

The past year has been an unusual one for the Legal Committee of the Mattachine Society. This was because a large portion of the Committee's efforts had to be devoted to the draughting of an entirely new constitution for the Society, which document had then to be steered through to its final ratification. The Committee's work on the new constitution was not done under the name of the Legal Committee, but as the Constitutional Advisory Committee. However, since the membership of the one was almost identical with the other, the result was to take up a large part of the Legal Committee's time and efforts during the entire year.

Important as was the writing and adoption of the new constitution, the Committee is mindful of the fact that this kind of "housekeeping" work for the internal needs of the Society is not the raison d'être of its existence. It expects such work to be reduced to a minimum in the future, in order that it may concentrate its efforts on what must ever be its central goal -- working toward general law reform in the field of homosexual conduct. With the exception of some minor amendments to the new constitution which the present document, like all new instruments, will require by way of clarification, the Committee plans to concentrate its main efforts during the coming year in an outward-going direction.

The past twelve months have witnessed continuing ferment in the area of law reform. Several states are now in the process of considering the abolition of their legal sanctions against homosexual conduct performed in private by consenting adults. In all of these states but one, the subject is being taken up as part of a general overhaul of the entire criminal law. In North Carolina, however, the matter is the subject of a special state committee, appointed by the Governor specifically to consider legal reform in this area. In addition to these developments in this country, reform along similar lines advocated by the Wolfenden Committee very nearly became law in Great Britain in the last session of Parliament. A bill incorporating these changes passed the House of Lords, and had very nearly completed the necessary three readings in the House of Commons, when the dissolving of Parliament by Her Majesty's Government in March reduced everything to naught, and necessitated starting once again from the beginning in the newly-elected Legislature. Nevertheless, the prospects for some fundamental legal reform in England during the life-time of the present Parliament are very good.

On the domestic scene, the Legal Committee has been in contact with groups working for law reform in two of the several states where the subject is under review. Committee representatives have held private discussions with persons from a mid-western state, and have visited a southern state for discussions with persons there. Since these discussions must needs be conducted under conditions of complete privacy, it is not possible to give further details here.

One overriding consideration of which the Committee is ever mindful is that none of the proposals for legal reform contemplate any change in the subsidiary legal sanctions against homosexuality, the ones of which the great majority of homosexuals run afoul, and which provide the setting for most of the entrapment cases. These sanctions are subsumed under differing titles in different jurisdictions, but are all of them derivative of, and patterned after, the English statutes against importuning. Thus they appear in this country as laws against soliciting, or laws against making an indecent proposal, or laws against loitering for an immoral purpose, or, finally, as a combination of these, like the provision in the new New York code that will take effect next year, which penalises loitering for the purpose of soliciting another person to engage in a deviate sexual act. The Model Criminal Code of the American Law Institute, which proposes the abolition of the fundamental laws against sodomy, and the recommendations <sup>of</sup> <sup>are</sup> which primarily responsible for the present changed legal climate, makes no recommendation for change in this subsidiary area, which, as pointed out above, accounts for the bulk of homosexual arrests. On the contrary, the Model Criminal Code continues to recommend <sup>criminal</sup> penalties against loitering for the purpose of soliciting others to engage in deviate sexual acts. Only in Illinois have all laws against homosexuality been repealed, and the years since the Illinois repeal tend to confirm the view that, as between following the Illinois precedent and the recommendations of the American Law Institute, the states are much more likely to follow the latter.

In the face of this somewhat discouraging prospect, the Committee has formulated certain plans, and has already made some initial contacts with a view to implementing them. It expects these plans to unfold during the coming year.

As the year was drawing to a close, the Legal Committee was called upon by the President of the Society to assist in the legal cases which had arisen over the

patronage of liquor establishments by homosexuals. The Society had already contested the legality of the restrictions upon such patronage imposed by the Alcoholic Beverage Commission of New York state by initiating a test case. This was being handled by the Society's regular law firm of Ellis, Stringfellow, and Patton. However, when it appeared that similar cases were arising in New Jersey, the chairman of the Committee was asked to intervene, with a view to coördinating, if possible, the New Jersey cases with the efforts in New York. At this writing -- subsequent to the Committee's report made at the annual meeting in May -- it can be reported that the Committee has arranged for the intervention of the Society in the most promising of the New Jersey cases as amicus curiae, and -- perhaps more important -- has succeeded in inducing the Civil Liberties Union of New Jersey to make a similar, but independent, intervention as amicus in the same case. Both the New Jersey and New York cases will be litigated through the highest appellate courts if necessary, and it will therefore be many months before any definitive results can be expected.

Within the Society itself, the Committee, under the generous aegis of committee member Irwin Strauss, has, during the past year, made increased provision for free legal advice to those unable to afford a regular attorney.

Respectfully submitted,

[signed]

Austin Wade

Austin Wade, chairman

30 June 1966