

## BOOKS ABOUT GAYS: A SURVEY

Charles Silverstein, Ph.D., and George Whitmore

*[To deal with the flood of new commercial publications on homosexuality and gay men and women, SIECUS asked two knowledgeable individuals—Charles Silverstein and George Whitmore—to review selected works and survey the field. Their review of 23 recent books appears in the "Book Reviews" section on page 10; their general comments follow. —Ed.]*

It is now three decades since Kinsey caused such a stir when he released findings that showed a much higher incidence of homosexual behavior than had theretofore been acknowledged by the American public and professional researchers alike. Kinsey's statistics, although the predictable source of much controversy, effectively punctured the myth that homosexuality was an "abnormal" category of human sexual activity. Yet now, after a review of the current literature on the topic, both general and professional, we must confess to being sufficiently impressed by the offerings of the general publishers and sufficiently depressed by the lack of innovation and quality in publications by professionals, as to recommend that readers seeking to gain some understanding of homosexuality avoid the scholarly works in favor of a selection of those general books reviewed in this issue of the *SIECUS Report*. Psychiatrists and psychologists seem to be going over the same ground continually, asking the same questions and, not surprisingly, as a result coming up with little that is new.

In the specific area of research on homosexuality, one might have expected we would have been provided with a plethora of works on the social consequences of attitudes toward same-sex behavior, the adaptations gay males and lesbians must make in a nongay world, the character and impact of responses defined, now some time ago, as "homophobic." One also might have expected that researchers would take advantage of the opportunity provided by the sexual revolution of the sixties and the greater open-

ness that resulted in these matters to study gay couples, to learn more about the interaction in intimate same-sex relationships, indeed to learn more about male and female behavior. With a few exceptions (and few of them adequate responses), this has not been so.

In August of 1977 *Publishers' Weekly* listed some sixty-plus forthcoming books related to homosexuality, from trade and paperback houses. These books, in most cases designed for the general reader (if we make the somewhat debatable assumption that gay people are not by now "specialists" in this field), cover a wide spectrum of genres—novels, how-to sex manuals, biography, autobiography, history, theory. Not all are of high quality, but most are of more than passing interest.

This burgeoning of gay-oriented books represents an effort on the part of publishers to respond (belatedly, it must be said) to a market they were not prepared for. A handful of fiction and nonfiction titles on gay themes have in the past few years become underground, and in some cases overnight, bestsellers. Major houses were caught off guard by the success of books like Patricia Nell Warren's novel *The Front Runner* and the autobiography of a gay professional football player, *The David Kopay Story*. Now, it is clear, publishers hope to nurture and exploit the gay market, to create a publishing genre much like any other. Whether they will be disappointed or not is still to be seen.

The extraordinary number of new general lesbian and gay male titles also reflects several noteworthy changes in public and private attitudes toward homosexuality:

- The loss of status of the psychoanalytic movement in regard to the position of psychiatrists and psychologists as "experts" on homosexuality.
- A concurrent attempt on the part of gay women and men to speak for themselves, as is evidenced by the enormous number of books on gay lives. These books, naturally enough, have their assets and liabilities, but they do provide a more textured and intimate view of the realities of gay life than have the academic studies.
- The women's movement, which has encouraged efforts to analyze and assail prevalent sex-role stereotypes, and which can be credited with much of the new freedom that makes the publishing of books on homosexuality possible.

Dr. Silverstein is a New York State certified psychologist in private practice of psychotherapy and sex therapy in New York City. He is author of *A Family Matter: A Parents' Guide to Homosexuality* and a co-author of *The Joy of Gay Sex*.

George Whitmore is a poet, playwright, freelance writer, and a frequent contributor to gay publications; he is a former staff writer for Planned Parenthood-World Population's *Perspectives* magazine.

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# SPEAKING OUT

## Gay Life and Human Liberation: A Perspective

Alan P. Bell, Ph.D.

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[Dr. Bell is senior author, with the Institute's senior sociologist Martin Weinberg, of the forthcoming report of eight years of research, *Homosexualities: A Study in Human Diversity* (New York: Simon and Schuster, August 1978). He has also been chairperson of the SIECUS Board of Directors for the past two years.]

About five dozen books on the topic of homosexuality are being published during the current year. How are we to account for this remarkable phenomenon, and how will this avalanche of publications be received by professionals and/or the general public?

Until fairly recently most of what had been written about homosexuality was produced by members of the clinical establishment whose journals were replete with case histories of homosexuals in treatment, and with considerations of what procedures to use in the attempt to "cure" a deviant individual from his or her psychosexual "pathology." Numerous articles of a more speculative nature had also appeared. The various motivations for homosexual development and the dynamics of sexual exchanges between members of the same sex were discussed at great length and usually with reference to psychoanalytic theory, which viewed homosexuality as ipso facto pathological and/or at least an important example of arrest in a person's emotional development. Until the sixties, depending upon the framework used, homosexuality was thought to be sinful, sick, or criminal (and so continues in the minds of some today).

Such views, expressed in countless ways, have formed by far the major part of what could be termed as "authoritarian literature" which presumed exclusive right to declare what was true about almost anything. Its spirit was part and parcel of the culture from which it emerged when, for example, Roman Catholics were comforted by notions of papal infallibility, Episcopalians by the thought that their bishops were legitimate successors to the apostles, and many Protestants by biblical "truths" which they eagerly sought and proclaimed. In clinical circles, the masters' words were studied in a Talmudic-like fashion, and any deviation from an original body of theory was viewed with alarm and sometimes led to professional "excommunication" of the offender. In society as a whole there was a consensus about what was "American," hardly any questioning of what our forebears had held dear, or of the criteria used in evaluating human behavior.

How times have changed! "Situation ethics," stoutness of heart in refashioning theological perspectives, and the outburst of interest in the Spirit-filled life as opposed to dogma, are only several examples of the churches' movement away from internal acceptance of externally imposed directives. Among clinicians there has been a proliferation of new theories and of new ways of being with clients, a new emphasis upon the collegial aspects of therapy, and frequently an embarrassment over orthodoxy in any form. In society at large, the women's liberation movement, concerns about self-fulfillment as opposed to social conformity, a questioning of the place and purpose of the nuclear family, are all parts of a gigantic effort to take stock of our previous value systems and to count their human costs. More and more, people are becoming disinclined to accept without question others' definitions of reality or to submit to another's ideological tyranny.

It is this "coming of age" which accounts in large part for

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people's interest in homosexuality, a topic which encompasses far more than what certain people do with their genitalia. Homosexuality could be considered a microcosm of perhaps the most significant issues of our age. For example, it raises questions about what criteria are to be used in defining pathology and the extent to which the labels we use are not only arbitrary but politically coercive. The "specter" of a man responding to another man's sexual embrace or of women actively pursuing sexual contact with other women jars our usual notions of what it means to be a bona fide male or female, and leads to questioning conventional ideas about what is properly "masculine" and "feminine" and the extent to which these might be enslaving. And since sexual contact within a homosexual context serves no reproductive purpose and is often carried out (at least among males) within fleeting partnerships, it raises questions about the fundamental purposes of human sexuality and the contexts in which they are best fulfilled.

Persons who suppose that an acceptance of homosexuality will spell the end of civilization as we now know it are not entirely off-base. The acceptance of homosexuality requires a total reassessment of what we have thought was true about many things. It involves an abandonment of an accustomed gestalt and the erection of a whole new scheme of things, the shape and content of which we can hardly imagine, much less clearly define. Since much more is at stake than the acceptance or rejection of a minority sexual orientation, we should not be surprised by the resistance and outrage we find among a large segment of our population to homosexuality's new public image. Homophobic men and women will be afraid of even being seen with a book whose title identifies its fearful topic, and we can anticipate organized efforts to discount the validity of each new document, whether personal or scientific. Such reactions will emerge from an ordinarily unarticulated sense that when it comes to homosexuality enormous issues are involved, perhaps personal and definitely social.

Negative reactions from a quite different source can also be anticipated. Gay men and women, weary of being told by all and sundry who they are and what they are about, may wish that they themselves were numbered among the ranks of their colleagues who saw fit and were able to get their personal views and/or histories into print. Some gays will resent new studies of themselves, sensing that their lives require no justification and angry at the thought that they have been singled out for special attention. What they may not realize is that although the new host of publications surrounding them may involve or be directed at gays, they involve even more of a challenge to all of us—gay or straight—to grow up in fundamental ways, to explore and to celebrate new options for our lives, and to come to grips with issues that far transcend the matter of sexual orientation per se.

As co-author of what I hope will prove to be a significant research contribution to a fast-growing literature, I am looking forward to the many discussions which this year's publications will surely raise and to contributing whatever I can to the growth struggles of our culture. My personal resolve is to welcome the heat from the kitchen and not to retreat from the flames. The stake is not just homosexual liberation and rights but human liberation and rights which, it can be recalled from history, have never been easily—much less permanently—won.

## DO YOU KNOW THAT...

### Resources to Write for . . .

**Directory of Homosexual Organizations and Publications** is a recent publication of the Homosexual Information Center, a tax-exempt, nonprofit independent organization chartered in the State of California in 1968. Among its other informational services, the Center publishes bibliographies, selected reading lists, and a newsletter. The 1977 edition of the *Directory* can be obtained for a \$3.00 tax-deductible donation. Order from: Homosexual Information Center, Inc., 6715 Hollywood Boulevard, Room 210, Hollywood, CA 90028.

**Christopher Street**, now in its second volume, is an unusual magazine. It is literate and literary, so that though published for the gay community, it should have as much interest for the nongay community as nongay magazines have for homosexuals—no less, no more. Worth investigating by both communities. For information, write Christopher Street, That New Magazine, Inc., Suite 417, 250 West 57th St., New York, NY 10019. Subscription rate: \$12.50 per year for 12 issues.

**Excellent tapes** of the entire program of the March 1978 Atlantic City meeting of the Eastern Regional Society for the Scientific Study of Sex (SSSS) are available. Included is a 60-minute tape of Dr. John Money's paper, "Hormones, Hermaphroditic Sheep, and Homosexual Theory." For a complete listing of all the tapes, write to: Regis Audio Recording Systems, Inc., Box 447, Planetarium Station, New York, NY 10024.

**Community Sex Education Programs for Parents: A Training Manual for Organizers** has been prepared by the Institute for Family Research and Education in Syracuse. It looks like a highly useful manual, with sections on training sessions, planning a basic training outline, when to select the parent group, questions parents ask, atmosphere and objectives of the first sessions, misconceptions, organizing programs, selection and training of leaders, and some highly useful appendices. The cost is \$4.00 (plus \$1.00 to cover postage and handling for orders under \$20). Order from: Institute for Family Research and Education, 760 Ostrom Avenue, Syracuse, NY 13210.

**Human Sexuality: A Selected Bibliography for Professionals** (revised 1978 edition) is now available from SIECUS, 137 North Franklin Street, Hempstead, NY 11550, upon receipt of a stamped, self-addressed, legal-size envelope for each request. In bulk they are 15¢ each for 2-49 copies, 10¢ each for 50 copies or more.

**What Do We Really Know About the Aging?** is the title of a 92-page pamphlet produced by Antoinette Bosco at the State University of New York at Stony Brook. It presents information gained during ten sessions led by specialists in the field of aging. To obtain these proceedings, send \$2.50, covering postage and cost of printing, to Jane Porcino, School of Allied Health Professions, Health Sciences Center, SUNY at Stony Brook, Stony Brook, NY 11794.

# AUDIO-VISUAL REVIEWS

**Word Is Out.** [Made by the Mariposa Film Group, an Adair Films Release (P.O. Box 77043, San Francisco, CA 94107), this film is slated for commercial distribution. National distributor: New Yorker Films, 43 West 61st Street, New York, NY 10023; for rental requests or further information, call Frances Spielman, 212/247-6110.]

*Reviewed by Mary S. Calderone, M.D.*

The word *should* be out—that this is a film to be seen, by everyone. Twenty-six men and women talk about what it's like to be themselves as homosexuals—how old they were when they first became aware of it (some always; some very late, after marriage and children); what their adjustments have been like; how their parents feel about it; the means tried on some of them to “cure” them (including shock therapy, mental institutions, and a threat of castration by one physician); how they have managed to live; what they are doing now. Everything is made vivid by the interesting personalities and highly varied ages (adults up to 70) and life situations (singles, once-marrieds, parents, and one lesbian who shares her home and her own children with another who was denied custody of hers).

The level of intelligence and of education is high, and these are articulate people who, almost without exception, can express themselves with clarity, feeling, color—and above all, an authenticity so genuine as to be breathtaking. It comes out as a perfectly beautiful film about some people I wish I could have as friends.

I found it absorbing, strong without being overpowering, moving but totally unmaudlin, in finest taste—for sexual explicitness was recognized as unnecessary and beside the point. There are charm, humor, bravery, strength, and above all, relationships. One laughed, one felt tears—with, not at, these fellow humans.

The Anita Bryants, with their false

and self-deceptive cant, might find it possible to shed some of their ignorant hypocrisies if they sat through *Word Is Out*. I'm glad it was made and that I saw it, for I feel better about myself because of it. Furthermore, I feel better about people because I live in the same world with these people.

Don't miss it. (PBS will air it in September.)

*Reviewed by Frank E. Taylor, member of the SIECUS Board of Directors; and Stephen K. Roos, Harper and Row.*

For a generation of men and women brought up on *Boys in the Band* miseries, the new documentary *Word Is*

*Out* comes as something fairly revolutionary. Instead of depicting fictional homosexual characters who find the terrors of their closets equal to the horrors of the world beyond, *Word Is Out* introduces us to 26 real men and women who speak authentically, humorously, often touchingly, and almost always positively about their homosexuality. The common denominator throughout is their homosexual preference, but the viewer quickly becomes aware of the lack of stereotypes because of the broad variety here—men and women; young and old; white, black, Asian, and Chicano; formerly married and never married; with children and without. Some are college students, one is a former WAC, another is chairperson of a French department, another an actor. Audiences who have come to accept traditional and simplistically drawn stereotypes in books, in movies, on television, and in the theater may be impressed by the diversity among homosexuals. Perhaps because the mood is generally low key and nontheatrical, the audience comes to know and like many of the individuals involved. To be sure, these men and women have suffered more than their share of the tensions, confusions, and even maltreatments which seem to be the price outgroups pay in our culture, but audiences should be able to recognize the natural growth from early guilts to anxious pleasures to mutual acceptance to shared love.

Reactions to this film will surely be as diverse as the individuals in it. Homophobic heterosexuals may find *Word Is Out* perplexing. Homosexuals who have made a lifelong commitment to hiding their sexuality may find it threatening. But for openminded straights *Word Is Out* should prove comfortably enlightening, while many homosexuals will find it hopeful and reassuring. For young people needing to learn about human sexuality, *Word Is Out* offers a realistic portrait of the positive feelings and options of homosexual life.

## FROM THE SIECUS CATALOG

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### DEVELOPING COMMUNITY ACCEPTANCE OF SEX EDUCATION FOR THE MENTALLY RETARDED

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- The insistence of lesbians that they not be invisible any longer and that they be considered separate from homosexual men. The dearth of books on, by, or about lesbians and the prevalence of psychoanalytic literature on gay males in the past was certainly due to sexist assumptions. It also might be related to the fact that women (when they function outside their role as mothers, in which case anxiety and anger come into play, often with traumatic consequences for family relationships) have traditionally been more open to and supportive of the fact of homosexuality than have men, whose own anxieties have prompted them to lash out at gay males in print with predictable frequency.

- The emergence of an identifiable "gay lifestyle," for the most part middle class in its values. The increase in numbers of travel agencies, publications, mail-order houses, and businesses catering to gays is evidence of this new gay-identified middle-class group, which is mainly urban and male. Many gay men in particular seem to be saying, "We are human beings like you and want a chance to be understood and accepted." Although lesbian institutions in our larger cities might constitute a better defined "support system" for gay women than that available to gay men, they often do not have the economic resources that are available to males and are liable to emphasize the differences rather than the similarities between lesbian women and the rest of society. These two points of view characterize sometimes conflicting perceptions among various groups of gay people, with the more militant insisting on the separateness of gay life from the dominant culture and the more moderate working toward a kind of assimilation. Most of the books being published represent this second point of view, for obvious reasons.

All these trends have produced books that are markedly different from those previously published on homosexuality. For decades the few works on this subject were authored by professionals, were psychoanalytically oriented, and treated homosexuality as an acquired disorder, concentrating on its etiology and "proper form of treatment." Internecine squabbles over homosexuality as acquired versus congenital/innate behavior have recently been revived and have resulted in new publications for professionals, but they do not reflect any significant new ideas in the field. It is not likely that a new spate of "revisionist" books that speculate on homosexual behavior as the result of pathogenic family circumstances and that hypothesize that all homosexuals can (or want to) "change" will be issued.

What is less easy to predict is what the current antigay backlash (as exemplified by conservative and fundamentalist efforts in California; St. Paul, Minnesota; Dade County, Florida; and Wichita, Kansas) might produce. *The Anita Bryant Story* is the only book on the list yet to issue from this movement. Perhaps others will follow, but they must be viewed in light of the social polarization they represent. Antigay efforts are really an expression of sexual conservatism strongly allied to movements against access to abortion, women's liberation, and sexual self-determination in general. Sexual conservatives emphasize the role of family life, a revealed religious morality, the sin and sickness of certain sexual behaviors like homosexuality, the dire consequences (depression and suicide) of it. They also espouse an authoritarian view of homosexuality that characterizes gay people as incredibly promiscuous, highly potent sexual be-

ings against whose powers of seduction their victims are powerless—we have seen how the authoritarian approach was used by anti-Semitic Nazi Germans and by racists in this country.

The sexual liberalism they attack, on the other hand, emphasizes humanness and relationships and deemphasizes sex per se. Its morality is empirical, based on individual life experiences, needs, and goals, as opposed to religious or social dogma. Gay liberation literature, like feminist and enlightened theological writing, concentrates on the significance of homosexuality as a civil rights issue and the capacity for love and enjoyment between same-sex partners, rather than on the sex act itself.

Although the legislative and political struggles that have issued from the conflict between these two camps in our society are bound to be prolonged and hard fought, it is now quite clear that the general attitude of society toward homosexuality in particular has changed perhaps irreversibly in this decade, which is not to say that antigay persecution will not continue. According to recent public opinion polls, most Americans favor gay rights in some form, regardless of how those voters among them might react to municipal referenda. And it is quite clear as well that novels, biographies, general nonfiction works—even films and television shows—can no longer be so easily based on the overriding myths and misinformation that characterized literature on homosexuality before and immediately after the Second World War. It was long a staple of fiction about homosexuality, for instance, that the protagonist committed suicide in the last few chapters of the book. *The Well of Loneliness*, *The Children's Hour*, and Gore Vidal's play and movie *The Best Man* are all examples of this convention. Such a dénouement would be a challenge, and perhaps an ill-advised notion, for a writer today; it is difficult to make credible, given the discredited myths that preceded it.

What we are reviewing in this issue then, are some books that represent a far more sophisticated and multifaceted commentary on gay life than has been available to readers before.

It has to be noted in passing that the relatively recent transformation of gay literature both is and is not a product of the gay rights movement. Although the publishing scene for these books is radically different from that in the days before the emergence of militant gay rights organizations, few of the current mass market books reviewed here are either patently political or leftist in their viewpoints. (Clear exceptions are Jonathan Katz's *Gay American History*, which attempts to present its documents in a socialist context, and Jay and Young's *After You're Out*, many of the contributors to which are "movement" writers.) Instead, most of these books are representative of how social change traditionally creeps forward in the U.S.—at a slow pace and with, not against, the mainstream flow. *Gay Source*, for instance, "a catalog" for gay men, allots as much space to plastic surgery, tattooing, and "body piercing" as it does to the movement, a fact that is an embarrassment to many gay readers. *The David Kopay Story* evidences no particular understanding of the ideal of masculinity that football stands for, even though it is the autobiography of a gay NFL running back. In conclusion, it might be interesting to note that although transvestites, if not transsexuals, were literally on the front lines during the New York Stonewall Riots, regarded as the seminal event in the gay rights renaissance, there is no book here for them.

# WHERE THE ACTION IS

## Homophobia: Let's Deal With It In Our Classes!

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One of the greatest of human rights is the right to love—it is truly inalienable, and it is truly a crime if anyone is deprived of this right.

The students in our human sexuality courses (such as the one who wrote the above statement) consistently remark that the discussions on homosexuality have greatly affected their lives. Many of them suddenly must face an awareness of their homophobia: heterosexual students usually become more accepting of a same-sex lifestyle; homosexuals become more honest and accepting of themselves and, hopefully, are encouraged by this to share their same-sex feelings with friends and relatives. Those homosexual students who have already "come out" experience a feeling of pride in being able to share feelings and experiences with other students.

Textbook approaches to homosexuality deal with facts on the cognitive level. It is more important that students explore their guilt, fear, pride, hate, disgust, and love involving their own same-sex feelings as well as their feelings about homosexuals. Negative feelings become behavioral in people when they ridicule a gay classmate, stay in the closet, limit their life to just "safe" gay friends, and vote against equal rights for all. Positive feelings become behavioral in people when homosexuals can openly share their love for someone of the same sex, and both groups can have heterosexual and homosexual friends and support equal rights for all.

We begin our discussions by asking the class to consider Kinsey's statistics which, if applied to this class, indicate that 60 percent of the men may have had a homosexual experience before puberty and that about 37 percent of them have had or will probably have at least one homosexual encounter leading to orgasm before the age of 45. These statements usually cause some laughter and a general feeling of unease. The question is then asked: Who is a homosexual? Is someone who has had one homosexual contact considered a homosexual? Two? Three? Is a person who calls himself/herself a homosexual, and yet has had heterosexual experiences, then not really a homosexual?

We then have the class look at the Kinsey scale, which is a seven-point, 0-6 continuum: 0, exclusively heterosexual; 1, predominantly heterosexual, with incidental homosexual experiences; 2, predominantly heterosexual, with more than incidental homosexual experiences; 3, equal homosexual and heterosexual experiences; 4, predominantly homosexual, with more than incidental heterosexual experiences; 5, predominantly homosexual, with incidental heterosexual experiences; 6, exclusively homosexual.

Since Kinsey introduced this concept, a number of studies of different cultures have been made. These show that, in any culture, no more than 12 percent of the popula-

tion fall at either end of the continuum, leaving about 80 percent to fall somewhere in between. Significantly, in sexually nonrepressive societies only one or two percent fall at either extreme of the continuum.

The concept of a continuum which describes people in terms of variable frequencies and types of sexual contact goes against the "thinking" of many people, who prefer to categorize. For most of our students, it is easier to contrast "homosexuals" and "heterosexuals" than to talk about their own same-sex feelings. As the Kinsey team wrote: (*Sexual Behavior in the Human Male*, p. 639):

Males do not represent two discrete populations, heterosexual and homosexual. The world is not to be divided into sheep and goats. Not all things are black nor all things white. It is a fundamental of taxonomy that nature rarely deals with discrete categories. Only the human mind invents categories and tries to force facts into separate pigeon-holes. The living world is a continuum in each and every one of its aspects. The sooner we learn this concerning human sexual behavior the sooner we shall reach a sound understanding of the realities of sex.

We then ask the students to try to place themselves on the Kinsey continuum, as to where they are today in regard to: (1) having an orgasm with someone of the same sex; (2) being able to touch, massage, hold (but no genital contact) someone of the same sex; (3) caring for and having a close, intimate relationship (but no genital contact) with someone of the same sex. Most of the students indicate that they move around the scale. We indicate, however, that most people believe they have to categorize themselves as either a "0" or a "6" and the outcome is that these people limit their own self-acceptance, happiness, and capacity to develop meaningful relationships.

For the remainder of the class, we discuss men and women whose *primary* choice of a love partner and sexual gratification is someone of the same sex. I then read the initial section of a paper written by a student in this class a few years ago, which says in part: "When I was in my early teens I would lie in bed at night and cry and ask God why He had to make me a faggot. Why couldn't it have been someone else? But He chose me. *Homosexuality? Repulsive! Faking a heterosexual existence? Mandatory! Will I ever fall in love? I'm afraid not. Will I ever be loved? How can I be?*"

Then, while they view two films, *Vir Amat* and *Holding* (from MultiMedia Resource Center), the students are asked to think about such questions as: What do you feel when you hear the words "homosexual," "queer," "tag," "lezzie,"

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"dyke," "fairy"? How would you feel if someone of the same sex made a sexual proposition toward you? How would you feel if you learned your best friend is gay? How would you feel if you were gay? How did you feel when you first had a same-sex experience?

After the films, two visitors, a woman and a man from one of the local gay organizations, give a brief history of their lives, including the fact that their sexual orientation is that of homosexuality. The students' questions following this introduction usually revolve around the visitors' love relationship, family, friends, children, and generally how being gay has affected their lives.

At the conclusion of that discussion, the final section of the aforementioned student's paper is presented:

I was so impressed and moved by the presentation of the gay visitors. They spoke with such candor and pride. *Pride* is the big word here. They all seemed very happy in their relationships, and didn't seem to want to change for the world. In one hour's time, they actually instilled a tremendous pride in me—something I never thought could happen. *Pride!* After all, being gay is really not anything to be ashamed of; it's certainly not my fault. I have feelings, like anyone else, and I can't do anything about them. So what's to be ashamed of?

After thinking about today's class, I felt the need to give my love to someone, besides an Irish setter or a Siamese cat, more than ever before. Ken, you're the first to know that I am going to come out, and I will eventually find love. I can't tell you how excited I am about this—I mean really excited.

The students then form small groups where they try to sort out their feelings about the experiences they have just had.

At the end of the course, one young man wrote: "I am now sure that the gay expressing his intentions would require the same criteria for entering an intimate relationship as I or any other person would—that is, the components producing, forming, and developing such a relationship: acceptance, esteeming, understanding and sharing—and will continue to build that relationship with a mutual respect, responsibility, knowledge, and care. I'm secure with my choices and hoping to continually develop them. I learn and appreciate, I listen and don't always accept, I love and long to be loved, I need and want to be needed. David does too, but he chose Jonathan, I chose Mary. We're not that different!"

# BOOK REVIEWS

## NEW GAY BOOKS: A SELECTION

Reviewed by Charles Silverstein and George Whitmore

### General Nonfiction

**By Her Own Admission.** Gifford Guy Gibson with Mary Jo Risher. New York: Doubleday, 1977 (276 pp.; \$8.95).

Warfare in divorce is hardly a new problem, but the account of war here is different. Citing the fact that his wife was a lesbian who lived with another lesbian, the husband demanded custody of the child. Much of the story is heartbreaking, with children divided between loyalty to mother or father, and the use, sometimes abuse, of professionals as consultants.

The book forces the reader through page after page of testimony on the stand, and that becomes tiresome after a while. More space should have been given to information about legal issues and the frequency of such battles. **A**

**The Sexual Outlaw.** John Rechy. New York: Grove Press, Inc., 1977 (307 pp.; \$8.95; also in paper by Dell).

Although it is subtitled "a documentary," this book is part of the extended autobiography Rechy has been writing since *City of Night* (1963), sometimes under fictional, sometimes under non-fictional guise. In this book he writes of his experiences in three days of consummate sexual activity and the insatiable sexual appetite that can be a diversion from seeking love.

The book is an extremely effective portrait of alienation, with sex as a distraction from the problems of which compulsive cruising and competition with other males are emblems. The "documentary" parts of the book, interlarded with accounts of sexual exploits that are finally antisexual and nonsensational, are an afterthought and irrelevant to the behavior Rechy depicts. If read only for the sex this book, like most porno movies, will be a bore.

But if read for an understanding of one man's motivations, it becomes a livelier document. **A**

**A Family Matter: A Parents' Guide to Homosexuality.** Charles Silverstein. New York: McGraw-Hill, Inc., 1977 (214 pp., \$8.95).

This is the first and as yet only book addressed to parents with a gay child. The first half of the book discusses the experiences of four families with a gay son or daughter, and gives suggestions on how to make the experience a positive one. The second half is an examination of how homosexuality became designated a mental illness and of the changes in attitude toward gays by the mental health professions. It concludes with a chapter for gays on how to come out to their families. **A, P**

**Straight Answers About Homosexuality For Straight Readers.** David Loois. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1977 (190 pp.; \$8.95).

This is a well-meaning but confused effort to "explain" homosexuality. In his need to respond to the acknowledged prejudicial assumptions of his mythical "straight" questioner, Loois expresses fears and concerns that are not necessarily shared by other homosexual men. The assumption of this book is that they are. No great service is done for either party. **A**

**Loving Someone Gay.** Don Clark. Millbrae, Calif.: Celestial Arts, 1977 (192 pp.; \$4.95 paper).

Clark, a California therapist, outlines the basic information that gay-oriented (homosexual and heterosexual alike) professionals need to serve gay clients. Along the way, he treats issues of gay identity, the process of coming out, relationships with family and friends.

The great drawback of the book is a tendency to overemphasize the centrality of homosexuality in the lives of lesbians and gay males, to the exclusion of other concerns. This is neatly symbolized by the unremitting and

self-conscious capitalization of the word "gay" throughout. Though some may be put off by his constant chest beating on this count, gays respond very positively to the book, perhaps because Clark has said so many things that they want to say themselves, in the way they want to say them. **A, PR**

**The Homosexuals.** Alan Ebert. New York: Macmillan, Inc., 1977 (332 pp.; \$9.95).

These interviews with 17 gay men are notable for their voyeuristic quality; they are anonymous, no-holds barred encounters. The experiences of these men will probably be shocking to some readers, and since selection is always a factor in what finally goes into a book one wonders whether the "shock value" of the book was more important to the author than illumination of a lifestyle. The men are not representative of gays in general and there is an overall failure on the part of the editor to evaluate the materials or to integrate their experiences as a picture of the lives of gay men—anywhere. **A**

**Gay: What You Should Know About Homosexuality.** Morton Hunt. New York: Farrar, Straus and Giroux, Inc., 1977 (210 pp.; \$7.95).

Written as an explanatory guide for teenagers, this is a well-written book—at least as to style and readability. It offers youngsters a simple classification of gays and a simple notion of the etiology of gay life. It teaches them that there are two types of gays, "queer gays" and "straight gays," and that it is proper to call people "queer." There are only two types of lesbians, "butch" and "fem," and in this way, as in others, the book emphasizes role playing at the same time that the gay community is dropping it, and stereotyping at the same time that research is exploding it.

Unfortunately, this book amounts to a distorted and vicious attack on gay and lesbian life—all disguised as a liberal, "compassionate" attempt to un-

**Audience Level Indicators:** **C**—Children (elementary grades), **ET**—Early teens (junior high), **LT**—Late teens (senior high), **A**—College, general adult public, **P**—Parents, **PR**—Professionals.

derstand homosexuality. If put into the hands of the young people it is intended for, it is certain to increase any confusion that may already exist.

### Autobiography and Biography

**The David Kopay Story.** David Kopay and Perry Deane Young. New York: Arbor House Publishing Co., Inc., 1977 (247 pp.; \$8.95; also in paper by Bantam).

In probably the most successful of all recent gay books, at least in terms of sales, Kopay discusses his experiences as a "closeted" football star. Perhaps its popularity is due to the cognitive dissonance created by having a rugged, macho gay man who was not a "swish" (as people think gays are) tell his story. Gays knew it all the time, but Kopay's book proved it to the heterosexual world.

The book, however, offers little or no perception of the workings and abuses of professional football, though the effects of the cult of machismo are implicit in every paragraph. Kopay closely conforms to the stereotype of a football player even though he caused a sensation by being the first NFL gay to come out publicly. The stereotype is obviously still valuable to him, though why it should be invites incredulity. **A**

**The Naked Civil Servant.** Quentin Crisp. New York: Holt, Rinehart and Winston, 1968 (212 pp.; \$7.95).

Crisp is caught in an almost classic bind, candidly self-hating and vehemently hating his oppressor. By wearing makeup and dyeing his hair, by being openly effeminate, he managed during the twenties, as he writes, "to shift homosexuality from being a burden to being a cause," a cause he championed the rest of his life.

In contrast to many of the autobiographical books available, Crisp's is a series of episodes containing great humor and pathos. The book is a record of the battle of one man, with no allies whatsoever, against an oppressive English society. It is a cynical and arresting book, and highly recommended. Its issue in this country is the result of the showing of a widely acclaimed television version. **A**

**Familiar Faces, Hidden Lives.** Howard Brown. New York: Harcourt Brace Jovanovich, Inc., 1976 (246 pp.; \$8.95).

Dr. Brown, former Health Services Administrator for New York City, came out on the front page of the *New York Times* and went on to help found the National Gay Task Force. This post-humorous autobiography also includes brief sketches of the lives of other gay men.

Coming from a more conservative background than someone like Crisp, for instance, Brown is more understanding of gay people who feel they must keep their sexual and social lives secret. It is an intimate and sincere book but tepid in comparison to a biography like Merle Miller's *On Being Different*, where comparable material is more forthrightly dealt with. **A**

**Under the Rainbow.** Arnie Kantrowitz. New York: William Morrow and Co., Inc., 1977 (255 pp.; \$8.95).

This is the story of the growing up and coming out of a good Jewish son, in New Jersey and on Christopher Street in New York City—an honest account of the neurotic attachments that a son can have for his parents and the use of guilt as a way to deny one's sexual proclivities. Some dislike the book because it is relatively humorless considering its biographical antecedents (Malamud, Roth, etc.), but, then, Kantrowitz's techniques for fighting back were different from Crisp's, or Brown's, too. **A**

**Get Off My Ship: Ensign Berg vs. The U.S. Navy.** E. Lawrence Gibson. New York: Avon Books, October 1978 (approx. 384 pp.; \$4.95 paper).

Written by an intimate of Ensign Berg, the book documents the court-martial case by U.S. Navy prosecutors against Berg. Although perhaps not an objective view of the actual trial (Berg was thrown out of the navy), it reflects the pressures and conflicts of men who face the decision of quietly leaving or fighting for their rights. **A**

### Sex Manuals

**The Joy of Gay Sex.** Charles Silverstein and Edmund White. New York: Crown Publishers, Inc., 1977 (239 pp.; \$12.95).

Published with lots of fanfare, this is the most popular (again in terms of sales) of all the how-to sex manuals. Profusely illustrated with both color plates and line drawings, it follows the A to Z format of its predecessor, *The Joy of Sex*. It is a fine introduction to

the techniques of gay sex and gives advice on various emotional components as well. **A**

**The Joy of Lesbian Sex.** Emily L. Sisley and Bertha Harris. New York: Crown Publishers, Inc., 1977 (223 pp.; \$12.95).

This is the first major sex manual for lesbians ever published and, like its companion *The Joy of Gay Sex*, is in the A to Z format, with appropriate illustrations. Its publication has been an important step in recognizing the needs of lesbians. Since it is a first, there has been some controversy concerning the accuracy of some of its statements, but, then, let someone "build a better mousetrap." **A**

**Men Loving Men.** Mitch Walker. San Francisco: Gay Sunshine Press, 1977 (160 pp.; \$5.95 paper).

This paperback was published by a minor but important gay publishing house and made an instant splash. It's no wonder as it is a fine manual in tone and feeling and conveys a sense of being at peace with sex and sexuality.

The book is especially informative and comforting for men who are coming out, and includes a photo essay notable for its intimate, nonclinical approach. **A**

### Reference and Source Books

**Gay Source: A Catalog for Men.** Dennis Sanders. New York: Coward, McCann and Geoghegan, Inc., 1977 (288 pp.; \$6.95 paper).

This book is meant as a general source book for all kinds of services a gay man might want, but it is mostly noteworthy for what it has glossed over or left out. (This is especially evident in its listings of gay counseling centers.) In many of its entries it evidences either a lack of research initiative, bias, or a faulty sense of proportion. *The Gay Yellow Pages*, which is updated periodically, is much more inclusive and trustworthy. **A**

**After You're Out.** Karla Jay and Allen Young. New York: Pyramid, 1977 (292 pp.; \$1.95 paper).

This is a second set of essays from this highly productive team, the first having been *Out of the Closets*, a selection of writings on the experience of gays coming out. This book is more politically oriented than most of the

books on this list, containing mostly gay liberation statements by activists. Mainly, they are personal and highly idiosyncratic testaments on living in a nongay society. **A**

**Our Right To Love.** Ginny Vida. Englewood Cliffs, N.J.: Prentice-Hall, Inc., 1978 (318 pp.; \$12.95).

If this becomes the most popular lesbian book of the decade it will be because it is also the best book of its genre. It is a remarkable collection of essays written by lesbians and for lesbians—and throughout it speaks to the needs and values of women who love women. The choice of authors and illustrations (drawings and photographs) was made with sensitivity. It is unquestionably a book that every person should read. **A**

**Homosexuals in History.** A. L. Rowse. New York: Macmillan, Inc., 1977 (346 pp.; \$12.95).

This English historian and critic seems to have the goods on almost everyone in history. Shakespeare wasn't; Marlowe was. Both Bacons (did Elizabeth know?), some of your favorite kings, not just Edward II, and a genealogy of writers, composers, courtesans—well, almost a catalog of the history of the Western world. And not a hairdresser on the list!

But its gossipy nature is also the drawback of this book. It documents nothing and cannot be taken seriously from the perspective of gay liberation. The author's theories on what he calls "ambivalence" are Victorian at best—but, then, it is a Victorian book. **A, PR**

**Gay American History: Lesbians and Gay Men in the U.S.A.** Jonathan Katz. New York: Thomas Y. Crowell Co., Inc., 1976 (690 pp.; \$9.95 paper).

A fascinating set of documents is collected here recording sexual episodes, and their punishments, from the days of the conquistadors to the present. It accounts for the love of lesbians as well as males and thereby tries to point up the male dominance of other historical accounts. The book's popularity is well deserved and it has fortunately spurred a great deal of interest in further research on homosexuality, making research in gay history more credible. Its main drawback is that the material here is rather more assembled than integrated and Katz often leaves issues implicit where

they should be examined with more depth. Definitely a reference book but engrossing reading at the same time. **A, PR**

**The Anita Bryant Story.** Anita Bryant. Old Tappan, N.J.: Fleming H. Revell Co., 1977 (156 pp.; \$6.95).

This rather slim volume is the only real example of sexual conservatism on this list, with Hunt's book running a close second. Unfortunately, Anita Bryant is not a good spokesperson for the position and so the values presented are personal and not general. She writes about the recent Dade County referendum and those who supported or opposed her.

**The Church and the Homosexual.** John J. McNeil, S.J. New York: Pocket Books, 1976 (224 pp.; \$2.25 paper).

The first book on homosexuality written from inside and with the consent, if not approval, of the Catholic church, this study suggests that homosexuality can easily be integrated into Christian dogma. The thesis rests on the assumption that gays have the capacity for long-lasting, intimate relationships that are (and should be) directly comparable to heterosexual, church-sanctified marriages. Its significance, aside from the above, lies in its pointing out that gay religious organizations now abound in the U.S.

While many believe that the book is a signal approach to a new view of homosexuality, others do not. Critics say that it's merely "old wine in new bottles," since it demands the same values of gay couples as it does of straights, e.g., fidelity, love, and intimacy, obedience to church standards. It also recommends abstinence. **A, PR**

**Jonathan Loved David: Homosexuality in Biblical Times.** Tom Horner. Philadelphia: Westminster Press, 1978 (163 pp.; \$5.95 paper).

A brand-new entry into the religious field, this book represents a scholarly approach toward reinterpreting biblical statements about homosexuality. Like McNeil, Horner uses the work of Bailly (*Homosexuality in the Western World*, 1975) as his major source. He suggests that homosexual relationships existed between certain biblical people and that interpretations of antihomosexual attitudes are recent in origin.

This thesis is obviously going to arouse lively debate as time goes on,

and the argument will have to be settled by scholars. In due time it will be. For the present, it is useful that Bailly, McNeil, and Horner are saying the forbidden. **A, PR**

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**Loving Hands: The Traditional Indian Art of Baby Massage.** Frederick Leboyer. New York: Alfred Knopf, 1976 (133 pp.; \$7.95).

*Reviewed by Mary S. Calderone, M.D., President, SIECUS.*

Shatala, a strikingly beautiful young Indian woman, lives and works at a hostel for needy people in Calcutta, where she can have her own baby with her. There Dr. Leboyer, originator of the principle and author of the book called *Birth Without Violence*, photographed her as she carried out the traditional and loving art of baby massage with her baby of four to five months, and with some of the hostel children.

Each phase of the massage, which reaches every part of the body, has been carefully and strikingly photographed and accompanied by descriptive text. Most striking of all is the look of utter peace and relaxation on the children's faces and in the posture of their bodies, equally relaxed whether they are asleep or awake.

A country such as ours, with its heavy load of violence and hostility, would do well to take an open look at this book and what it suggests: traditionally India is filled with people who in spite of the hard deprivations of the lives of most of them appear to remain peaceful and gentle. Our people suffer deprivations, too—but there is one great difference: India is not a land that deprives its babies and children of close body contact with their mothers. In fact, this book suggests that a systematized approach to sensory or skin stimulation is practiced there, whereas it is well-known that a large proportion of U.S.-born babies are left alone in cribs during infancy—either because it's "good" for them and one shouldn't "spoil" them, or because the mothers have no time or interest or know-how in providing sensory experience and stimulation to their babies.

Harlow's work with infant monkeys separated from their mothers at birth and brought up in isolation suggests a high correlation between sensory

stimulus deprivation and later pathological states such as autistic behavior, aggression without provocation other than a mere touch, and inability to copulate in adult life. Inasmuch as the early infant-mother relationship lays down the association pathways for trust and love that should carry over into capacity for similar adult relationships, this beautiful book might well pass into the hands of American mothers who look at their first-born and wonder how much it should or should not be handled, and how. **LT, A, P, PR**

**A Family Matter: A Parent's Guide to Homosexuality.** Charles Silverstein. New York: McGraw-Hill, 1977 (214 pp.; \$8.95).

*Reviewed by Deryck Calderwood, Ph.D., Associate Professor of Health Education, Human Sexuality Program, New York University, New York, N.Y.; Member, SIECUS Board of Directors.*

Despite the new openness in the media concerning homosexuality, a Gallup poll on the subject released in July of 1977 still indicates limited acceptance of gay people in the United States. Perhaps the most difficult form of acceptance is that of parents for their gay children. Dr. Silverstein's book should do much to bridge the chasm that all too often exists of misunderstanding between parents and their gay offspring.

While the book is aimed primarily at parents, it will be helpful for counselors and any individual, gay or straight, who wants a better understanding of the homosexual's situation in society today. Four case studies of families are presented which illustrate the issues that must be faced as parents cope with a new image of their son or daughter.

In the section entitled "Society, Medicine and Homosexuality," a comparison is drawn between the history of our attitudes and beliefs related to masturbation and those held regarding homosexuality. Dr. Silverstein sees a parallel between medicine's efforts in the past to cure or control masturbation with equally misguided efforts to treat homosexuality as pathology today. The last section includes very practical tips on securing help or support

for parents and for gay individuals. The focus is on enabling the two generations to discuss their feelings honestly and to develop a relationship free from guilt on either side.

Dr. Silverstein has done an excellent job in providing an effective resource for parents. Now, how about a companion volume to help marital partners understand the homosexuality or bisexuality of one of the mates? **A, P, PR**

**Marital Separation.** Robert S. Weiss. New York: Basic Books, 1975 (334 pp.; \$11.95).

*Reviewed by Linda S. Hodes, M.S.W. In private practice of psychotherapy, Downer's Grove, Illinois.*

Using his own and other available research data on the effects of marital separation, and also drawing on his and others' experiences in transition counseling for the separated, sociologist Weiss addresses this very useful book both to people contemplating or undergoing separation and to professionals in the field. Without using jargon or technical language, or delving deeply into possible intrapsychic motives and assuming pathology or blame, he accepts people "where they are." He includes numerous quotes from separated men and women and his follow-up comments and discussion will undoubtedly make it possible for readers to identify with these people and to learn ways to cope with and respond to their own situations. He has apparently done a good deal of research in this field and his footnotes provide ample avenues for those who wish to delve further into a given topic.

Weiss writes in a thorough manner on most of the important issues and phenomena related to separation: persistence of attachment; emotional reactions such as grieving and rage; identity change; ongoing relationships with spouse, kin, and friends; effects of the separation on children; legal concerns; and finally "Dating and Related Matters."

The "related matters" referred to in the final chapters primarily concern sex, and I wish that Weiss had amplified the few pages he devotes to this subject. Possibly the participants in his seminars did not feel free to discuss sex in any depth, or were still in the

early stages of separation and not yet ready to deal with their sexual needs and problems; or perhaps the author himself is not as at ease with or as knowledgeable about sexual issues as he is about other aspects of marital separation. At any rate, as a woman divorced after 25 years of marriage, and as a counselor working with separated people, I have found that the sudden deprivation of sexual strokes and the need to replace these in safe, pleasurable, and socially acceptable ways is a major issue for separated people. Masturbation and self-pleasuring as major personal resources are not even mentioned in the book and I find this a notable deficiency. The short section devoted to the problem of working out comfortable ways of relating sexually to persons other than the former spouse is useful but should be expanded, for this is a difficult and individual matter where each person must grow, experiment, and be aware of her or his own comfort level in order to manage successfully while single. Resolution for each person will be different, and ample and diverse information from others is both very helpful and hard to find.

The final chapters, a discussion of new attachments (including a very interesting one on the differences between and relative advantages and disadvantages of "going with," living with, and marriage), a description of the format for the author's "Seminars for the Separated," and a selected review of the literature, are all excellent. Weiss states that it seems to take most people from two to four years to complete fully the transition from being married to being single, and he hopes that his book will serve as a sort of guidebook for those still in that "living-in-a-foreign-country" kind of experience. I think the book (particularly the chapter on children) might also be useful for those who have largely completed their experience of separation, as a sort of "guidebook for where I have been." Another nice thing about this book is that it is not necessary to read it through; one can quite easily read the one or several chapters which particularly relate to one's own immediate needs or interests. Furthermore, a couple who feel their marriage is moving toward some toothy rocks might, by reading it, estimate more clearly what they might be interested in doing to avoid shipwreck. **A, P, PR**

# LEGAL BRIEFS

"Legal Briefs" is prepared by Ralph Slovenko, LL.B., Ph.D., Professor of Law and Psychiatry, Wayne State University Law School, Detroit, Michigan.

## The Marital Rape Exemption

Should rape be defined without reference to marital status? Should sex on demand be a marital obligation, enforceable by might? A recent law review article suggests that state legislatures should act promptly to eliminate or at least modify the general rule of law that a husband cannot be prosecuted in the case of forceful sex with his wife. The author condemns this "marital rape exemption" as supported by only outmoded rationales and a contradiction to the principle of equality in marriage.<sup>1</sup> If the exemption were indeed entirely abrogated, a wife would be entitled in the case of unpermitted sex to file a criminal complaint against her husband. Under the proposed recodification of federal criminal law (dealing with federal jurisdiction), forceful sexual intercourse committed by a spouse would constitute rape. The question remains, however, whether this proposed change is as desirable as its proponents, largely feminist and women's rights groups, claim or if other types of changes in the law governing rape prosecutions are more appropriate.

Formal recognition of the rape exemption in the common law dates from the seventeenth century. It has its genesis in a statement in Sir Matthew Hale's famous work, *The History of the Pleas of the Crown*, wherein it is stated:

The husband cannot be guilty of a rape committed by himself upon his lawful wife, for by their mutual matrimonial consent and contract the wife hath given up herself in this kind unto her husband, which she cannot retract.<sup>2</sup>

On the strength of Lord Hale's statement, the husband's immunity from prosecution was recognized in the United States as early as 1857 in a Massachusetts case.<sup>3</sup> In most states, the rule remains unquestioned today.<sup>4</sup> The only way to convict a husband of raping his wife is if he forces her to have sexual relations with a third person.<sup>5</sup>

Much of what has been said so far depends, as is so often the case in the law, upon definitions of terms. "Husband" could include anyone legally married to the victim or only those legal spouses who are not the subject of a legal (court decree) separation or only those who are cohabitating with the woman at the time, whether they are legally married or not. In Michigan, Minnesota, and Nevada, to exclude the exemption, the husband and wife must not only be living apart, but also one of them must have filed for divorce or separate maintenance.<sup>6</sup>

Delaware and South Dakota recently eliminated the husband's exemption altogether. In Delaware, rape is classified in two degrees. Rape is in the first degree if the victim is not the defendant's voluntary social companion on the occasion of the offense and had not previously permitted him sexual contact. Marriage or previous sexual contact, however, does not negate a charge of rape in the second degree.<sup>7</sup>

A husband has no defense to a charge of second-degree rape other than those accorded to any stranger charged with the same offense. For that matter, the husband is given no special priority over other men known to the wife. One would assume, however, that the fact of the couple's marital relation would be a relevant factor considered by a judge or jury when weighing, among other issues, an accused husband's proffered defense of consent. On the other hand, that is only a relevant factor after the husband has been charged with the crime and hauled into court to answer the charges.

There is in the Delaware statutory scheme an explicit inclusion of "persons living as man and wife, regardless of the legal status of their relationship" in the definition of husband and wife for purposes of other sexual offenses where the marital exemption is not eliminated.<sup>8</sup> Thus, any man living with the woman he attacks is protected from prosecution for "sexual assault," a class A misdemeanor, and "sexual misconduct," a class E felony,<sup>9</sup> as well as for first-degree rape; but the husband can be convicted of the "middle" offense of second-degree rape, a class B felony (which is punishable by from 3 to 30 years imprisonment). The logic of such a scheme is far from clear.

In South Dakota, the 1975 revision of its code on sex offenses includes a redefinition of the term "rape" which omits the earlier definition which had excluded husband-wife intercourse.<sup>10</sup> The notes to the revised law make it clear that the legislature did not intend to retain the exemption for husbands. Some have hailed this change in definition, like the Delaware change, as a welcome abrogation of the common law defense of marital status.<sup>11</sup>

In the thirteen or so states where the husband's immunity from prosecution is only judicially implied from the common law history growing out of Lord Hale's famous declaration, there is at least the possibility that the courts in those states will reevaluate the husband's exemption and remove it as a judicial revision of the common law. Such a change could be justified as a judicial revision of law originally written by judges in earlier cases.

That was argued in the recent case of *State v. Smith*,<sup>12</sup> where the state prosecutor urged that the New Jersey statute (which had no express provision for the exemption)<sup>13</sup> be judicially construed to prohibit all forcible sexual intercourse with a woman against her will regardless of the marital relation of the parties. The Essex County court concluded that the marital exemption must be judicially implied, since the court lacks authority to depart from the common law rule and create criminal responsibility where none had previously existed. The court devotes several pages of its lengthy opinion, however, to condemning the injustices of the exemption.

The court addressed the policy arguments that allowing husbands to be prosecuted would increase the risk of fabri-

cated accusations, unduly invade the sanctity of the marriage relationship, increase the wife's ability to gain an advantage over an estranged husband with respect to property settlements, become a weapon of vengeance for the spurned wife, and lessen the likelihood of reconciliation, rejecting them all. The court first noted that the criminal justice system is well accustomed to dealing with false or fabricated charges, summarily dismissing as a "naked assertion" Lord Hale's statement that "It is an accusation easily to be made and hard to be proved and harder to be defended by the party accused, tho never so innocent."<sup>14</sup>

The court seems to have overlooked the logic behind Lord Hale's assertion. There will seldom be a witness to the sexual relations of a man and his wife, be they forcible or consensual. It will simply be his word against hers. The criminal law is accustomed to dealing with crimes with no witnesses but not with crimes with no evidence of a crime nor witnesses, as will be the case in any marital rape where there are no visible bruises. In fact, the response of the criminal law in such a situation has often been to deny the occurrence of a crime until some objective evidence can be found other than the allegations of a single aggrieved person.

The court also notes that there are false charges other than rape which a vengeful wife can allege against her husband, citing assault and battery, larceny, and fraud as specific offenses. It should be apparent, however, that none of these charges is as severely penalized by the law.

Lord Hale's statement that an allegation of rape by a husband is "easily to be made" points out the special position the wife holds with respect to her husband. If anyone knows the husband's darkest secrets, it is she. For that reason, the law of evidence as a general rule refuses to admit as evidence the testimony of a wife against her husband or vice versa. There is too great a chance for perjury, either way, depending on the feelings of the moment. It would allow the wife to hold a sword of Damocles over her husband.

The New Jersey court also belittles the proposition that allowing criminal prosecution of rape lessens the likelihood of reconciliation, stating that reconciliation is already highly unlikely where a relationship has deteriorated to the point of forcible sexual advances by the husband. The court fails to recognize, however, that it is not the case where there truly was a forcible rape that is objected to but those cases where an allegation of marital rape would be a spiteful part of a domestic quarrel. Lord Hale, noting that the allegation was "easily made," appreciated the likelihood that angry wives would recognize that as well.

#### Notes

(The research assistance of S. Lee Terry, Jr., third-year law student at Wayne State University, is gratefully acknowledged.)

1. Note, "The Marital Rape Exemption," 52 N.Y.U. L. Rev. 306, 322 (1977). See also Comment, "Rape and Rape Laws: Sexism in Society and Law," 61 Calif. L. Rev. 919, 925 (1973); Susan Brownmiller, *Against Our Will* (New York: Simon & Schuster, 1975), p. 428.
2. Matthew Hale, *The History of the Pleas of the Crown*, vol. 1, p. 629 (S. Emslyn ed. 1778).
3. *Commonwealth v. Fogarty*, 74 Mass. 489, 490 (1857).
4. Today, 27 states provide in their rape statutes for the husband's immunity. Of these states, 19 include this immunity in their definition of rape or sexual assault. Eight other states have

separate statutory exemptions. In the states that do not provide for the exemption by statute, some 13 states, the courts have uniformly applied the common law rule.

5. See Annot., 84 A.L.R. 1017 (1962).
6. *Mich. Comp. Laws Ann.* § 750.520 (Supp. 1976); *Minn. Stat. Ann.* § 609.349 (Supp. 1976); *Nev. Rev. Stat.* § 200.373 (1975).
7. *Del. Code*, tit. 11, §§ 763, 764 (Supp. 1977).
8. *Del. Code*, tit. 11, § 772 (Supp. 1977).
9. *Del. Code*, tit. 11, §§ 761, 762 (1975).
10. *S.D. Compiled Laws Ann.* § 22-22-1 (Supp. 1976).
11. Note, "The Marital Rape Exemption," 52 N.Y.U. L. Rev. 306 at 317 (1977).
12. 148 N.J. Super. 219, 372 A.2d 386 (1977).
13. *N.J. Stat. Ann.* § 2A:138-1 (West 1969).
14. Hale, *op. cit.* at 634.

## DO YOU KNOW THAT...

### National Family Sex Education Week

The fourth annual National Family Sex Education Week is scheduled this year during October 8-14, sponsored by the Institute for Family Research and Education, at Syracuse University. Many organizations across the country schedule events during this week to help parents become better sex educators. For suggestions about what you or your organization can do, write to: Joseph Fanelli, National Coordinator, IFRF, 760 Ostrom Avenue, Syracuse, NY 13210.

### Resources to Write for . . .

**Top of the News** is the publication of the Association for Library Services to Children, Young Adult Services Division, of the American Library Association. Volume 34, No. 2, Winter 1978, is devoted almost entirely to a symposium on Sex and Youth. Articles include Warren Johnson's "Childhood Sexuality: The Last of the Great Taboos?" reprinted from the March 1977 issue of the *SIECUS Report*; "Young People, Sexuality, and Librarians," by Mary S. Calderone; "Adolescent Sexuality: An Attitudinal Dilemma," by Roger Mellott; "Rape and the Teenage Victim," by Richard Peck; "Sex Books: To Shelve or to Shelf?" by Beverly Hotchner; "Sex Education: Books for Young Children," by Dorothy M. Broderick; and a delightfully acerbic article by Patty Campbell, "What Every Young Man Should No," which paints the background of fear, ignorance, and hatred of sex that we have all suffered from. An article by W. Cody Wilson is doubly valuable: it summarizes the most recent statistics on adolescent sexual activity and pregnancy as well as the important but difficult-to-find work by Lawrence Kohlberg on moral decision making, which is presented clearly and concisely in "Adolescent Moral Development and Sexual Decision."

*Top of the News* reaches almost every public library in the country. A 52-page reprint of the entire sexuality section, "Sex and Youth: A Symposium," is now available for \$1.75 from the American Library Association Order Dept., 50 East Huron St., Chicago, IL 60611. (All orders under \$5.00 must be prepaid.) SIECUS' thanks go to all those responsible for this excellent contribution to the human sexuality movement from an important segment of the professional community.

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