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Project Narrative: Oral History of Arthur C. Warner, New Jersey
Leader for Lesbian and Gay Civil Rights

This project is an oral history of Arthur C. Warner, a leader in legal reform regarding sexual civil liberties and homosexuality, in particular, whose pioneering work in New Jersey set an example for similar reforms in other states as well as for U.S. judicial process generally. Dr. Warner is donating all of his personal papers to the Seely Mudd Library of Princeton University where it will be available for use by N.J. historians, historians who want to study N.J. as a model for gay and lesbian legal issues, and for the general public. An oral history is necessary to contextualize these papers for several reasons. Dr. Warner's life as a citizen who experienced discrimination and used his expertise to effect legal and social change must be chronicled in order to understand his personal papers. This in turn will provide the rationale for organizing a component of these papers, the institutional history of one of the first gay and lesbian organizations in the U.S., the Mattachine Society, and later Dr. Warner's own American Association for Personal Privacy the first specifically gay and lesbian legal organization in the U.S. Pulitzer Prize-winning historian Martin Duberman has called the Warner papers the most significant existing collection on the early history of gay and lesbian politics in the U.S. Reflecting both individual and organizational work out of New Jersey, the collection will also offer an overlooked but important perspective both on N.J. history and on the centrality of that history to the progress of human rights in the U.S.

The oral history will be undertaken by Dr. Mark Blasius (Ph.D Princeton, 1990) who is a tenured professor of political science at the City University of New York and author of scholarly books and articles on gay and lesbian politics and history. Dr. Blasius will have ultimate curatorial responsibility for preparing the entire Warner collection for deposit in Mudd Library. During the project's duration, Dr. Blasius will work as a consultant for the applicant, The Fund For Reunion, Inc., the gay and lesbian alumni association of Princeton University. His duties will include coordinating the questioning of the oral history with the documentation of the Warner collection as well as audiotaping and supervising the transcription of the oral history. He will also supervise the videotaping of the oral history to be done by an independent production company funded separately by Princeton's gay and lesbian alumni through the Fund for Reunion, but integral to this project. The videotape will be specifically aimed at teaching the history of the gay and lesbian civil rights movement in the context of Dr. Warner's role as an alumnus (in Princeton's motto) "in the nation's service," on the occasion of the university's 250th anniversary in 1996. Again, the emphasis here is on how one individual, by making history in New Jersey, was able to significantly shape the history of civil rights in the U.S.

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This project involves the donation to Princeton University of all the papers of Dr. Arthur Cyrus Warner, a Princeton University alumnus, class of 1938, who is also a graduate of the Harvard Law School and a Ph.D. in British history from Harvard. This gift will include Dr. Warner's large library and his home in Princeton. Dr. Mark Blasius (Ph.D. Princeton, 1990), currently a tenured professor in government at the City University of New York, is the organizer and curator of the entire project, which will include an oral history of Dr. Warner's life and work. Dr. Blasius will have ultimate responsibility for insuring that the extensive documents are properly preserved and catalogued, and are ultimately made available to what is expected to be a large group of interested scholars and researchers.

Now 77 years old, Dr. Warner is a life-long resident of New Jersey. He was born in Newark in 1918, attended Newark Academy, and has lived in Princeton since 1952. He was one of the original founders of the Mattachine Society of New York. This was the earliest political organization of homosexuals in the United States, and its founding is considered to mark the beginning of the homosexual rights movement in this country. Dr. Warner served as the Society's legal director from 1956 to 1971, all but four years of its existence. In 1972 Dr. Warner founded the National Committee for Sexual Civil Liberties, now known as the American Association for Personal Privacy. It is the oldest legal and educational organization in the United States working for gay civil rights. As director of this Association, Dr. Warner served as consultant to the Judiciary Committee of the New Jersey State Assembly from 1976-1978. This was the period when the current New Jersey penal code was under legislative consideration and eventual adoption. The Assembly Judiciary Committee was also acting as surrogate for the New Jersey Senate with respect to the proposed code. While serving as consultant, Dr. Warner made several suggestions in the proposed code, two of which were ultimately adopted and are now part of the criminal law of New Jersey.

With its headquarters in Princeton and an office in San Francisco, the National Committee for Sexual Civil Liberties became truly national in

scope, and included members from across the country. One of Dr. Warner's earliest associates was Professor Walter Barnett of the Hastings College of Law of the University of California, San Francisco. Subsequently Prof. Barnett became visiting professor at Columbia University Law School in New York City, and Mr. Thomas Coleman of Los Angeles took his place. Mr. Coleman, who is today one of the leading authorities in the United States on constitutional law affecting gay civil liberties, established the Sexual Law Reporter under the aegis of the National Committee. For many years it was the only legal journal for lawyers involved in sexual conduct and the law. It was even subscribed to by the librarian of the U.S. Supreme Court.

In 1979 Mr. Coleman and Dr. Warner jointly won the landmark Pryor case in the Supreme Court of California; the decision juridically reinterpreted the California criminal law regarding sexual solicitation and lewdness. It was a signal victory for gay people. Mr. Coleman wrote the brief on behalf of the defendant and Dr. Warner the one for the National Committee as amicus curiae. The following year (1980), the Supreme Judicial Court of Massachusetts -- that state's highest tribunal -- followed the precedent set by the Pryor decision and reinterpreted in the same sense analogous sexual provisions in the Massachusetts criminal law. The Massachusetts court specifically cited the Pryor decision.

From the National Committee's earliest days, until his death three years ago, Emerson Darnell, Esq. of Moorestown, N.J., served as its chief counsel. Mr. Darnell came from an old Quaker family, which had played an important role in the founding of Moorestown. He was on the Board of the New Jersey Civil Liberties Union. In 1976 he won a unanimous decision from the New Jersey Supreme Court, which ended the notorious practice of police entrapment of gay people in New Jersey. The case is known simply as State v. J.O. & F.C., because the court wished to protect the identities of the two gay defendants. This is believed to be the first instance in this country where such protection was extended to homosexuals in judicial proceedings.

During the ensuing years New Jersey became a national ^{LS} model in political and administrative reform involving gay issues. A member of the National Committee in Nebraska informed Dr. Warner that a Nebraska Criminal Law Revision Commission had been established, and that the National Committee member had a close friend on the commission. Dr. Warner draughted a memorandum based on his recommendations to the New Jersey Assembly Judiciary Committee. These were submitted to the Nebraska Commission through the good offices of the friendly commission member; they were adopted by the Commission, became part of their draught criminal code for Nebraska and were subsequently adopted by the legislature. Today they form part of the Nebraska penal code.

The common legal thread was the establishment of the principle that, when once a state's sodomy law has been reformed so as to legalize all private sexual conduct between consenting persons above the sexual age of consent, the continued existence of statutes criminalizing solicitations to engage in the conduct now ^{made}licit is not only unconstitutional, but contravenes all concepts of equity. In New Jersey the effort to accomplish this had begun with Dr. Warner's initial discussions in 1971 with the chairman of the New Jersey Criminal Law Revision Commission, leading to his subsequent appearance before several New Jersey legislative committees. It culminated in 1976 with his appointment as consultant to the Assembly Judiciary Committee, and the subsequent modification, because of his efforts, of the New Jersey penal code in accordance with this principle.

The precedent established in New Jersey was followed not only in Nebraska, as already indicated, but in California, and Colorado, ^{and} later in Massachusetts. In Colorado the result was obtained judicially, rather than administratively. The attorney for a homosexual defendant in a criminal case in Denver came to Princeton to confer with Dr. Warner. Dr. Warner persuaded the attorney to challenge the constitutionality of the criminal statute involved. An outline of the arguments subsequently presented to the court were ^{drafted} draughted in Dr. Warner's home. The ultimate result was not only the striking down as unconstitutional of a Denver municipal ordinance, but ^{of} a Colorado criminal statute as well. (Two separate decisions were involved, both by the Colorado Supreme Court.)

In California Dr. Warner effected the legal change through a landmark decision, Pryor v. Municipal Court, which Dr. Warner and Mr. Coleman jointly won from the Supreme Court of California in 1979. Dr. Warner represents the National Committee for Sexual Civil Liberties, which had entered the case as amicus curiae and Mr. ^{Thomas} Coleman represented the defendant. It was a signal victory for gay people, not merely in California, but throughout the country. Within a year the Supreme Judicial Court of Massachusetts -- that state's highest tribunal -- followed the precedent set by the Pryor decision and reinterpreted in the same sense analogous sexual provisions in the Massachusetts criminal law. The Massachusetts court specifically cited the Pryor ruling.

A few years later, Mr. Coleman -- who had become director of the Spectrum Institute, a private Los Angeles foundation involved in trial work -- visited Princeton to confer with Dr. Warner regarding the system whereby judges determine whether legal cases should be published in the official legal reports. Those which have been marked "not for publication" may never be cited in any subsequent judicial proceeding, which means that they can never be used to establish any legal precedent. A case so marked may not only not be cited, but any attorney who attempts to do so can be punished for contempt. The judicial discretion not to permit publication has not infrequently been used to prevent the publication of cases won by gay litigants, thus bar-

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ring them from use as precedents to be followed in any future cases. Dr. Warner arranged for Mr. Coleman to meet with judges in Trenton involved in the publication process. Subsequently Mr. Coleman submitted a memorandum to the Supreme Court of California entitled "Recommendations for Changes in Rules of Court". This was based almost entirely on the practice in New Jersey, and had a copy of the New Jersey rules for publication attached.

In 1973, at a time when sodomy was still a serious felony in Ohio, Dr. Warner was called to Columbus to testify before a special commission established by the Supreme Court of Ohio to decide whether an acknowledged and practicing homosexual should be admitted to that state's bar. The Commission was given power of subpoena, and held hearings, all of which were held in camera. Its ultimate decision to admit the candidate to practice was the first such admission by any state of a known and admittedly-practicing homosexual. Later the same year Dr. Warner was asked to testify before the Judiciary Committees of both houses of the Ohio legislature during public hearings which eventually led to Ohio's decriminalizing private homosexual conduct between consenting persons above the sexual age of consent.

Dr. Warner has continued to serve as a consultant to legislators and administrators involved with laws and regulations having to do with homosexuality. One such example arose in Connecticut many years ago, and ended with the only pardon ever granted to a person convicted for a homosexual offence which had been subsequently repealed. (Our jurisprudence does not provide for the expungement of convictions under statutes which are subsequently repealed if the conduct was criminal at the time it occurred.) Dr. Warner also draughted the sexual solicitation provision of the proposed, but never enacted, Federal Criminal Code recommended by the National Commission on Reform of Federal Criminal Laws. ~~In a somewhat different light,~~ ^{Anecdotally} mention might be made that Dr. Warner persuaded the Oxford English Dictionary to include the sexual meaning of certain words -- until then not included -- in its twenty-volume corpus.

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From its inception, the National Committee for Sexual Civil Liberties had an important educational and scholarly dimension. Membership on the Committee was by invitation only. It consisted of a group of lawyers with experience in the field of sexual civil liberties and of authorities in related disciplines working for the dismantling of the entire structure of criminality and discrimination surrounding private sexual conduct between persons above the sexual age of consent. The Committee's initial inspiration came from the American Civil Liberties Union, but, unlike the Union, the Committee concentrated in the area of sexual civil liberties. This included heterosexual civil liberties as well as homosexual, even though the emphasis was on the latter. Specifically, this meant working for repeal of fornication, adultery and sodomy laws to the extent that they punish private consensual conduct above the sexual age of consent and repeal of sexual solicitation statutes for conduct which was lawful. The National Committee was directly involved and responsible for reform of the sodomy laws in Pennsylvania, New York and Massachusetts, as well as for the outright repeal of sexual solicitation laws in New Jersey, Nebraska, Colorado, Pennsylvania, New York and California.

These legal accomplishments would not have been possible without the necessary scholarly buttressing. This was reflected in the establishment of an Academic Council, which was composed of a group of eminent scholars in such diverse disciplines as religion, history, sociology, psychology, archeology, and biology. Over the years Council members have produced a host of scholarly articles and papers on different aspects of human sexuality.

Dr. Warner's own publications include:

Why Reform the Sodomy Laws
Homosexual Law Reform: A Second Look
Non-Commercial Sexual Solicitation: The Case for Judicial Invalidation
Myths and Fabrications concerning Homosexuals and Homosexuality
Is there a homosexual Culture?
What is Education?: Some Observations on the Subject

In concluding, it should be noted that the purpose of this entire project and the depositing of all papers and documents with Princeton University is to assure not merely their preservation, but, most important, that there will be facilities for making them available for the historical record.

The scope of the oral history of Dr. Warner will range from his years as a homosexual undergraduate at Princeton in the 1930s and in the U.S. military during World War II, to his work in the early homosexual rights movement in the New York metropolitan area during the McCarthy era, to the transformation of that "underground" movement through legal challenge by openly gay men and lesbians, to the future agenda for gay and lesbian citizens in New Jersey and the U.S. Thus, a tentative list of topics and questions might include what follows; however the list is very tentative since Dr. Blasius has not yet seen the source documents around which the interview topics and questions will gravitate.

1. What was homosexual life like for a young person in New Jersey in the 1920-30s? How was human sexuality and specifically homosexuality dealt with in educational curricula, by the mass media, and within communities of peers?
2. What specific personal experiences shaped your determination to seek legal reform for gays and lesbians (arrest, anti-gay harassment and/or violence, employment discrimination, etc.)?
3. What were the difficulties encountered in organizing homosexuals during the 1950s and 1960s? What conflicts or creative tensions existed in the Mattachine Society and other organizations? How did the agenda for lesbians differ from that of gay men and how did the two agendas overlap?
4. Why did you form your own organization after being legal director of Mattachine for so many years? Describe the history of lesbian and gay organizing in New Jersey and the role your organization played in relation to other organizations in that

history. What has been the conceptual relation and practical relation between civil rights for gays and lesbians and civil rights for other minority groups? How have these relationships played out historically in New Jersey?

5. Explain why you think, as distinct from you personal initiative, New Jersey was able to become a pioneer in civil rights for gay men and lesbians. How did the role of organized religion differ in N.J. from what it was in other political arenas? How did N.J. political culture effect the possibilities for legal reform? Explain the strategic mechanics of grassroots organizing, the use of expertise, direct lobbying of public officials, and approaches to litigation that were used by your organization and others in N.J. What successes were transferable to other legal and political arenas and why; which ones were not, and why were they not? Does N.J. still play a progressive role in the realization of human rights for lesbians and gay men?

6. What are the most pressing obstacles to equal citizenship for lesbians and gay men in the U.S.? To what extent can these obstacles be surmounted through legal reform or are different strategies for change necessary. What would you suggest as a gay and lesbian political agenda for New Jersey?

The amount of funding requested is \$7868.00. This will cover three components of the project's budget: consultant's fee for archival research and organization, conducting the oral history, and supervising, reviewing, and editing its transcription; transportation of the consultant to and from

Princeton and related expenses; and transcription of the oral history.

1. The consultant, Mark Blasius, will be paid at the rate of \$250 per diem during the grant period of January-September 1996. It is budgeted that he will work two days in Princeton each month from January through June 1996, and three days each during July and August 1996 for a total of 18 days. Throughout the grant period, it is budgeted that he will spend one day of work per month at his office in New York City for a total of 8 days, yielding a grand total of 26 days at \$250 for \$6500. Time at Princeton includes 3 hours of travel round-trip, a one-hour break for lunch, and 5 hours at Arthur Warner's residence. These five hours include one hour of actual taping and four hours examining and organizing the personal papers and organizational archives that form the basis for the interview. Time in New York includes supervision, review, and editing of the oral history transcript as well as review of documents preparatory to each interview session.

2. Transportation expenses are based on eighteen round trips between New York and Princeton via taxi to and from Penn Station in New York (\$12.00), NJ Transit to and from Princeton (\$14.00), and station pick-up and delivery by Dr. Warner, for a total of \$468.00. Maintenance expenses are based on 18 lunches (\$5.00) for a total of \$90 with a grand total of \$558 for travel and maintenance.

3. Transcription costs are budgeted at \$2.25 per page with each one-hour interview consisting of approximately twenty pages of

typed text. Thus, for 18 hours of interviews, 360 pages of text are budgeted at \$2.25 per page for a total of \$810.00 in transcription costs.

4. Any amounts paid overbudget, as well as funding for videotaping the oral history, will be requested from the Fund for Reunion/Princeton Gay and Lesbian Alumni Association.

The Fund for Reunion/ Princeton Gay and Lesbian Alumni(ae) Association is a 501(c)3 tax-exempt charitable foundation that, since 1986, has served as a way for Princeton alumni and others to encourage scholarship about and improve the quality of life for gays, lesbians, and bisexuals through donations to Princeton University. It is managed by officers elected by a board of trustees (all of whom are nonsalaried) which is elected each year at a general meeting of dues-paying members of the Fund. The Fund has sponsored educational programs at Princeton University and has funded scholarship by undergraduate and graduate students as well as faculty of the university. The Fund works with the general Alumni Council of the university, having a seat on that Council, to articulate the interests of gay and lesbian alumni with respect to the activities of Princeton University. The Fund for Reunion is pursuing this project because it involves a gay alumnus as well as a contribution respecting gay and lesbian concerns to Princeton's existing excellent collection of holdings on civil liberties and public policy. Further, as citizens, members of the Fund for Reunion are pleased to enhance documentation of New Jersey history and the state's ensuring

civil rights and liberties for its citizens and indirectly, its role in ensuring them for citizens of the United States.

Budget

I. Consultant, for archival research and organization to conduct oral history, and for supervision and editing of transcription; \$250. per diem for 26 days.	\$6500.00
II. Transportation and Maintenance, round-trip taxi (\$12.00) and NJ Transit railroad (\$14.00) between NYC and Princeton, and lunch (\$5.00), for 18 of consultant's days.	558.00
III. Transcription costs: 18 hours of taping at approximately twenty typed pages per hour transcribed, at \$2.25 per page.	810.00
Total Grant Request	\$7868.00

Notes by Mark Blasius on a conversation with Arthur Warner and Howard Greer, 6/8/95.

The application will be for either a research ~~or a conservation~~ project. I would be a paid consultant doing an oral history of Arthur and in so doing, preparing his papers for ~~conservation by~~ the Princeton University Library. *research project*

The application should stress the New Jersey aspects of Arthur's life and work: Arthur should itemize a few examples of the NJ tone of his papers, e.g., Emerson Darnell, 3 years on State Judiciary Committee, Penal code reform, Nebraska, Judicial publications, etc.

The grant would cover my time and expenses involved in doing oral history because oral history needs to be done in order to get at the NJ aspects of Arthur's career and, thus, to show how NJ has been a pioneer in the area of gay and lesbian legal rights. I am a "precurator" in that my work will enable the papers to be placed in Mudd Library where they will be available to historians of NJ and to other historians, lawyers, and political scientists who want to study NJ as exemplar of legal issues for gays and lesbians.

Budget should be approximately \$20,000 and ask State for about 8,000; say we'll get additional money from elsewhere. I should say that alumni will contribute and since the grant may not cover all of my time, there will be an in-kind contribution from me. My fee should be the "going rate" of at least \$200/day, but I should check with CLAGS to see how much they pay consultants.

The Fund for Reunion is the applicant. The Fund's treasurer is "financial officer" and the Fund's president is "authorizing official" I am Project Director and collect a consultant's fee (Howard Green will check if this is ok). Alternatively, Arthur could be Project Director (even if he is the subject of the research?) and hire me as consultant.

In the application we should give a description of the Fund and explain why it is doing this work--i.e., that it involves the life of a gay alumnus, that the Fund is delighted to support the university in expanding its gay and lesbian civil liberties project, and that the alumni are therefore being "good citizens" in helping Princeton do this.