

NATIONAL COMMITTEE FOR SEXUAL CIVIL LIBERTIES  
MEMORANDUM

To: Arthur Warner ; Copy to: Walter Barnett  
From: Bill Kelley  
Re: ABA Federal Criminal Law Reform Committee report  
Date: May 17, 1973

As discussed in our telephone conversation of Monday night, I enclose a photocopy of the pertinent sections of the report of Livingston Hall's committee. I seem to recall sending this to you some months ago, but perhaps I didn't, or perhaps you overlooked it. In any case, I am confident I sent it to Walter Barnett at least.

I am cognizant that Walter and probably you feel that the matter of the proposed new Federal criminal code ranks rather low on our Committee's list of priorities. And I am sorry that the press of other responsibilities and lack of paid employment by our Committee (!) has made it impossible for me to keep abreast of the status of the bills to reform the Federal criminal laws (S. 1 [the McClellan-Hruska-Ervin bill] and S. 1400 [the Nixon Administration bill]). However, I adhere to my view that the proposed Federal law reform is not unimportant to us, and consequently I feel that we should keep current on its status and be prepared to offer testimony in both the House and the Senate hearings that will take place, if the Senate hearings have not already been held.

While it is true that the absolute number of criminal prosecutions by the Federal Government for (assimilated) homosexual offenses will be small, owing to the limited degree of Federal jurisdiction, still I feel that the implied acceptance by the Congress of existing State sodomy statutes by virtue of continuing the present laws "assimilated crimes" provision is deplorable--the more so, considering that the pending bills do not even propose ~~any~~ a low limit on the severity of punishment that may be administered Federally for such assimilated offenses. (I have gone into all this in an earlier memo to you.) In addition, I think it deplorable that by maintaining present law on the subject the proposed new Federal code would fail to take advantage of the opportunity to set a salutary example for the States in the area of sodomy law reform. Finally, despite your apparent indifference to what I consider the importance of this matter, I think that even you will agree with me that the failure of both bills and the ABA report to retain the requirement of a disorderly-conduct complaint by other than a law enforcement officer defeats all the work and the underlying philosophy that went into getting such a requirement proposed by the Brown Commission in the first place.

Although my workload on the job and in connection with gay activism remains heavy, I will be sending you a few more of my thoughts about our August meeting. I think it should be well and tightly planned so as to avoid wastage of time, fatigue, and failure to cover what needs to be covered. Additionally and by the way, I do hope we can come up with some funding for the Committee either before then or on the basis of some of the discussions we have at Washington; we are crippled without money, and if we don't get some soon I am afraid we run the risk of losing the momentum we have built up these last few months.

WKN