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The Church of England and the Origins of Homosexual Law Reform

That the Church of England was an active and public supporter of homosexual law reform during the long debate on the issue in England between 1957 and 1967 is reasonably well known. It released reports and documents justifying and arguing for decriminalisation, and its bishops in the House of Lords were among those voting in favour in 1965. In this article, relying upon archival materials that have been only rarely used, I demonstrate that the Church's support went much deeper than is often assumed. Beginning in 1952, a process of theological reconsideration and behind the scenes lobbying led by a relatively small group of thinkers made the Church an initiator in the reform process. Relying upon Rochon's notion of a "critical community," I offer a description and explanation for the Church's role.

When Michael Ramsey, Archbishop of Canterbury, leader of the Church of England and its worldwide communion, rose from his seat in the House of Lords on 28 October 1965 to speak on a Bill to legalise homosexual acts, few listening at the time, or reading his remarks, which were widely reported in the next day's press, would have been surprised by what he had to say. He spoke plainly and strongly in support of the Bill: he praised his noble friend Lord Arran for introducing it, announced that he was "anxious" to see it carried into law, and declared that in passing the Bill the Lords would be writing an "honourable chapter" in the history of their House.¹ He then proceeded, with 95 others, to pass the Bill, joined by the Bishops of Chichester, Exeter, Lincoln, Ripon, St Albans, Southwark, and Worcester.

The Archbishop and his colleagues had publicly committed themselves to the repeal of laws that dated back to the time of Henry VIII, and were challenging Church attitudes that were older still. Although many Anglicans expressed dismay and disbelief, the bishops were not all that far from the views of the faithful. In November 1957, the Church Assembly had passed a motion

1. U. K., *Parliamentary Debates*, Lords 5th ser., 269 (1965), cols. 716–17.

supporting the principles that were later to be embodied in the Bill, and urged the government to take action to put them into law.² It is clear, then, that the Church was not simply accepting the legalisation of homosexuality, but was, rather, actively encouraging it. Surprising enough, perhaps, but, unbeknownst to many, influential sections of the Church of England had gone further still and had actually, in fact, been instrumental in initiating the process of reform. From 1952 at the latest, moves were afoot among Anglican churchmen to bring about the decriminalisation of homosexual acts. In this paper, I want to explore some aspects of how and why this happened.

At mid-century, an observer, wondering where pressure for homosexual law reform might come from, would have been unlikely to have nominated the churches. That homosexual acts were a sin was virtually unquestioned in Christian thought. Catholic, Anglican, Protestant — whatever differences divided the denominations, their views on homosexuality were not among them. Historians have long been debating whether or not the medieval Christian church had been implacably hostile to homosexuality (as is widely believed to have been the case) or whether it had, perhaps, made room for same-sex affection.³ Whatever the rights and wrongs of this discussion, by the late Middle Ages, attitudes were set: sodomy was a sin of the most grievous kind.

The primary basis for this belief was the Bible, which, in both Old and New Testaments, condemned the practices that we call homosexual.⁴ In the Old Testament, those who “lie with mankind as with womankind” were committing abomination and deserving of death (Lev. 18:22; 20:13). The Kings of Israel destroyed the houses of sodomites and drove them from the land (1 Kings 23:7; 1 Kings 14:24, 22:46). Money earned as a “dog” (usually understood to mean a male temple prostitute) could not be used to pay any vow to God in His house (Deut. 23:17–18). In the New Testament, St Paul condemned the effeminate and the “abusers of themselves with mankind” (1 Cor. 6:9) and those, both women and men, who abandoned the natural use of their bodies in favour of unnatural, “vile affections” (Rom. 1:26–27). In his letter to Timothy he listed “them that defile themselves with mankind” among the ungodly and the sinners (1 Tim. 1:10). Jude (7) condemned those “going after strange flesh” to eternal fire.

Although sodomy did not appear in the Ten Commandments — that list of “thou shalt nots” so fundamental to Christian law and morality — the Westminster Catechism, one of “the definitive doctrinal statements of English-speaking Presbyterianism,” produced by the Puritans in London in 1647, included “sodomy, and all unnatural lusts,” among the things condemned by the Seventh Commandment (“neither shalt thou commit adultery” [Deut. 5:18]) —

2. “Church Assembly Approve Report on Homosexuality,” *Times*, 15 November 1957, p. 7 col. A.

3. See Mathew Kuefler, ed. *The Boswell Thesis: Essays on Christianity, Social Tolerance, and Homosexuality* (Chicago: University of Chicago Press, 2006).

4. “Homosexuality,” in *Interpreter’s Dictionary of the Bible: An Illustrated Encyclopedia Vol. 2* (New York: Abingdon Press, 1962), 639.

along with fornication, rape, incest, unclean thoughts and communications, wanton looks, immodest apparel, and lascivious songs, books, and pictures.⁵

Buttressing the purely Scriptural condemnation was a long tradition of Church teaching. Binding upon Catholics, Church teaching was less important to Anglicans and formally irrelevant to those Protestants who recognised only the authority of the Bible. Nonetheless, it shaped the culture of religious thought, especially of churchmen and, through them, the laity, of most denominations. Teaching on sodomy drew upon many sources: “the postexilic Jewish reinterpretation of the Sodom story, pagan and Christian developments of Roman law, the teaching of the Church Fathers, the legacy of Church councils and synods, the penitential system.”⁶ But it was in the work of Thomas Aquinas (1225–1274) that Christian thinking took the form that it was to maintain until the mid-twentieth century.⁷ Relying upon the work of Aristotle, Aquinas developed the notion of “natural law,” arguing that the world as it is is not just a fact, but also an imperative; that nature dictates and demonstrates ways of behaving that are right or natural. Nature, in turn, is created by God, who is its ultimate author and guarantor; adherence to the demands of nature is therefore also submission to the will of God. By applying reason to the world around us, we can see, says Aquinas in his *Summa Theologica*, that the natural purpose of sex is procreation, and all sexual activity that does not have that as a possibility (which is to say, all sexual activity other than penis–vagina penetration to ejaculation) is unnatural.

To this point Aquinas has provided a basis for a morality that relied not upon the arbitrary dictates of a Supreme Being, but upon a conception of a world that has been designed in such a way that submission to those dictates is rational. But he went further. The laws of man, he asserted, must be based upon a correct understanding of natural law, and, to the extent that they were, they were true laws, legitimate and binding upon all. God’s law, natural law, and civil and ecclesiastical law were a seamless whole. It followed that, if sexual acts were naturally concerned with procreation, then any act that did not conform was unnatural and, quite properly, subject to ecclesiastical and secular punishment. Masturbation, anal and oral sex between man and woman, sexual acts between men or between women, or between humans and animals were sins against the natural use of the sexual organs and therefore, properly, crimes.⁸

Added to this weighty condemnation was a further imperative. As Leviticus 18:24–30 made clear, sexual sin was not a matter of personal offence for which an individual might be punished by God — communities that tolerated such behaviour in their midst were liable for collective punishment. A point that was reinforced by the story of God’s fiery destruction of the cities of Sodom and Gomorrah (Gen. 19:1–36), widely understood as punishment for the sexual sinfulness of the cities, including, especially, the prevalence of homosexual

5. “The Westminster Catechism,” in *The Churches Speak on Homosexuality*, edited by J. Gordon Melton (Detroit, MI: Gale Research Inc, 1991), 147.

6. J. J. McNeill, *The Church and the Homosexual*, 4th ed. (Boston: Beacon Press, 1993), 82.

7. Norman St. John-Stevan, *Life, Death and the Law: A Study in the Relationship Between Law and Christian Morals in the English and American Legal Systems* (London: Eyre and Spottiswoode, 1961), 207.

8. McNeill, 95–99.

practices. In fact, so central was this story to the Christian understanding of homosexuality that for almost 2,000 years the city provided the usual word for sexual relations between men: *sodomy*.

As it happened, English laws against homosexual acts came into being at about the same time as the English Church. In 1533, Parliament suggested to Henry VIII — not perhaps the most obvious candidate for defender of the nation's sexual morals — that “there was not yet sufficient and condigne [sic] punishment appointed and limited by the due course of the laws of the Realm for the detestable and abominable vice of buggery committed with man or beast,” and legislated to bring the offence out of the ecclesiastical courts into those of the state, making it a felony punishable by death.⁹ The offence was reasonably specific — “buggery” involved anal intercourse between men or between men and women, or any sexual act between human and animal, thus bringing together several of the offences identified by Aquinas as “unnatural.” Although the later Tudors were in the habit of withdrawing and reissuing their predecessor's laws, for all practical purposes Henry's law remained on the books in unaltered form for more than 400 years. In 1828, as part of a broader review of the legal code, the definition of the offence was amended somewhat so as to require only proof of penetration, rather than, as hitherto, proof of penetration and the “emission of seed.” The aim of the amendment was to make it easier to secure convictions, but the severity of the penalty remained a problem for prosecutors — juries were reluctant to convict, knowing that the accused standing before them was liable to be hanged. In 1861, the penalty was reduced to life imprisonment, though to ensure that this was not taken as evidence of any softening of attitude, additional offences were introduced. In particular, an offence of attempted buggery criminalised all sexual acts between men (which might include kissing as well as genital contact) and any invitation by one man to another to engage in a sexual act, with a penalty of ten years imprisonment. In 1885, the law was further extended to criminalise acts of “gross indecency,” and procuring or attempting to procure an act of gross indecency, carrying a penalty of two years. The acts covered by “gross indecency” were those covered by attempted buggery, but the lesser penalty made convictions more palatable to jurors and therefore more likely.¹⁰

In these reforms, which softened the penalties but expanded the scope of the laws, England remained noticeably out of step with European thinking and practice. In much of Western Europe, the offence of sodomy had disappeared with the adoption of a revolutionary penal code in France in 1810, which was subsequently imposed upon, or adopted by, most west European states over the course of the 1800s. Italy repealed its laws in the 1890s, Switzerland and Sweden in the 1940s.¹¹ In the Age of Reason, the religious roots of the sodomy

9. 25 Henry 8 c 6, “The Law in England,” <http://www.fordham.edu/halsall/pwh/englaw.html>; accessed 9 September 2009.

10. Patrick Higgins, *Heterosexual Dictatorship: Male Homosexuality in Post-War Britain* (London: Fourth Estate, 1996), 155–6.

11. Though in many of these jurisdictions, same-sex acts were subject to discriminatory age of consent provisions.

laws became a burden for the laws, rather than a buttress; Enlightenment thinkers argued that it was precisely because the laws were rooted in religious understandings of the world that they ought to be abolished. Sodomy was an offence against God and the Bible and therefore was not worthy of inclusion within an enlightened penal code founded upon reason.

In England, while Jeremy Bentham (in unpublished reflections written in 1774–1775 and 1814–1816), and Humphry Woolrych, in a work published in 1832, echoed the Enlightenment view;¹² in fact most intellectual opinion defended and endorsed the sodomy laws by reference to Christianity's traditional abhorrence. Blackstone, for example, in his *Commentaries of the Laws of England* (1783), announced that “the voice of nature and of reason and the express law of God” alike condemned acts that he described, using an ancient formula, as “not to be named among Christians.” The destruction of the cities of Sodom and Gomorrah was evidence, he asserted, that “this was a universal, not merely a provincial, precept,” binding, that is, upon all of God's creation.¹³ The tides of reform in Europe passed Britain by entirely and at the middle of the twentieth century, it was one of a handful of West European countries that retained their old laws (along with Germany, Austria, and Ireland).

But dissenting voices were being raised, if not loudly then at least with some force. In 1931 Bentham's manuscript was published, adding weight to an emerging discussion in intellectual circles. In 1897, Havelock Ellis had published his study *Sexual Inversion*, which, in a letter to Edward Carpenter, he described as intending to “obtain sympathetic recognition for sexual inversion . . . to clear away many vulgar errors — preparing the way if possible for a change in the law.”¹⁴ Carpenter himself, in his 1895 work, *Homogenic Love*, openly defended homosexual love. In 1932, the *Howard Journal*, organ of the prestigious penal and law reform organisation, the Howard League, argued in an editorial that the only forms of sexual behaviour that ought to be criminalised were those which had demonstrable social ill effects which, it noted explicitly, did not include homosexuality.¹⁵ In 1945, Edward Glover, in a paper to the Medico-Legal Society, later published as a pamphlet, argued that, as the roots of sexual deviation were now better understood than in the past, it was time to employ psychological understanding and treatment rather than legal penalties.¹⁶ Two years later, Claude Mullins, a London police court magistrate, addressing the same organisation, argued that criminal penalties

12. Humphry W. Woolrych, “History and Results of the Present Capital Punishments in England called ‘Sodomy and Bestiality’” in *Nineteenth-Century Writings on Homosexuality: A Sourcebook*, edited by Chris White (London and New York: Routledge, 1999), 28–29.

13. Cited in Louis Crompton, *Homosexuality and Civilization* (Cambridge, MA: Belknap Press of Harvard University Press, 2003), 528.

14. Letter dated 17 February 1892, cited in Jeffrey Weeks, “Havelock Ellis and the Politics of Sex Reform,” in *Socialism and the New Life: The Personal and Sexual Politics of Edward Carpenter and Havelock Ellis*, edited by Sheila Rowbotham and Jeffrey Weeks (London: Pluto Press, 1977), 152.

15. Editorial, “Psychological Treatment for Sexual Offences,” *Howard Journal*, III, no. 3 (1932): 24.

16. Edward Glover, *The Social and Legal Aspects of Sexual Abnormality, Institute for the Scientific Treatment of Delinquency*, London, 1947.

did much harm and no good. Most of those who participated in the discussion agreed with him.¹⁷ The touchstone for liberal thinking on homosexuality and the law in England was the Wolfenden Report, the work of a committee, named for its chairman, Sir John Wolfenden, established by the Cabinet in 1954 to inquire into “the law and practice relating to homosexual offences and the treatment of persons convicted of such offences by the courts.”¹⁸ After three years work, the committee recommended that homosexual acts, when committed by consenting adults in private, should no longer be an offence. The committee’s report set out its reasoning in some detail, but the central element of its case was the view that it was not the function of the law to criminalise any particular pattern of behaviour just because it happened to be regarded by many as “sinful, morally wrong, or objectionable for reasons of conscience, or of religious or cultural tradition.”¹⁹

The prevalence of Enlightenment thinking in this half-century of British argument, with its emphasis on science (especially, increasingly, medical science) and reason, is not surprising. It is, in fact, entirely in line with the tradition by which, as I have outlined above, homosexual law reform had been brought about in Europe. But if we were to draw from this the conclusion that the English churches would have to be sidelined or even fought off in order to bring about law reform, we would be quite mistaken. In general, on the contrary, the churches welcomed and encouraged reform. Both the Anglican and Roman Catholic churches had made submissions to the Wolfenden Committee (they had been expressly asked by the Chairman to do so) and both bodies had published their submissions even before the Committee had finished its work. In 1956, the working party established by Cardinal Griffin, Roman Catholic Archbishop of Westminster, to prepare “a reasoned account of Catholic moral teaching . . . together with appropriate conclusions which might be drawn from such principles in so far as they affect the criminal law,” published its report in the *Dublin Review*, one of the most prominent Catholic journals. In it, the working party declared unambiguously that while homosexual acts, like all sexual acts committed outside of marriage, were gravely sinful, the role and purpose of the law was not to enforce moral standards: “Crime is a social concept not a moral one and therefore is a problem to be tackled by the State with the assistance of its specialists in jurisprudence and psychiatry. Sin is not the concern of the State but affects the relations between the soul and God.”²⁰ The Church of England’s Moral Welfare Committee also published its evidence to the Wolfenden Committee, with some additional material, as a pamphlet entitled *Sexual Offenders and Social Punishment*, which concluded that “it is not the function of the state and the law to constitute

17. Claude Mullins, “How Should the Sexual Offender be Dealt With?,” *Medico-Legal and Criminological Review*, II, no. 3 (July 1934): 236–262.

18. *Report of the Committee on Homosexual Offences and Prostitution*, Cmnd 247, HMSO, 1957, para 1.

19. *Report of the Committee on Homosexual Offences and Prostitution*, para 14.

20. “Report of the Roman Catholic Advisory Committee on Prostitution and Homosexual Offences and the Existing Law,” *Dublin Review* (Summer 1956), s 1, para XI.

themselves the guardians of *private* morality, and that to deal with *sin as such* belongs to the province of the Church.”²¹

So, in England, by the mid-1950s, if the laws on homosexuality were to be reformed, it would be not against the will of the major churches, but with their public support. But, in fact, it went further than this. An examination of the archives of the Church of England reveals that there were some who had, since 1952, been actively encouraging the government to establish an inquiry into the laws on homosexuality with a view to having, as its outcome, a public recommendation for decriminalisation.

The Moral Welfare Council (MWC) described itself as “the central council of the Church for the co-ordination of thought and action in relation to sex, marriage and the family in the Christian life.”²² It was responsible for “educational and remedial work” in this sphere including researching and publishing, fostering cooperation between church and state welfare agencies, and training the Church’s welfare workers, who were in turn responsible for direct consultative and pastoral help to those in need.²³ Its journal reflected its wide interests and contained the Council’s first public encounters with the problem of homosexuality. In 1948 it reviewed Kinsey’s *Sexual Behaviour in the Human Male* and in 1949 Anomaly’s *The Invert*, the first book written from an openly homosexual viewpoint (the second edition of which had been published in London in 1948); in both cases the reviews were sympathetic to the authors’ viewpoints. But in 1953, the Council’s interest in this issue took a sudden leap forward with the establishment of the “Inversion Group,” a small, informal study group under the leadership of the Rev. Canon Hugh C. Warner, Education Secretary of the Council. While Warner was an active leader of the Group, its intellectual force came from Derrick Sherwin Bailey, recently appointed as lecturer at the MWC. In January 1952, the journal *Theology* published a letter from Graham Dowell, an ordinand at Ely Theological College, asking “what the Christian conscience, acting under the charity and humanity as under the discipline and wisdom of the Church, have to say to the homosexual, who wishes to be an active and healthy member of the Christian community.”²⁴ The editor of the journal requested from Bailey — and received in time for the next issue — an article addressing this question.²⁵ The responses that Bailey received to his piece persuaded him that this was a matter that the Church needed to take more seriously and he raised it at the MWC meeting of 29 April 1952. The Council passed it to the Education Council, which in turn set up a small, informal group that was directed to investigate the matter “unofficially and privately.”²⁶ For some time nothing seems to have happened (though this

21. Derrick Sherwin Bailey, compiler and ed., *Sexual Offenders and Social Punishment* (Westminster: Church Information Board, 1956), 38.

22. As printed on the inside cover of each issue of its journal, *Moral Welfare Quarterly*.

23. *Moral Crisis: The Church in Action* (London: Church of England Moral Welfare Council, 1950), 15.

24. Graham Dowell, Letter: “The Church and Homosexuals,” *Theology*, January 1952, 28. The text is also reprinted in Peter Coleman, *Christian Attitudes to Homosexuality*, (London: SPCK, 1980), 172.

25. Sherwin Bailey, “The Problem of Sexual Inversion,” *Theology*, February 1952, 47–52.

26. Bailey, *Sexual Offenders*, 9; Coleman, 172.

may just be a gap in the sources), but at the end of 1952 Warner seized the opportunity presented by the publication in the *Times* of a letter written by a group of eminent public figures urging the government to establish an official inquiry into the problem of homosexuality.²⁷

Warner responded (in a letter published on 1 December 1952), agreeing with the suggestion and arguing specifically that the inquiry should examine the adequacy and justice of law, the effectiveness of remedial measures prescribed by courts, and how public opinion might be educated to recognise the needs of the invert.²⁸ Couched in these terms (especially with the doubt cast upon the justice of the laws and the uneducated attitudes of the public), there can be no reasonable doubt that Warner's intention was that the inquiry should recommend the liberalisation of the law and a moderation of public disapproval. By this point though, it seems that, whatever the outcome of the letters to the *Times*, he was ready to begin his own investigation. A few days after his letter was published he received a response from a Mr. JF, who described himself as a Christian and a homosexual, suggesting the establishment of an informal group meeting of Christian inverts. He admitted, however, that he did not actually know any, and he wondered if Warner did.²⁹ Warner's reply indicates that he had something more in mind: "I had been hoping very much that I should get some letter of the sort that you sent as I think you can be a great help to us. I should very much like to see you later on when we get further with a Group[.] [W]e have been considering the issues of inversion."³⁰ By late January 1953, Warner had put together his study group of five clergymen and it met for the first time on 9 March.³¹ (In June, Reginald Batt, barrister-at-law, joined the group, where it was felt that his experience of defending homosexuals in court would make him of great value to the committee's work.)³²

The group set out to consider the legal and theological aspects of the problem, dividing up the work among themselves. At the meeting of 30 April, there was a discussion of a paper that explored some of the basic assumptions and questions about homosexuality, after which it was agreed that the Rev. S. John Davey would collect together some legal materials and Derrick Sherwin Bailey would set to work on the theological aspects of the question; at which point the group adjourned till September.³³ During this period, too, there seems to have been meetings with homosexuals, presumably JF among them.³⁴ But by September, the issue of homosexuality had started to surface more publicly, and in October and November the dam burst. The precipitating factor was the

27. H. J. Blackman, Chorley, Marcus Lipton, Herbert Read, Russell, Glanville Williams, Letter: "Homosexual Laws," *Times*, 25 November 1952.

28. Hugh C. Warner, Letter: "Homosexuality Laws," *Times*, 1 December 1952.

29. JF to Warner, 2 December 1952, 15 January 1953, Papers of the Moral Welfare Council, Church of England Records Centre, MWC/HOM/1, [I have suppressed this correspondent's name.]

30. Warner to JF, Letter, 4 December 1952. MWC/HOM/1.

31. "Inversion Group March 9th 1953," MWC/HOM/1.

32. F. G. MacDonald to Warner, Letter, 2 July 1953, MWC/HOM/1.

33. "Confidential Notes of Inversion Group Meeting 30 April 1953," MWC/HOM/1.

34. There are references in the Group's *Interim Report* to such discussions though there is (not surprisingly) no record of them on the files.

arrest in August, followed by the trial in December, of Lord Montagu for homosexual offences involving a boy scout, followed, some months later, by further charges (against Montagu, Peter Wildeblood, and Michael Pitt-Rivers) relating to sexual offences with airmen. The result was the biggest homosexual scandal in Britain since the trials of Oscar Wilde in the 1890s. For seven months over 1953–1954, the issue of homosexuality was all over the newspapers. The story had everything the tabloids needed — aristocratic debauchery, innocent working class youth, money and other gifts, conspiracy . . . And, in no small measure, widely held suspicions that the police and prosecutors were so desperate for a conviction that they tampered with the evidence and groomed their witnesses.³⁵ The long-settled model of homosexuality as a threat to the nation became entangled in new debates — in particular, and for many entirely unexpectedly, debates whether homosexuality was properly a matter for the law’s attentions at all.

On 27 October the *Times* reported that the Home Secretary had met with the London Magistrates to discuss the problem of homosexuality.³⁶ On 6 November, Dr Donald Soper, President of the British Methodist Conference, urged the establishment of a Royal Commission, as a way of taking the issue “out of the realm of publicity and sensation” (the Commission, he hoped, would sit in private).³⁷ A few days later, discussing the Members of Parliament (MPs) who had won the right to introduce Private Members Bills into Parliament, the *Times* reported that that some of them were considering the issue of homosexual law reform (a subject about which, it said, many MPs were anxious). It reported, too, that Robert Boothby, a Conservative Party MP for Aberdeen East, intended to ask the Home Secretary in the House whether he would appoint a Royal Commission.³⁸ In early December the annual meeting of the Surrey County Magistrates added their weight to this pressure for an inquiry.³⁹ (The Howard League seems to have led the way with a letter to the Home Secretary in January 1953).⁴⁰

Correspondents began urging the Church of England to speak out. On 26 October, Canon J. A. H. Waddington felt that the time was ripe. Relying upon the Church’s authority, he suggested to Warner that “We can and ought to help to get this problem faced in a dignified and unemotional way”; “The thing is being discussed and I think it would be a great help if we could make a contribution from the Church at this very moment”.⁴¹ Warner wrote to the Home Secretary informing him of the existence of his small study group and offered to cooperate in any consultations or committee that the minister might

35. The most extensive analysis of the Montagu episode(s) is Higgins, 231–246. Montagu published his own version of events in Lord Montagu of Beaulieu, *Wheels Within Wheels: An Unconventional Life*, (London: Weidenfeld and Nicolson, 2000).

36. “Discussion on Moral Offences,” *Times*, 27 October 1953, p. 5 col. D.

37. “Royal Commission Urged on Homosexuality,” *Times*, 6 November 1953, p. 5 col. A.

38. “Ballot For Private Members’ Bills,” *Times*, 13 November 1953, p. 3 col. E.

39. “Dealing With the Homosexual,” *Times*, 8 December 1953, p. 4 col. F.

40. “Notes of the Year: Homosexuality,” *Howard Journal*, IX, no. 1, (1954), 10.

41. J. A. H. Waddington to Warner, Letters, 26 October 1953, and 27 October 1953, File Ref: R136285, MWC/HOM/1, Church of England Record Centre, Lambeth Palace Library, London.

be considering.⁴² The Executive Committee of the MWC had added its voice to Warner's and the others. On 4 December it passed a motion asking the Home Secretary to set up an official inquiry into the whole subject of homosexuality. This was duly reported in the *Times* the next day.⁴³

The dramatic shift in the public agenda had a significant impact on the Inversion Group. Its work had, to this point, been proceeding at a reasonably leisurely pace; no publication was expected before mid-1954, and detailed research was still being conducted by the members. Suddenly, however, the issue was topical and the need to comment was strongly felt. The idea of an *Interim Report* surfaced and was quickly taken up. By December a pamphlet of 27 pages was ready for circulation and was submitted to the Executive Committee of the MWC. Almost without exception, their responses were enthusiastic and supportive.⁴⁴ But the exception to this unanimity was a significant one. The Bishop of St. Albans, chair of the Education Committee — which had, after all, authorised the work of the Inversion Group, however informally and unofficially it wanted it done — refused absolutely to be associated with the Report as presented. He rejected the idea, Warner was told, that the law should deal lightly with people guilty of homosexual acts and opposed its suggestion of an age of consent of 17 years.⁴⁵ Warner was very keen that the Bishop's authority should back the Report, at least to the extent of his recommending it for study, and toyed with various options. One of these was that the Report might be published instead in the names of its authors — at which point he discovered that for professional reasons at least two of the Group's members did not want their names used publicly.⁴⁶ Finally, by way of compromise, it was agreed in January 1954 that the Council Executive would authorise publication, but that the pamphlet would be circulated privately. Copies would be sent to the 70 British and Irish Bishops and Archbishops, the Home Secretary, the British Medical Association, the Law Society, “and other leaders of public opinion,” but otherwise its existence would merely be announced in the church and national press with an invitation to interested persons — those “professionally or personally concerned with the problem” — to buy a copy (at the substantial price of 2/6) direct from the MWC. Under these circumstances the Bishop of St. Albans felt he was in a position to produce a preface, which, if not exactly enthusiastic, nonetheless did invite study and comment.

The Report and the views that it embodied were not those of all churchmen and women. Most significantly, in November 1953, Geoffrey Fisher, the Archbishop of Canterbury, launched an attack in the pages of the *Canterbury Diocesan Notes*. He expressed concern about what he called the new prevalence of the vices of Sodom and Gomorrah and of “strange new doctrines in physiology and psychology tending to weaken individual responsibility.” He

42. Warner to Home Secretary, Letter, 30 October 1953, MWC/HOM/1.

43. Warner to C. Bradby, Church Information Board, 4 December 1953, MWC/HOM/2.

44. See the several letters on file dating from December 1953, MWC/HOM/1.

45. Morden [Archdeacon of Oakham, chairman of Executive Committee of the MWC] to Warner, Letter, 18 December 1953, MWC/HOM/1.

46. Warner to John [Davey?], Letter, 14 January 1954, MWC/HOM/1.

was appalled that homosexuals “have been encouraged to think, and are often very ready to think, that these inclinations are a misfortune that they cannot control or even a fortune that with a clear conscience they can indulge.” On the contrary, he declared, “homosexual indulgence is a shameful vice and a grievous sin from which deliverance is to be sought by every means,” and he asserted that deliverance was indeed possible if only those afflicted would accept that there was a “universal moral law” and that with the grace of God they could come to live in accordance with it.⁴⁷ It is difficult not to see this as a counterblast to the *Interim Report*, which had started to circulate in draft form, but if it was, it had little impact upon the MWC Executive, which, as we have seen, endorsed the Report for private circulation in January 1954.

This was not the last time that the views of the Archbishop were ignored. A year later, in early 1955, a draft version of the evidence to be submitted to the Wolfenden Committee was sent to him. In a letter to the Bishop of St. Albans, he spelled out his objections. The chief of these was that he did not agree that acts committed in private had no social consequences: he spoke, according to Peter Coleman, who has seen the correspondence but was unable to quote directly from it, from “his own knowledge of highly organized groups of inverters who maintain links with similar groups in other places and actively seek new members. From other (unquotable) sources, it has been strongly suggested that clergy, and particularly curates, were involved or enticed into such groups at this time, and it was the discovery of this, and the responsibility of dealing with the ensuing pastoral problems, which made the Archbishop become increasingly anxious that the MWC should not be seen to be supporting a lenient line.”⁴⁸ The Executive of the MWC noted his concerns — and then proceeded to endorse the document as presented. So complete was Fisher’s rout that in 1957, when the issue came before the House of Lords, he spoke unambiguously in favour of Wolfenden’s recommendation that homosexual acts between consenting adults in private should not come within the ambit of the law.⁴⁹ He found himself a graceful exit from his own position by throwing responsibility for deciding the matter onto the Church as a whole — or at least to the Church Assembly. In his remarks at the end of the Assembly debate on 14 November 1957, Fisher had noted that he would soon have to deal with the issue in the Lords and would be useful for him in speaking on behalf of the church to have the Assembly’s guidance.⁵⁰ Whether or not the narrow majority of 155–138 (with less than half the delegates voting at all) was convincing, it nonetheless gave him the authority he needed to take a pro-reform stance in the Lords.

Clearly, while there were divisions within the Church about the issue, it was the liberals who had gained the upper hand. How had this happened?

47. “The Archbishop’s Letter,” *Canterbury Diocesan Notes*, December 1953, typescript/press release, MWC/HOM/1; reported in “Exploitation of Sex/Dr Fisher’s Plea for Change in Press/ ‘Homosexual Net of Corruption’”, *Times*, 25 November 1953, p. 4 col. C.

48. Coleman, 179–80.

49. U. K., *Parliamentary Debates*, Lords, 5th ser., 206 (1957): 755.

50. Coleman, 206–9.

There were, of course, many factors at work, including the increasing secularisation of British politics and society; the immersion of clergy and their constituents within a Western culture that relied ever more upon scientific and rational ways of thinking; the church's pastoral work, which brought compassion to the centre of Christian thinking . . . Here, though, I want to focus on the work of the Inversion Group which, in operating as critical thinkers, within a broader critical community, succeeded in reframing the issue of homosexuality in such a way as to make law reform palatable to Anglican Christians. In an important recent work, Thomas Rochon has drawn attention to what he has called "critical thinkers," "people whose experiences, reading, and interaction with each other helped them to develop a set of cultural values that was out of step with the larger society."⁵¹ He argues that such people, in working together to identify and argue for changes in their culture (where "culture" is defined as "linked stock of ideas that define a set of commonsense beliefs about what is right, what is natural, what works"),⁵² form themselves into a "critical community." Drawing upon case studies ranging across time and space from the French Revolution to the modern social movements, he points to the existence in the prehistory of all these movements of "critical communities," of thinkers responsible for the development and propagation of the ideas upon which early activists drew. Demonstrating the existence in the mid-1950s of a critical community focused upon "the problem of homosexuality" is beyond the scope of this paper — suffice to say that over the previous half century, thinkers in disciplines as diverse as law, medicine, psychology, sociology, criminology, and so on had been developing ideas that were at odds with those prevailing in Western society. These thinkers, broadly speaking, rejected the prevailing idea that homosexuality was a wilful defiance of and a threat to social standards in favour of a view that it was a biological or psychological condition afflicting certain individuals for which sympathy and medical treatment were the appropriate responses.⁵³ The Inversion Group, as a coherent group of critical thinkers, clearly constitutes an important component of this critical community, reframing, as they did, the whole question of homosexuality and Christianity in such as way as to align Christian thinking with that of the critical community. Just as importantly, the products of the group's work, particularly its publications, served, in the terminology of social movement theorists, to "reframe" the issue, where "framing" is to "assign meaning to and interpret relevant events and conditions in ways that are intended to mobilise potential adherents and constituents, to garner bystander support, and to demobilise antagonists."⁵⁴ The

51. Thomas R. Rochon, *Culture Moves: Ideas, Activism and Changing Values*, (Princeton, NJ: Princeton University Press, 1998), 8–9.

52. Rochon, 9.

53. Nicholas C. Edsall, *Towards Stonewall: Homosexuality and Society in the Modern Western World* (Charlottesville, VA and London: University of Virginia Press, 2003). While not employing the notion of "critical community," Edsall nonetheless reveals in his history the diverse ways in which ideas about homosexuality were being debated and reshaped in the West prior to the rise of the modern gay rights movement in the late 1960s.

54. David Snow and Robert Benford, "Ideology, Frame Resonance, and Participant Mobilization," in *From Structure to Action: International Social Movement Research, Vol. 1*, edited by Bert Klandermans, Hanspeter Kriesi, and Sidney Tarrow (Greenwich, CT: JAI Press 1989), 198.

arguments set out in the Inversion Group's *Interim Report* of 1954 and further developed in *Social Offenders and Social Punishment (SO&SP)* (which was published in 1956 after consultation and feedback from those who had read the *Interim Report*) also served to mobilise support within the Church for the endorsement of homosexual law reform. The *Interim Report* and *SO&SP* constituted, in fact, a carefully crafted and coherent case for reform, tailored to the specific concerns of Christians.

Perhaps the most important contribution to the rethinking of Christian attitudes towards homosexuality came with the identification of what Derrick Sherwin Bailey (who, after Warner's death, became the key figure in the whole debate) called the Western Christian Tradition on homosexuality. The term comes from the book published by Bailey in 1955, but it was his work as a member of the Inversion Group that led him to the idea, and the concept exists in both the *Interim Report* and *SO&SP*. Beginning with an analysis of the Biblical texts, Bailey went on to survey the ways in which they had been understood by religious commentators over the long historical period up to the end of the Middle Ages (at which point, he asserts, all innovative and interesting interpretation ceases). Through this work he reconstructed the development of a tradition of thought that drew upon the Old and New Testaments, Roman law, natural law, theology, and psychocultural structures of feeling, which resulted in an absolute condemnation of all homosexual acts between men as sins of the gravest degree.⁵⁵

In unearthing this Tradition, Bailey performed a number of important tasks. In the first place, merely by identifying the Christian understanding of homosexuality as an historical one, which took different forms at different times and in the hands of different thinkers, Bailey displaced the source of attitudes towards homosexuality from the realm of God to that of man. At the end of his survey of the Tradition, he was in a position to ask of it (as those who treated it as unproblematically as the work of God in the world were not) whether it was "sound and authoritative, and a sufficient guide for the present-day magistrate, pastor, and legislator? Can it be regarded as in any way determinative for the purposes of the moralist?"⁵⁶ Equally, by treating it historically, Bailey was able to identify what he saw as flaws in the Tradition. In particular, he claims, neither the Old or New Testament authors nor any of the commentators who developed the Tradition had anything like our understanding of the true nature of homosexuality and this, he asserts, led them to misunderstand the extent and nature of the sinfulness of homosexual acts.

Bailey begins, however, with an assault upon the story of Sodom and Gomorrah, the keystone of popular and theological homophobia, which held

55. I have relied here upon the text as published as "Appendix I: The Homosexual and Christian Morals" in Bailey, *Social Offenders and Social Justice*. (Hereinafter Bailey, Appendix I.) This had been previously published as a chapter in *They Stand Apart: A Critical Survey of the Problem of Homosexuality*, edited by J. Tudor Rees and Harley V. Usill (London: Heinemann, 1955). Bailey notes that there had been a minor sub-tradition of condemnation of lesbian acts within the Tradition.

56. Bailey, Appendix I, 67. (Such work had been done on the Gospels and the life of Jesus of Nazareth over the past century or more, with similar effect).

that homosexuality must have been a particularly grievous sin, given that it had prompted God to rain brimstone and fire upon the cities of the plain. As the Book of Genesis tells it, God, having decided to destroy Sodom because of its unmitigated sinfulness, sends messengers to warn Lot, a righteous man, to leave the city. But the presence of strangers in the city became known and the Sodomites gathered outside Lot's house, demanding that the visitors be sent out, so that the men of Sodom may *know* them. Lot pleads with the mob, offering them instead his two daughters, who have not *known* men, to do with them what they will. His offer is refused and the crowd closes in, aiming its wrath now more at Lot than the strangers. At this point the strangers, revealed to be angels, intervene, striking the entire crowd blind, leaving them to exhaust themselves in their futile search for the door to the house (which one might have thought would have been the least of their problems).

Leaving aside all the ways in which one might want to interrogate this perfectly mad story,⁵⁷ Bailey focused on how it came to provide the foundation stone for nigh on 2,000 years of Christian homophobia. The problem lay in the verb "to know". This has two meanings in Hebrew — to be acquainted with, and, less commonly, to have sexual connection with. Post-Exilic Jewish, and following them, Christian scholars and translators opted for the second meaning and turned the otherwise unspecified sins of Sodom into the sin of homosexuality. Bailey, however, points out that the story makes as much sense if, in the first use of "to know", the more usual meaning is read in — in the simple act of demanding that the visitors be brought out to them the mob was violating the sacred obligations of hospitality. If this revisionist reading seems somewhat forced, Bailey notes that, far from being the obvious reading of the story, the homophobic version does not appear in the commentaries at all until the second century BC, and not in any unambiguous form for another 200 years after that. That is, for some 1,000 years after this part of Genesis was written, the dominant interpretation of the sins of Sodom focussed upon the city's selfishness and inhospitality. It was only because Christianity emerged after the post-Exilic Jewish rewriting of the story into a warning against homosexuality, Bailey says, that this interpretation came to dominate the Western Christian Tradition. The issue here is not whether Bailey's interpretation was correct (and it was at the time, and is still, subject to rigorous criticism).⁵⁸ What is important is the way in which this reading explained away a powerful part of the Tradition's case for the divine condemnation of homosexuality.

This did not exhaust Bailey's theological work, however, because even if the Sodom story was not really about homosexuality, there were other texts that Christian homophobia could — and did — rely upon. Here Bailey begins by

57. And it gets better. After Lot and his family escape from the holocaust of the city, his daughters, perhaps somewhat aggrieved by his offering them up to pack rape, go on to ply their father with alcohol, rape him and bear sons by him. And, as if that wasn't all, oddly enough, the whole thing (the visitor, the mob, the demands to *know*) happens again in the story of the Levite and his concubine (Judg 19:16–30). In this case however, the Levite hands over his concubine to the mob, who rape her to death — without apparent consequence.

58. See, for a recent example, Michael Ukleja, *Homosexuality and the Old Testament*, <http://www.biblebb.com/files/HOMOSEX.HTM>; date accessed 9 September 2009.

noting the ambiguities involved in the translation of Hebrew and Greek texts into Latin and English. There is for example the simple mistranslation of *qadesh* (literally “holy man”) as *sodomite* in English versions of the Bible (1 Kings 14:24; 15:12; Deut. 23:18). Other terms to be queried included references to *natural* and *unnatural uses* of the body, “working unseemliness” (Rom. 1:27), and *malakoi* and *arsenokoitai* (translated as “effeminate” and “abusers of themselves with mankind”, respectively) (1 Cor. 6:9–10). As Bailey points out, these expressions are often obscure, either in themselves or in what precisely they refer to. Is the condemnation of men who lie with men “as with womankind” referring to penetrative sex only (which is what men who lie with women properly do) or to all sexual contact between men?⁵⁹ Are the women who turn from the natural to the unnatural uses of their bodies committing lesbian acts or heterosexual perversions?⁶⁰ The truth is, no one can possibly know for sure. The translations of these passages, just as much as the interpretations put upon them, owed much to time and place and mindset of the translators.

The emphasis on time and place matters especially because one of Bailey’s most innovative contributions was to bring mid-twentieth century sexology (the science of sex) into the Christian understanding of the problem of homosexuality. Sexological science at this time held that what was commonly referred to as homosexuality actually encompassed two very different phenomena — usually described as *inversion* and *perversion*. *Inversion* was a condition, deeply embedded in the personality as a result of biological or psychological causes, which expressed itself in an attraction to persons of the same sex. As such — as a condition — it was involuntary. *Perversion*, on the other hand, referred to the practice of homosexual acts out of motives of curiosity, or in the absence of opportunities for heterosexual expression, or for the purposes of prostitution or blackmail, or simply for the sake of doing “evil for evil’s sake” — that is, it involved a much greater element of choice. Thus conceived, identical homosexual acts may be seen as expressions either of inversion or perversion, depending on the nature of the individuals committing them. Bailey applied this science to his reading of the relevant Biblical passages and came to believe that it was possible that the condemnation of homosexual acts contained within them was, properly understood, a condemnation of perversion only, which was the only conception of homosexuality available to the authors, translators, and commentators in their pre-scientific times.⁶¹ A modern mind, he suggests, might see in St. Paul’s words concerning the *unnatural* uses of the body a reference to perversion, but Paul himself could not have understood the issue in this way because he lacked the modern knowledge of the inversion–perversion distinction.

Bailey’s argument, and that of the Inversion Group as a whole, and that adopted by those Christians who took up the call for law reform, was not that

59. Bailey, Appendix I, 70.

60. Bailey, Appendix I, 66.

61. Bailey, Appendix I, 70.

homosexuality is not sinful. Indeed, they were clear that it was.⁶² Their case was only that it was not subject of any especially strong condemnation on the part of God, nor was it the occasion of any special wrath on his part. It was up to modern theologians, relying upon modern knowledge and theological reasoning, to find their own way to God's intentions on the problem of homosexuality. The Tradition, in other words, was subject to, indeed *needed*, rethinking.

One aspect of the Tradition that Bailey gives little attention to is the idea that the state ought to enforce Christian morality. He is aware, of course, of the importance of this viewpoint within the Western Christian Tradition: he sets out Aquinas' view, and there is a passing acknowledgment of its salience in the past in his observation that "The purpose of attempting to regulate the citizen's sexual conduct by statute is *no longer* [my emphasis] to restrain him from committing sin as such."⁶³ But so thoroughly out of fashion is this idea, it seems, that he did not feel called upon to devote much time or energy to refuting it. Even when he deals with the arguments for criminalising homosexuality, it is notable that he feels called upon to devote very little attention to the view that all sins ought to be crimes, dismissing the idea brusquely on the grounds that all such efforts in the past had failed. The role of the state "is not to safeguard private morality or to shield the mature citizen from temptation to do wrong."⁶⁴ Rather "It is a duty of the State to protect young people from seduction or assault, to protect society from nuisances and to preserve public decency."⁶⁵

Bailey's assault on the traditional interpretation of the Sodom story, his scepticism regarding the other Scriptural passages, the dismissal of the idea that the state might legitimately enforce moral standards — all these added up to a clear case (for those who chose to accept it, of course) that it was theologically *permissible* for Christians to support the repeal of the laws against homosexuality. But was there any compelling reason why Christians *ought to actively support* such a move? For Bailey, there was indeed, and here he shifts his ground away from the purely theological. The Church is not only concerned with morality but has a calling to compassion and justice. There were, in his view, compelling reasons why Christians, as rational and compassionate people, might actively want the state to repeal its prohibitions. This material provides the third part of the case put forward in the *Interim Report* and *SO&SP*.

Firstly, there was the argument from failure: that the criminalisation of homosexual acts did not actually deter men from committing such acts; the ever-increasing conviction rates attested to that. Secondly, there were arguments springing from the injustice of the laws as written — the fact that other forms of sexual misbehaviour such as lesbianism, adultery, and fornication were not criminalised. Thirdly, there were humanitarian arguments focussing upon the sufferings caused to inverts by the laws: most commonly cited were

62. Bailey, Appendix I, 70–7.

63. Bailey, Appendix I, 83.

64. Bailey, Appendix I, 83.

65. Bailey, Appendix I, 83.

suicide and blackmail. Fourthly, were the social harm arguments — that actually the laws were themselves a source of social problems: they discouraged inverts from seeking psychological treatment; the laws' inherent unfairness embittered them, leading them to abandon or defy social norms and values and even to form "an aggrieved and self-conscious minority" characterised by "dissatisfaction and ferment"; that the enforcement of the laws encouraged unsavoury policing practices such as the use of *agents provocateurs* and the use of coercion to extract names and other information. Some commentators suggested that the laws encouraged perverts to engage in such acts for the psychological satisfaction of defying the law. And, far from protecting young people, it was suggested that the existing laws actually put them at greater risk — some observers believed that the laws encouraged inverts to turn their attentions away from men to boys, who were less likely to go to the police or attempt blackmail.

Bailey's re-reading of the Tradition left unchallenged the central conception of homosexuality as a sin and in so doing sidestepped what was certainly the most important and potentially the most contentious element. Yes of course, the *Interim Report* conceded, homosexual acts are sinful, but that is not the issue. The issue is whether the law had any business imposing moral codes on citizens. This ought to have been a contentious question. After all the Churches had, for centuries, believed that it did. The state had a duty to impose morality; there was, as Catholic thinkers had long asserted, no right to sin. But by the mid-1950s no Christian seriously asserted this any longer. All that had remained to Bailey, then, was to tone down, as it was, the Biblical condemnation of homosexuality, allowing space for the reformers to act in good conscience. By the time the Wolfenden Committee began its work, he had done his job.