittee said, is undesirable for two reasons: homosexuals are "generally unsuitable" and are security risks. They are unsuitable for the following reasons: they lack emotional stability, their moral fiber is weakened by their indulgence in perverse sex acts, their attempts to seduce normal persons (especially the young and impressionable) have a "corrosive" influence on other employees, they associate with other "perverts," and they attempt to hire other homosexuals for government jobs. In short, the report concluded that "one homosexual can pollute a Government office." Homosexuals are security risks, in the opinion of the subcommittee and experts from the Federal Bureau of Investigation, the Central Intelligence Agency, and the intelligence services of the armed forces, (a) because their emotional instability and weak moral fiber make them vulnerable to the blandishments of foreign agents and to questioning by skilled interrogators and (b) because the social stigma attached to their condition and acts make them subject to blackmail.

The report concluded "there is no place in the United States Government" for persons who engage in immoral, illegal, and criminal acts or for persons whose infamous and scandalous conduct violates accepted standards of morality. It also rejected the "false" premise that the private sexual activities (especially the "perverse" activities) of its employees, even when they do not involve fellow employees or affect their work, are not proper concerns of government.

Except for the armed forces, administrative officials had made little effort either to discover or remove homosexuals and the district police had handled arrests in a "slipshod" fashion, the report says. Although Civil Service regulations had long considered homosexual activity grounds for rejection or removal, the heads of government offices had rarely acted on the matter. By and large, no effort had been made to find out whether or not a job applicant was a "sex pervert." In the case of employees, when evidence of homosexual activity had come to their attention, officials had often suppressed the information, retained such persons in their jobs, or allowed them to leave one agency and obtain employment in another. For their part, the police had usually arrested homosexuals for disorderly conduct and had permitted the whole matter to be dropped upon forfeiture of a small sum of money.

To prevent the hiring or retention of homosexuals in the future, the subcommittee suggested (1) that an FBI check for arrest records be made on all job applicants, (2) that all homosexual arrests in the District be reported to the FBI, the Civil Service Commission, and the employing government agency, (3) that a full-field FBI investigation be ordered for applicants and employees in sensitive agencies, (4) that the establishment of a review board be considered, (5) that a thorough investigation be made of all known or suspected homosexuals, (6) that procedures be instituted for removal of such employees, and (7) that the precise reason for removal be entered upon each individual's record and forwarded to the Civil Service Commission.

The report's recommendation that the District of Columbia Penal Code be amended so as to increase the number of homosexual offenses and to stiffen the penalties for them was rapidly translated into law. In addition, the subcommittee was successful in convincing district police and court officials, as well as department and agency heads, that they ought to handle cases of "sex perversion" in a more serious manner.

Ever since the Senate investigation and report, homosexuals have been officially labelled security risks and held unsuitable for federal employment. Year after year security officers have reported to Congress and the public the number of homosexuals and other security risks removed from government jobs. Yet, the report has no legal power to bind anyone. It is merely the printed majority report of a Senate committee whose opinions and recommendations were never voted upon in either of the houses of Congress.

No one knows just how many persons have been removed from federal jobs as alleged or actual homosexuals. By referring to imprecise periods of time, by using overlapping categories, and by sometimes counting the same figures more than once, government officials have engaged in what the press has called a "numbers game." Between January 1, 1947 and November 1, 1950, 420 cases of "sex perversion" (121 of them in the State Department) resulted in resignation or dismissal, not including 69 pending cases (of which 12 were in the State Department). Between 1947 and mid-1953, State Department spokesmen claim 425 homosexuals resigned or were dismissed. In the period June 1953 through June 1955, according to testimony before a Senate subcommittee of the Committee on the Post Office and Civil Service, there were 837 terminations for "sex perversion" (147 of them in the State Department). In recent years that department's removal statistics, as reported in the press, have been as follows: 16 in 1960, 24 in 1961, 32 in 1962, 45 in 1963, 32 in 1964, and 28 in 1965, or an annual average of 30. In 1952, out of 31,302 employees, 126 persons were separated from the State Department for homosexual reasons – an average of less than one-half of one percent (actually .4%). In 1965, comparable figures (28 out of 40,652) average out at .07%. Exact figures for other departments, about which there has been much less concern, are not readily available.

Nor does anyone know how many applicants have been denied federal employment because of homosexuality. Normally applicants are simply notified that they do or do not qualify for employment. Those who do not qualify are not necessarily told the precise reason. That the number must be large, however, is suggested by the subcommittee's comment that between January 1, 1947 and August 1, 1950, approximately 1,700 applicants – an average of 500 per year – were rejected for this reason.

Federal Exclusionary Policies

It is the task of the Civil Service Commission to determine whether or not an applicant is suitable for federal employment and whether an employee should be retained or removed. As the basis for its automatic disqualification of homosexuals, the Commission cites, first, its own regulations which make "any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct" grounds for denying or terminating employment (5 C.F.R. sec. 731.201) and, second, Executive Order 10450 (April 27, 1953) which defines as a security risk any person subject to "coercion, influence, or pressure that may be likely to cause action contrary to the national interest" and specifically suggests the need to determine whether the employment of persons involved in "sexual perversion" is clearly consistent with the interests of national security.

For some years this policy went unchallenged. Then, in 1962 the Mattachine Society of Washington, a homosexual civil rights group, petitioned the Civil Service Commission for redress of grievances as guaranteed by the Bill of Rights. Not until three years later, in September 1965 – and only after they had picketed the Civil Service Building – did the Commission agree to confer with Mattachine representatives. As a result of this meeting, the Society, under the leadership of Dr. Franklin Kameny, presented a seventeen-page brief ("Federal Employment of Homosexual American Citizens") protesting the exclusionary policy. In his official reply to the Mattachine Society, the Commission Chairman, John C. Macy, Jr. (since replaced by Robert E. Hampton) wrote:

> Persons about whom there is evidence that they have engaged in or solicited others to engage in homosexual or sexually perverted acts with them, without evidence of rehabilitation, are not suitable for Federal employment.

The matter was put even more bluntly by Assistant Secretary of State Douglas MacArthur II, in a letter dated September 17, 1965 to a Senate subcommittee: "Homosexuality is an absolute bar to employment with the Department regardless of the nature of the position."

Macy's letter rejects (a) the "spurious" designation of homosexuals as a class or minority group, (b) the idea that homosexuals are discriminated

against, (c) the view that private, consensual, adult homosexual conduct should cease being a bar to federal employment, and (d) the charge that the Commission pries into the private lives of persons seeking or holding government jobs. Among reasons why homosexuals cannot be employed Macy cites the following: (1) homosexual conduct is so repulsive to other employees that work efficiency is disrupted, (2) homosexual "advances, solicitation, or assaults" raise apprehensions in others, (3) homosexuals are "unavoidably" subjected to erotic stimulation by the use of the same toilet and shower facilities as other employees, (4) homosexuals may utilize their government positions to foster homosexual activity "particularly among the youth," (5) homosexuals may use government funds and authority "in furtherance of conduct offensive both to the mores and the law of our society," (6) homosexual conduct is a crime everywhere in the United States except in Illinois and is everywhere considered immoral, and (7) people are offended when they have to deal with a "known or admitted sexual deviate." Macy's letter also specifically states that any applicant who has publicly proclaimed he engages in homosexual conduct, prefers homosexual relationships, is not sick or emotionally disturbed, and simply has different sexual preferences, is unsuitable for federal employment.

In order to determine suitability, the Commission considers arrest records, court records, medical evidence, personal admissions, or "other credible information" that an individual "has engaged in or solicited others to engage in" homosexual acts. To obtain this information, applicants are required to fill out Standard Form 171 (formerly 57). Question 23C on this form inquires whether the individual has been discharged from the armed forces under other than honorable conditions and question 29 asks if the applicant has ever been convicted of an offense against the law or forfeited collateral or is currently under charges. In addition, Standard Form 78, concerned with medical matters, asks if the applicant has ever been hospitalized or treated for mental illness. Presumably any of these questions might elicit information of a homosexual nature. Only recently (January 1969), largely as a result of senatorial investigation and protest, Standard Form 89, which contained a question about homosexual tendencies, has been replaced by Form 58 which omits this question.

Not all applicants for federal positions are processed through Civil Service channels, but those that are not are asked essentially the same questions. A few departments also use techniques not a usual part of Civil Service procedures. So, for example, according to William Crockett, Deputy Under Secretary of State for Administration, who testified (September 1966) before a House Appropriations subcommittee, all male applicants for positions in his department are asked directly, "Have you ever engaged in a homosexual act?"

Certain jobs in government and in private industry, which are associated with the national security and which involve access to or use of confidential

or secret information and material, require security clearances. Such clearances are given only after special investigations conducted by the services (the Office of Naval Investigation, the Air Force's Office of Special Investigation, and the Army's Criminal Investigation Division), the Civil Service Commission, or the FBI. The thoroughness of these investigations depends on the classification of the job. On the basis of Executive Order 10450 – which does not actually say so – federal officials tend to hold that homosexuals are automatically ineligible for clearance and for any job requiring clearance.

When information is obtained that a particular employee or holder of a security clearance is an actual or suspected homosexual, he is told that he is under investigation, is informed of the charges against him, and is given an opportunity to reply to them. The government may obtain such information in a variety of ways – for example, the individual may have been arrested and charged with some homosexual offense, his name may have come up in the investigation of some other person, he may have been reported as associating with known sex deviates or seen in some compromising situation, his name may have been turned in by some other party, Post Office officials may have reported that he has received mail from homophile organizations or businesses catering to a homosexual clientele, or he may have "failed" a polygraph test or some psychological or personality test. Various techniques, depending upon the character and will of the employee and government investigators, are used in an effort to obtain a confession. If the employee confesses, he may be permitted to resign or he may be dismissed, depending upon the individual situation. If he holds a security clearance, that clearance will be revoked, with consequent loss of his job. If he denies the charges, he may ultimately be dismissed or the matter may be dropped. People who have gone through the experience suggest that dismissal or retention may depend upon how vigorously the accused person denies the charges, resists the pressures brought upon him, refuses to cooperate with investigators, and is determined to utilize all possible routes of appeal in the event of an unfavorable decision.

Criticism of Present Federal Policies

In the last several years federal policies pertaining to the employment of homosexuals have been criticized for being inflexible, unrealistic, and ineffective; for resting on dubious or erroneous premises; and for leading to questionable practices and undesirable consequences. Professional organizations like the Group for the Advancement of Psychiatry, the American Mental Health Foundation, and the American Civil Liberties Union have expressed concern and disapproval over the arbitrary exclusion or dismissal of homosexuals from all federal positions. Churchmen writing in religious periodicals such as *Christian Century* and *Social Action*, and journalists writing in the *New York Times*, the *Wall Street Journal*, the *Washington Post*, the *Minneapolis Tribune*, *Harper's*, and *Time* are now bringing the matter to the attention of the general public. Even in Congress, as shown by the recent investigations of former Senator Edwin Long on "Invasions of Privacy" and of Senator Sam Ervin on "Protecting Privacy and the Rights of Federal Employees," present federal employment policies and practices are arousing concern.

But the most impressive development favoring a change in the status of the homosexual in American society is the recent report (October, 1969) of the National Institutes of Mental Health's Task Force on Homosexuality. This officially appointed group of fourteen professional leaders in the fields of law, religion, and the social sciences, has included among its recommendations a change in the present exclusionary employment policies of the federal government.

Morality is the first of the bases on which federal exclusionary policies rest. But the government's concept of morality is a narrow, simplistic, and technical one which in traditional religious and legalistic fashion focuses on sexual matters and uncritically assumes the immorality of all homosexual acts. In our pluralistic society, however, we are coming to realize that morality is largely a matter of personal opinion, individual ethics, and religious belief; that no adequate judgment can be passed on a given act until its nature has been determined by its context; and that an individual's personal life, so long as it is conducted in private, does no harm to others, and does not affect the performance of his job, is irrelevant to employment. Many Americans also feel that the federal government should not seek to enforce any one moral code upon all its citizens and that it should not seek to

transform moral judgments into formal policies because to do so, in the words of the National Capital Area Civil Liberties Union, "is invalid and contrary to fundamental principles of individual freedom and the right to privacy."

It should by now be quite clear that the time when the government can impose upon its citizens a moral absolutism, especially one based on an uncritical acceptance of conventional morality, has passed and that the old view holding all homosexual acts immoral is daily becoming less and less acceptable. Because they are so out of touch with changing moral views not only as seen in the writings of leading thinkers in the fields of theology, philosophy, law, medicine, and the social sciences but also as held by large numbers of private citizens, and because they do not yet appreciate how pervasive is our contemporary commitment to the fulfillment of personal and human values, high officials like Chairman Macy find themselves in an embarrassing and untenable position. But instead of candidly reassessing their assumptions and policies, they unwisely try to defend policies and practices which are now seen to be irrational, unworkable, and unjust.

The federal government has failed to give proper consideration to the deeper and more fundamental meaning of morality. By its present policies as they pertain to homosexuals, the Civil Service Commission (1) is sanctioning rather than combatting the forces of ignorance, prejudice, and fear, (2) is penalizing rather than protecting the victims of these forces, (3) is arbitrarily and capriciously denying jobs to all members of a class rather than following its stated policy of employment on the basis of job qualification and performance, (4) is repudiating rather than promoting its announced commitment to the principles of non-discrimination and equality of opportunity for all, (5) is establishing employment criteria which are emotional and subjective rather than objective, and (6) is officially encouraging rather than discouraging the social ostracism and economic disenfranchisement of a large number of its citizens.

In an attempt to defend themselves from these criticisms, government spokesmen resort to logical inconsistencies and evasive rationalizations. First, they go so far as to deny the existence of homosexuals whether as individuals, a class, or a minority group. Yet the homosexual exists just as surely as does the Jew, the Negro, or the Catholic; the federal government in fact treats him as a member of a class and not as an individual; and by any reasonable sociological definition, homosexuals constitute a minority group. And second, asserting that government employment is a privilege and not a right, officials say that denial of employment is not a penalty. But working for an employer other than the federal government is equally a privilege and not a right; and in a society where the federal government is the largest single employer (there are over three million Americans, excluding those in the armed forces, holding federal jobs), where federal policies are imposed upon

or are imitated by other employers, and where ineligibility is determined not by lack of qualifications but by identification with an unpopular group, denial of employment has become in fact a penalty. Moreover, if federal policy were truly effective, and if it were taken over both by private employers and by state and local governments, homosexuals would become an isolated and totally unemployable group. Not only would their talents and contributions be denied to society, but they themselves would have to be supported at public expense.

It is ironic, in view of its valiant efforts to eradicate prejudice, discrimination, and abuse in matters of race, creed, and color, that the government has itself become a major source and an active promoter of the prejudice, discrimination, and abuse our society directs against the homosexual.

Unsuitability is a second base for the government's exclusionary policies. It is said that homosexuals are unsuitable employees because they are emotionally unstable and because their employment is detrimental to the morale of other workers and to the efficient operation of a government office. But no proof to support these allegations is offered. The satisfactory, and sometimes outstanding, job performance of countless homosexuals disproves this assertion. For example, of the 28 homosexuals separated from the State Department in 1965, one was holding a position paying over $20,000 per year and a dozen others were making over $10,000 annually; and 8 of the 28 had worked for the department between ten and twenty years. "In the governmental setting as well as in civilian life, homosexuals have functioned with distinction and without disruption of morale or efficiency," says the Group for the Advancement of Psychiatry. The American Mental Health Foundation expresses concern over "the kind of hysteria that demands that all homosexuals be barred from any responsible position." And Justice William O. Douglas of the United States Supreme Court, in a dissenting opinion in the Boutilier case (1967), remarks: "It is common knowledge that in this century homosexuals have risen high in our public service – both in Congress and Executive Branch – and have served with distinction."

In a recent study of attitudes on homosexuality held by a random sample of 147 professional persons – psychiatrists, psychologists, and social workers – living in the San Francisco Bay area, a question on employment was included. The results, not yet published, showed that 93% of the sample believed homosexuality should not disqualify a person from civilian federal employment, 47% (plus 26% uncertain) felt it should not disqualify a person even from security-sensitive employment, and 95% thought it should not disqualify a person from state or local civil service jobs.

If an employee is inefficient or engages in disruptive behavior, there are adequate means to discharge him. Moreover, as the Mattachine Society has pointed out, the federal government does not take the morally untenable position that because many people feel hostile to Negroes, Jews, and Catho-

lics, members of these groups should be denied employment as detrimental to morale and disruptive to office efficiency.

A third base on which federal exclusionary policies rest is the illegal and criminal status of homosexual acts. This argument proves upon examination to be little more than a superficial justification for existing policies rather than a position which can stand on its own merit. There are certain acts which are universally regarded as criminal – e.g. murder, robbery, and assault. But there are certain other acts – e.g., consensual adult sex acts or participation in the activities of various religious or political organizations – which are not universally so regarded. The crucial test for the criminality of any act ought to be its demonstrable harm to others. By this test, private homosexual acts between consenting adults are found wanting. As the American Civil Liberties Union argues, "private homosexual conduct, like private heterosexual conduct, should not be an automatic bar to government employment."

A brief glance at the record shows that only in a few nations are all homosexual acts labelled criminal and punishable by law – specifically, in the United States, Russia, Australia, and India, and such minor countries as Austria, Yugoslavia, Bulgaria, Rumania, Finland, and New Zealand. Even in these countries actual prosecution is rare; and except for Russia and India, repeal of existing laws is being seriously considered. In May, 1969, the West German Parliament approved a new penal code, effective September 1st, which removed private homosexual acts between consenting adults from criminal status. More recently (July 1, 1969), a similar change in the criminal code was signed into law in Canada. In the last three decades seven other nations – Great Britain, East Germany, Switzerland, Denmark, Sweden, Hungary and Czechoslovakia – have repealed their anti-homosexual laws. In Norway and Israel, where such laws still exist, they are by official order not enforced.

Today in the United States there are many groups and individuals who fully agree with those recommendations of the American Law Institute, the Wolfenden Committee, and the NIMH Task Force, which call for the removal of criminal status and sanctions from private adult consensual sexual acts and who reject the idea that governments should interfere in the private lives of their citizens or should seek to enforce any one particular pattern of behavior. "There must remain," as the Wolfenden Report observes, "a realm of private morality and immorality which is, in brief and crude terms, not the law's business."

So far Illinois (1961) is the only state which has put these recommendations into effect. However, the Connecticut legislature (1969) has voted for a similar change to be effective in 1971. New York (1966) has reduced consensual private homosexual acts to petty misdemeanors; and Kansas (1969) has voted for a new criminal code, effective July 1, 1970, which reduced such acts from felonies to misdemeanors. The legislatures of

Pennsylvania and Delaware are considering similar moves. Penal code revision commissions in California, Montana, Oregon, Washington, and Michigan have recommended following the lead of Illinois. Whether similar commissions at work in a dozen other states will recommend following New York or Illinois is not yet definitely known. Inasmuch as homosexual law reform is currently being considered by over one-third of our states containing over half the country's population – and will be considered by additional states later – and inasmuch as present laws against homosexual acts are enforced only when minors, violence, or public indecency are involved, the Civil Service Commission's emphasis on illegality and criminality is of little merit.

Civil Service regulations, as already mentioned, authorize the exclusion of job applicants and employees because of "criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct." Homophile spokesmen and others have long challenged official contentions that this standard is "uniformly" applied. That it is not has finally been officially confirmed. A Harvard researcher was recently told that the sexual offenses of heterosexuals, even when they violate specific laws, are not considered grounds for exclusion. Claiming to represent the present state of public opinion, the Commission excludes only homosexuals for criminal, immoral, and disgraceful conduct. Further, as pointed out by the U.S. Court of Appeals for the District of Columbia (*Scott v. Macy,* 1968), total exclusion of practicing homosexuals contradicts the Commission's stated policy that applicants with a record of law violations are eligible for employment if they are considered "good risks."

National security is the fourth and last major base for the federal government's policy of non-employment of homosexuals. Strictly speaking, this consideration applies only to "sensitive" positions. It is claimed that homosexuals are more likely than heterosexuals to succumb to the blandishments or interrogation of enemy agents and to be blackmailed for their sexual activities. To these allegations the Group for the Advancement of Psychiatry responds: "This Committee, however, is not aware of any such material from a scientific study of the problem." And the American Mental Health Foundation declares that the fact a person is homosexual does not "per se make him more unstable or more a security risk than any heterosexual person." Further, the American Civil Liberties Union points out that vulnerability to blackmail varies from person to person, that the government's fear of blackmail "is really the result of (its) own policy," and that the possibility of blackmail is greatly exaggerated, especially in view of today's more liberal sexual mores and of "the willingness of homosexuals to be recognized as such." Homophile leaders and others have long argued that if a homosexual knew he would not lose his job or security clearance because of his sexual activities, the possibility of blackmail would be greatly reduced. Furthermore, in the case of those increasing numbers of homosexuals who are openly

admitting their homosexuality to family, friends, and employers – often with no disadvantageous results – the possibility of blackmail would cease to exist. As Dr. Franklin Kameny of the Washington Mattachine Society has argued in a recent security clearance hearing, "The only one exerting coercion, influence, or pressure" upon his client, an admitted homosexual, "is the Defense Department."

In recent history, out of hundreds of cases of treason, security, or disloyalty – some of which have had a sexual angle – only two homosexuals (Alfred Redl of Austria-Hungary in 1913 and William Vassall of England in 1962) have been blackmailed into handing over secret information to an enemy nation. In addition, there are only five alleged homosexuals (diplomats Guy Burgess and Donald McLean of England in 1951; U.S. federal employees William Martin and Vernon Mitchell in 1960; and more recently, a certain army private from the Virgin Islands) who have defected to the Communists. It has not been proved that any of these last five men were being blackmailed or turned over any secret information to an enemy power. Despite contrary assertions heard in Congress and read in the press, the actual or alleged traitors and security risks of recent years have rarely been homosexuals.

On the other hand, when we turn to the record, the number of security and espionage cases involving "normal" sex is far more impressive. Irvin Scarbeck, an American Foreign Service officer in Poland, was sentenced to 30 years in prison for handing over secret documents to Miss Urszula Discher, his Polish mistress. For providing secret data to Valentin Gubitschev, her Russian lover, Judith Coplon, a U.S. government employee, received 15 years. Elizabeth Bentley, another American and a confessed spy, admitted that her love for Jacob Golos, a Communist agent, "enticed" her into espionage. Irmgard Schmidt, a Soviet spy, was sentenced to 5 years after she had obtained information regarding the West's plan for the defense of Berlin from her two American lovers, an Air Force colonel and a civilian employee. Leonore Sutterlin, secretary to a high West German official, brought home secret documents for her husband, Heinz, to photograph. When she realized Heinz, a Communist spy, had married her not for love but for her access to government files, she committed suicide. For giving official information to Peciak, her Yugoslav lover, British civil servant Barbara Fell received two years. Tyler G. Kent and Anna Wolkoff, an American-British couple, were given 10 and 7 years respectively for transferring secret material to an enemy agent. Houghton and Gee, another British pair whose romantic relationship involved them in spying, were sentenced to 15 years. Latter day Mata Haris include Kim Soo of South Korea; "Moon Fairy" (Nguyen Thi Nga), Nguyen Van Chi, and Li Tran Pham of Saigon; Margarethe Pfeiffer, Maria Knuth, and Irmgard Roemer of Germany; Marika Lukesova of Prague; and lesser known or unidentified girls operating in the Pension Clausewitz in Berlin, the Shinjuku district of Tokyo, and the bars and resorts of Vietnam. American

officials have been tight-lipped about both the numbers and names of persons whose heterosexuality has threatened the national security. (An additional list of 20 self-admitted spies, 30 persons convicted of espionage or related offenses and 6 persons who fled behind the Iron Curtain or committed suicide rather than face arrest for espionage – all of them heterosexual – is included in the notes at the end of this essay.) Of the over 200 American servicemen who in the last several years have sought asylum in Sweden and various other countries, not one has been alleged or proved to be homosexual. On the basis of this data, it might be logical to argue that all heterosexuals should be excluded from federal employment, especially from "sensitive" positions, because some heterosexuals are security risks.

Finally, present exclusionary policies are as unrealistic as they are ineffective. On the evidence of the Kinsey report and other studies, it appears that about 10% of American males are predominantly homosexual and that 37% of all American men have at least one overt homosexual experience at some time in their adult lives. If federal policy were literally enforced, none of these persons would be eligible for government employment. And if other employers followed a similar policy, a very large number of Americans would be without jobs. In short, the country would be denied the services of many of its able and dedicated citizens. In the absence of decisive evidence to the contrary, we must assume that something like 10% of all federal employees are homosexuals and that despite officials who claim otherwise, only a tiny fraction of them are ever discovered or removed from their jobs.

Challenging Present Exclusionary Policies

Since their formal inauguration some twenty years ago, official policies automatically excluding homosexuals from federal employment have rarely been challenged. By and large, accused persons have been pressured to resign. Those few refusing to do so have been fired, with such dismissals almost invariably upheld by administrative boards and, in the few cases taken to court, by federal judges. Of late, however, several persons, whether actual or alleged homosexuals, have decided to counter-attack. But despite able legal assistance, very little progress has yet been made. If existing policies are to be challenged successfully, a two-pronged campaign of education and action – both of which have already begun – will have to be greatly expanded and vigorously pursued.

The program of education is well under way. Since World War II, the American public has been exposed to an increasingly frank and accurate description of all forms of sexuality. The studies of the Kinsey Institute and other research groups, the recommendations of the Wolfenden Committee and the American Law Institute, the conclusions of the Quaker Report, the publications and activities of some forty homophile groups now at work in the United States, the re-examination of sexuality by theologians and leaders of all religious faiths, the clarifying judicial definitions of obscenity, and the foundation of organizations like the Sex Information and Education Council and the National Sex and Drug Forum have all contributed to a deeper understanding and a wider acceptance of human sexuality. Further, in the last five years the subject of homosexuality has finally invaded the mass communications media; popular books, magazine and newspaper articles, movies, and radio and television programs are becoming less sensational and more objective and sympathetic in their treatment of it. As the new knowledge and changing attitudes make themselves felt, present discriminatory and punitive policies will be altered. Quite possibly the NIMH Task Force's report on homosexuality will have an influence in this country comparable to that of the Wolfenden Report in Great Britain. Still, it may be some time before significant corrective action is taken.

The action program, which has barely begun, involves four areas of simultaneous endeavor: first, discussion and negotiation with executive officials responsible for federal, state, and local policies and practices and with private employers; second, petitioning Congress and state legislatures for

redress of grievances followed where necessary by resort to the ballot box; third, arousing the interest of labor unions, professional associations, and civil rights groups; and fourth, legal challenge within the administrative system of the federal departments and before the courts.

In order to convince federal officials to meet with them to discuss the subject of employment, the Mattachine Society of Washington, as noted above, found it necessary to picket the Civil Service Commission. Although this confrontation has not yet led to any change in policy, it has permitted an exchange of views, and it has impelled the Commission to spell out its justification for present exclusionary policies. The resulting statement – Chairman Macy's letter – is now available for critical evaluation. Its arguments and assertions may well prove so vulnerable that the day of change has been hastened.

Another federal agency which has chosen to ignore recent research findings and changing public attitudes on the subject of homosexuality is the Equal Opportunity Commission. When questioned about the status of homosexuals under Title VII of the Civil Rights Act of 1964, the Commission accepted as its position the opinion of its General Counsel who ruled: "An employer does not commit an unlawful employment practice by failing to hire or by discharging an individual because the individual is a homosexual."

Various homophile leaders have discussed employment and other matters with their Senators and Representatives in Congress. The response has varied from sympathetic concern to indifference, from embarrassment to open hostility. Some members of Congress feel that the federal government in general has gone too far in its "snooping" into the private lives of its employees and in denying them adequate safeguards in case of administrative investigation. Congressional criticism has caused the Civil Service Commission to undertake a new look at some of its policies and practices.

On the state and local level, candidates for political office are becoming aware of the homosexual vote. In San Francisco, Los Angeles, and New York, candidates in recent campaigns have addressed homosexual groups, advertised in homophile publications, and come out in favor of criminal law reform and the employment of homosexuals. In time, as homophile organizations grow and become more active, the homosexual vote will be felt on the national level as well. Even now it is certain that Congressional treatment of homosexuality could not today be the secret operation it was in 1950, could not exclude testimony by homosexuals and the leaders of the homophile movement, and could not result in so biased a study as Senate Report Number 241.

Very little has been done to arouse the interest of labor unions and professional groups in the employment issue. Only rarely have labor leaders or professional groups, except for the Civil Liberties Union, come to the aid of homosexuals. But forces for change are at work. As individual homo-

sexuals begin to resist arbitrary dismissal and as the issue becomes a more familiar one, it is inevitable that religious groups, labor unions, civil rights groups, legal and medical associations, and other professional groups will become very much involved. Such issues as job performance and competence, equality of opportunity, fair play, and the right of privacy are too important for such groups to ignore any longer.

Many people feel the most effective route for successfully challenging present policies lies in legal action. Success on the level of the trial court is not yet very likely, but appellate courts are beginning to question or overturn lower court decisions. Only three cases have thus far produced potentially significant results. In *Dew v. Halaby* (1963), in which the legality of dismissing an employee solely because of involvement in homosexual acts was at issue, the Supreme Court agreed to hear the case. Dew, a married man in his middle thirties and a father of two children, had been permitted to resign from the Central Intelligence Agency after admitting during a lie detector test that at the age of 18 or 19 he had engaged in homosexual acts on at least four occasions. Thereafter he worked as an air controller for the Civil Aeronautics Authority, but two years later was discharged on the basis of the CIA information. Reinstated after appeal on technical grounds, he was again dismissed. Despite psychiatric testimony that he was functioning in a sexually normal way and was not believed to suffer from a "homosexual personality disorder," the CAA refused to reinstate him. On appeal to the courts, Dew's dismissal was upheld by a federal district court and by a federal court of appeals on the grounds that his acts were in the category of criminal, immoral, and disgraceful conduct, that the CAA had not acted in an arbitrary or capricious manner in removing him, that his past conduct "did not demonstrate qualities of character, stability, and responsibility," that he was an employee "with something to hide," and that his acts "may have, and can be determined to have, an adverse effect upon the efficiency of the service." However, rather than argue the issue before the Supreme Court and face the possibility of an adverse decision, the CAA rehired Dew but refused to permit him to work as an air controller. Dew's experience suggests that Mr. Macy's comment about "rehabilitation" may be a statement without substance and that the Supreme Court sees an issue worthy of its consideration.

The case of *Scott v. Macy* (1963) has been in and out of the courts for the last seven years. After Scott had applied for a civil service position, investigation revealed arrests for loitering and "for investigation" and information suggesting he was a homosexual. Scott explained the two arrests but refused to comment on the allegation of homosexuality because he did not consider the matter "pertinent" to the performance of his job. When the Civil Service Commission disqualified him for employment "because of immoral conduct," Scott took legal action. After a federal district judge upheld the Commission's ruling, Scott took his case to the Appeals Court for the District

of Columbia which ruled that the Commission "must at least specify the conduct it finds 'immoral' and state why that conduct related to 'occupational competence or fitness'." Thereafter, the Commission presented additional data – including a statement of a fellow employee describing Scott as "effeminate" and an account of homosexual activity at his home in which Scott did not participate. When the case was reheard in federal district court, the judge ruled that the government had complied with the requirement for greater specificity and upheld the government's right to consider a person "who actively engages in homosexuality" unfit for federal employment. Scott again appealed. Before the appellate court the government argued that it had not disqualified Scott for "immoral conduct" but "solely" because he had refused to answer questions which would permit a determination of his character and fitness. The court, however, felt it could not conclude that Scott had not in fact been dismissed for immoral conduct and also suggested it was "unlikely" the additional information was sufficient for disqualification. The court in addition discovered "seeming anomalies and contradictions" in Chairman Macy's letter to the Mattachine Society – e.g., that homosexuality both is and is not an absolute bar to federal employment, that the Commission despite its assertion to the contrary does in fact apply one standard to homosexual offenders and a different standard to other persons who commit immoral or criminal acts, and that employment in fact depends "not upon whether one is a law violator but whether one gets caught."

This most recent decision in the Scott case (1968) seems (1) to question the wisdom of so arbitrary a policy as that followed by the Civil Service Commission, (2) to criticize the evasive tactics used by some government investigators and officials, and (3) to unmask the hypocrisy of present policy. The court suggests that for the future the Commission should develop "a clear policy line to the demarcation of appropriate disclosure requirements" and observes that it is operating in an area marked by "inflexibilities" on all sides and that public policy regarding federal employment "is in something of a state of flux, with old certainties dissolving and new ones unformed." It can at least be argued that the court is suggesting that because public attitudes are changing, even on the subject of homosexuality, the time is at hand for the initiation of a more flexible policy. However, the issue is not yet resolved. In a similar case (*Anonymous v. Macy,* 1968), the Court of Appeals for the Fifth Circuit held that a Post Office employee's homosexual acts, even though private, are a valid basis for dismissal.

The third case (*Norton v. Macy,* July 1969) has produced the most significant court decision yet handed down on the issue of federal employment and homosexuality. Norton, for some years a budget analyst at the National Aeronautics and Space Administration, was dismissed after being arrested in Washington, D.C. late one October night in 1963. Two vice officers had observed him stop his car, give another man a ride around

Lafayette Square, and then drive home followed by the other man in his own car. After two hours of questioning, during which he denied having made a homosexual advance to the other man, Norton was given a traffic summons. Subjected to immediate reinterrogation, this time by NASA's Security Chief, whom the police had summoned, Norton allegedly admitted engaging in mutual acts of masturbation with other males in high school and college, experiencing occasional homosexual desires while drinking, occasionally undergoing a temporary blackout while drunk, and suspecting that on two occasions some sort of homosexual activity might have occurred. Subsequently discharged for "immoral conduct" and for "traits of character and personality" which made him "unsuitable for further employment," Norton turned to the courts where he lost on the trial level but won on appeal.

Because of his years of good service and veteran's preference, Norton was a "protected" employee who by law can be dismissed only for "such cause as will promote the efficiency of the service." The court, though it agreed that homosexual acts – and many other types of acts as well – could be considered "immoral, indecent, and disgraceful" under prevailing mores, rejected the notion that the government should enforce the majority's conventional code of conduct in the private lives of its employees. Any attempt to do so, it said, involves procedures "at war with the elementary concepts of liberty, privacy, and diversity." In this case, the record showed that Norton had been a "competent" employee whose work was "very good," that no question of "security" had been involved, and that his superior had looked for a way to avoid dismissing him. To justify Norton's removal, the government's attorneys relied "solely" on the argument that NASA would be embarrassed if, as was possible, a similar incident occurred again. That possibility, they claim, adversely affects the efficiency of the service. This "unsubstantiated conclusion," the court ruled, "is an arbitrary ground for dismissal." In other words, the court could find no reasonable connection between the evidence against Norton and the efficiency of the civil service. Federal officials have decided not to appeal this ruling. (Norton, after being reinstated, retired.) What the implication of the Norton case will be only time will tell.

Two major cases involving security clearance, having proceeded slowly through administrative channels in the Defense Department, are now working their way toward the federal courts. Benning Wentworth, an electronics technician employed at a large private research laboratory in New Jersey, and Otto Ulrichs, working for a well known firm in Maryland, are challenging the revocation of their security clearances. In both cases the revocation was based solely on their homosexuality. Both men publicly admit being practicing homosexuals, deny the possibility of blackmail because of their sexual orientation, and refuse to answer questions which pry into the most intimate aspects of their sex lives. Their position is: "My sex life is my own private business and has no bearing on my job or loyalty."

State, Local, and Private Employment

Very little is known about the policies and practices of state and local governments or private employers as they pertain to the employment of homosexuals. Many employers in these categories have no formal exclusionary policies. Those who do usually possess the resources to do little more than inquire about arrests, psychiatric treatment, and sexual orientation. However, any indication of "moral turpitude" – a vague term usually understood to include homosexual behavior – can be used to justify passing over an applicant or dismissal of an employee. Employers can also draw their own conclusions about an individual on the basis of age, marital status, appearance, and personal characteristics.

In many states the teaching profession is closed to a known or suspected homosexual. If a teacher is arrested for a homosexual offense, the police are often required by law to report the arrest to his employer; and if not required, they often do so on their own. Immediate resignation or dismissal, followed by revocation of one's teaching certificate, are the usual results. A report of the Florida legislature says that 54 teachers in that state had their licenses revoked on morals charges in the period from 1959 to 1963, and the *Coral Gables Times* reports that in 1964 in Dade County alone 25 male teachers were dismissed on homosexual charges. A public official in Oklahoma City declared that 26 teachers were removed for homosexual reasons in that city in 1966. It is said that California has an arrangement with eleven other states to exchange information so as to prevent the hiring of homosexual teachers.

Even if the charge is dropped or a trial results in acquittal, the teaching profession may be henceforth closed to the accused individual. Case after case can be cited to illustrate this problem – e.g., (1) an Alabama college official was dismissed despite his acquittal of the charge of "disorderly conduct, sex pervert," (2) a California teacher resigned under pressure and has not been able to regain his certificate even though the judge threw out the charges because no crime had been committed, or (3) a Milwaukee man has been unable to find another teaching position after being dismissed on a morals charge which was subsequently dropped for lack of evidence. Thus far, almost without exception, judges before whom the issue has come have ruled that homosexual conduct constitutes immoral behavior and is valid grounds for dismissal and for revocation of teaching certification. However, the

California Supreme Court (*Morrison v. State Board of Education,* 1969), relying in part on the Norton case, has declared that the state "must not arbitrarily impair the right of the individual to live his private life, apart from his job, as he deems fit" and has challenged the dictum that each and every homosexual is ineligible to teach in the public schools.

Similarly, in the medical, dental, nursing, legal, and cosmetological professions homosexual acts are often regarded as immoral and unprofessional conduct warranting denial or revocation of professional licenses. Usually the homosexual issue comes to the attention of state licensing boards only after a licensee or an applicant has been arrested for disorderly conduct, soliciation, crime against nature, or some other such offense. Appeals for the issuance of a professional license or for re-instatement of a revoked license are usually rejected. An exception, however, is the case of an Illinois man, a recent graduate of a nursing school, who had been denied a license after the police of the locality had notified state officials that he had been arrested in a bath-house raid. Only after a distinguished Chicago lawyer and an Episcopalian priest took an interest in his case, and after it was pointed out that the charge had been dropped, was the man given a hearing and granted a license. Even lawyers who defend homosexuals, as in the case of the attorneys who represented the Council on Religion and the Homosexual at a New Year's Day dance (1965) in San Francisco, may be reported to their bar associations by police officials.

The civil service commissions of several cities and states have indicated that they have no policy regarding the employment of homosexuals, that they make no inquiries about homosexual tendencies or acts, that they would consider each case coming to their attention on an individual basis, and that rehabilitation or a favorable therapeutic prognosis "would not be discounted." What actually happens, however, is uncertain. While a Florida legislative committee is recommending the creation of a central repository for data on homosexuals which would be open to public employing agencies, New York City and San Francisco are knowingly hiring qualified homosexuals for city jobs. While Miami and Coral Gables have passed ordinances forbidding homosexuals to congregate, work, or be served in a place where beer or alcoholic beverages are served, New York City is relaxing its restrictions, insofar as they pertain to homosexuals, on cabaret entertainers and employees. At the urging of the Society for Individual Rights, the Human Rights Commission of San Francisco passed a resolution (March 1970) opposing employment practices based on any grounds other than individual merit. It also recommended that the Board of Supervisors hold hearings to find out if discrimination against homosexuals exists; and if so, to pass remedial legislation. In New York City the Mattachine Society has recently filed complaints with the Human Rights Commission there in several cases of job discrimination against homosexuals. In San Francisco the police depart-

ment has even advertised for recruits in a homophile magazine.

As yet private employers have had little to say publicly on the subject. A few of them, according to the *New York Times* not only hire and retain known homosexuals but may even pay psychotherapeutic expenses. Some professions – such as the theater, the arts, radio and television entertainment, interior decorating, and hair dressing – have long been tolerant of homosexuals because of their creative talents. But many employers consciously "screen out" applicants who "appear" to be homosexual and remove employees discovered to be homosexual. One young man, disappointed at not being hired for a job he very much wanted and for which he felt well qualified, tells how, upon inquiry, he was finally informed: "You are 30 years old, unmarried, and live in San Francisco. Don't you get the point? We don't want your kind."

Private employers, like public employers, usually give persons arrested for homosexual offenses or involved in a homosexual "scandal" the choice of resigning or being fired without waiting to see if charges are dropped or if a trial results in conviction or acquittal. In Chicago, after a police raid on a nightclub near O'Hare Field, thirty men lost their jobs; and after a raid on a bath-house, twelve men were fired. In both instances, charges against all persons arrested were dropped. Dismissal may also result from complaints by a fellow employee who claims he has been "approached" or is uncomfortable around homosexuals, from reports by post office officials as noted above, and even from anonymous accusations. Recently in San Francisco, groups of homosexuals have picketed three companies which had fired admitted homosexual employees.

As in the case of federal employment, a few homosexuals have begun to question the propriety and legality of automatic exclusion or dismissal, especially in the absence of a conviction for a criminal offense. They are calling for a change in present policies and for adherence to the principle of due process. They point out that employers practice a form of coercion when they offer an accused person the alternative of immediate resignation or dismissal, when they discourage or prevent him from consulting a lawyer of his own choice, and when they claim to be interested only in sparing him trouble and embarrassment. Too late, the individual discovers that at a moment of great personal crisis he acted in a manner to the advantage of his employer, the police, or public officials, but not to his own best interest.

An as yet unpublished study completed by a researcher at Rutgers University and another made by The Society for Individual Rights have shown that persons holding undesirable discharges from the armed forces for homosexual reasons have found their discharges a heavy burden. Often, on the grounds that they are immoral persons and security risks, they are denied specialized and responsible positions. If hired at all, they are often given only the most pedestrian of jobs. In order to obtain employment, many men have

felt compelled to misrepresent the nature and conditions of their separation from the service. Another practical but unfortunate consequence has been a denial of the opportunity to improve their professional qualifications and potential earnings through education or other training because they have been denied GI benefits under an arbitrary ruling by the Veterans Administration that an undesirable discharge for homosexual reasons is given "under dishonorable conditions." The number of persons given such undesirable discharges and deprived of veterans' benefits is appreciable – approximately 2,000 per year for many years.

Conclusion

The time has come for the federal government to abandon its inflexible policy of arbitrary exclusion of all homosexuals from federal employment. Present policies, based on assumptions at best unproved and often patently false, are unreasonable, unfair, and ineffective. It is understandable that government officials, who were badly burned in the witch hunting of the 1950's, should have gone too far in their determination to avoid future criticism by Congress and the public. But twenty years of experience should have demonstrated the futility and inhumanity of its policies and practices. Instead of masking prejudice, ignorance, and discrimination with the cloak of security, and instead of singling out the "immorality" of homosexuals for special attention, the federal government should be promoting toleration and understanding, upholding the principles of dignity and privacy, and judging each employee on the basis of his skill, efficiency, and personal merit. Each person should be judged eligible or ineligible for employment on an individual basis and not on the basis of being a member of some particular group. If there are jobs where a person's private sexual behavior is valid reason for exclusion, the burden of proof should rest with the employer. Moreover, in view of the great amount of research data now available on the subject of homosexuality and the changing attitudes of society toward the homosexual, it is a great error for the Civil Service Commission and other employers, whether public or private, to permit themselves to become trapped by their own propaganda and to seek to perpetuate the mythology they have created. George Lichtenberg, a German satirist writing about 1800, might almost have been describing American officials when he observed that men spend their time defending opinions "not because we believe them to be true, but simply because we once said we thought they were."

In dealing with members of an unpopular group, it might be well to remember the early Christians whom Roman officials persecuted for being unpatriotic, undesirable, and subversive. The historian Tacitus labelled them persons "of pernicious tendency" who are "detested for their evil practices" and added that their "crimes call for the hand of justice." But the emperor Trajan (c. 112 A.D.), at a time when it was a capital offense to be a practicing Christian, instructed Pliny, his newly appointed governor of Bithynia in Asia Minor, that "Christians should not be sought out" and that anonymous accusations "ought not to receive consideration." "Such a procedure," he

wrote, "establishes a very bad precedent and is not in keeping with the spirit of our times."

The homosexual, to use Dr. W. G. Eliasberg's phrase, "is the hunted man of our times." But is our fear of homosexuality significantly different from Rome's fear of Christianity? And are the methods used by American officials to track down homosexuals or is the treatment given to known or suspected homosexuals in keeping with the spirit of our times?

The hypocrisy and absurdity of present outmoded, inequitable, and unworkable policies suggest the need for the following changes: (1) homosexuals should cease being denied employment on the basis of their sexual orientation alone, (2) exclusion from "sensitive" positions and denial of security clearances should be determined on an individual basis only, (3) homosexuals with good records, if they are to be discharged, should be given honorable rather than undesirable or general discharges from the armed services, and (4) the Veterans Administration should no longer deny benefits to servicemen holding undesirable discharges because of homosexuality.

Each of these proposed changes could be made by presidential order, court rulings, or by Congressional action. The quickest and most practicable way would be by executive order. But if the President feels unable to act on his own, he might (a) accept the recommendations of the National Institute of Mental Health's Task Force on Homosexuality, (b) appoint a White House commission to study the problem and propose a course of action, or (c) ask Congress to hold hearings on the subject, pass reformative legislation, and set down guidelines for the executive branch. If the President does not act, Congress and the courts will have to face the issue.

A fifth change, requiring action by the legislatures of the various states, and by Congress in the case of the District of Columbia, involves changing our penal codes so as to remove the criminal label and penalty from the private sexual acts of consenting adults. When these five changes, long overdue, are made, homosexuals will possess the same job opportunities and responsibilities as their fellow citizens.

In recent years there has been much talk about the possibility and desirability of effecting changes in public policy through the orderly processes provided within the American system of government. The modest but essential changes proposed here will serve as an effective test of the willingness and ability of government officials to respond constructively to reasonable requests for change presented in an orderly manner.

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