

**THE**  
**NATION**

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**MISSILES —  
AND CHAMPAGNE**

*Dan Wakefield*

**TOO MANY  
SEX LAWS**

*Karl M. Bowman*

**POLITICS OF THE  
AUTO SETTLEMENT**

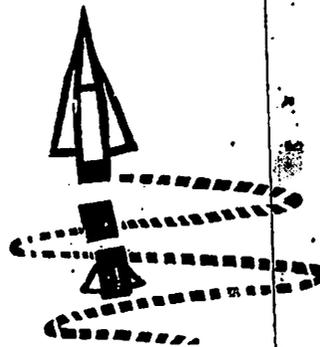
*B. J. Widick*

sistant Secretary of the Air Force (in charge of materiel) spoke to the Dallas Rotary Club during the convention on other practical business aspects of the Air Force and its preparations. Secretary Sharp pointed out that, "When a commander takes his B-52 off the ground, he becomes in effect the vice president in charge of about eight million dollars worth of property. What percent of the business houses and merchants in Dallas have a greater inventory to deal with?"

The social highlight of the convention was the Friday night party entitled "The Western Wing-Ding." The AFA explained to those attending the convention:

"We have one little problem we would like to explain and solicit your understanding. Several months ago, we thought it would be most appropriate to give every convention registrant Western outfits. After studying the situation further, it be-

came apparent that this would be a task that even a Texan would not want to tackle. We finally were able to arrange for a Western hat for each person who registered before the deadline given us by the hat manufacturers. . . . We are sorry that we could not arrange hats for everyone. So that no one will go bareheaded, we have arranged to have hats on sale for \$3 each in the drug store at the Starler Hilton and in the check room at the Adolphus Hotel. . . . P.S.: Regarding Western hats — a



number of registrants failed to list a hat size. We had to assume that these persons did not desire hats and therefore none were arranged for them."

THE convention was opened by a reading of the Air Force Association official invocation, led by Father Mulalley and recited, as suggested in the program, by the entire assembly:

"Lord, God of Hosts and Father of us all, be with us as we are about to open our national convention. Take out of our hearts all selfishness. May our constant motivation be the ideals and principles expressed in the Preamble of our constitution—Peace through Airpower. Lord, God of Hosts and Father of us all, may all our deliberations and all our decisions at this convention be in accord with thy Holy will and merit thy continual blessing. Amen."

Let us pray.

## TOO MANY SEX LAWS . . . by Karl M. Bowman

ANCIENT HEBREW law made sodomy a capital offense. The Mosaic law, according to Goldin, included only thirty-six capital crimes; half of them involved illegal sex relations. Three of these described unnatural sex relations: (1) between man and animal; (2) between woman and animal; and (3) between one man and another.

The Christian religion largely took over the Jewish laws concerning sexual behavior. Sodomy came to be the crime "*peccatum illud horribile inter Christianos*" — that abominable sin, not fit to be named among Christians. The medieval ecclesiastic courts made it a serious crime, even

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when committed in secret. According to early English authorities, the guilty person was to be burnt or to be buried alive. By the time of Richard I, it was the practice to hang a man or to drown a woman guilty of sodomy. With the separation of church and state, the law was changed several times; once the penalty was even decreased. But in 1562-63 the original law was made perpetual and was not touched again until 1861, when a Victorian statute reduced the penalty to life imprisonment. American colonial laws inherited the early English enactments or English common law.

We thus find that our laws regarding sexual behavior have been largely inherited from, and mainly based on, the ancient Jewish code of over two thousand years ago. It would seem time, therefore, to re-evaluate our thinking, as well as our laws. In this connection, some questions are in order. First, what is "normal" and what is "abnormal" sexual behavior? In Moslem coun-

tries, a man may legally have four wives at the same time; in the United States, he may have four or forty different wives, but only one at a time. In many countries, homosexual acts carried out in private by two willing adults are not crimes. In fact, in some European countries (for example, France under the Code Napoleon), any sexual act carried out by two consenting adults which does not result in physical harm and does not offend public decency is not considered a crime. In contrast, our laws in the United States are highly restrictive. A great many types of sexual behavior are regarded here not only as immoral, but as illegal and punishable by law. It is of interest to note that some of the most highly praised books on marriage-counseling advocate sexual practices (when desired by both partners) which are felonies in most American states.

In other words, we have a situation in which leaders in science, medicine and religion advise that

married couples should, if they wish, commit felonies.

Scientific observations show that many of the higher mammals indulge in various sexual practices such as masturbation, fellatio, cunnilingus and sodomy. To many investigators of human behavior, it seems that man inherits from his mammalian ancestry some or all of these tendencies; indeed, we all have various antisocial and undesirable impulses, not only along sexual lines, but also toward murder, assault, theft, and so on. Many great writers have expressed this idea one way or another. Goethe once said that he felt he had within himself the capacity for committing every conceivable crime.

Society recognizes the universality of these undesirable impulses and passes laws against the carrying out of some of them. Religion labels some as sins. As for the sexual impulses, it has been said that biologically there is no such thing as sexual perversion, that all perversions are culturally determined. Likewise, the society in which one lives decides what sort of sexual behavior may be practiced and what type is forbidden by law. The forbidden practices are commonly referred to as "perversions."

WE ARE beginning to see a breakdown of the long-standing taboo on public discussion of sex, and at the present time there is a revival of interest in the problem of sex legislation. Many persons and groups desire to modify the laws in the direction of greater leniency; on the other hand, some groups seek to restrict sexual behavior even more. Where we have honest differences of opinion about the propriety of certain types of sexual behavior, it would seem that we ought to rely on education, family training and the influence of society generally (including religious organizations), as a means of dealing with the problem, rather than on the passage of new laws.

The clearest current example of an honest difference of opinion is with regard to birth control and the dissemination of knowledge about contraception. At the recent Lambeth Conference in England, it was

agreed that sexual intercourse in marriage is a normal expression of love and affection and should be indulged in freely without necessarily leading to pregnancy. At the other extreme on the same subject are statutes, effective in two American states, which forbid a doctor to give advice regarding contraception to a married woman even if he thinks pregnancy might lead to her death. This is, perhaps, an extreme example of how the law may seek to intervene in sexual behavior, even that of married couples.

NUMEROUS countries and several states of the United States have tried to modify certain sex laws, particularly those against homosexuality, with varied results. A few years ago, New York reduced ordinary homosexual acts from a felony to a misdemeanor. At the same time, California raised the penalty from a maximum of ten years to a maximum of twenty years, later fixing a minimum of one year and a maximum of life imprisonment for anyone "guilty of the infamous crime against nature, committed with mankind or with any animal." Again we see the two forces at work: one to decrease the penalties, one to increase them.

Perhaps it might be well to define homosexuality and homosexual acts. According to the dictionary, homosexuality is a sexual propensity for persons of one's own sex. The recent Wolfenden Report (British) of the Committee on Homosexual Offenses and Prostitution insists that the mere presence of such a propensity is not a homosexual offense and cannot be legally punished. Legally, no state in the United States specifies homosexuality or homosexual behavior as a crime by that name. But I would point out that the federal government has taken a somewhat different attitude: in the armed forces, not only homosexual acts but even homosexual tendencies may lead to an "undesirable," or "blue," discharge. Such a discharge bars the holder from all Veterans Administration benefits, including compensation or pension. It may also prevent him from getting a job.

A recent directive issued by one branch of the armed services stated

that although homosexuals are security risks as well as moral risks, and their presence reflects unfavorably on the service, their cases must be disposed of justly. Two points must be decided in the individual case: Is the "homosexual" label justified, i.e., is the individual a homosexual, whether or not he has committed a perverse act? If so, what type of discharge is suitable?

In other words, we find that a psychiatric diagnosis of *latent* homosexuality may conceivably result in a type of "undesirable" discharge. Since, as I have pointed out, some degree of homosexual impulse is present in practically everyone, it would be fairly easy to label a large percentage of our population as latent homosexuals and then proceed to discriminate against them.

Homosexuals are often classified as latent or overt. It seems extremely far-fetched to speak of an individual as an "overt homosexual" who has had a few homosexual experiences in childhood or adolescence, particularly if as an adult he is leading a completely heterosexual life. Yet it has been reported that individuals with this kind of history have been discharged from federal service.

The latent homosexual can be divided into two subgroups. The first consists of those who consciously desire homosexual relationships, but who carefully control these impulses in the same way that others control their heterosexual desires — for example, young women with normal heterosexual drives who nevertheless maintain their virginity. The second group consists of those who have no conscious interest in homosexual relations and even react with disgust to the idea. However, strong homosexual drives are present at the unconscious level, and their behavior is often motivated by these drives, which emerge in disguised fashion. It seems probable that the tremendous degree of emotion which the subject often arouses in some people is due largely to the stirring up of their own repressed or latent homosexual impulses.

It is clear, then, that the term "homosexuality" does not describe a simple homogeneous group, but in-

cludes several groups which differ from each other in many ways.

From a legal standpoint, I would agree with the Wolfenden Report, which argues that laws and regulations regarding sexual behavior should accept the fact that homosexuality *per se* is not an offense. I also feel that legal procedures should be invoked only against persons who have actually committed homosexual acts.

THERE IS much controversy over what causes homosexuality, and I will not attempt to settle the matter here. I would point to a study by Kallmann on identical twins which indicates homosexuality as an inherited tendency. Various endocrinological studies show, at least in some cases, definite physical causes. There are many psychological theories. Freud, for example, considered that homosexual impulses are part of the normal state in the evolution of the sexual instinct through which everyone passes. In a letter to an American mother who asked about treatment for her son, Freud wrote:

Dear Mrs. ....

I gather from your letter that your son is a homosexual. I am most impressed by the fact that you do not mention this term yourself in your information about him. May I question you, why you avoid it? Homosexuality is assuredly no advantage; but it is nothing to be ashamed of, no vice, no degradation, it cannot be classified as an illness; we consider it to be a variation of the sexual function produced by a certain arrest of sexual development. Many highly respectable individuals of ancient and modern times have been homosexuals, several of the greatest men among them. (Plato, Michelangelo, Leonardo da Vinci, etc.) It is a great injustice to persecute homosexuality as a crime, and a cruelty, too. If you do not believe me, read the books of Havelock Ellis. . . .

Sincerely yours with kind wishes  
Freud

Under Freud's theory, everyone would be classified as having latent or repressed homosexual impulses. Other students of the subject emphasize the conditioning experience of early life, the relationship of the child to the parents, the way in which

he may have been initiated into sexual practices, and many other factors. Homosexuality may arise from a multiplicity of causes rather than from a single cause. There is evidence, moreover, that certain aspects of our culture may tend to drive individuals away from heterosexuality and into homosexuality.

SOCIETY has the right to protect itself against behavior — including sexual behavior — which it feels is a crime against the "peace and dignity of the state." The question is: Where should we draw the line and when should the state pass laws regulating sexual behavior? Society should be and is most concerned about two things: sex crimes of violence and sex crimes against small children. I think there is universal agreement that laws with strong penalties should be kept for these two offenses. I do not believe that anyone advocates any diminution of severe penalties for these two crimes.

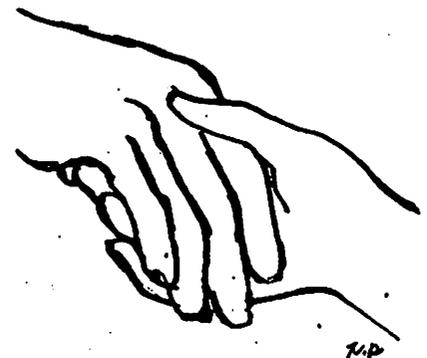
The most controversial point is the problem of overt homosexuality. Regarding this, a number of medical and legal societies and some religious organizations in Great Britain and the United States have advocated less repressive laws. The report of a council representing the Church of England, the British Government paper commonly known as the Wolfenden Report, and the recommendations of the British Medical Society all advocate that homosexual practices between two willing adults, carried out in private, should not be considered a criminal offense.

In our own country, the American Law Institute (in May, 1955) after considerable argument, voted 35 to 24 to recommend that sodomy between consenting adults "be removed from the list of crimes against the peace and dignity of the state." In the final debate, Judge John J. Parker opposed any change in present law on the ground that many things are "denounced by the Criminal Code in order that society may know that the state disapproves." But Judge Learned Hand, speaking for revision, stated that criminal law which is unenforced is worse than no law at all. He declared that, after previously voting the other way, he

had decided that sodomy is "a matter of morals, a matter very largely of taste," and not something for which people should be put in prison. Many members of the medical profession share this attitude.

I would therefore advocate that we should probably follow the Code Napoleon not only in the matter of homosexual acts, but as to other sexual acts of a heterosexual nature. I do not believe that bestiality, for example, should carry a possible maximum penalty of life imprisonment, as provided by the California statute. I would also advocate that the state has no right and should not seek to regulate the sexual behavior of married couples. Sending a married couple to prison because they were accidentally seen to be carrying out a so-called "perverse act," and placing their children in foster homes, seems to me an unwarranted interference on the part of the state. Nor has the state any right, in my opinion, to interfere with the use of birth control by married couples, or with the practice of medicine by physicians. Is it reasonable for a state to forbid a doctor to advise a married woman about the practice of birth control when pregnancy might endanger her life? Here I would like to quote from the Lambeth Conference Report:

Sexual intercourse is not by any means the only language of earthly love but it is, in its full and right use, the most intimate and the most revealing. . . . It is a giving and receiving in the unity of two free spirits which is itself good (within the marriage bond) and mediates good to those who share it. Therefore it is utterly wrong to urge that, unless children are specifically desired, sex-



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ual intercourse is of the nature of sin.

The report of a council of the Church of England, drawn up several years ago and not for general publication, recognized the fact that although homosexual acts are a sin in the eyes of the church, they are not necessarily crimes punishable by the state. In England, fornication and adultery are sins, but are not crimes, although they may well have much graver social consequences than homosexual practices. It is therefore unjust that consenting

homosexual men can be sent to prison under a criminal law that ignores both heterosexual sins and female homosexual acts. The present law, instead of protecting the young and preserving public decency, offers a chance for blackmail and may indirectly cause suicides. It also helps the homosexual, by giving him a just grievance, to ignore the moral implications of his act. For these reasons the council urged an investigation into all possible revisions of the law.

We have in the United States a considerable number of persons who want to regulate by law the behavior and even the thinking of others. I agree with Thomas Jefferson: "That government is best which governs least." The idea that the state should increasingly regulate human behavior and human thought is to me a departure from the whole theory of democracy. I believe that a liberalization of sex laws is desirable. Such a course is backed by some of the greatest authorities in the world.

## THE ENTANGLING MR. CHIANG . . . by Alexander DeConde

THE PRESENT crisis over Quemoy and Matsu has confused and divided American opinion on foreign policy as it has not been since Dwight D. Eisenhower moved into the White House. Many Americans are asking themselves if their Government's entanglement with Chiang Kai-shek's Nationalist Chinese regime on Formosa (Taiwan) will lead to the nuclear war all of us dread. Some of us recall that Secretary of State John Foster Dulles on December 3, 1954, signed a formal treaty or mutual-security pact — in old-fashioned words, an alliance — with Nationalist China. Some of us may be asking ourselves: Was this departure from the traditional principle of avoiding entangling alliances, a foreign-policy principle that served us well for a century and a half, really necessary?

Events and the nature of the alliance itself seem to show that the Formosa treaty is an unnecessary entanglement, and that it lies at the root of part of our present dilemma. The classic advice in George Washington's often misunderstood Farewell Address of September, 1796, is still valid; Washington, it must be

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remembered, warned against *permanent* alliances, though he saw nothing wrong with alliances designed to achieve specific objectives in line with our national self-interest.

Washington's suggestion was provoked by his unpleasant experience with the French Alliance of 1778, which achieved the two basic objectives of the signatories: it contributed to England's defeat in war and helped this country win its independence. But after U.S. independence was achieved, the alliance — which pledged both countries to defend each other's territory "forever" — became an obnoxious burden to the new nation. It threatened to drag the American people into a war against England that could benefit only France and created dissension and political turmoil among American partisans of England and France. Moreover, it promised no compensating advantages.

So President Washington and his successor, John Adams, tried to obtain a release. When France refused, they risked war with her rather than cling to an alliance that, in their view, was harmful to their country. Finally, France agreed to give up the treaty — for a price which the United States willingly paid. In retrospect, the price seems low. This country agreed to abandon claims of American citizens, amounting to about \$20,000,000, against France for the destruction of ships and other

properties in the wars of the French Revolution. President John Adams thus sacrificed the interests of the few for the welfare of the many.

This unpleasant experience made such a lasting impression on Americans that the United States did not sign another alliance for a hundred and sixty-nine years. During this period, taking Washington's advice with great literalness, we completely avoided "entangling alliances" — the phrase was first used by Thomas Jefferson — of any kind. So strongly was this principle entrenched that President Wilson brought the United States into World War I not as an "ally" but as an "associated power."

IT WAS only after World War II that the United States, faced with the growing and aggressive power of Soviet Russia, discarded the principle. We have since created a complicated, world-wide network of alliances embracing forty-eight nations. We are tied to multilateral pacts in the Western Hemisphere through the Treaty of Rio de Janeiro of 1947. We launched the North Atlantic Treaty of 1949 for the defense of Western Europe. In 1951, we signed the ANZUS Pact with New Zealand and Australia, and in 1954 we committed ourselves to the Southeast Asia Collective Defense Treaty (SEATO) with Australia, France, New Zealand, Pakistan, the Philippines, Thailand and Great Britain. We have also made bilateral treaties