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Public policy and the political construction of the other.

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DEPOSITORY**

PUBLIC POLICY AND THE POLITICAL
CONSTRUCTION OF THE OTHER

A Dissertation Presented

by

GARY L. LEHRING

Submitted to the Graduate School of the
University of Massachusetts in partial fulfillment
of the requirements for the degree of

DOCTOR OF PHILOSOPHY

September 1993

Department of Political Science

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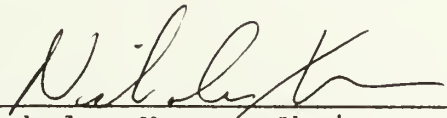
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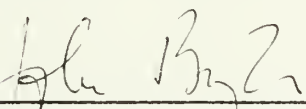
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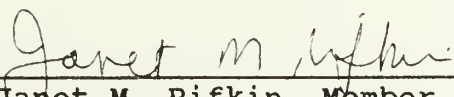
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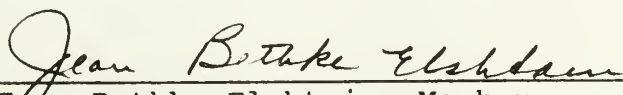
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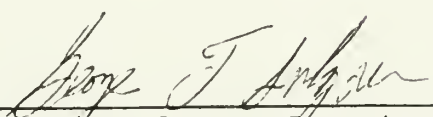
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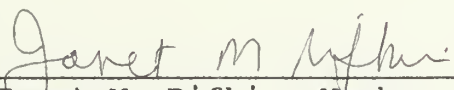
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usually reserved for more senior academicians. For all of these things, I am happily indebted.

Elizabeth (Betsy) Brooks, Marc Benda, Fiona Cooke, Gail Lehring-Elliott, Dorian Leslie, Kathleen Moore, Stephen Pelletier, and Paul Shepard each have formed an extended family, constituting an embarrassment of friendship riches, quite nearly keeping me alive through a rather bleak and dismal winter of discontent. Each, in different ways, has given so unselfishly of him-or herself, that I scarcely would be who I am today, were it not for what they have added to my life.

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ABSTRACT

PUBLIC POLICY AND THE POLITICAL CONSTRUCTION OF THE OTHER

SEPTEMBER 1993

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In the past decade the burgeoning field of gay and lesbian studies has been mired in a philosophic and epistemic morass over the question of sexual identity. Known as the essentialist/constructivist debate, there is much agreement among scholars that the debate has outlived its usefulness, but it persists nonetheless to divide gay and lesbian communities, within academia as well as without.

This question of sexual identity is not without consequences, as the perceived determinants of sexuality inform the social and political question "What is to be done with the sodomite, the homosexual, the gay and lesbian person?" Examining the epistemological models developed in the Nineteenth century to explain first the sodomite, and then the homosexual, I argue that these same models of criminal deviance, medical disorder, and psychological illness circulate still in the modern representation of the gay or lesbian person.

Central to this debate over sexual identity, is political identification. How the State represents gays and lesbians in policy decisions will have a great impact on the daily lives of millions of gay and lesbian people. From civil rights and employment rights to privacy rights and protection from harassment and violence, the modern State has become both arbiter for, and contributor to the political creation of the gay/lesbian 'other.'

Examining this process of political *identification* in the policy texts and political debates in The United States, I focus on the recent controversy over allowing "homosexuals" in the military, demonstrating how the state deploys both essentialist and constructivist strategies, often contradictorily in its construction of the modern gay and lesbian person.

Finally, I examine the gay community's "flight to essentialism," questioning whether this recent trend is really the most productive and strategic conceptualization of identity. I conclude that although it may prove useful in the short run, it may also open the door to forms of regulation and scrutinization of our intimate lives previously unknown. There is much which suggests that this process of heightened surveillance and control is already underway.

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CHAPTER 1

THE QUESTION OF GAY AND LESBIAN IDENTITY

In the past thirty years the struggle for lesbian and gay equality in the United States has achieved a new level of recognition, attention, and understanding. In most major cities today, gays and lesbians can choose to live freely and openly among other men and women who share their sense of identity. Bars, bookstores, health clubs and crisis lines catering specifically to their needs have become commonplace. Hotels, B & B's, libraries, doctors, insurance agents, realtors, even car salespersons frequently advertise in gay and lesbian newspapers, periodicals and telephone directories.¹ Gay youth organizations have been created to help adolescents struggling with their sexual identity and even mainstream comic books aimed at children have updated their universe to include superheroes that are gay.²

These changes include increasing levels of political activity. Non-Profit Organizations such as the *National Gay and Lesbian Task Force* and the *Human Rights Campaign Fund* lobby Congress while *Lambda Legal Defense Fund* and *The National Gay Rights Advocates* press

¹Some examples of these are *Bay Windows*, *The Advocate*, and *The Gay Yellow Pages* respectively.

²*Alpha Flight*, (New York: Marvel Comics, Volume 1, No. 106, March 1992).

for reform in the nation's courts. Openly gay and lesbian candidates have won election to local city councils, state legislatures and to the United States Congress. In the latter part of the twentieth century, gays and lesbians have created a culture, a politics and a sense of community based upon a shared sense of self. According to a number of scholars, the strategies and techniques employed by the gay and lesbian community to realize increased levels of societal recognition and political mobilization are patterned after the politics of racial and ethnic minorities.³

Unlike racial and ethnic minorities however, the gay and lesbian communities are without many of the common secondary characteristics employed by demographers to describe group similarities. Gays and lesbians come from every religious, ethnic and racial background. They come from widely divergent classes, have diverse levels of educational and occupational achievement and have no primary nation of origin. They are as likely to call themselves Republicans as Democrats, fall into no predictable "gay" or "lesbian" position with regard to most policy issues, and often

³Dennis Altman, *The Homosexualization of America* (Boston:Beacon Press, 1982); Jeffrey Escoffier, "Sexual Revolution and the Politics of Gay Identity," *Socialist Review*, 15 (1985): 119-153; and Steven Epstein, "Gay Politics, Ethnic Identity: The Limits of Social Constructionism," *Socialist Review*, 93/94 (1987): 9-54.

have lived decades of their lives without defining themselves as gay or lesbian.

What then do gay men and lesbians share? What are the elements that bring otherwise disassociated individuals together to form a community? To answer "sexuality," or "sexual difference," might at first seem to be stating the obvious, but beyond this simplistic rejoinder there is little agreement. Indeed, even this answer refracts into more questions. Is this sexual difference a "deviance," a form of "perverse sexuality?" Is it an "illness", a sexuality gone awry? Is homosexual a noun or a verb? Is being gay an "orientation," a "preference," a "lifestyle"? Do gays and lesbians *choose* to be the way they are, or does sexuality reside outside the realm of choice, a matter of "genetic predetermination"? Are there any theoretical possibilities between these two extremes? In sum, upon what does lesbian and gay "identity" depend?

Over the past decade, those interested in the study of sexuality have been embroiled in a debate aimed at addressing just this question. According to some, the debate has "outlived its usefulness,"⁴ creating an "impasse predicated on the difficulty of theorizing the

⁴Epstein: 11.

social in relation to the natural,"⁵ thereby paralyzing the study of homosexuality in the disciplines of history and the social sciences.⁶ Nevertheless, even critics agree that this debate has reoriented our thinking about sexuality, calling into question some of the general assumptions of the twentieth century regarding homosexuality.⁷

This debate, first coming into its modern expression in the study of feminist theory, was adopted quickly by scholars and activists interested in creating an academic field committed to the study of gays and lesbians. Known as the Essentialist/Constructionist controversy, this debate has fueled the fire of speculation as to the causes of homosexuality, and its recognition as a lesbian or gay identity. The word "identity" as used in the expressions "homosexual identity," "gay identity," or "lesbian identity" is of relatively recent origin. Vivienne Cass has noted, "a perusal of the pages and indices of early bibliographies

⁵Diane Fuss, *Essentially Speaking: Feminism, Nature & Difference*, (New York: Routledge, 1989), p. 1.

⁶John Boswell makes this claim in "Gay History" (Review of David F. Greenberg's *The Construction of Homosexuality*). *Atlantic Monthly*, (February 1989): 74-78.

⁷See Epstein and John Boswell, "Gay History." Diane Fuss argues that this has been accomplished, in part, through the encouragement of "more careful attention to historical specificities where perhaps we have hitherto been quick to universalize." Fuss, p. 1.

clearly shows the lack of reference to, and interest in, the construct [identity] prior to [the 1970's.]"⁸

But the roots of this debate are a good bit older, with a genealogy that is traceable both to the 20th century development of the academic fields of psychology and sociology and to the search for self-definition and self-understanding pursued by early gay and lesbian political organizations.

Philip Gleason in his article, "Identifying Identity: A Semantic History," explains that although stemming from an ancient latin root *idem*, meaning the same, the word *identity* itself, as we use it today, is a relatively new term, coming into popular social science usage only in the 1950's.⁹ Gleason distinguishes two approaches to the use of the concept identity as it first emerged: Erik Erikson's psychology and the sociological traditions of role-theory, reference group theory and symbolic interactionism. Erikson, who was the most important contributor to this popularization,

⁸Vivienne C. Cass, "Homosexual Identity: A Concept in Need of Definition," in *Origins of Sexuality and Homosexuality*, eds. John DeCecco and Michael Shively (New York: Haworth Press, 1984), p. 105. The bibliographies Cass examined include W. Parker's *Homosexuality: Selected Abstracts and Bibliography*, (San Francisco: Society for Individual Right, 1971), and M.S. Weinberg & A. Bell's *Homosexuality: An Annotated Bibliography*, (New York: Harper and Row, 1972).

⁹Philip Gleason, "Identifying Identity: A Semantic History," *Journal of American History*, Volume 69, No. 4, (1983): 910-931.

coined the expression *identity crisis*. For him, identity concerned "a process 'located' in the core of the individual and yet also in the core of his communal culture, a process which establishes, in fact, the identity of these two identities" ¹⁰

Gleason contrasts Erickson's approach with the sociological tradition arguing role theory and reference group theory understand *identification* as the "process by which a person comes to realize what groups are significant for him, what attitudes concerning them he should form, and what kind of behavior is appropriate."¹¹ Gleason expands upon the differences in these two uses:

The two approaches differ most significantly on whether identity is to be understood as something internal that persists through change or as something ascribed from without that changes according to circumstance. . . . Working within the Freudian tradition, [Erikson] affirms that identity is somehow "located" in the deep psychic structure of the individual. . . .

The sociologists, on the other hand, tend to view identity as an artifact of interaction between the individual and society--it is essentially a matter of being designated by a certain name, accepting that designation,

¹⁰Gleason: 914. The symbolic interactionists were "interested in the way social interaction, mediated through shared symbolic systems, shaped the self-consciousness [the identity] of the individual" (917).

In 1968, Mary McIntosh would apply a similar analysis to the study of homosexuality. See Mary McIntosh, "The Homosexual Role," *Social Problems* 17 (1986): 182.

¹¹*Ibid.*: 916.

internalizing the role requirements accompanying it, and behaving according to these prescriptions.¹²

This early split in the theoretical understanding of the concept of identity did not affect the study of homosexuality until somewhat later, chiefly because this study was seen as the exclusive province of the medical and psychiatric professions and was assumed by most in these professions to be a pathology, a disease, or at best a genetic predetermination.¹³

Ericksonian psychology and American Sociology illustrated an academic interest in the concept of personal identity--what makes a person who he or she is--that would resurface again in the form of academic debates regarding essentialism and social constructionism during the 1970's and 1980's. But

¹²Gleason: 918.

¹³The medical/psychiatric model of homosexuality, which first circulated in the late nineteenth century, posited that sexuality was an immutable trait. Interestingly, this position is not unlike the essentialist arguments about sexuality proposed by many gay and lesbian activists today. This medicalization followed a strategy which claimed to be liberating homosexuality from criminal punishment and social intolerance by removing it from the realm of individual choice. The logic behind this was well intentioned, as it was believed that if homosexuals were proved to be different from birth, or to have a different biological or genetic composition, then it could be argued that they should not be persecuted for that over which they have no control. This argument, in a more sophisticated way, still circulates today so entrenched has the medicalization of homosexuality become. This will be explored in greater detail in the next chapter.

psychologists and sociologists were not the only people interested in issues of identity during the 1950's, however.

In fact, it would be a mistake to conclude that because *identity* has only recently become the focus of medical or scientific understandings of homosexuality, or because the *word* identity does not appear in the academic literature on homosexuality before the 1970's, that the *concept* of identity, as a way of understanding who and what one is, had not been an issue for gays and lesbians in their lives before then. For decades before "homosexual identity" came into common usage in the academic communities, homosexuals had been battling the stigmatizing effects of such a medical classification, just as, before them, sodomites fought their legal/moral classification attributed by church and state. It was these struggles that led to the birth of organizations whose aim it was to foster understanding and acceptance of homosexuals. It was in the arguments put forward by these organizations that the idea of identity first approached the meaning Erickson assigned to it: a deeply internal structure located within an individual's psyche.

In the United States, the first of these organizations originated in Los Angeles in the early 1950's and was called the Mattachine Society. Making

use of the name of a secret Medieval society of unmarried French men who conducted rituals and dances during festivals, members of the modern Mattachine Society organized themselves into secret cells along the lines of the communist party, in which the founders had been active.¹⁴ In their mission statement, the Mattachine Society proposed to foster an "ethical homosexual culture" comparable to "the merging cultures of our fellow-minorities--the Negro, Mexican and Jewish Peoples." Stressing the importance of education, unification and consciousness raising, they also called for its members to engage in "political action to erase from our law books the discriminatory and oppressive legislation presently directed at the homosexual minority."¹⁵

The members of this early gay rights organization proffered that a hidden homosexual minority existed, and by implication, always had existed. It was only the oppression of the heterosexual majority's culture,

¹⁴Jonathan Katz, *Gay American History* (New York: Cromwell, 1976), pp. 406-420.

¹⁵Ibid., p. 412. For an extended discussion about the activities of the Mattachine Society, also see Toby Marrota, *The Politics of Homosexuality*, (Boston: Houghton Mifflin, 1981), pp. 8-21; John D'Emilio, *Sexual Politics, Sexual Communities: The Making of a Homosexual Minority in the United States, 1940-1970* (Chicago:University of Chicago Press, 1983) pp. 57-91; and Jeffrey Escoffier, "The Politics of Gay Identity": 126-129.

language and legal strictures that had prevented gays and lesbians from discovering their common heritage and their shared essentialism. As Jeffrey Escoffier writes, "this analysis seemed consistent with the experience of many gay women and men at the time as well as with subsequent history." This minority, they argued, could be discovered, united and led to emancipation through education, political activity, and the creation of an "ethical homosexual culture."¹⁶ This group clearly had an understanding of gay and lesbian identity which mirrored Erickson's presentation of identity as an "internal" part of an individual, although academicians were not to apply this conceptualization of identity to gays and lesbians for two decades. Not everyone in the Mattachine Society agreed with this assessment of gays and lesbian identity, however.

Others in the Mattachine Society, called "middle class," "status quo types" by founder Henry Hay, believed that the "the cultural and social characteristics of gay life were "the result of ostracism and oppression"¹⁷ rather than a reflection of essential differences realized and then projected outward into the creation of a specialized culture.

¹⁶Escoffier: 123.

¹⁷Ibid., p. 127.

Arguing from a sociological/interactionist perspective and relying upon the pioneering works of Alfred Kinsey (*Sexual Behavior in the Human Male* in 1948, and *Sexual Behavior in the Human Female* in 1953), and upon the position developed by writers such as Donald Webster Corey's in his 1951 publication, *The Homosexual in America: A Subjective Approach*, these activists claimed that the only "real" difference between heterosexuals and homosexuals was their sexual preference.¹⁸ In all other respects, they were alike. They agreed with the supporters of the "ethical homosexual culture" thesis that having a different sexual preference often led to oppression of homosexuals. They also agreed that shared oppression led to the development of some kind of homosexual subculture, but they disagreed that this subculture was the result of some unchangeable essential difference inherent in gays and lesbians, and clearly did not find this subculture something to celebrate. Believing the homosexual subculture was premised on self-hatred and isolation, the "assimilationists," as they were dubbed by their opponents in the Mattachine Society, saw a

¹⁸Alfred C. Kinsey, Wardell B. Pomeroy, and Clyde E. Martin, *Sexual Behavior in the Human Male* (Philadelphia: Saunders, 1948); Alfred C. Kinsey, et al., *Sexual Behavior in the Human Female* (Philadelphia: Saunders, 1953); and Donald G. Corey, *The Homosexual in America*, (New York: Greenberg, 1951).

distinct, disparate homosexual culture more as a by-product of oppression than a solution to it. Arguing against creating a different culture, the proponents of this latter position advocated working within the system, "adopting a pattern of behavior that is acceptable to society" and compatible with the political and social institutions of "home, church and state."¹⁹ Their position became the pattern for the developing gay and lesbian rights movement in the fifties and sixties.²⁰

This digression into the history of the United States gay rights movement illustrates a number of interesting points. The concept of a politicized homosexual identity first emerged among gay men attempting to explain and justify their existence and to achieve some form of political equality. Although yet to apply the term *identity* to their efforts to organize and record their history and opinions about *who*, *what*, and *why* they were, gays and lesbians did see themselves as engaged in the process of "truth-telling"; the process of explaining, justifying, and, at times, inventing who they were, and thereby hoping to alter the

¹⁹John D'Emilio, pp. 57-91. Also quoted in part in Escoffier: 127-128.

²⁰For more information about the gay and lesbian rights movement in the fifties and sixties, see John D'Emilio, and Toby Marrotta.

medicalized and criminalized representation of "homosexual."

There is no evidence to suggest that the members of the Mattachine Society had ever read any Erickson or the sociologists of the 1950's, but their actions and debates of the time suggest an understanding and a split in the theoretical conceptualization of gay and lesbian *being*, which was quite similar to the academic debate surrounding "personal identity formation" at the time. Although the term identity was yet to enter everyday--or even common academic usage--the concept and its importance in the battle over representations of self were being debated in the gay and lesbian community long before it became a "hot" academic topic or a colloquial mainstay. These early debates over identity also accurately foreshadow the theoretical split that was to develop within the research on homosexuality in the late 1970's.

More important than the historical genealogy of *identity*, this historical digression illustrates that the debate over *being* (known in its current manifestation as the essentialist/constructionist debate), has been present, at some level, since the beginning of the gay rights movement in the United States. That academicians, pursuing the study of sexuality, would come to reflect this split in their

deliberations and debates, albeit in a more detailed, analytic, and sometimes tedious manner, is both predictable and understandable. What is not quite so comprehensible is why this debate has paralyzed the study of "homosexuality" for over a decade, slowing the progress of gay and lesbian studies in a time when greater information, understanding and public awareness of sexual difference is needed to combat the increase in hate crimes and violence directed at the lesbian and gay communities. It is toward a greater understanding of the actual and possible social and political consequences the debate over *being* has for the oppression and regulation, civil rights, and liberation of gays and lesbians in the United States that I wish this dissertation to contribute. Before discussing a way to move this debate beyond its current philosophical morass, I wish to first examine the essentialist/constructionist debate in its current manifestation to attempt to sort out what indeed is at stake between these two philosophic and political positions.

The Essentialist-Constructionist Debate

Although many scholars believe the essentialist/constructionist debate is more a debate between constructionists and their socially constructed "straw

man" of essentialism,²¹ the philosophic roots of essentialism can be traced to the work of Aristotle who, in Book Z of the *Metaphysics*, conducts a systematic examination of the distinction between essence and accident.²² In its contemporary form, the debate between the essentialists and the social constructionists reflects the ancient polemic between nature and nurture which has reverberated for millennia

²¹John Boswell, Wayne Dynes and Edward Stein each make the argument that the social constructionists really only have examined one simplistic view of essentialism--one which serves the agenda to posit constructionism as clearly superior. Stein takes the most extreme position although Dynes and Boswell would agree with his assessment that "essentialism is really only a construction of the social constructionists." See Edward Stein, Chapter 12 "Conclusion: The Essentials of Constructionism and the Construction of Essentialism," in *Forms of Desire: Sexual Orientation and the Social Constructionist Controversy* edited by Edward Stein (New York: Garland Publishing Inc. 1990), pp. 325-353. See also Wayne Dynes, "Wrestling with the Social Boa Constrictor," pp.209-238, and John Boswell "Concepts, Experiences and Sexuality" both in Edward Stein, *Forms of Desire*. Boswell's "Revolutions, Universals, and Sexual Categories," *Salmagundi* 58-59 (1982-83): 89-113, and "Gay History," 74-78 which is a review of David Greenberg's, *The Construction of Homosexuality*, (Chicago: University of Chicago Press, 1988) both further the critique of constructionism.

²²For a complete account of the philosophic history of essentialism see David Degrood, *Philosophies of Essence: An Examination of the Categories of Essence* (Amsterdam: B.R. Gruner Publishing Co., 1976); Richard Rorty, *Philosophy and the Mirror of Nature* (Princeton: Princeton University Press, 1979); Charlotte Witt, "Aristotelian Essentialist Revisited," *The Journal of the History of Philosophy*, 27, (1989): 285-299; D. Wyatt Aiken, "Essence and Existence, Transcendentalism and Phenomenalism: Aristotle's Answer to the Questions of Ontology," *The Review of Metaphysics* 45 (1991): 29-56.

in the works of philosophers conceptualizing and justifying the roles women occupied in society.

Fueled by the Enlightenment fascination with *Reason* and *Science*, this debate as it was applied to women, reaches a fevered pitch in the writings of Jean Jacques Rousseau. His explanations for the differences in the treatment of women, which sound like weak, sometimes comical rationalizations to many modern listeners, reflect an understanding of the roles of nature and socialization that circulate still in the modern understanding of sex and gender differences. Although it is likely that few today would argue, as did Rousseau, that "however lightly we may regard the disadvantages peculiar to women, yet, as they necessarily occasion intervals of inaction, this is a sufficient reason for excluding them from . . . supreme authority . . .,"²³ one need only think of the rapidity with which the concept of "pre-menstrual syndrome" (P.M.S.) exploded into common usage as a medically scientific explanation of the "unpredictable mood swings" women experience as a result of biological differences to acknowledge that our modern understanding of nature and biology have ancient roots.

²³Jean Jacques Rousseau, *A Discourse on Political Economy*, in *The Social Contract and Discourses*, translated by G.D.H. Cole (London: J.M. Dent and Sons Ltd., 1973), p. 118.

Essentialism, as it applies to the study of sexuality, has historically dominated this debate marshalling nature and biology against social and cultural explanations of the causes and origins of sexual difference. Essentialists believe that there is a true, unchanging, irreducible essence which constitutes sexual identity. Sexuality, in this understanding, carries the weight of a biological force, and sexual identity represents the cognitive realization of genuine underlying differences. To be gay, then, constitutes a core of one's being which exists independently, prior to, and outside of the influence of culture. It is a fixed and unchanging property like height, eye color or body type and it is objectively verifiable. It is a real, existing, determinative difference which, whatever the cause, already has been, or will in the future be, empirically verified.

As much of the recent constructionists' criticism indicates, essentialism contains a variety of causal explanations within it.²⁴ But whether viewing sexuality as a biological force, a product of hormonal or genetic differences, or a consequence of psychological elements of early adult/child

²⁴See Footnote # 17 for a list of the current critics of constructionism who argue that constructionist views of essentialism are simplistic and serve only the role of "straw man" to the more elaborately developed constructionist critiques.

relationships, essentialists agree that there is something central, some core part of an individual that makes them the "way they are."

Social constructionists, on the other hand, are concerned with the philosophic refutation of essentialism. Believing that sexuality and sexual identity are social constructs, belonging to the nexus between society, culture and the production of meaning, they reject biological and deterministic accounts of sexual difference. The objective of the constructionist agenda is to examine, interrogate and explain the complicated and interlocking processes which work together to create the appearance of "natural" or given "sexualities."

Included in this agenda is the de-familiarization of the signifier "natural" and a critique of science, as constructionists argue that "nature" and "science" both are products of social interaction and are rooted in culturally specific meanings. "Nature," it is argued, has meanings which differ among people at various periods in history, and much of what was considered "scientifically" sound and irrefutable in the past, is seen today as remarkably naive, and simplistic, in addition to being "incorrect."

According to the constructionists, sexuality and sexual identity, like history, are culture dependent,

and rooted in practices unique to a specific culture at a specific period in time. Constructionists assume that sexual relations, identities, and differences inhere in the practices created by a culture's language, and while admitting that sexual acts between members of the same gender occur in almost every society, and at almost every period in history, they argue that those who have created a sexual identity based upon these sexual acts or upon deeply personal, sexual feelings and emotions have only recently come into being.

The genealogy of the social constructionists does not stretch back nearly so far as the Aristotelian musings about essence, but its relatively recent origin belies the speed with which it has become "received wisdom" among many leftist academics. While there are some disagreements about the more obscure tenets of the social constructionist position as it is applied to questions of sexuality,²⁵ there is general agreement

²⁵Examples of the various and diverse types of tenets that are sometimes attributed to social constructionism include Epstein's claim that, in addition to Mary McIntosh and Michel Foucault, the lineage includes the symbolic interactionists--e.g. John Gagnon & William Simon, *Sexual Conduct* (Chicago:Aldine, 1973)--and labelling theorists Mary McIntosh (discussed above) and Kenneth Plummer, *Sexual Stigma* (London: Routledge and Keegan Paul, 1975). Jeffrey Escoffier cites the importance of Herbert Marcuse's *Eros and Civilization* (Boston: Beacon Press, 1955), Norman O. Brown's *Life Against Death* (Middletown: Wesleyan University Press, 1959), and Paul Goodman's *Growing Up Absurd* (New York: Random House, 1966). Wayne Dynes adds others such as Peter Berger and Tom Luckmann's *The*

over the central figures: Mary McIntosh and Michel Foucault.

Mary McIntosh, in 1968, wrote an article that sought to "take on" the medical understanding of the "homosexual" as a trans-historical, natural category of person. Central to the current constructionist critique, McIntosh's discussion of a "homosexual role" as a modern development provides the crux of the constructionist argument that although homosexual acts can be found in every society, homosexual persons have arisen only recently. McIntosh describes the role the medical community played in the spread of our cultural understanding of the homosexual:

Many scientists and ordinary people assume that there are two kinds of people in the world: homosexuals and heterosexuals. Some of them recognize that homosexual feelings and behavior are not so confined to the persons they would like to call "homosexuals" and that some of these people do not actually engage in homosexual behavior. This should pose a crucial problem, but they evade the crux by retaining their assumption and puzzling over the question of how to tell whether someone is "really" homosexual or not. Lay people too will discuss whether a certain person is "queer" in much the same way as they might question whether a pain indicated cancer. And in much the same way will often turn to scientists or to medical men

Social Construction of Reality: A Treatise in the Sociology of Knowledge (New York: Anchor Books 1966), which he claims reflects the ideas of such continental thinkers as Karl Mannheim, Alfred Schutz, and Sigmund Freud. What all of these authors have in common, however, is their belief that Mary McIntosh and Michel Foucault are the major influences on the origins of the Social constructionist position as it has developed in the study of sexuality.

for a surer diagnosis.²⁶

In place of a primarily essentialist medical discourse which treats homosexuality as an internal property, McIntosh argues that in modern societies the homosexual has come to occupy a unique social role. This role developed because homosexual practices are widespread, yet threatening, and a stigmatized category of "being" was required to help distinguish between good and evil, and to help keep the rest of society "pure." This category serves, McIntosh argues, as a threshold which distinguishes between permissible and impermissible behavior. As one's behavior approaches that threshold, he/she is immediately in danger of being labeled a full fledged deviant. Finally, McIntosh adds that a homosexual identity is created not through engaging in a certain sexual activity (what labelling theorists would call primary deviance), but through the reactions of the deviant individual to being described as a homosexual and then internalizing that description and its imposed categorization (secondary deviation).

McIntosh's work created room for doubt in the prevailing essentialist understandings of a medicalized homosexuality in 1968, and it opened the door to even

²⁶McIntosh: 182.

greater investigation as to the causes of homosexuality and the origins of gay and lesbian people.

Perhaps even more important than McIntosh's "The Homosexual Role" was the appearance in 1978 of Michel Foucault's *History of Sexuality*. Foucault argues that sexuality has been the site of an explosion of discourses of power and knowledge. Sexual meanings, sexual strictures and sexual beings have come to be produced endlessly by societies and cultures which have become obsessed with the significance of the sexual, elevating it to dimensions never before witnessed in the history of the world. In Foucault's words, we have come to look toward sex and sexuality to tell the "truth of our being."²⁷

Bringing an historical approach to the constructionist debate, Foucault employs this perspective to explain the origin of "the homosexual." Tracing the shift from sexual acts to sexual persons, the shift from verb to noun, Foucault argues that this shift occurred as the result of an increasing fascination with sexuality in general; an ever increasing intensity and transformation in the structures of social control, by making mechanisms for social control ever more individualized and disciplinary

²⁷Michel Foucault, *The History of Sexuality, Volume I: An Introduction*, Robert Hurley, trans. (New York: Pantheon, 1978), p.43.

in nature; and the increasing authority, respect and institutional power of the medical professionals to enforce social norms and punish aberrations and deviances.

Sounding a bit like Thomas Kuhn who, in his book *The Structure of Scientific Revolution*,²⁸ has described paradigm shifts that upon occurring change dramatically the way in which we understand a given field of inquiry, Foucault argues that there is a definite point in history when the homosexual was brought to life:

As defined by the ancient civil or canonical codes, sodomy was a category of forbidden acts; their perpetrator was nothing more than the juridical subject of them, the nineteenth-century homosexual became a personage, a past, a case history, and a childhood, in addition to being a type of life, a life form, and a morphology, with an indiscreet anatomy and possibly a mysterious physiology. Nothing that went into his total composition was unaffected by his sexuality. It was everywhere present in him: at the root of all his actions because it was their insidious and indefinitely active principle; written immodestly on his face and body because it was a secret that always gave itself away. It was consubstantial with him, less as a habitual sin than as a singular nature. We must not forget that the psychological, psychiatric, medical category of homosexuality was constituted from the moment it was characterized . . . less by a type of sexual relations than by a certain quality of sexual sensibility, a certain way of inverting the masculine and the feminine in oneself. Homosexuality appeared as one of the forms of sexuality when it was transposed from the practice of sodomy onto a kind of interior

²⁸Thomas Kuhn, *The Structure of Scientific Revolutions* (Chicago: University of Chicago Press, 1962).

androgyny, a hermaphroditism of the soul. The sodomite had been a temporary aberration; the homosexual was now a species.²⁹

From these double roots the social constructionists have developed a sophisticated new analysis of sexuality that affects our understanding of history, politics, anthropology, classical literature, women's studies and philosophy. Currently there are quite impressive numbers of people who call themselves social constructionists. Steven Epstein, Jeffrey Escoffier, Arnold Davidson, Robert Padgug, Ian Hacking, Lenore Tiefler, Diane Richardson, Diana Fuss, Jeffrey Weeks, and Kenneth Plummer are some of the more notable scholars although, among even this sample of individuals, there are differences in their approach to the social construction of sexuality.

But, as many critical of the constructionist position have argued, those defining themselves as "essentialists" are harder to identify. John Boswell is the scholar who makes this claim the loudest and the most frequently, perhaps because his work, *Christianity, Social Tolerance and Homosexuality: Gay People in Western Europe from the Beginning of the Christian Era to the Fourteenth Century*, (1980) has been the work that many constructionists point to as an essentialist

²⁹Foucault, p. 43.

approach to the study of homosexuality. As the title suggests, Boswell posits the existence of gay people in history despite the obvious problem that, linguistically, the signifier "gay" was not in circulation during the period Boswell examines. As his other works makes clear, however, Boswell does not think himself an essentialist, even as he has become the most persistent critic of the constructionist agenda.

In fact, Boswell claims that "one of the many ironies about the [essentialist/constructionist] controversy is that no one deliberately involved in it identifies himself as an 'essentialist', although constructionists (of whom in contrast, there are so many) sometimes so label other writers."³⁰ Boswell, to some extent, has the right to be thin skinned. Constructionists do single him out as *the* prime example of essentialist historiography.³¹ Boswell, however, takes his argument a bit too far when he suggests that while there are many social

³⁰John Boswell, "Categories, Experience and Sexuality," in *Forms of Desire: Sexual Orientation and the Social Constructionist Controversy*, ed. Edward Stein (New York: Garland Publishing, Inc. 1990), p.133.

³¹Epstein; Stephen O. Murray, "Homosexual Categorization in Cross Cultural Perspective," in *Social Theory, Homosexual Realities* (New York: Gay Academic Union, 1983); and David Halperin, *One Hundred Years of Homosexuality*, (New York, Routledge, 1990) all identify John Boswell as the prime example of essentialist historiography.

constructionists, there are so few essentialists. Perhaps accurate in the field of history, or more specifically research into the history of male homosexuality, there are scholars in fields such as lesbian studies, women's studies, psychology and philosophy who do make essentialist arguments unashamedly and unapologetically.

Often coming from very different political and philosophic perspectives, among these scholars are included the works of Stephen Heath, Alice Jardine, Adrienne Rich, Jean Bethke Elshtain, Naomi Schor, Gayatri Spivak and Luce Irigaray.³² To these feminist essentialists who deal primarily with this debate as it affects representation of women or lesbians, must be added Michael Ruse's *Homosexuality: A Philosophical*

³²Stephen Heath, "Difference," *Screen* 19 (1978): 50-112; Alice Jardine, *Gynesis: Configurations of Women and Modernity*, (Ithaca: Cornell University Press, 1985); and Jardine and Paul Smith, eds. *Men in Feminism* (New York: Methuen); Adrienne Rich, "Compulsory Heterosexuality and Lesbian Existence," in *Powers of Desire* eds. Ann Snitow, Christine Stansell, and Sharon Thompson, (New York: Monthly Review Press) 177-205; Jean Bethke Elshtain, "Homosexual Politics: The Paradox of Gay Liberation," in *Homosexuality: Sacrilege, Vision, Politics*, eds. Boyers and Steiner (Sarasota Springs: Skidmore College, 1983); Naomi Schor, "Dreaming Dissymmetry: Barthes, Foucault and Sexual Difference" in Jardine and Smith, 98-110; Gayatri Spivak, *In Other Worlds: Essays in Cultural Politics* (New York: Methuen, 1987), and Luce Irigaray, *Speculum of the Other Woman*, Trans. Gillian C. Gill (Ithaca: Cornell University Press 1985), and *This Sex Which is Not One*, trans., Catherine Porter and Carolyn Burke (Ithaca: Cornell University Press, 1985).

Inquiry and Edward Stein's "The Essentials of Constructionism and the Construction of Essentialism."³³

Because those "labeled" essentialists cry foul so often, perhaps it is best to examine what these critics claim are the problems with social constructionism without mistakenly conflating their objections with a wholesale identification with essentialism. On the other hand, keeping in mind the elements of essentialism that are widely accepted, if it is discovered that in some important ways these critics of constructionism agree with widely held essentialist positions, then these positions can and should be labeled "essentialist" whether or not the entire body of their work can be said to fit neatly into the essentialist camp.

It is my hope that an examination of these criticisms will reveal the ancillary issues involved in the debate between essentialism and constructionism. This debate as it affects gay and lesbian studies is first and foremost about the origins of sexuality and sexual identity, but it has overlapped into questions of historiography, epistemology, science, linguistics,

³³Michael Ruse, *Homosexuality: A Philosophic Inquiry* (New York: Basil Blackwell Inc., 1988); Edward Stein, "The Essentials of Constructionism and the Construction of Essentialism," in *Forms of Desire: Sexual Orientation and the Social Constructionist Controversy* (New York: Garland Publishing, Inc. 1990).

philosophy, and politics. The scholars who have most thoroughly criticized the constructionist position as it relates to sexuality are Boswell, Dynes, Stein, and Diana Fuss.³⁴ Their criticisms, taken together with the social constructionist positions can illustrate the many different elements involved in this debate and what the stakes really are between the two opposing camps. The differences between these two positions can be grouped into discussions of the following topics: 1) Categories and Definitions; 2) Historical and Historiographical considerations; 3) Science, Empiricism and Epistemology; and 4) Morality and Politics.

Categories and Definitions

Critics of the constructionist agenda make two charges that are relevant to a discussion of categories and definitions. The first of these involves a philosophic disagreement about the nature of categories themselves, while the second is a general attack on the perceived lack of a single, well developed and widely accepted definition or methodological approach for social constructionism.

³⁴Of these critics of constructionism, Diana Fuss defines herself as a constructionist, but she, perhaps better than the rest, understands the weaknesses of the constructionist approach. Her criticism of Social Constructionism and Essentialism have proved the most useful and the most insightful to me in working through this debate.

The concern over the categories used in this debate can be summarized in terms of an older philosophic interest in the dispute between realism and nominalism. Do categories reflect natural, existing, "real" differences? Or, does the creation of a category and the assignment of something to that category influence the way in which we as human beings experience it? Fuss makes this point cogent, by using the example of the rose: [A] rose, by any other name would still be a rose--for an essentialist; for a constructionist, a rose by any other name would not be a rose, it would be something altogether rather different."³⁵

Essentialism as a philosophic theory, as well as the critics of constructionism often believe that the labels such as "homosexual" and "rose" reflect actual categories that exist in nature, while for constructionists these categories are arbitrarily affixed signifiers which establish the existence of these labels in our mind. The critics deny that the linguistic creation of the signifier "homosexual" has anything to do with the way we experience the person thus defined. But the claim that language influences if not creates reality is one of the central and most important charges made by the constructionists as it bears directly on the question of the origins of gay and

³⁵Fuss, p. 5.

lesbian identity. As the constructionists argue, the term 'homosexual' was invented by medical practitioners to explain deviance and illness, and perhaps to stigmatize and control the behaviors of social non-conformists. This medicalized model of sexual difference, they contend, persists still in contemporary views of gays and lesbians, making a discussion of the use of language and discourse central to an understanding of sexuality as it is constructed in various cultures and historical periods.

On the other hand, as Diana Fuss writes, essentialists have recourse to an "ontology which stands outside the sphere of cultural influence and historical change."³⁶ For essentialists then, homosexuality is independent of the medical and scientific discourses within which it was born; it exists independently, naturally and has only been waiting for the "sexologists" of the nineteenth century to give it a name. There are essentialists however that believe that certain cultural, social or familial explanations of homosexuality can be correctly viewed as "essentialist." Stein argues that single explanation theories that attempt to explain sexuality, even developmental theories such as Freud's belief that homosexuality stems from unresolved Oedipal complexes,

³⁶Fuss, p. 3.

are basically essentialist theories. In the terminology of Fuss, Stein argues that homosexuality could stand either outside or inside the "sphere of cultural influence and historical change."³⁷

At first glance it appears that Stein runs the risk of defining essentialism so broadly that it incorporates within it much of the constructionists agenda with which he takes issue. But Stein makes a discussion of definitional categories even more confusing in his attempt to develop what he calls a "sophisticated essentialism." Unfortunately, his attempt to create a new understanding of essentialism only succeeds in illustrating his inconsistency and misunderstanding of the state of the constructionist/essentialist debate.

Stein claims essentialism is compatible with either sexual orientation being learned or innate, and that "[t]he positive claims of social constructionism are . . . perfectly compatible with essentialism. Simply put, a theory of the origins of sexual orientations of people is independent of a history of currently used categories of sexual orientation or a history of the emergence of 'different forms of life'."³⁸ Stein

³⁷Stein, p. 342.

³⁸Ibid., p. 344. One should note that the "theory of the origins of sexual orientation of people" Stein speaks of, is one that he believes *could* be developed in the future, not one that currently exists.

distinguishes between "sexual orientation" and "categories of sexual orientation," arguing that although social constructionism is concerned with narrating the histories of the latter, this does not, in any way, affect the essentialist quest to establish, beyond a doubt, the causes of the former.

Stein argues that this "sophisticated essentialist" theory, which does not currently exist (in fact Stein claims that this theory will depend upon the invention of new definitions, new categories and a new language with which to discuss sexuality), will "be a theory of all sexual orientations, will not use our naive categories of sexual orientation, and will not be committed to explaining the origins of sexual orientations using a single theory. Such an essentialist theory will look for culture-independent, objective and intrinsic properties--what might be called deep properties--which are involved in sexual orientation."³⁹

Stein's belief that in the future a new theory could be created that is independent of our currently used categories, sidesteps the issue many constructionists believe is central: namely, how sexuality has come to be defined and categorized has created much of the oppression and discrimination

³⁹Stein, p. 338.

experienced by gays and lesbians. Stein also fails to acknowledge that the oppression felt by homosexuals in the last century did not change or end with the rise of the new signifiers "gay" and "lesbian." To dream of new categories and definitions which will liberate all people from the current emphasis on sexual identity, while attractive to anyone who has faced oppression because of that sexual identity, is both naive and utopian. This is especially true given that Stein offers no tangible evidence, plan or approach that is likely to contribute to the development of this new "essentialism."

In fact, Stein's search for "deep properties" reveals his own belief in an essentialist explanation for sexuality, for that is after all what is at issue for the essentialist: the discovery of the factor or factors that determine sexuality or sexual orientation. His call for a theory that will encompass many elements that "cause" sexual orientation, is no less deterministic than one which claims sexual preference is "determined" by a single gene or hormone. His "sophisticated essentialism" turns out to be neither more or less sophisticated than other essentialist positions; in fact it scarcely seems different from them.

John Boswell is more sensitive to the issues involved in this debate, noting that "definitions are at the heart of the controversy, and most constructionists would disagree with my use of 'gay'." He continues:

I defined 'gay persons' in *Christianity, Social Tolerance and Homosexuality* (p. 44) as those "who are conscious of erotic inclination toward their own gender as a distinguishing characteristic;" I would now simplify this and designate as a gay person anyone whose erotic interest is predominantly directed toward his or her own gender (i.e., regardless of consciousness of this as a distinguishing characteristic). This seems to me the normal meaning of the term among American speakers of English.⁴⁰

Boswell is aware of that which Stein dismisses, that definitions are a central part of this debate. Still, if, as Foucault has argued, a new species was born with the creation of the homosexual, then defining oneself, or being defined by others, as a homosexual will have tangible, definite, historically and culturally specific consequences; consequences which will impact upon the lives of many people who identify themselves as gay or lesbian. This is the point on which Boswell's position in the debate over categories sounds most essentialist. His belief that the term "gay" can be used to define people from the first century as accurately as those today suggests that his definition sidesteps the issue of sexual identity

⁴⁰John Boswell, "Categories, Experience and Sexuality": n.8.

entirely, revealing his own dependence on an essentialism which he tries so often to deny, by suggesting that one's consciousness of his/her own erotic interest is not important to the determination of whether one is gay or lesbian. He repeats this claim later in the same article when he suggests that "gay people themselves will often remark of someone that he does not yet "realize" he is gay--a clear indication that the category is not necessarily a self-conscious one in their view."⁴¹

Boswell's belief that sexuality and sexual identity are different concepts clearly does not an essentialist position make; in fact many constructionists make similar claims. But his belief in a "true," "observable," underlying homosexual essence, recognizable to others, that leads to a 'self-conscious' recognition and acceptance of identity by gays and lesbians, borders on an essentialist understanding of sexuality.⁴² While this latitude allows for a wider net to be cast when claiming the existence of "gays" and "lesbians" throughout world history, it fails miserably to address the fact that a self-conscious

⁴¹Ibid., 147.

⁴²It is possible, from a constructionist point of view, to believe that categories for sexual identity that are produced by a culture are experienced by an individual as natural, unchanging, and immutable.

recognition of one's sexual difference was central to the development of gay and lesbian as terms of self-identification used to fight the older medical designation of deviance embodied in the signifier "homosexual."

'Essential' Agreement on Definitions. The second criticism levied by the critics of constructionism addresses the "lack of consistency" that exists between those who claim to be constructionists. A familiar, academic attack on methodology, these critics often claim that the constructionists have created an essentialist "foil" against which to posit their constructionist agenda. These critics also claim that constructionism itself is loose and ill-defined, that finding any single working definition is impossible. John Boswell has claimed that "there are probably as many ways to define 'constructionism' as there are 'constructionists' . . . and some constructionists seem as far from other constructionists as all do from the so-called 'essentialists'."⁴³ Boswell enumerates these differences:

Some constructionists argue that a "homosexual identity" did not exist before a certain date (often the second half of the nineteenth century); others that "homosexuality" was not found before such a date; others that although "homosexuality" was known throughout history, "gay people" did not

⁴³Boswell, "Categories, Experience and Sexuality": 135.

exist until relatively recently. Some writers argue generally that "sexuality" is not a constant; others posit more specifically that social constructs of sexuality are not constant. A more sweeping and profound version of these is that there is no aspect of sexuality that is not socially constructed.⁴⁴

This squabble over definitions belies how much agreement there is in the opposing camp about what elements define constructionism. Boswell defines social constructionism as "the view that 'sexuality' is an artifact or 'construct' of human society and therefore specific to any given situation."⁴⁵ Stein understands it quite similarly, claiming social constructionists believe sexuality "is culture-dependent, relational, and perhaps not objective."⁴⁶ These critics define constructionism simply and succinctly, but not unlike those who embrace social constructionism. Epstein, who employs a constructionist approach in his work, claims that "against the essentialist position that sexuality is a biological force seeking expression in ways that

⁴⁴Ibid.: 136.

⁴⁵Boswell, "Categories, Experience and Sexuality," p. 135. Also, see Boswell's *Gay History*, where he again argues "social constructionists argue [homosexuality] is an artifact (or 'construct') of particular social structures which have appeared in only a few times and places." (74) Boswell, for all of his protestations about the many and varying definitions of constructionism, is very consistent about what he understands constructionism to be.

⁴⁶Stein, p. 325.

are preordained, constructionists treat sexuality as a blank slate, capable of bearing whatever meanings are generated by the society in question." ⁴⁷ Fuss, who is a self-defined "anti-essentialist" claims that constructionists "insist that essence is itself a historical construction. Constructionists take the refusal of essence as the inaugural moment of their own projects and proceed to demonstrate the way previously assumed self-evident kinds . . . are in fact the effects of complicated discursive practices."⁴⁸ For all of the effort and energy spent attempting to muddy the waters, both constructionists and their critics have a fairly well developed and intelligible understanding of what is meant by the social construction of sexuality.

History, Historiography and Constructionist Deprivation

Social Constructionists and their critics are in agreement about one thing: whatever else constructionist research and scholarship has accomplished, it has raised the level of sophistication of the research into gay and lesbian studies. Wayne Dynes, sharply critical of the constructionist agenda, admits that following World War II, much "lay" writing and "protoscholarship" sought to address the desire of gay and lesbians to have

⁴⁷Epstein: 13.

⁴⁸Fuss, p. 2.

"affectional ancestors" and role models who would "attest the enduring value of homosexual feeling and expression in the great tapestry of human experience."⁴⁹

Dynes, however, admits that the "works that appeared to satisfy these longings . . . were not very sophisticated. Readers with professional historical training noted that such books were anachronistic through and through, presupposing a homosexual type invariant through all times and climes with which one could immediately identify."⁵⁰

John Boswell argues similarly that "these early treatments were somewhat unsophisticated, either presenting homosexuality as a colorful detail of foreign cultures, comparable to initiation rites and foot-binding, or cataloguing the 'famous and worthwhile homosexuals' of the Western tradition"⁵¹ Boswell admits that although constructionism brought with it its own complications it did contribute to the development of a "real scholarly literature on homosexuality."⁵²

⁴⁹Dynes in Epstein, p. 215.

⁵⁰Ibid.

⁵¹Boswell, "Gay History," : 74.

⁵²Ibid: 74.

No one could accuse Boswell's work of being unsophisticated; his book, *Christianity, Social Tolerance and Homosexuality*, continues to be the primary source cited by groups attempting to force Judaeo-Christian religions to re-evaluate their scriptural interpretations regarding homosexuality and the suitability of gays and lesbians to be members of the church and the clergy.

But Boswell admits that the working hypothesis of his book, is that "humans are differentiated at an individual level in terms of erotic attraction, so that some are more attracted sexually to their own gender, some to the opposite gender, and some to both, in *all* cultures."⁵³ This sounds similar to the scholarship that Dynes has described as "unsophisticated," as it presupposes an invariant, immediately recognizable, homosexual type in all times and places. In fairness to Boswell, he also assumes heterosexual and bisexual types which are unchanging, but the notion of unchanging "sexualities" which can be located in "*all* cultures" is an essentialist position whether Boswell is comfortable with this designation or not. Apparently aware of the conflict in which this "essentialist" position places him given his consistent cries that he is not an

⁵³Boswell, "Categories, Experience and Sexuality," 137.

essentialist, Boswell argues that his belief that there are homosexuals, heterosexuals and bisexuals in "all cultures" can be compatible with a constructionist understanding of sexuality.

His argument is this: It is possible that "even if societies create or formulate "sexualities," it might happen that different societies would construct similar ones, as they often construct similar political or class structures."⁵⁴ For Boswell, homosexuals and heterosexuals, if not genetically determined, could be socially constructed, but constructed so similarly as to appear in "all cultures." If this is true, one might ask, why then have more cultures not historically recognized a "gay" and "lesbian" identity?

Boswell's logic is not always consistent on this point; he argues at one time that it is possible that homosexuality might be socially determined, but argues elsewhere that constructionist thought deprives gay people of something essential: their history and heritage. In "Gay History," he writes:

It is not only a question of whether [gays] have a history as a minority--they would lack roots, as it were--if they did not exist in pre-industrial societies; constructionists might well argue that they have as much of a share as the rest of the human race in pre-industrial history, when human beings were not divided into homosexual and heterosexual categories. But if there are

⁵⁴Ibid.

special sensibilities, insights, feelings, or experiences particular to gay people--as there might be to women, blacks, or Jews for example--and if the essentialists are right--then the many gay people who have been prominent and influential in Western culture, from Socrates to Keynes, have introduced something of what is special about their outside status into the mainstream of culture, as "inside" contributors to the cultural heritage of their society. (Emphasis mine.) ⁵⁵

It is inconsistent of Boswell to conclude that special sensibilities, insights and feelings particular to gay people apply only if the essentialists are right. For, if as his earlier critique suggests it is possible that sexualities can be similarly constructed in "all cultures," is it not just as possible that these sensibilities, insights, feelings or experiences might develop from the same social and cultural forces of production which created similar sexualities in various cultures and historical periods?

Seen in this light, it need not be true that the constructionists deprive today's gay and lesbians of their "heroes" or role models from the past. Boswell's essentialism is evident in his lack of theoretical skepticism, for emotions and experiences could be, from a constructionist point of view, "produced" and "determined" just as the sexualities or sexual identities he speaks of above.

⁵⁵Boswell, "Gay History," : 74-78.

If it is possible that different societies can produce similar sexualities, as Boswell has himself argued, then the existence of gay ancestors who felt love for, or had sexual relations with, members of their own gender is not threatened in the least by the social constructionist position that sexual identity and homosexuality are socially constructed. Moreover, neither does it threaten to deprive gay and lesbians of their historical heroes, as it is still possible to note that Socrates enjoyed the sexual pleasure of young men in a way not unlike gay men today, but that his understanding of his acts, and his understanding of himself as a person did not approach the meaning encoded in the modern usage of the terms "homosexual" or "gay identity." In this battle over history, historiography, and historical figures, the constructionist argument that concepts, acts and behaviors are perceived and "received" differently in different historical contexts can be employed to "recover" the "heroes" and role models the essentialists claim constructionism denies.

Science, Epistemology and Empiricism

Many scholars believe the study of sexuality cannot ever proceed very far until the question of origins is finally and definitively settled. And central to the constructionist/essentialist disagreement is a

discussion about what constitutes knowledge, evidence and "truth" about the origins of sexuality. Science as an institution and instrument of "truth" production has been pressed into service for over a century in attempts to discover the causes of sexuality, or more accurately, the causes of homosexuality. Historically, science's focus on homosexuality is one of the more revealing observations to which constructionists have called attention as it illuminates the subjectivity and reliance on cultural values that undergirds scientific research in every culture and society. For decades after the term "homosexual" and its counterpart heterosexual were first coined, there were literally no scientific studies attempting to understand and explain the causes and origins of heterosexuality, revealing the interdependence between scientific research and a culture's norms, attitudes and perceptions. Heterosexuality, a statistical and cultural norm, needed no explanation; only "deviations" from this norm warranted research and exploration.

One need think of a few of the claims made about homosexuality by scientists of the past to understand the consequences this attention to the deviant produced. During the last century, masturbation, unresolved Oedipal complexes, immature personality formation and congenital degenerative disease all have been utilized

as scientific explanations for the causes of homosexuality, and with each of these causes came punitive measures to control, amend and cure the deviant. It is at least understandable why many people are skeptical of a scientific agenda which seeks causes and explanations for homosexuality.

David Halperin is one such skeptic, arguing "the search for a 'scientific' etiology of sexual orientation is itself a homophobic project and needs to be seen as such."⁵⁶ Halperin, a social constructionist, realizes that the scientific quest for causes and origins is hardly a value neutral or objective one as scientists and science itself exist within a culture that has clearly defined ideologies and belief systems.

Again, the critics of constructionism take issue with this kind of epistemological claim, seeming to have implicit faith in the improved sophistication and value neutrality of modern science, often forgetting that scientists of the past had just as much faith in the validity of their theories of 'sexual inversion' and 'deviance' as do modern scientists. Boswell's confidence in modern scientific research remains unshaken as he makes clear in a discussion of the categories used to understand sexuality in the past. He

⁵⁶Halperin, *One Hundred Years of Homosexuality and Other Essays on Greek Love* (New York: Routledge, 1990), p. 49.

writes, "Constructionists . . . generally presuppose that we should suppress modern categories and focus instead on the categories the ancients would have used themselves, as more reflective of the reality of their structures and experience. This assumes politely, but oddly that humans are inevitably the best analysts of their own lives and environments."⁵⁷ Boswell's argument exposes his ethnocentricity and belief in cultural superiority as he assumes we are better positioned today to make sense of ancient understandings of sexuality, than were those who lived at the time. It is this belief and faith in the superiority of our modern understanding and experience of sexuality, that worries many constructionists.

Stein argues along similar lines that

. . . just because homosexuality is no more mysterious than heterosexuality does not mean that neither is a mystery. Instead of asking why there is homosexuality, we should ask why there is homosexuality, heterosexuality, bisexuality etc. It is heterosexist to search only for an explanation of homosexuality; it is *not* heterosexist to try to discover the origins of sexual orientation in general.⁵⁸

The division between the constructionists and their critics over the ideological agenda implicit in the scientific search for the origins of sexual orientation

⁵⁷Boswell, "Categories, Experience, and Sexuality," : 141.

⁵⁸Stein, p. 337.

extends to a more general disagreement about what constitutes evidence or "proof" for the causes of sexual orientation.

In the final paragraph of his essay, Stein asks the question "Is it possible to develop a theory of sexual orientation which involves transcultural, objective categories . . . or are the categories merely culture dependent ones? This is both an interesting and important question which requires an empirical answer." Stein believes such an empirical answer will "settle the controversy between social constructionists and essentialists."⁵⁹ Once again, Stein tips his essentialist hand as his unreflective endorsement of a search for causes and origins and his flight into empiricism makes clear. A large part of the constructionist agenda takes issue with the empirical observation and experimentation that has been used by scientists in their search for "truth," causes, and origins, and Stein never questions that science has often used "empirical evidence" to make claims such as masturbation causes homosexuality, or that homosexuals constitute a "third sex."⁶⁰

⁵⁹Ibid., p. 353.

⁶⁰These theories will be discussed in greater detail in the next chapter.

Stein is not alone in his call for "empirical evidence" to resolve this controversy. Dynes claims that "empirical research [into sexuality] is badly needed . . ."⁶¹ and Boswell argues that in the "last analysis the theoretical revisions of constructionism will be of little value if there is no empirical basis for them."⁶² Dynes proceeds to develop a template for further research that begins first and foremost with "the universal horizon grounded in biology" revealing his essentialist belief in biological causes as the most productive research area for which to search for the origins of sexuality and sexual identity.

Such an uncritical and accepting belief in the value neutrality and objectivity of modern science seems both naive and more than a little dangerous, but it is consistent with the belief of these constructionist critics that there are trans-cultural, objective, and "deep properties" which *can be discovered*, and once discovered, will settle the debate between the constructionists and essentialists.

Boswell, whose search for empirical evidence is the most sophisticated of these three scholars, qualifies his opinion on this issue, answering the question, "Does

⁶¹Dynes, in Epstein, p. 236.

⁶²Boswell, "Categories, Experience and Sexuality," 150.

the historical record in fact suggest that pre-modern patterns of sexuality were fundamentally different from modern ones?" with "Yes and no." The difference in the ancient conceptualization of sexuality, Boswell explains, was that it "rarely directed attention to the issues subsumed under or implied by the rubrics 'orientation,' 'preference,' or 'identity'." ⁶³

According to Boswell, the similarity between ancient and modern conceptualizations of sexuality, as has been stated before, rests with his belief that erotic attraction to the same gender--what we would today assume to be a requisite indication of homosexuality--was present in the feelings of the ancient Greeks, early Romans, medieval Christians and modern gays and lesbians. What Boswell does not admit is that the absence of a culturally constructed understanding of sexual identity *by men and women of the ancient world* is enough to make their feelings and experiences radically different from their modern gay and lesbian counterparts. How these feelings and experiences become "empirical evidence" or scientific proof is also a contested issue between the constructionists and their critics and is exactly what is at issue in the constructionist critique of

⁶³Ibid.

Empiricism. Fuss writes:

While experience can never be a reliable guide to the real, this is not to preclude any role at all for experience in the realm of knowledge production. If experience itself is a product of ideological practices, as Althusser insists, then perhaps it might function as a window onto the complicated workings of ideology. Experience would itself then become "evidence" of a sort for the productions of ideology, but evidence which is obviously constructed and clearly knowledge-dependent. What I mean by this is simply that experience is not the raw material knowledge seeks to understand, but rather knowledge is the active process which produces its own objects of investigation, including empirical facts.⁶⁴

Her theory of experience is, as she admits, a constructionist one. She cites Barry Hindess and Paul Hirst, two post Althusserians whom she believes best articulate the theory of experience upon which she relies. Hindess and Hirst claim that

Empiricism represents knowledge as constructed out of 'given' elements, the elements of experience, the 'facts' of history, etc. Unfortunately for these positions facts are never 'given' to knowledge. They are always the product of definite practices, theoretical or ideological, conducted under definite real conditions . . . Facts are never given; they are always produced.⁶⁵

Appeals to experience, facts and empirical evidence will not solve the debate between the constructionists and their critics. An uncritical acceptance of the

⁶⁴Fuss, p. 118.

⁶⁵Barry Hindess and Paul Hirst, *Pre-Capitalist Modes of Production* (London and Boston: Routledge & Keegan Paul, 1975) pp. 2-3. Cited in Fuss, p. 118.

and their critics. An uncritical acceptance of the "objective facts" evidence and "truth" of empirical research is one of the things constructionists believe renders many essentialist arguments narrow and unsophisticated. To the extent that the empirical evidence and experience sought is a scientific, medical "proof," many gays and lesbians will continue to be skeptical given the role this "science" has played historically in the linguistic invention of "homosexuality" and the study, medicalization and incarceration, of the homosexual. In this light, the unending quest for causes and origins reveals a moral and political agenda that itself produces many of the assumptions and beliefs about homosexuality that circulate in culture today. It is to these overlapping issues that I now turn.

Morality and Politics

A large part of this present debate over sexuality and sexual identity involves the moral and political implications each of the various positions creates, "and if constructionists or essentialists wish to make political arguments for certain ways of conceptualizing or writing about the mysteries of sexuality they have as much right as anyone else to introduce political considerations. It is more helpful, obviously, if such

issues are carefully and honestly identified as such."⁶⁶ Unfortunately, the political and moral implications are not always immediately obvious to those who make them, and many scholars make claims about "truth" without acknowledging cultural or ideological influences on that truth production.⁶⁷

But Stein argues that some scholars and activists are not as honest as Boswell would like them to be. Stein describes their logic as rooted in the notion that "essentialism, *if true*, would be good for gay rights and/or writing social criticism, literary criticism, or history; therefore essentialism *is true*."⁶⁸ Although this concern over creating a theory of sexual identity that is "safe," or one that creates space with which to fight bigotry and moral condemnation regardless of how tenuous the theory, is not limited to essentialists, but this conflation of "ought" with "is" does appear to be most prevalent among gay political activists who want

⁶⁶Ibid., p. 150.

⁶⁷See the previous discussion on page 50-53 which addresses the constructionist discomfort with accepting "empiricism," "empirical facts," or experience as value neutral or objective.

⁶⁸Stein, p. 140. Emphasis mine.

essentialist claims about the origins of sexuality to be true.⁶⁹

The logic behind activists making essentialist arguments is as follows: if homosexuality is biologically or genetically determined, then it rests outside the sphere of individual control, and therefore should rest outside the realm of condemnation and discrimination. For many gays and lesbians who have had their sexual identity declared immature, or have been asked or sometimes forcibly pressured to change and become heterosexual, an essentialist claim to having always been gay provides more protection against bigotry and oppression than does constructionist claims that "gay" and "lesbian" are only textual, historical and/or discursive productions.

To the extent that persecution, harassment and discrimination do exist, then essentialists argue that deterministic explanations for sexual orientation allow gays and lesbians to seek and perhaps receive preferential treatment as members of a "protected class." From a religious point of view, essentialist explanations for homosexuality allow gays and lesbians

⁶⁹Epstein argues that deterministic explanations for sexuality are central to the way in which many gays and lesbians perceive their own experience and identity. He call these deterministic explanations "folk essentialism," as they are widely understood and accepted as "truth" in the gay sub-culture.

to challenge orthodox condemnations of homosexual feelings, acts and identity. If sexual orientation does not depend upon human choice, then homosexuals can claim to be the creation of God, as much as can heterosexuals, making the way in which they engage in sexual pleasure less problematic.

Essentialists however, are not alone in making what Stein calls "Good for Gays" arguments. Halperin, Epstein, and Alan Schippers--constructionist all--claim that their positions create the best opportunity for gays and lesbians to escape oppression and discrimination.⁷⁰ Dynes has noted that social constructionism:

seems to avoid the temptation to regard persons as the automata commanded by some general principle (economic man; the assertive competitor; the neurotic), perceiving them as capable of shaping their own consciousness. Since human beings have made the world they can remake it. The recognition that traditional cultural arrangements, previously taken to be "natural" and unalterable, are only the impositions of ideological structures whose reign is doomed to pass, seems empowering.⁷¹

It is this empowering theme that is one of the greatest strengths of a constructionist approach. Dynes, however, believes this theme of empowerment is irreconcilable with another theme posited by social constructionism: the belief that social constructionism

⁷⁰Halperin, *One Hundred Years*, p. 42.; Schippers, "Homosexual Identity," p. 143.; and Epstein, p. 14.

⁷¹Dynes, in Epstein, p. 232.

tends to view "the sexual actor as object, a passive recipient of "definitions" imposed on him or her from the top of the social pyramid, as the sodomite (decreed by the medieval church) and the invert (decreed by the nineteenth-century physicians)".⁷²

Dynes criticism seems a bit disingenuous. What might at first seem to be two irreconcilable positions makes perfect sense given the larger project in which the social constructionists believe themselves engaged. Understanding how human sexuality has in the past and continues in the present to be defined, treated and administered to, often in ways that are not part of our conscious choice, can lead us to more self-consciously change and remake the cultural and ideological arrangements which--thanks to social constructionism--we no longer believe immutable.

This disagreement about what constitutes the "best" or most defensible position for gays and lesbians to adopt with respect to the understanding of their sexual orientation and sexual identity is most bitter in academic circles where battle lines have been drawn. In leftist academic circles constructionism has become accepted wisdom, and essentialism has been rejected as a return to an unsophisticated biological determinism of the past; the constructionists' critics who often do

⁷²Ibid.

make essentialist arguments about sexuality and sexual identity argue that essentialist explanations are much more widely accepted among the gay and lesbian community. Epstein notes that "curiously, the historical ascendancy of the new constructionist orthodoxy [in academia] has paralleled a growing inclination in the gay movement in the United States to understand itself and project an image of itself in ever more 'essentialist' terms."⁷³ The belief among many gays and lesbians that an essentialist understanding of their sexuality rings more true to their personal understanding of self and is likely to provide a more defensible political position with regard to civil right protection. For example, if gays are born and not made, then a gay elementary school teacher serving as a role model for, or in a position of authority over children, need present no threat to the child or no legitimate concern for the child's parents as the teacher's sexual identity will not influence the sexual development of his/her students.

Dynes has written that "[a]bandonment of the idea that homosexuals constitute a discrete social entity or minority will make it difficult to persuade already skeptical lawmakers that we deserve civil rights

⁷³Epstein, p. 12.

protection."⁷⁴ That this battle rages with the intensity of ecclesiastical differences over "revealed truth" and apostasy reveals both the great stakes involved for, and the very real oppression experienced by, gays and lesbians.

It is with this in mind that I now turn to the development of theoretical considerations which I hope will prove fruitful in transforming this present debate. I believe that this can be achieved, not as the essentialists claim, by discovering the "causes" or "origins" of sexuality, but rather by focusing on the way in which constructionist and essentialist arguments get deployed by the state to affect the lives of gays and lesbians. Finally it will be useful to examine the way in which gays and lesbians have adopted many of these deployments without pondering the theoretical possibilities enabled by them.

The Philosophic and Political Dimensions of Sexual Identity and Its Use in Public Policy

Diana Fuss, perhaps more than anyone else, has attempted to push the study of sexuality off its current philosophic and academic intransigence. In her book, *Essentially Speaking: Feminism, Nature and Difference*, Fuss who defines herself an "anti-essentialist," begins

⁷⁴Dynes, in Esptein, p. 213.

her investigation with the question: "Has essentialism received a bad rap?" Impressed by the "sheer rhetorical power of essentialism as an expression of disapprobation and disparagement," Fuss' objective is not to contribute to this current constructionist/essentialist debate; she believes "essentialism itself is neither good or bad, progressive or reactionary, beneficial or dangerous." Instead, Fuss hopes to reorient the direction and emphasis of this debate, believing [t]he question we should be asking is not, 'is this text essentialist (and therefore bad)?' but rather, 'if this text is essentialist, *what motivates its deployment?*' How does the sign 'essence' circulate in various contemporary critical debates? Where, how and why is it invoked? What are the political and textual effects?"⁷⁵

Exploring current debates in which "essence" operates as a privileged signifier (race, homosexuality, and pedagogy), Fuss illustrates the various political, philosophic, moral, and textual possibilities that occur with the deployment of essentialist arguments.

Adding a uniquely political element to Fuss' schematic, I would like to expand her approach to encompass constructionism as well as essentialism and apply this approach to a study of United States public

⁷⁵Fuss, p. xi.

policy texts. Social constructionism has found support widespread enough that it, too, now circulates as a "privileged signifier" and can be identified as such in many of the policy texts that address sexuality and sexual identity. Constructionist and essentialist deployments each enable different political, moral and textual possibilities.

This philosophic controversy has implications beyond its effect on the scholarly research into "homosexuality." The question of identity is central to thousands, if not millions, of men and women who seek to justify, legitimate and promote understanding of their existence, and to explain and defend their struggles for equal protection and fundamental civil rights guaranteed to citizens by the Constitution of the United States. Identity then, is *being*. It is who we are, and how we wish others to see, perceive, and respond to us. But this debate is also about *identification*, about how we are addressed, handled, and administered to by others.

One of the actors central to this process of "identification" and truth production is the state. In this battle over "naming names" the state's actions will determine who receives rights and benefits, what activities are legal, which identities constitute citizenship and which do not. The state will depend upon other instruments of truth production to justify

and legitimate its decisions, making an analysis of the way gays and lesbians are treated by the state dependent upon a knowledge of other, sometimes older discourses of truth production.

In this context, this philosophic discussion takes on a political hue. If sexual expression is medicalized, criminalized or anathematized, then individuals and groups attempting to secure rights of citizenship by positing a social and political identity based upon this problematized sexual expression will encounter deeply ingrained prejudice and stiff resistance at best; moral outrage, hatred and violence at worst. Answers to the questions, "What are we?", "Why are we?", and "Why do we do what we do?" become the ideological battleground, the disputed epistemological territory, as individuals and institutions, authors and authorities struggle for control over the most basic political power: the power to name, to classify, to tell the "truth"; the taxonomic power to determine self and other.

Exploring the deployments of essentialist and constructionist arguments in policy texts of the twentieth century, I will examine a number of policy areas which affect gays and lesbians, and in which they are *called by name* by the State. This will illustrate the way in which political constructions of the "other"

portend certain types of responses, protests and mobilizations by the affected groups and communities. By focusing on the political relationship between gays and lesbians and the state, I can demonstrate how the State deploys *both* essentialist and constructionist arguments in its policy debates and decisions.

Exploring the motivation behind the deployment of these discourses and their immediate and future potentialities and consequences for gays and lesbians.

Most policy texts I have examined--although not all of them--depend upon deployments of discursive productions of homosexual identity which treat gays and lesbians as evil, unnatural, physiologically deviant, medically ill, mentally disturbed and/or immoral. Yet, many of these policy makers as well as many in the general population, know gay and lesbian individuals and find little resemblance between these people and the culturally constructed gay and lesbian "Other." Often their relationship with these individual men and women can continue unchanged while simultaneously making no alteration in their beliefs about gays and lesbians in general. The danger of this for gays and lesbians occurs as it adversely affects our desire to combine "what we regard as the better parts of the alternative; we want equality without its compelling us to accept

identity; but also difference without its degenerating into superiority/inferiority."⁷⁶

In the United States gays and lesbians are not approved of socially, and they are often judged evil and inferior by many in the dominant culture. To the extent that there is any recognition by those in the general population of a desire by gays and lesbians for civil rights and legal protection, then these rights and protection are expected to be those provided for heterosexuals and denied to homosexuals. While this is often the case, it does assume that gays and lesbians have the same desires and values as do heterosexuals. It denies the equality of difference, by offering rights and protection only as they have been defined as members of the dominant heterosexual culture.

Projecting these anticipated beliefs and desires for rights on the gay "other" identifies this "other" with the dominant heterosexual "self," predetermining the direction civil rights debates and struggles will proceed. To the extent that gays and lesbians accept this predetermined political agenda unreflectively, they do so without realizing that their demands did not originate in an acts of political, social or cultural creation of self and community by other gays and

⁷⁶Tzvetan Todorov, *The Conquest of America: The Question of the Other* (New York: Harper Torchbooks, 1987), p. 249.

lesbians, but rather the path to "liberation" is always already awaiting them. Equal rights becomes a flight into similitude, as *equal* rights for gays and lesbians comes to mean granting gays and lesbians the *same* rights as "straights."

The notion of a social and political movement which would remake society, one which would liberate, change, or even question the existing social structures and the fundamental institutional arrangements of power is relegated to the past, to a different, "less sophisticated" era of the movement's history, replaced by an agenda which seeks not to change society, but to become one with it. This sinister, unconscious cultural cooptation of the movement's agenda is but one of the associated costs to be borne as a result of this process of "identification" that takes place between the state and gays and lesbians.

This process of identification and value integration is not unilateral; it does not flow only from the state as the representative of the dominant culture to gays and lesbians as members of a sub-culture. Often, lack of knowledge about gays and lesbians and their sub-culture creates openings in the dominant culture's social fabric, points of resistance in a seemingly impregnable web of hegemonic cultural productions of sexualized and gendered selves, allowing

elements of gays and lesbian identity to be mainstreamed. This "queering" of mainstream values can be seen in the widespread acceptance of earrings among "straight" men, pants and short hair among women, and a greater acceptance of alternative fashion styles and colors in clothing. Each of these things is related to a gay sensibility that has become accepted by mainstream culture, albeit unwittingly.⁷⁷

Before turning to the examination of policy debates, legislation and adjudication in which gays and lesbians come to be identified and addressed by the state, I wish to examine the discourses and the institutions from which these discourses emanate, which circulate our modern understanding of the homosexual.

The Judaeo-Christian, medical, and psychiatric/psychological models of homosexuality will be examined first from within their respective epistemological institutions and then from without. This will be done to illustrate the influences each of these institutions of "truth creation" have had on the formal state bureaucracies and policy-makers who adopt, reflect, and codify this sexual "truth," consolidating

⁷⁷For interesting insights into the gay contribution to mainstream fashion see Jeff Yarborough, "Vanity Fairies: How Gay is the Conde Nast Empire? The Editors of Vogue, GQ, Vanity Fair, Details and HG Tell All" in *The Advocate* 598 (Liberation Publications, Inc., March 10, 1992), pp. 30-37.

the Foucaultian triad of "power-knowledge-pleasure that sustains the discourse on human sexuality in our part of the world."⁷⁸ As official public policy, the reverberations of these older problematizations of sexuality are granted new life, and with this new life, heightened levels and increased forms of scrutiny affecting/infecting the personal and private lives of all human beings, gay and straight alike. Tracing the historical evolution between these epistemological discourses, their originating institutions and the institutional lobbying for access to the corridors of state power is the subject of chapter 2.

In chapters 3 and 4, I will examine the way that the state came to reflect these epistemological models of homosexuality in a single policy area: military policy. I will explore too, the consequences of these "reflections" for gays and lesbians. Military service is one of the primary ways that a nation distinguishes between citizens and non-citizens and provides an interesting example of the way in which essentialist and constructionist arguments are deployed to legitimize and legalize discrimination against gays and lesbians. Military service is a natural place to begin to search for the concretization of sexual identities by the state, as the massive military mobilization of human

⁷⁸Foucault, *The History of Sexuality*, p. 11.

resources during both world wars proved to be one of the greatest expansions of governmental bureaucratization of everyday life ever experienced in the history of this country. The religious, medical and psychiatric/psychological models of homosexuality are clearly seen in the creation of military policy, as the "expertise" of physicians and psychiatrists becomes institutionalized as one of the "regulatory" arms of the government in this intensifying process of screening, examining, and determining the military fitness of soldiers during wartime.

Chapter 5 expands this discussion, drawing from various policy texts and political debates to illustrate the extent to which these epistemological models of homosexuality have shaped the social and political quest for "liberation" pursued by the contemporary gay and lesbian activists. Even more, the question of definition of self, the philosophic, academic, and personal musings about "identity," although present prior to these modern policy debates, are elevated to new plateaus, as gay and lesbians attempt to control the way in which the government comes to regulate aspects of their lives and their *being*. Examples are drawn from policy texts as diverse and wide-ranging as the political party platform reports of the two major American parties, and the Supreme Court's decision in

Bowers v Hardwick which denied gays and lesbians a constitutional right to privacy. In addition I will argue that the organized gay and lesbian political movement's acceptance of sexual identity as a basis for an equal rights movement is problematic, if not dangerous for gays and lesbians.

In the conclusion I return again to the theme of identity, making some concluding, but not final, observations about the consequences and possibilities gay and lesbian "identity" has created for state regulation and individual "liberation."

CHAPTER 2

THE EMERGENCE OF IDENTITY: EPISTEMOLOGICAL TENETS OF THE MODERN GAY/LESBIAN PERSON

As the last chapter made clear, the debate over sexual identity has spilled over into every facet of gay and lesbian existence, and has so stymied academic research that every gay academic, regardless of his/her subject of inquiry must "identify" his/her position on this debate.

But it is not necessary to settle definitively this contemporary debate (even if such a thing were possible) to be able to trace the history of the linguistic invention and medical problematization of sexual identity. That is to say that although an anti-essentialist myself, I believe the ontological debate over the origins of homosexual *being* to be quite discrete from the historical and linguistic invention of "homosexuality" which *can* be traced to a specific point in the middle years of the nineteenth century, and, as a discrete subject of inquiry, can be pursued, examined and analyzed whether homosexual *being* turns out to be essential or socially constructed.

In modern representations of gays and lesbians, elements of three different epistemological systems of representation can be seen functioning, overtly or covertly public policy texts. These three are: the Judaeo-Christian prohibitions of sodomy as an act

contrary to "nature"; the late nineteenth century medical "discovery" of "homosexuality" (a term invented by the same medical establishment which would prescribe its treatment and cure); and the psychiatric, psychological and developmental models of homosexuality which emerged in the twentieth century. These epistemologies, these ways of understanding sex, were produced by the practitioners of institutions which came to have a great amount of authority in the society within which they operated, combining practitioners, institutions, and epistemology in a common effort: the production of "truth." Although the medieval theologian, the nineteenth century medical doctor and the twentieth century psychiatrist all differ, they come together in the position they share in relationship to the state. The role of "expert," or "authority" is a powerful one, often carrying with it a great capacity to influence state policy makers, be they king, legislature, or judge. Historically, each of these epistemological systems came to have some authoritative claim to the possession of a "truth" about sexuality and sexual difference which they were more than willing to share with the rest of society. These practitioners, these mouthpieces of various epistemologies, sought, and often were granted, the opportunity to "speak 'Truth' to power," with the consequence that their opinions, their

"truths" spilled over into the public policies of the modern state.

It is important to keep in mind that the intersection between epistemology, the institutions of its production, and the state shifts over time, but as each shift occurs, the new discourse of authority, the new epistemology never succeeds completely in replacing earlier ones. In fact, even as new epistemologies, social institutions, and discourses replace older ones as *the* interpreter of "truth," *the* language of authority, "truth" and knowledge, older explanations are never completely abandoned; sifted and repackaged within the framework of the controlling paradigm or epistemological system, their influence continues. As Weeks has noted, "[a]ll the major elements of the medieval taboos are present in the modern hostility toward homosexuality, but the contents of the kaleidoscope have been shaken and the pattern is different."¹

For example, for many centuries it was the Catholic Church which controlled the production and dissemination of knowledge and "truth" about the purpose and intention of sexual acts. Procreation was the aim and goal of all sexual acts in this epistemological system. In the

¹Jeffrey Weeks, *Coming Out: Homosexual Politics in Britain from the Nineteenth Century to the Present* (London: Quartet Books Limited, 1977), p. 5.

nineteenth and twentieth centuries medical science including psychiatry and psychology supplanted the church's monopoly of truth about sexual acts, yet the moral authority of the Church's pronouncements never completely ceased. Though procreation is never explicitly posited as a standard of "normal sexuality" in the nineteenth century medical epistemology, non-productivity, nonetheless, does infiltrate the Darwinian, evolutionary presentation of the medical model of homosexuality as biologically inferior, shaking the kaleidoscopic pattern of the cultural representation of sexual difference while maintaining all its former elements.

This chapter will proceed in the following way: First, each of the three epistemological systems in which the homosexual is represented will be briefly examined. Each, at different points in time, has defined sexual difference, homosexuality, and gay and lesbian identity with a claim to authority that has guaranteed that the "truth" it created, discovered, produced would circulate widely, gaining acceptance in culture.

Following the discussion of each epistemological system, and before turning to the next, a short section will illustrate the way in which these authoritative epistemologies come to shape public policy of the

respective eras in which their authority held sway. Each of these sections foreshadow the larger work fleshed out in the next chapter, when I turn to demonstrate how each of these epistemological representations affect gays and lesbians in the twentieth century policy debates and legislation of the United States.

Finally, as each of these explorations of epistemology and the institutions within which they are given expression progresses, the theoretical possibilities and consequences of thinking "identity" will be examined. Different strategies of social and political regulation are enabled or disabled depending upon whether constructionist or essentialist theories of identity are deployed by these "experts" to discuss sexual difference.

The Natural Law of Sexuality

The first epistemological discourse that circulates still in our current cultural representations of gay and lesbians is centuries old and rests upon the dialectic Natural/Unnatural. The ideological and coercive power of the discourse of "nature" and "the natural" as it applies to sexual difference occurs around the medieval, religious problematization of sodomy. The problematization of sodomy, in turn, is dependent upon

the moral equation of Nature with a divine plan or an expressed will of God. Since the thirteenth century, most of the religious intolerance of sodomy, homosexuality, and gay and lesbian persons is dependent upon a problematization of their acts as unnatural, contrary to both God and Nature.

Invocations of the signifiers "Nature," "the natural," and "Natural Law" are some of the most powerful that can be made. Plato was among the first to make this appeal, arguing in the *Laws* that homosexual acts are against nature, and therefore worthy of state regulation.² This has become a familiar rhetorical strategy and the authority of Nature is used alternately to create a realm of privacy independent of state regulation and to justify state incursions into this natural realm of privacy when Nature is defi(1)ed.

Nature, as deployed within religious texts and arguments about sexual ethics, seems to be both essentialist and constitutive, sometimes simultaneously. For example, on the one hand claims about nature attempt to affix us in a world of immutable truths; Nature is

²The relevant texts reads as follows: "Anyone who in conformity with nature, proposes to re-establish the law it was before Laios, declaring that it was right not to join with men and boys in sexual intercourse as with females, adducing as evidence the nature of animals and pointing out that [among them] male does not touch male for sexual purposes, since that is not natural, he could, I think make a very strong case." (Plato, *Laws*, 836c-e) trans. Dover 1978: 166.

called upon to illustrate God's intention, to illustrate the way things essentially *are*. Conversely, nature is also offered as a moral standard, an ethical exemplar which helps human actors resist the corruptive influence of the Unnatural.

The key to understanding this apparent contradiction rests with understanding sexual difference as did the early and medieval Christians. Their emphasis in this epistemology was on acts, not identities. The sodomite was only one who had committed the heinous *act* of sodomy. The act was *essentially* evil, although the person was not. Nature in this Judaeo-Christian epistemology represents what John Boswell has called an "idealized" conception of nature.³ Contrasting this with "realistic" conceptions of nature Boswell writes:

Concepts of "ideal nature" are strongly conditioned by observation of the real world, but they are ultimately determined by cultural values. This is particularly notable in the case of 'unnatural' which becomes in such a system a vehement circumlocution for 'bad' or 'unacceptable.' Behavior which is ideologically so alien or personally so disgusting to those affected by 'ideal nature' that it appears to have no redeeming qualities whatever will be labeled 'unnatural,' regardless of whether it occurs in ('real') nature never or often, or among humans or lower animals,

³John Boswell, *Christianity, Social Tolerance and Homosexuality: Gay People in Western Europe from the Beginning of the Christian Era to the Fourteenth Century*, (Chicago: The University of Chicago Press, 1980), pp. 15-20.

because it will be assumed that a 'good' nature could not under any circumstances have produced it.⁴

Idealized notions of nature--whether understood to include all physical things or merely the non-human--are always believed to operate for the good. This is clear in the deployment of Natural Law which often is conceptualized as representing a divine plan or the will of God. Observations of real nature then, when deployed by the Church, serve to bolster its institutional and cultural values, and its ideological agenda. As Boswell notes, "adherents of 'ideal' concepts of nature frequently characterize as 'unnatural' sexual behavior to which they object on religious or personal grounds."⁵

⁴Ibid., p. 13. Realistic conceptions of nature on the other hand, are related to the physical world and observations of it. Realistic definitions deploy "nature" in three ways: as the "essence" or character of something; or, more broadly, as the collection of properties and principles which apply with the force of law in the observable universe; or as that which does or could occur without human intervention. In these "realistic" understandings of nature, unnatural means to do something uncharacteristic, something outside the boundaries of the observable universe, something characteristic only of human beings, or something simply artificial. For a complete discussion of both "realistic" and "Idealized" conceptions of nature see Boswell, *Christianity, Social Tolerance and Homosexuality*, pp. 18-41. It also seems interesting to note how much Boswell's arguments about "ideal nature" mirror those made by constructionists when addressing sexual identity.

⁵Ibid., p.13.

This point is illustrated in the medieval Church's claim that as homosexuality does not occur among animals in the wild, then it must be unnatural. This argument is still made by those wishing to provide evidence of the unnaturalness of homosexual acts. This idea was first introduced by Plato⁶ but, of course, it is accepted that homosexual acts do occur among animals in nature and pair bonding "has been observed among many animal species in the wild as well as in captivity. This has been recognized since the time of Aristotle and . . . has been accepted by people who still objected to homosexual behavior as unknown to other animals." ⁷

Believing this claim that the animal world represents the final world on what is natural to be a bit beside the point, Boswell argues that even if human beings were the only species to engage in homosexual acts this would not make these acts unnatural. He writes:

⁶See Footnote 2 for the relevant text where Plato makes this assertion.

⁷Ibid., p. 12. For examples of references to homosexual behavior among animals in the wild and in captivity see Wainwright Churchill, *Homosexual Behavior Among Males: A Cross-Cultural and Cross-Species Investigation* (New Jersey: Prentice Hall, 1967); John Kirsch and James Rodman, "The Natural History of Homosexuality," *Yale Scientific Magazine* 51, no. 3 (1977): 7-13; and George Hunt and Molly Hunt, "Female-female Pairing in Western Gulls (*Larus occidentalis*) in Southern California," *Science* 196 (1977): 81-83.

Many animals in fact engage in behavior which is unique to their species, but no one imagines that such behavior is "unnatural"; on the contrary, it is regarded as part of the "nature" of the species, in question and is useful to taxonomists in distinguishing the species from other types of organisms. If man were the only species to demonstrate homosexual desires and behavior, this would hardly be grounds for categorizing them as "unnatural." Most of the behavior which human societies most admire is unique to humans: this is indeed the main reason it is respected. No one imagines that human society "naturally" resists literacy because it is unknown among other animals.⁸

Idealized, coercive concepts of nature first become common in the centuries following the rise of Christianity among the philosophic schools of Rome. This idealized view of nature has profoundly affected Western philosophy and ethics and helped to popularize the belief that all non-procreative sexuality is unnatural.⁹ Although this argument fell into disfavor among early Christians it was revived in the thirteenth century by Scholastics and became the definitive and controlling concept in all areas of knowledge from technical sciences to dogmatic theology.¹⁰

It is Thomas Aquinas who makes idealized conceptions of nature and Natural law a central part of the Medieval Church's epistemology. Writing in the

⁸Ibid., p. 12-13.

⁹Ibid., p. 14-15.

¹⁰Ibid.

thirteenth century, Aquinas argues that there is an "eternal law" which governs all things in the universe. It is up to human beings to abide by these eternal laws to the extent that they can control their own lives and destinies. "This participation in the Eternal law by rational creatures is called the Natural law."¹¹

Aquinas believes natural law can be discovered through examining what God intended in all things. With regard to sex, Aquinas argues that God intended procreation and it is toward the creation of children that all sexual acts should intend. In Aquinas's epistemology, homosexual acts are grouped together with all acts that do not lead to children and are therefore in violation of right reason and Natural law. This focus on opportunities for procreation as the only legitimate sexual activity led the late medieval Church to a position that would be judged today as morally repugnant: the acceptance of rape, incest, and adultery as less problematic than either masturbation or sodomy.¹²

Homosexual acts are problematized even further by Aquinas. All lust is immoral, but some lustful acts are worse than others as they "are in conflict with the

¹¹Thomas Aquinas, *Summa Theologiae*, 2a 2ae, quae. 91, art.1). Translated by T. Gilby (London: Blackfriars) pp. 141-154.

¹²Weeks, p. 4.

natural pattern of sexuality for the benefit of the species."¹³ Called "unnatural vices" (*vitiae contra naturum*) Aquinas argues that homosexual acts are among the worst kind of lustful sins. Aquinas's *Summa Theologiae* became the standard of Catholic orthodoxy and established the Natural as the guide for Roman Catholic sexual ethics since the thirteenth century. The *essential* unnaturalness and immorality of sodomy remain the official Catholic position still today.¹⁴

This emphasis on the *essential* goodness of Nature, and the *essential* evil of sodomy led to increasingly greater attention to these acts and those who performed them. In the hands of Judaeo-Christian theologians concerned with the ethics and morality of individual acts of free will, those who practiced unnatural sexual acts would become deserving of ever greater acts of penance and punishment. Still, until the Inquisition, and arguably even later, in the religious epistemological understanding of sodomy, the sodomite was persecuted not for who he was--sodomite was less an identity than a status--but because of what he did, or, more to the point, what he failed to do. Procreation is

¹³Ibid., p. 245.

¹⁴See, for example, Cardinal Ratzinger's letter to the Catholic Bishops, October 31, 1986. He states: "To choose someone of the same sex for one's sexual activity is to annul the rich symbolism and meaning, not to mention the goals of the creator's sexual design."

the coercive goal posited as *essential* in the legacy left by Aquinas, and unnatural sodomy, a temporary aberration which can and should be corrected. Sodomy is problematized as deserving of punishment, penance and blame as it thwarts God's commandment to "Be Fruitful and multiply." Sodomy, not a state of being, represents a chosen path to perversion.

To the medieval Church, sodomy represents the corruptive temptation, the moral morass into which people fall because of uncontrolled desire, or are seduced into by the corrupt influence of others. The other side of this coin is that although seen as an unnatural aberration, sodomy can also be resisted. It represents a sinful choice, but nonetheless a choice. And bad choices can be avoided; or when not avoided, forgiven. The sinner has the option of confession and penance, purification and reunification with God and His natural procreative design. The problematization of sodomy, at least before the late middle ages, was aimed at the act of sodomy and not at the corporeal entity of the sodomite.¹⁵

¹⁵It is clear that after the 12th century punishment, even to the point of death, became more frequent for those accused of sodomy. During the Inquisition sodomy became one of the crimes that indicated the presence of the (d)evil and therefore worthy of greater Church concern and regulation.

An example of the way in which the essentially unnatural sexual acts of sodomites are treated as constitutive acts of a free will gone awry is evident in this deployment of unnatural as a synonym for failure to procreate. Again, this religious problematization of sexuality is traceable to ideas expressed by Plato and amplified in the works of philosophers who followed. Plato argues that for the health of society all sexual acts outside of marriage should be encoded within a social taboo which would then ensure citizens' compliance in a way the laws could not. Equating the taboo he will create around all extra-marital sexual acts with the incest taboo that receives unquestioned obedience, he proposes the following rhetorical strategy:

... in regard to this law I had an art that would promote the natural use of sexual intercourse for the production of children--by abstaining on the one hand from intercourse with males, the deliberate killing of the human race, as well as the wasting of sperm on rocks or stones where it will never take root and generate a *natural* offspring, and on the other hand by abstaining from any female field in which you wouldn't wish your sperm to grow.¹⁶

In one breath, Plato joins Nature with procreation in a union that would last for millennia. His explanations, his taboos circulate still in the Judaeo-Christian problematization of all sexual acts outside of marriage.

¹⁶Plato, *Laws*, trans. Dover, 838a-839b. emphasis mine.

Although Judaeo-Christian religious epistemology owes a debt to Plato's problematization of sexual acts, this epistemology is less than rigorously consistent in its insistence that homosexual acts are unnatural because they violate God's desire or Nature's design that people procreate. Addressing this assumption, Boswell writes, "[n]on-productivity can in any case hardly be imagined to have induced intolerance of gay people in ancient societies which idealized celibacy or in modern ones which consider masturbation perfectly "natural," since both of these practices have reproductive consequences identical with those of homosexual activity."¹⁷

Today, however, many of the claims that homosexuality is unnatural rest still on this belief in the non-reproductivity of the relationships or the individuals so described. But this judgement also exposes the moral ideology and cultural contradictions that arise when an epistemology which was invented to explain the *essential* wickedness of *acts* is deployed to explain the *essential* wickedness of the actors. Behind this modern use of unnatural, gay and lesbian persons are constructed as "barren" both physiologically and ethically, both essentially and constitutively: He/she does not procreate either because he/she cannot,

¹⁷Boswell, p. 12.

rendering the homosexual biologically inferior and unnatural as his/her own body thwarts Nature's design; or because he/she will not, and therefore chooses to sin against God's desire that his children procreate. This of course runs the risk of conflating the unnaturalness and "immorality" of gays with all heterosexual couples or individuals who cannot or choose not to have children, as they too thwart God and Nature. This strange admixture of the medieval problematization of sodomitical acts and the modern hostility toward gays and lesbians has influenced the way in which biblical texts have come to be translated and interpreted. Boswell has demonstrated that until the thirteenth century the attitude of the Catholic Church towards homosexual acts and feelings was often one of tolerance. After this time, fueled by the work of Aquinas and the Scholastics, biblical scripture was reinterpreted, first problematizing homosexual acts and then retroactively attributing homosexual meanings and interpretations to texts where previously there were none.¹⁸

¹⁸Boswell's text, *Christianity, Social Tolerance and Homosexuality* is recognized as the authoritative source on the history of the Catholic Church's attitude toward homosexuality during the first twelve centuries. This debate is far from settled however. Theologian James P. Hanigan writes "there would appear to a quite clear condemnation of homosexual behavior in both the old and new testaments, the normative source . . . of Christian ethics," and philosopher Michael Ruse has responded to the works of Bailey and Boswell by claiming that "however much reinterpretation you do, the Biblical

This is especially true of those New Testament sources that today are sometimes cited as referring to homosexual acts. Still, these New Testament sources are not widely cited as scriptural condemnations of homosexuality and Boswell has called into question the appropriateness of citing these arguments either as instances of biblical condemnations of homosexuality or as referring to homosexuality at all. He claims two of the three New Testament sources have nothing to do with homosexuality.¹⁹

prohibitions really are explicit." See James P. Hanigan, *Homosexuality: The Test Case for Christian Sexual Ethics*, (New York: Paulist Press, 1988), p.35 and Michael Ruse, *Homosexuality: A Philosophical Inquiry*, (Oxford: Basil Blackwell, 1988), p. 182. The texts both Hannigan and Ruse cite are: from Hebrew Scriptures the Sodom and Gomorrah story (Genesis 19:1-29) and the texts from the holiness code (Leviticus 18:22; 20:13); and, from the new Testament, Romans 1:26-27, I Corinthians 6:9-10 and 1 Timothy 1:9-10.

¹⁹Boswell explains that the heart of this debate is about translation and that two of the three new Testament texts (I Corinthians 6:9-10, and I Timothy 1:9-10) have only been interpreted as referring to homosexual acts since the beginning of the twentieth century.

The third of the new testament texts (Romans 1:26-27) does not explicitly problematize homosexual acts, or any sexual acts per se, but rather speak of them in the context of the general infidelity of the Gentiles. Boswell notes "there was a time. Paul implies, when monotheism was offered to or known by the Romans and they rejected it. The reference to homosexuality is simply a mundane analogy to this theological sin, it is patently not the crux of the argument." pp. 108-109. For a complete discussion of New Testament texts see Boswell, pp. 91-118. For a more traditional, if less sophisticated discussion of these texts see Hannigan, pp. 35-58.

The Old Testament citations are another story altogether, often cited as evidence of God's belief that homosexuality is unnatural as it runs contrary to the "ideal nature" He has created. In fact the references in Genesis and Leviticus have been used to justify attacks on Gays and Lesbians.²⁰ Still, investigations like Boswell's *Christianity, Social Tolerance and Homosexuality* (1980) and Derrick Bailey's earlier work, *Homosexuality and the Western Christian Tradition* (1955),²¹ have cast some doubt on our modern understanding that the moral message behind texts like Genesis and Leviticus was originally one in which homosexual acts played a central role. Academic debates aside, religion and the religious tradition of an Ideal Nature continues to play an overwhelming role in the modern representation of gays and lesbians.

The (Un)Natural Merger of Church and State

As late as the eight century there were few ecclesiastic injunctions against homosexual acts and

²⁰Gary David Comstock in his book, *Violence Against Lesbians and Gay Men*, (New York: Columbia University Press, 1991), provides evidence that much of the violence directed at queer people today is motivated by christian teachings about God's opinion about homosexuals as evidenced in their (mis)interpretation of scripture.

²¹Derrick Bailey, *Homosexuality and the Western Christian Tradition*, (London: Longmans, Green, 1955).

Boswell argues this was because the "church was largely unconcerned about exclusively homosexual behavior. . . . Homosexuality was given no greater attention than other sins and, viewed comparatively, appears to have been thought less grave than such common activities as hunting."²² But following the development of theories of "natural law" by Aquinas and the other Scholastics of the thirteenth century and the subsequent re-interpretation of scripture to problematize homosexual acts, sodomy begins to become an area of increasing church regulation. Michael Goodich in *The Unmentionable Vice: Homosexuality in the Late Middle Ages* argues similarly that it is not until the end of the twelfth century that sodomy becomes a truly infamous crime in canonical law. It is shortly thereafter that it also becomes a subject of greater civil legislation. Goodich argues that by the thirteenth century there are example of the Church's epistemological construction of sodomy reflected in civil edicts. One such example is evident in the report of a Sienese city council meeting held on September 13, 1324. Goodich writes,

The council of nine provided for the appointment of men to pursue sodomites "in order to honor the Lord, ensure true peace, maintain the good morals and praiseworthy life of the people of Sienna." . . . the councillor voiced the fear that those whose crime was repellant to both God and the Devil, and abhorrent to all peoples, unless

²²Boswell, p. 180.

prosecuted, would bring down the Lord's ire on the city.²³

The most interesting thing about this quotation is the excerpted passage from the legislation of the council of nine. Clearly for these civil authorities, the power of the Church to interpret God's truth is unquestioned. If sodomy is worthy of Church regulation then it also is worthy of state regulation. The problem for the city officials is that God might choose to castigate the city's residents, if sodomy is sanctioned, allowed, or left unpunished. For those poor souls who are discovered by the authorities and then chastened, the experience of their criminal prosecution will be imbued with notions of sodomy as a sin against God, *and because of this*, something worthy of state regulation.

Civil regulation of sexual sin spread, following the problematization initiated by the Catholic church centuries before. These civil regulations endured long after the Church's preeminence in civil and social matters was no longer absolute. For example, in the 1787 English trial of the Earl of Castlehaven, accused of sodomizing his wife, the Attorney-General's arguments mirror those made by the Council of Sienna centuries before. Sodomy, he argued, was of such a "pestiferous

²³Michael Goodich, *The Unmentionable Vice: Homosexuality in the Later Medieval Period* (London: American Bibliographical Center--Clio Press, 1979) p. 85.

and pestilential nature that if they not be punished they will draw from Heaven heavy judgements upon the Kingdom."²⁴ By the nineteenth century civil prohibitions against sodomy were widespread among European countries and many American States. In Indiana, the Church's execratory tone toward all forms of non-reproductive sexuality was still alive and well reverberating in that state's 1881 sodomy statute. The statute reads:

Whoever commits the abominable and detestable crime against nature by having carnal knowledge with mankind or beast; or who being a male, carnally knows any man or woman through the anus; and whoever entices, allures, instigates, or aids any person under the age of twenty-one to commit masturbation or self-pollution is guilty of sodomy, and upon conviction thereof, shall be imprisoned in the State prison not more than fourteen, nor less than two years.²⁵

In many places, including the Earl of Castlehaven's England, sodomy was a capital crime, and it was in this climate of prosecution and persecution of sodomy that

²⁴Weeks, p. 23.

²⁵*Revised Statutes*, 1881, paragraph 2005, quoted in Ronald Hammoway, "Preventive Medicine and the Criminalization of Sexual Immorality in Nineteenth Century America." pp. 35-97 in Randy E. Barnett and John Hagel III (eds.) *Assessing the Criminal: Restitution, Retribution and the Legal Process*, (Cambridge, Mass.: Ballinger, 1977). Also cited in Greenberg, p. 401. A 1913 court decision held that this statute could be interpreted as prohibiting fellatio. See *Glover v. State of Indiana*, (179 Ind. 459) 1919, and (101 S.E. 629) 1913.

medical science first turned its attention to issues of sexuality.

The Medical Model of Homosexuality

There are various reasons that it was in the nineteenth century that greater attention, specifically by the medical "experts," was directed toward sex. Michel Foucault catalogs a number of factors that contributed to medical science's greater interest in sex. The rise of urbanization and industrialization created conditions of overcrowding as production became more and more labor intensive and more concentrated in the cities. This, in turn, created concerns about sanitation, disease, and crime which had to be met with new scientific and medically sound explanations.²⁶

Physicians were uniquely positioned to offer these new theories and explanations. In Europe and in the United States they were already involved in writing and lobbying for legislation dealing with other sex-related activities including prostitution, abortion, and

²⁶Foucault has traced the connection between the development of medical discourse and its deployment in several works: *The Birth of the Clinic* (New York: Vintage Books, 1973); *Madness and Civilization* (New York: Vintage Books, 1973); *History of Sexuality*, vol. 1 (New York: Vintage Books, 1980). David Greenberg travels a similar historical road reaching similar conclusions in *The Construction of Homosexuality*, (Chicago: The University of Chicago Press, 1988) pp. 398-399.

contraception.²⁷ In many European countries physicians had organized and run for public office with some success.²⁸

In the United States, where the medical profession had yet to attain the same stature that it had in European countries, many doctors realized that an "expanded jurisdiction for physicians was very much in the interests of the entire profession; it meant not only potential sources of income but also greater prestige."²⁹ Physicians were only too eager to play a role in discovering and treating new ailments and diseases, and providing information on how to create new, improved societies and new improved human beings.³⁰ This was augmented by the rapid spread of Darwinian evolutionary theory which worked

²⁷Kristin Luker, *Abortion and the Politics of Motherhood*, (Berkeley: University of California Press, 1984); and Greenberg, 1988.

²⁸Robert A. Nye, *Crime, Madness and Politics in Modern France: The Medical Concept of National Decline* (Princeton, N.J.: Princeton University Press, 1984), p. 44.

²⁹Greenberg, p. 402.

³⁰It was in the middle years of the nineteenth century that the appeal of "utopian" communal experiments reached its peak in the United States. Shaker communities started in the eighteenth century, prospered well into the nineteenth century. Robert Owen's *New Harmony*, Josiah Warren's *Hopedale*, John Humphrey's *Noyes' Oneida*, and George Ripley's *Brook Farm*, were in existence between 1825-1887. Noyes' community even had its own eugenics program called "stirpiculture."

simultaneously to undermine traditional religious authority while establishing the power of science as the new interpreter of "truth."

The decades surrounding the end of the nineteenth century and the beginning of the twentieth also were years of great anxiety over the increasing numbers of immigrants coming to the United States. As greater numbers of people began crowding into smaller and smaller geographic areas, the science of population studies spearheaded the drive toward "normalization" and the subsequent attention to "deviance" and "degeneration." In this environment, eugenics experiments, sterilization of the mentally ill, and public debates about forced birth control for immigrants flourished, affording a role and an authority to physicians and medical "scientists" they had not previously enjoyed. Foucault writes, "[i]t was in the name of medicine both that people came to inspect the layout of houses and, equally, that they classified individuals as insane, criminal or sick."³¹

But many modern scholars have argued that the first physicians who addressed "homosexuality" did so with the intent of offering a new theory which would break with the former religious problematization of sodomy as

³¹Michel Foucault in *Power/Knowledge*, ed. Colin Gordon (New York: Pantheon Books, 1980), p. 62.

"sin," thereby helping to end its criminalization by the state. Philosopher Michael Ruse has argued that "undoubtedly the sickness model . . . has helped to remove some of the most oppressive laws against homosexuals and their orientations."³² And John DeCecco contends that the shift from the term "sodomy" as an adjective to describe acts to "homosexual" as a noun to describe persons "was the result of the social and political efforts of those who preferred their own sex to resist the ecclesiastical, secular and later, medical encroachments on their sexual activities. They transformed their sodomitical status . . . into a human species as a way of identifying fellow victims and fighting homophobia."³³ While there is evidence that medical explanations saved some from prison, many nations and thirty-two U.S. states still today have laws criminalizing sodomy. In at least one of these nations, sodomy has only recently been criminalized.³⁴

³²Michael Ruse, *Homosexuality: A Philosophical Inquiry*, (Oxford: Basil Blackwell, 1988), p. 203.

³³John DeCecco, interview in Lawrence Mass' *Homosexuality as Behavior and Identity*, (New York: Harrington Park Press, 1990), p. 167.

³⁴Magnus Hirschfield claimed that his testimony as an "expert" for the defense had saved many from prison. He estimated that his testimony that homosexuality was congenital had saved individuals from some 600 years of confinement. Hirschfield, *Sex in Human Relationships*, (London: John Lane, 1935) p. xviii. Greenberg and Arno claim that the efforts of Caesar Lombroso (discussed below) to influence Italian public opinion, may have led

While many of the early researchers were sympathetic to the plight of "homosexuals," other showed no such sympathy. Their cures and regulatory strategies can hardly said to bring the kind of liberation that the early sexologists desired. Together, however, both groups of medical researchers succeeded in shifting the focus of scrutiny from one which centered on sexual acts and behaviors to a new classificatory strategy based upon the "homosexual person," a person with an innate, congenital basis for the desires and behaviors they manifest.³⁵ This shift also marked the beginning of the modern debate about identity which reverberates still in the study of gay and lesbian issues.

The Birth of Homosexuality

The "scientific" investigations of sexual behavior and desires in the late nineteenth century led to an explosion of theories which addressed all forms of non-procreative sexuality, and an expansion of terminology with which to discuss sexual phenomena. Krafft-Ebing

to the repeal of the criminalization of consensual homosexual relations between adults there in 1889. Greenberg, p. 409, and Weeks p. 27. However, legally sanctioned homophobia seems again on the rise. As recently as July of 1992, Nicaragua has re-criminalized sodomy.

³⁵This shift to a focus on "homosexual" people instead of acts and behaviors occurred even before the term "homosexual" had entered the medical lexicon.

compiled hundreds of cases of unusual sexual behaviors and desires and introduced a number of new terms to this expanding vocabulary of sexual "perversions" including sadism, masochism, and "antipathic sexual instinct," his word for "homosexuality."³⁶

The english word "homosexuality" is a painful philological combination of Greek and Latin elements, and was first coined by a Hungarian pamphleteer named Karoly Maria Benkert. Writing under the pseudonym Kertbeny, Benkert, in 1869, published a pamphlet on homosexuality that was quickly forgotten until republished by Magnus Hirschfield in 1905.³⁷ According to Jeffrey Weeks, "homosexuality" first enters the English language in the works of Havelock Ellis published at the end of the nineteenth and the beginning of the twentieth century, and becomes commonly used nearly contemporaneously with "inversion" to describe intra-gender sexual difference.³⁸

But before the word, "homosexuality" was coined, the debate about the status of "inverts" and "sodomites" was already well underway in increasingly "scientific"

³⁶Krafft-Ebing, pp. 357-358.

³⁷Vern Bullough, *Homosexuality: A History*, (New York: Garland STPM Press, 1979), p. 26.

³⁸Jeffrey Weeks, p. 127. Week's account of Benkert varies somewhat from Bullough's, though both attribute Benkert with the invention of the word, "homosexuality."

terms employed by the early sexologists such as Benkert, Hirschfield, Krafft-Ebing and Ellis. From these early debates two competing, yet related approaches emerged to explain homosexual acts and desires in the nineteenth century. The first of these might loosely be called "congenital biologism" as it sought to prove that homosexuality was innate. Related to this, yet with very different implications, was the approach that homosexuality was either a symptom or a result of moral or physical degeneracy. It was speculated that this degeneracy might even be transmitted to one's children. It was the former theory which would lead to the latter as medical researchers were not content with merely accepting the discovery of a "third" or "intermediate" sex. It would be the task of medical research to explain *how* this "third sex" had come to *be*.

One of the earliest published accounts of this belief that sodomitical acts were the result of an innate condition rather than an abandonment of moral strength is a 1824 report in the state of French prisons. In this report, the author Louis-Rene Villermé distinguished between the "circumstantial" homosexuality of inmates who played the "male" role in sodomy, from

that of their "female" partners whose involvement he claimed was instinctual or preferential.³⁹

In 1862 Karl Heinrich Ulrichs, a German lawyer and writer, and a homosexual himself, argued that homosexuality was the result of a congenital condition, and that sexual preference was as innate as were the sex organs themselves. Ulrichs argued that homosexuality was the result of an anomalous development of the human embryo. While still in utero, an accidental differentiation of the fetus associated a preference for male sexual partners with a male body. The same was thought to happen with lesbians who developed the genitals of a woman, but the sex drive of a man. Ulrichs was the first to develop systematically the idea that homosexuality was caused by cross-sex identification and this provided the basis for the later development of theories of an "intermediate sex" in which the mind of one gender was believed to be trapped in the body of the other. The male members of this third sex were called "Urnings," or in english, Uranians, after Aphrodite Uranus in Plato's *Symposium*; the female members were called Dionings. Believing this

³⁹Louis-Rene Villermé, *Rapport l'état actual des prisons*, (Paris: 1824) quoted in Greenberg, p. 404. Greenberg believes that this could be evidence that the idea that some who engaged in sodomy did so instinctually was common in France already at this time, although no other evidence of this kind has yet been discovered.

new, third sex was a congenital condition, but not an inherited one, Ulrichs claimed they should be treated neither as criminals nor as victims of mental illness.⁴⁰

Karoly Maria Benkert, the linguistic father of "homosexuality" agreed with Ulrichs that it was a congenital condition, and argued that homosexuals constituted a different sexual species--a third sex. Benkert's believed that homosexuals were distinguished by their feelings, desires or urges, apparently never feeling Ulrich's need to justify homosexual desire by explaining it as the product of biological cross-wiring. For Benkert, homosexual desire was "natural" to this third sex.

Magnus Hirschfield, a member of one the early German "homosexual" liberation movements--the Scientific Humanitarian Committee--accepted this "third-sex theory," again hoping to end the criminalization of same gender sexual acts.⁴¹ Hirschfield spent much time

⁴⁰Ulrichs published under the pseudonym Numa Numantius. His work is discussed by Greenberg (1988) and Weeks, (1977).

⁴¹Magnus Hirschfield, *Berlins Drittes Geschelet*, (Berlin: H. Seeman Nachfolger, 1904) and *Die Homosexualitat des Mannes und des Weibes*, (Berlin: Louis Marcus, 1914). Both Benkert and Hirschfield's works are discussed in numerous places. Weeks (1977), Greenberg (1988), Katz (1974), and Bullough (1979), all discuss Benkert and Hirschfield's contributions in their works.

lobbying legislators and appearing as an "expert" medical witness in many criminal proceedings.⁴²

In Great Britain, the physician Havelock Ellis, whose wife was a lesbian, wrote in his work, *Sexual Inversion*, that the presence of homosexual drives appeared at an early age in many of the subjects he had studied. He believed this disproved many of the theories circulating contemporaneously which posited environmental causes of homosexuality. He also claimed that the large number of successful and accomplished people who were homosexuals could not be reconciled with a theory of homosexuality as degeneration.⁴³ He argued that the families of homosexuals "do not usually possess such profound signs of nervous degeneration as we were once led to suppose." Ellis conclusion: the causes of homosexuality were clearly congenital, but not harmful.⁴⁴ Writing in an U.S. medical journal, Ellis sympathetically presented the claims of a lesbian who argued that "homosexual love is morally right when it is

⁴²For Hirschfield's own estimate of his success see note 34.

⁴³Havelock Ellis, *Sexual Inversion*, (London: Wilson and MacMillan, 1897). Reprinted by Arno Press, New York, 1975. Both environmental and degeneracy theories of homosexuality will be discussed below.

⁴⁴Havelock Ellis, "Sexual Inversion with an Analysis of Thirty-three New Cases," *Medico-legal Journal* vol. 13 (1895): 255-267. This paper was originally read before the Medico-Legal Congress, September, 1895.

really part of a person's nature and provided that the nature of homosexual love is always made plain to the object of such affection."⁴⁵

Fellow Englishman Edward Carpenter extended the debate about *The Intermediate Sex* further, exploring the presence and treatment of homosexuals among more "primitive" and therefore more "natural" cultures. Moving beyond his friend Ellis' claim that homosexuals were not dangerous or harmful, Carpenter argued that in the "natural" environment of many of these primitive cultures, the shaman, the powerful medicine man, was an indication, at least to Carpenter, that homosexuals tended to have special powers and that they represented a higher stage of human evolution."⁴⁶

The works of Carpenter, Hirschfield, Ulrichs and Ellis represent the early sexologists whose interest in bringing greater compassion and tolerance to those incarcerated for homosexual acts led them to theorize homosexuality as a inherent characteristic. But not all of the theorists who posited a congenital basis for homosexuality did so with greater tolerance in mind. In 1869, Dr. Karl Westphal argued that those suffering from

⁴⁵Havelock Ellis, "Sexual inversion in Women," *Alienist and Neurologist* Vol. 16, no.2, (1895): 141-158.

⁴⁶Edward Carpenter, *The Intermediate Sex: A Study of Some Transitional Types of Men*, (London: Mitchell Kennerly, 1908); and *Intermediate Types Among Primitive Folk*, (London: George Allen, 1914).

"perverted sexual instinct" were subject to a "contrary sexual feeling," a "congenital perversion of the sexual instinct." Westphal wrote that these individuals were "conscious of the morbid character of their condition."⁴⁷

In the United States at the end of the nineteenth century, Dr. James Kiernan wrote often about the "morbid congenital type . . . men who, as a result of their inborn nature, were attracted by sexual desire to males exclusively," and in the early twentieth century Dr. R.W. Shufeldt, a major in the United States Army medical Corps, published photographs of a "twenty-three year old 'fairy' from the slums of Brooklyn," concluding that he was a "typical example of contrary sexual instinct."⁴⁸

⁴⁷Karl Freidrich Otto Westphal, "Die Kontrare Sexualempfindung: Symptom eines neuropathologischen (psychopathischen) Zustandes" in *Archiv fur Psychiatrie und Nervenkrankheiten* 2 (1869): 73-108. Sections from Westphal's article were translated into English by a number of medical practitioners writing in American Journals. These quotes form two sources: Dr. G. Alder Blumer, "A Case of Perverted Instinct," *American Journal of Insanity* vol. 39 (1882): 22-35; and Drs. J.C. Shaw and G.N. Ferris, "Perverted Sexual Instinct," *Journal of Nervous and Mental Disease* Vol. 10, no.2 (1883):185-204. Excerpts from both of these articles appear in Jonathan Ned Katz, *Gay/Lesbian Almanac: A New Documentary*, (New York: Harper & Row Publishers, 1983) pp.183, 189-191. I am indebted to Katz's work for first bringing my attention to many of the U.S. medical journal articles discussed in this chapter.

⁴⁸Dr. James G. Kiernan, "Sexual Perversion and the White-Chapel Murders," *Medical Standard* "(Chicago) vol. 4, no.3 (November, 1888): 129-130; Robert, W. Shufeldt, "Biography of a Passive Pederast," *American Journal of Urology and Sexology*, vol. 13, no. 10 (October, 1917):

As late as 1914, physical "inversions" or strange "cross wirings" of anatomy were still being proffered as explanations of homosexuality. Dr. P. Mantegazza argued that homosexuality stemmed from a "genital malformation caused by the fact that sensory nerves, normally originating in the penis are displaced to the rectum and the erogenous zone is shifted correspondingly."⁴⁹

As congenital theories of homosexuality became common, the search for the causes of this inherent "morbidity" became more common as well. Paul Moreau in 1887 argued that homosexuals are a "mixed class constituting a real link between reason and madness, the nature of which of which are most frequently to be explained by one word: Heredity."⁵⁰ Earlier he had argued that it was "above all, important for the public morality and safety, that these individuals of defective organization, . . . these mental and moral mongrels . . . be eliminated from social consort."⁵¹

451-60.

⁴⁹ P. Mantegazza, *Sexual Relations of Mankind*, New York: Anthropological Press, 1932.

⁵⁰ Summaries of the work of Dr. Westphal, Paul Moreau and Veniamin Tarnovsky can be found in Weeks, *Coming Out*, pp. 27-28.

⁵¹ Dr. Paul Moreau, *On Aberrations of the Genesic Sense*, (Paris:1880) Book reviewed by Dr.B. Salemi Pace in *Alienist and Neurologist* Vol.5, no.3 (1884): 367-385.

Moreau's approach and tone characterized much of the "scientific" work conducted on issues of homosexuality during the latter half of the nineteenth century. The ranks of medical researchers turning to evolutionary and hereditary theories of "degeneracy" to explain the causes of homosexuality swelled. So too, did the condemnatory moral rhetoric and calls for the separation or imprisonment of those afflicted, increasing rapidly as the nineteenth century raced to a close. Moreau's emphasis on the degeneration into madness was another theme that, although present all along in the works of the early medical researcher, would reach a fevered pitch in *fin-de-siecle* Europe and the United States. Having located the "reform" for sodomitical activities within the corporeal constitution of the individual, the essentialist understanding of homosexuality gained quick and wide acceptance.

***Greater Scrutinization:
The Search for Signs of Deviant Sexuality***

The original intent of those developing congenital theories was to help those accused of the crime of sodomy escape blame, moral responsibility and punishment for their crimes. But, rather than freeing homosexuals from regulation, congenital theories offered new, more invasive regulatory strategies, bringing greater numbers

of people under the watchful eye of the medical gaze. Two related developments bear this out: the closer scrutinization of children for signs of degeneracy; and a greater problematization of masturbation as it came to be linked with everything from homosexuality to madness.

Weeks has argued that a "new recognition of the separateness of childhood by the eighteenth century went hand in hand with a socially felt need to preserve children's purity and innocence."⁵² Greenberg concludes that "as children were being redefined as asexual (and manifestations of childhood sexuality, such as masturbation, labeled pathological or pathogenic), the law was stepping in to place them "off limits" to adults."⁵³ Prohibiting all childhood sexual acts was

⁵²Weeks, p. 24. Foucault makes a similar argument in *The History of Sexuality, Volume I*. David Greenberg discusses a number of reasons the category of childhood was redefined during the late nineteenth century. He writes, "As the commercial and industrial revolutions increases the educational requirements for many jobs, middle class parents began to keep their children in the French Lycees and English public schools longer. First in the United States, then in other countries, the democratic ethos led petit bourgeois and some working-class parents to seek expanded, publicly funded educational opportunities for their children. New paternalistic labor legislation barred children from working in many occupations and forced them into school. Economic dependency kept them at home longer. The decline of apprenticeships and family farms. . . left juveniles more excluded from adult life than ever before." Greenberg concludes that "these developments reduced opportunities for sexual connections across generational lines" which in turn led to the desexualization of children. Greenberg, p. 399.

⁵³Greenberg, p. 399.

high on the list of ways of ensuring "purity." Dr. Alfred Adler claimed that "the eradication of homosexuality is a question of the bringing up of the child"⁵⁴ and as it was believed that "congenital perversion" often began as early as eight or nine in males, closer scrutiny was imperative.⁵⁵

Writing with a similar mission in mind, Dr. William Howard penned a book of sexual and personal advice for young boys. Howard cautioned that "to sleep with another person was unhealthful" as it "prevented your skin from breathing fresh air" making it "possible to absorb the poisons from another's skin." Hammond advised that sleeping with other boys "sends blood to the sex organs" and "causes a feeling of attraction towards these delicate organs." Many boys "will be tempted to talk and play with each other," ending in "self abuse."⁵⁶ Parents were enlisted in this process of regulation of their son's behaviors as a "love of

⁵⁴Dr. Alfred Adler, "The Homosexual Problem," *Alienist and Neurologist* vol. 38, no. 3 (1917): 268-287.

⁵⁵Dr. George Shrady, "Perverted Sexual Instinct," *Medical Record*, (New York) vol. 26, (July 18, 1884): 70-71.

⁵⁶Dr. William Howard, *Confidential Chats with Males* (New York: Edward J. Clode, 1911) p. 102.

pretty things," of dressing well, and of art, were listed as signs of their son's perversion.⁵⁷

Dr. E.H. Smith counselled parents similarly to watch their daughters. Smith wrote, "No thoughtful parent will . . . permit a [female child] of school age to go and sleep with another child. It is bad for their minds, their morals, and their bodies. It is one of the most frequent beginnings of sexual vice." It is school age children who begin "to ponder over the use and abuse of their genital organs."⁵⁸

In 1918, Dr. Lilburn Merrill, a "Diagnostician" for the Seattle Washington Juvenile Court System reported incidents of "habitual pathological functioning of the sexual mechanism" among one hundred delinquent boys. He reported 71 were habitual masturbators and 31 of these "presented a history of "fallatio [sic] relations." Most of the boys "indicated that there was more or less mutual interest in the acts which generally occurred in their play associations."⁵⁹

⁵⁷Marc-Andre Rafflovich, "Uranism, Congenital Sexual Inversion: Observations and Recommendations," Translated by C. Judson Herrick, *Journal of Comparative Neurology*, vol.5 (1895): 25-66. Reprinted in part with editorial commentary in Katz, *Gay/Lesbian Almanac: A New Documentary*. p. 266.

⁵⁸Dr. E.H. Smith, "Masturbation in the Female," *Pacific Medical Journal* vol. 96, no.1 (1903): 76-83.

⁵⁹Dr. Lilburn Merrill, "A Summary of Findings in a Study of Sexualism Among One Hundred Delinquent Boys," *Journal of Delinquency*, vol. 3, (1918): 255-267;

Dr. Merrill claimed knowledge to an amazing amount of information about these boys' intimate habits, revealing that 31 of the "auto-eroticists" engaged in masturbation nightly.⁶⁰ Concern over preserving innocence and preventing "self pollution" guaranteed that greater attention would be given both to childhood and adult sexuality, increasing the level of regulation and investigation of individual's sexual practices well beyond the level achieved by the Church at its zenith of power.

For example, masturbation, anathematized for its non-procreativity by the Church, never was problematized in the laws of Europe and the United States to the same extent as was sodomy, but nonetheless does enter the new medicalization of sexual deviance as a symptom of a deeper, more congenital problem, including insanity, moral weakness, and homosexuality. In his work *Psychopathia Sexualis*, Austrian Dr. Krafft-Ebing argues, "[t]he sexual function of men exercises a very marked influence upon the development and preservation of moral

reprinted in *American Journal of Urology and Sexology*, vol. 15, (1919): 259-269.

⁶⁰Ibid.

character. Manliness and self-reliance are not the qualities which adorn the impotent onanist." ⁶¹

In the 1850's David Skae, a Scottish physician, developed the theory that masturbation could lead to madness.⁶² Twenty years later an American Doctor would make similar claims. In an 1878 essay entitled "Masturbators and What Should be Done with Them," Dr. N. Emmons Paine argues that masturbation "may be an inheritance of excessive passion or weakness of will, or it may be due to a morbidly excited condition consequent upon long indulgence." This "disease," he argues "is obstinate and intractable, and the physician's patience and skill are tried beyond belief. Just as soon as any symptoms of mental aberration appear, in addition to a

⁶¹Richard von Krafft-Ebing, *Psychopathia Sexualis: A Medico-Forensic Study*, Tr. Harry Wedeck. (New York: G.P. Putnam's Sons, 1965). Originally published 1886. Some modern scholars count Krafft-Ebbing among the early sexologists who were sympathetic to the plight of "homosexuals." For example see Anne Faustino-Sterling, "Why Do We Know So Little About Human Sex?", *Discover*, June 1992: 28-30. Quotes like the one above and the other to follow make it difficult for me to consider Kraft-Ebing supportive of, or even neutral toward sodomites, invertes or "homosexuals" as they would come to be known. Perhaps it can be said that his work was part of a larger body of work that sought to make homosexuality a congenital disorder and thereby out of the individual's control. Many at the time, and many still today, pursue this argument in the hope that lack of individual responsibility would alleviate the bias, persecution and legal prosecution of homosexuals. In his defense it must be said that Krafft-Ebing did support the campaign against paragraph 175 in Germany.

⁶²Weeks, p. 24.

strong suspicion of masturbation, the family physician should send his patient to an asylum. (If the patient lacks the will power, he may need mechanical restraints.)"⁶³

Masturbation was quickly becoming a symptom of greater ills, and because theories about congenital "reversal of sexual instinct" raised as many questions as they answered, new theories had to be offered. Unanswered questions such as "What had caused this "inversion" of sexual instinct?", "Could homosexuality be passed along intergenerationally?" and "Could those with this congenital trait be identified?" were met with a plethora of new theories that proffered physical, environmental, evolutionary, and psychological explanations, replete with symptoms and descriptions of every aspect of this new "homosexual" being. Masturbation was becoming a mainstay of many of these theories. Listed among both symptoms and causes of degeneration, it no doubt caused anxiety among many because as a cause of degeneration it was believed to

⁶³ Dr. Paine's article first appeared in *The Transactions of the Homeopathic Medical Society of the State of New York*. Reprinted in Martin Bauml Duberman's, *About Time: Exploring the Gay Past*, (New York: A SeaHorse Book, 1986) pp. 30-32.

lead to greater ills like sodomy, homosexuality, insanity, even death.⁶⁴

Once congenital theories became accepted wisdom, once the acts of sodomites were re-problematized as the result of a medical condition inherent within certain human beings, degeneracy theories spread as nagging questions about origins and causes could not be left unanswered by medical science. Medical science, indeed science in general, has never liked ambiguity.

Among all of the theories of "sexual inversion" Dr. Krafft-Ebing's became that most widely circulated in the United States. In *Psychopathia Sexualis*, he argued that homosexuality was an inborn characteristic caused by large amounts of male or female substances in the heredity composition of the brain. Still, he would not claim that homosexuality itself was inheritable. He did however, believe homosexuality was a manifested symptom of a deeper pathological disease which was spreading

⁶⁴In an 1893 journal article, Dr. Edward C. Mann wrote "Sometimes, in cases of masturbation, perverted sexual feelings, such as forming morbid sexual attachments for persons of the same sex are quite marked. Dementia and death is generally the end of these cases." See "Medico-Legal Aspects of the Trial of Josephine Mallison Smith," *Alienist and Neurologist*, vol. 14, no.3 (July 1893): 467-77. Ten years earlier, Dr. William Hammond claimed that "excessive masturbation" had "injured the mind" and "weakened the generative organs" of one his patients. *Sexual Impotence in the Male and Female*, (Detroit: George S. Davis, 1887); Reprinted (New York: Arno Press, 1977) pp. 55-70.

through the person.⁶⁵ This degeneracy, it seems, could be passed along from generation to generation, for "in almost all cases where an examination of the physical and mental peculiarities of the ancestors and blood relations has been possible, neuroses, psychoses, degenerative signs, etc. have been found in the families."⁶⁶

Among physicians in the United States there were many who proffered degenerative disease theories to explain homosexuality. Sometimes homosexuality was seen as a step on the road to complete degenerative insanity,⁶⁷ other times as the insane destination of this degenerative dementia.⁶⁸ Degeneracy theory

⁶⁵Krafft-Ebbing, *Psychopathia Sexualis*, p. 13.

⁶⁶Ibid., pp. 361, 564-566.

⁶⁷In an 1888 article Krafft-Ebing notes the degeneration of one of his homosexual "patients" to the point that he had to be taken away and put into an asylum. See "Perversion of the Sexual Instinct," translated into English by H.M. Jewett, *Alienist and Neurologist*, vol. 9, no. 4 (July 1888): 565-81. Dr. William J. Robinson took issue with those who were claiming that "homosexuality is not a crime, not a vice, not a sign of degeneracy, not even a sexual abnormality, merely a sexual variation." Homosexuality, in his opinion "was a sign of degeneracy." See Dr. William J. Robinson, "My Views of Homosexuality," *American Journal of Urology*, vol. 10, (1914): 550-552.

⁶⁸Dr. James G. Kiernan argues that homosexuality, while congenital, represents the presence of an evolutionary weakness, in short a degenerative, congenital trait. See "Sexual Perversion," *Medical Standard*, vol. 4, no. 4 (Dec. 1888): 170-172. Elsewhere Kiernan argues that masturbation is one of the things that can trigger the emergence of this atavistic trait.

increased the search for signs, intensifying further the very regulation and scrutiny that it was hoped medical explanations would alleviate. Entire family genealogies became subject to investigation as evidenced by Krafft-Ebing's speculations above. Russian sexologist Veniamin Tarnowsky blamed the parent's damaged genes for the child's homosexuality. Multiple factors were listed as possible causes of this damage including hysteria, alcoholism (itself newly classified as disease), typhus, soil, climate and altitude.⁶⁹

As degeneracy theories revealed homosexuality was in some way linked to physical contact with soil, or the air at certain altitudes, or could be passed intergenerationally through the contaminated blood of parents, then it was inevitable that homosexuality would come to be feared as a highly infectious and contagious disease, ensuring an expanding jurisdiction for physicians and the state and increased attempts at treatment and cure.

"A Medico-Legal Phase of Auto-Eroticism in Women," *Alienist and Neurologist*, vol. 31, no. 3 (August 1910): 329-338.

⁶⁹Veniamin Tarnowsky, *Die krankhaften Erscheinungen des Geschlechtsinnes: Eine forensisch-psychiatrische Studien* (Berlin: Hirschwald, 1886) Summaries of the work of Dr. Tarnowsky can be found in Weeks, *Coming Out*, pp. 27-28. His work is also discussed in Greenberg, Chapter 9.

This attention to external factors represented another, but related avenue of research that many physicians explored during the closing years of the nineteenth century. Congenital definitions and degeneracy theories did not stop many researchers from reviving notions of moral sin and criminal vice by restoring the linkage between homosexuality and individual responsibility; this was the very linkage the congenital models had purported to break. As mentioned above, theories that connected masturbation to homosexuality made this leap. If only masturbation could be stopped, these greater ills could be avoided as well.

Many of these doctors argued that although congenital, and although once started, degenerative, homosexuality required a "trigger," an external factor that would start this retrogressive process. In 1894, Dr. Charles Chaddock agreed with Karl Ulrichs that homosexuality was inherent, "conditioned by the anatomical peculiarities which determine sex," and while a "neuropathic nervous system" was the underlying cause of the emergence of homosexuality, some other "cause" was also necessary, such as "excessive masturbation, fear of pregnancy, or venereal infection."⁷⁰

⁷⁰Dr. Charles Chaddock, "Sexual Crimes," in Allan McLane Hamilton and Lawrence Godkin, ed., *A System of Legal Medicine*, 2 vols. (New York: E.B. Treat, 1894),

Dr. Francis Anthony a surgeon at a Haverhill Massachusetts hospital stressed that seduction from older "urnings" could create homosexuals, an argument that still circulates today revealing how influenced by earlier criminal and moral problematizations of sodomy were these physicians. Anthony writes:

The triumphant suitor carries to his house and his room his innocent victim, and then begins a course of sexual perversion, the teacher an adept, the pupil, a novice, until a new star arises, or satiety compels a rest. The sexual propensities of the young are perverted, or may be inverted, and a life is ruined almost beyond hope of recovery."⁷¹

His description could lead one to ask how Dr. Anthony had come to have such intimate, detailed, first hand knowledge of these seductions. The same might be asked of Dr. George Monroe, who in the closing year of the nineteenth century argued that the absence of women might trigger homosexuality. Monroe claimed homosexuality was frequent among "soldiers, sailors, miners. loggers, campers and others whose occupations separate them for the greater share of the time from women." He admitted, however, that this did not explain

vol. 2, pp. 525-72. Chaddock's theory if revived could be used to influence the contemporary abortion debate. Without access to birth control and legalized abortion, the latent "homosexuality" inherent in many men will become manifest as they fear the consequences of sex.

⁷¹Dr. Francis W. Anthony, "The Question of Responsibility in Cases of Sexual Perversion," *Boston Medical and Surgical Journal*, vol 139, no. 12 (September 22, 1898): 288-91.

why homosexuality was "becoming quite common in our large cities" where sexual separation did not exist.⁷²

Dr. T. H. Evans argued that the same forces that had brought people to these large cities explained the increasing incidents of homosexuality one might observe there: the rise of industrialization. Evans argued that homosexuality was due to "the shift in economic relations of men and women; so that displacement of function brings about incertitude of [sexual] characteristic." That industrial capitalism's division of labor would have such an impact on the erotic attractions of its workers is a form of alienation even Marx never imagined.⁷³

French Physician Marc-Andre Rafflovich argued that homosexuality, like heterosexuality, was inborn, but that its form or expression could be influenced by education and circumstance. He emphasized the importance of discovering the "signs of inborn homosexuality" in the child and regulating these early influences, in order to encourage later "chastity" and "continence." Rafflovich argued that some of the signs

⁷²Dr. George Monroe, "Sodomy--Pederasty," *St. Louis Medical Era*, vol. 9 (1899): 431-34.

⁷³Dr. T. H. Evans, "The Problem of Sexual Variants," *St. Louis Medical Review*, vol. 54, no. 10 (September 8, 1906): 213-215.

was "exaggerated modesty" in the presence of adult males, "vanity" and a "taste of finery."⁷⁴

Rafflovich's concern with the development of recognizable characteristics which indicates another turn that research into "homosexuality" took in the late nineteenth and twentieth centuries. If homosexuality was a symptom of degeneracy, or an atavistic trait which, when triggered, would manifest itself in full blown inversion of the sexual instinct, then detecting the early signs was crucial. It was unclear how this congenital trait was passed, and in an atmosphere when even altitude, or soil could harbor the "germ," then adults and children would have to be watched more closely for signs of this disease.

Physical (De)Signs of Degeneration

Over the course of the last half of the nineteenth century "scientists" and medical practitioners added volumes to the "knowledge" of sexual inversion, those plagued by "congenital reversal of sexual instinct, "homosexuality. As already indicated, congenital theories that posited homosexuality as an inherent human trait in some people, may have slowed the legal persecution of those caught engaging in sodomitical acts (although even this point is debatable), but

⁷⁴Rafflovich: 61.

simultaneously this strategy served as a greater incitement to science. Having provided theories of sexual difference, theories which linked sexual acts with a specific medical condition, a particular identity, without providing testable, verifiable causal factors, next it would become the task of medical science to construct a homosexual taxonomy, a classificatory system of physical qualities and descriptions which would enable other medical professionals and lay people alike to recognize and identify homosexuals. If the "homosexual" was different, and was subject to a medical epistemology which constructed him/her as diseased, ill or congenitally weak, then medical science must also "discover" a way to distinguish these "inverts" from everyone else. This emphasis on detection, signs, and differentiation was important not only because homosexuality might be spread intergenerationally or by an environmental trigger, but also because "normal" people must be have a way to be sure that they were not "infected" or "afflicted" with homosexuality. In this search for signs, doctors were to become the modern-day prophets and oracles.

Many of these early sex researchers argued that homosexuals had physical and corporeal differences which were detectable. The prevalence and wide acceptance of

"third sex" and "intermediate sex" theories made this a logical next area of exploration. These theories postulated that homosexuals represented a congenitally anomalous cross between the anatomy of one gender and the emotional psyche and sexual drives of the other. In this unnatural mixing of anatomy and gender functions, it followed that some of these "inverts" might manifest constitutional and secondary personality characteristics as well; characteristics normally associated with the opposite gender.

In 1889, Dr. Frank Lydston claimed that a large number of these "sexual perverts are physically abnormal rather than morally leprous" concluding that "[t]heir physique is apt to be inferior--a defective physical make-up being general among them . . ."⁷⁵ Dr. George Kiernan also found "constitutional" differences in homosexual men claiming that many "inverts" retained "a youthful appearance through life" because of their mental and physical arrested development.⁷⁶

⁷⁵Frank Lydston, "Clinical Lecture. Sexual Perversion, Satyriasis and Nymphomania, Medical and Surgical Reporter (Philadelphia), Vol 61, nos. 10-11, (1889): 253-284.

⁷⁶Dr. James Kiernan, "Androphobia," *Urologic and Cutaneous Review*, vol. 20, no. 2 (February 1916): 103-108. Earlier, Marc Andre-Rafflovich had also argued that "exaggerated modesty" in the presence of adult males was a sign of homosexuality in young boys.[61] George Shradly also believed that young boys often manifest "an inclination to adopt the manners and practices of girls or women" [70].

In 1934, Dr. Henry studying 250 adult patients found that homosexuals were found to have "considerably greater constitutional deviations on a general average than the heterosexually adjusted." Henry continued that women homosexuals were

characterized by a firm adipose tissue, deficiencies of fat at the shoulders and at the girdle, firm muscles, excess hair on the chest, back and lower extremities, a tendency to masculine distribution of the pubic hairs and a small uterus and an over or underdevelopment of the labia or clitoris. There is also a tendency toward a shorter trunk, a contracted pelvis, underdevelopment of the breast, excessive hair on the face and a low-pitched voice.⁷⁷

Dr. William Lee Howard posited that there was a link between the male homosexuals' feminine psyches and the degeneration of their bodies. As a feminine psyche caused them to think "muscular exercise is repugnant. . . hence at about forty years of age we find them with fat, flabby bodies."⁷⁸ It was of reptiles that Dr. Alfred Adler was reminded when he examined homosexuals professing they exhibited "snake-like," "serpentine" qualities.⁷⁹

⁷⁷Dr. G.W. Henry, "Psychogenic and Constitutional factors in Homosexuality," *Psychiatric Quarterly*, vol. 8, (1934): 243-264.

⁷⁸Dr. William Howard, "The Sexual Pervert in Life Insurance," *Medical Examiner* (New York), vol. 16 (July, 1906): 206-207.

⁷⁹Dr. Edward J. Kempf, "Social and Sexual Behavior of Infra-Human Primates with Some Comparable Facts in Human Behavior," *Psychoanalytic Review*, vol.4, no.2

As evidenced in Dr. Hay's investigations above, lesbians were not immune to this medical attention, although in general more attention was given to the male invert than to his female counterpart. Still, many doctors reported that the female inverts was likely to possess an "enlarged clitoris." On multiple occasions Dr. Kiernan claimed he witnessed this among the female inverts he examined, once discovering "an enlarged clitoris two and one-half inches when erect."⁸⁰ This focus on "erections" and "size" is typical of the almost exclusively male nineteenth century medical profession whose members found it impossible to imagine sexual pleasure without a penis or a penis substitute.

These same doctors argued that often secondary personality characteristics also were manifested by these "homosexuals." Lydston, claimed that male homosexuals were often characterized by effeminacy of voice, dress, and manner . . . "⁸¹ Kiernan believed that because as a male homosexual's sexual instincts were female, he exhibited "extreme modesty toward males" and

(April 1917): 127-54.

⁸⁰Dr. James Kiernan, "Sexual Perversion and the White-Chapel Murders." Also see Kiernan, "Sexual Perversion" *Medical Standard*, vol.4, no.4 (December 1888): 170-172.

⁸¹Frank Lydston, "Clinical Lecture:L: Sexual Perversion, Satyriasis and Nymphomania," *Medical and Surgical Reporter*, vol 61, nos. 10-11, (September 1889): 253-284.

"intense liking for female occupations and dress."⁸²

George Shrady believed male homosexuals could be detected by their "mimicking gait" adding "that sometimes the hips are broad like those of women."⁸³

Secondary sexual characteristics, characteristics which went beyond bodily descriptions, also were attributed to female homosexuals. Dr. Douglas McMurtie claimed lesbians were identifiable as they "dressed in masculine fashion, wearing stiff collars and plain fedora hats."⁸⁴

As a result of this scientific research, other doctors expanded the taxonomy of descriptive indicators including such powerful insights such as all homosexuals were "liars,"⁸⁵ and that male homosexuals were unable "to lead in dancing, female homosexuals unable to

⁸²Dr. James Kiernan, "Androphobia," *Urologic and Cutaneous Review*, vol. 20, no. 2, (February 1916): 103-108. Earlier, Marc Andre-Rafflovich had also argued that "exaggerated modesty" in the presence of adult males was a sign of homosexuality in young boys.[61] George Shrady also believed that young boys often manifest "an inclination to adopt the manners and practices of girls or women." [70]

⁸³George Shrady, "Perverted Sexual Instinct," *Medical Record* (New York), vol 26, (July 1884): 70-71.

⁸⁴Dr. Douglas McMurtie, "Lesbian Assemblies," *American Journal of Urology*, vol 10, no.9 (September 1914): 432-436.

⁸⁵Rafflovich: 61.

follow."⁸⁶ In 1920, in a prominent medical journal, Dr. W.C. Rivers published the discovery of perhaps the definitive, tell-tale indicator of homosexuality: "cat loving."⁸⁷

The power to control how this new medical discovery--homosexuality, and those afflicted with it--would be described, fell to the group who had first discovered it: medical physicians. The acceptance of congenital theories as an explanation for homosexuality also meant that description of one gender's physical, sexual, social, psychological, and emotional characteristics would be employed to describe the appearance and behavior of homosexuals of the opposite gender. Often the line between description and inscription became blurred as homosexuals, expected by their doctors to behave a certain way, and facing the wrath of physicians armed with "cures," gladly conformed to their doctor's expectations. Lesbians would be described as "mannish," "masculine," "hairy," "assertive" and "strong" as that was what was socially expected of men. In turn, gay men would have adjectives usually reserved for women directed at them. Adjectives

⁸⁶Dr. Clarence Oberndorf, "Diverse Forms of Homosexuality," *Urologic and Cutaneous Review*, vol. 33, no.8 (August 1929): 518-523.

⁸⁷Dr. W.C. Rivers, "A New Homosexual trait(?)," *The Alienist and Neurologist*, vol. 41, no. 1 (January 1920): 22-27.

like "effeminate," "artistic," "emotional," "sensitive," "big hipped," and "flabby."

The deployment of "masculine" descriptions for homosexual women, and "feminine" descriptions for homosexual men spread beyond the pages of medical journals, helping to reinforce acceptable and unacceptable behavior of everyone in culture. This descriptive system of classification not only served to distinguish perversion, thereby providing a way of identification, but it also reinforced cultural values about the proper, correct, and the socially sanctioned ways to behave for anyone wishing to escape the designation of "deviant." Like a cultural sign-post for gender behavior, this descriptive taxonomy provided a marker, a standard by which one could measure one's own behavior and the behavior of others; a threshold over which one crossed only at the risk of being labeled "diseased," medically and morally "degenerate," and culturally dangerous.

As these categories of acceptable and unacceptable behavior were deployed in culture, passionate expressions of male friendship such as those common between men only a century earlier disappeared forever, falling victim to a new, more rigid and regulated system of behavior which mapped a powerful, inflammatory rhetoric of sexual disease and moral licentiousness onto

gender behavior. The result was that everyone-- heterosexual and homosexual, adult and child--came under wider scrutiny, attention and regulation. Women too, faced a constricted number of acceptable patterns of gender behavior. For example, The suffragettes of the late nineteenth century, by pressing for a right which men claimed *naturally* fell to them, were labelled "sexually abnormal" by many in the medical professional of the time. They were called "militant" by Dr. Horace Frink, who argued that these women "are neurotics who in some case are compensating for masochistic trends, in others, are more or less successfully sublimating sadistic and homosexual ones . . ."⁸⁸

It was the failure of the congenital/disease/biological dysfunction model of homosexuality to improve the lot of homosexuals that led many sympathetic to the plight of homosexuals toward a more psychiatric or psychological explanation for homosexuality.

⁸⁸Dr. Horace Frink, *Morbid Fears and Compulsions; Their Psychoanalytic Treatment*, (New York: Dodd, Meade 1918) p. 136. Earlier, Dr. James Weir had argued that "Every woman who has been at all prominent in advancing the cause of equal rights in its entirety, has either given evidence of masculo-femininity (Viraginity), or shown, conclusively, that she was the victim of psychosexual aberrancy." "The Effect of Female Suffrage on Posterity," *The American Naturalist*, vol 24, no. 345 (September 1895): 819.

VI. The Psychiatric Model(s) of Homosexuality

Disease and congenital illness models of homosexuality served to narrow the range of acceptable behavior for men and women and the scope of intra-gender relationships by increasing the search for physical signs of abnormality or strange behavior which resulted from these physical abnormalities. The search for the causes for this abnormality still contained the moral quest for and concern about "responsibility." Sometimes these physician's theories utilized genetic explanations, sometimes environmental, sometimes mixing both to explain the presence of this homosexual condition.

But earlier condemnations which had considered sodomy, "moral depravity," "licentiousness," and "weakness" circulated too, often just below the surface of these scientific explanations of "degeneracy" and evolutionary "atavism," blurring the line the early sexologists Hirschfield, Ellis, and Ulrichs had attempted to draw between inherency and responsibility, in their attempts to "liberate" sodomites. Many felt as did Dr. George Shrady that while "homosexuality was a "pathological perversion," some who engaged in sodomy were motivated, not by a medical disorder, but by "vicious lust."⁸⁹ Some homosexuals were born, some

⁸⁹Shrady: 70.

were made, with the consequence that while some were deserving of sympathy, others could be punished; some were ill, but others were what society had "always already" known them to be: depraved and dangerous beasts, sub-human, amoral creatures waiting to seduce and indoctrinate others.

Psychiatric and psychological models did much to reinforce these behavioral and "environmental" explanations of homosexuality. While the seeds of this can be seen in the earlier generation of medical researcher's attention to "damaged genes," soil, water, and air as possible cause of homosexuality, psychiatry gave the old theme of environmental explanations a new twist.

Psychiatry also helped to re-deploy the seduction theory of homosexuality. Not unlike the way in which we think of the spouse-abuser and the rapist, this theory, which still circulates today, suggests that psychic disturbances of the adult homosexual stem from their childhood experience of seduction by another adult homosexual, in turn making it more likely that he would repeat these patterns upon reaching adulthood.

While psychiatric explanations for homosexuality have been a part of the medical models of homosexuality dating from the mid-nineteenth century, these explanations come to be increasingly represented in the

pages of medical journals of the twentieth century. The failure of congenital theories to provide concrete and verifiable causes opened the door to psychiatric theories about homosexuality, and subsequently, the study of homosexuality would become almost completely the province of psychiatrists and psychologists by mid twentieth century.⁹⁰

Developmental models of homosexuality perhaps more than others reinforced environmental explanations and parental responsibility on their children's "development of a sexual object choice." Sigmund Freud's developmental model of homosexuality is perhaps the one which was most widely cited, adopted, addressed and amended by clinical psychiatrists.

Freud's theory of sexuality maintained that the libido in children is "polymorphously perverse," but undergoes change as the child develops toward his/her mature sexual level: heterosexuality. Along the way toward this mature sexual expression, the individual passes through a "homosexual phase." In Freud's

⁹⁰The psychological and psychiatric explanations for homosexuality are as entertaining to read as are these "scientific" theories of physicians seeking congenital, environmental and physiological causes. They will be discussed in greater detail below. It is important to remember that arguments linking homosexual desire and madness circulated contemporaneously with these other "medical" theories. The causes of this madness, however, were often sought in the environment, or in the cells or genes of the individual rather than in his/her psyche.

understanding, the adult homosexual gets "stuck" in the immature phase of sexuality.

Freud's ideas about the possibility of redirecting this homosexual object choice changed over the years. In the early manifestation of his theory, Freud argued that "the connection between sexual instinct and sexual object choice is not as intimate as we have often believed." They were merely "soldered together."⁹¹ This seems to suggest that the link between sexual instinct and sexual object choice could be changed. But in a 1935 letter to an American mother concerned over her child's homosexuality, Freud wrote:

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... ."

By asking me if I can help, you mean, I suppose, if I can abolish homosexuality and make normal heterosexuality take its place. The answer is, in a general way, we cannot promise to achieve it. . . . in a majority of cases it is no more possible.⁹²

Although Freud was rethinking the possible success of severing this link between instinct and sexual object choice, his earlier ideas shaped the work of his

⁹¹Sigmund Freud, "Three Essays on the Theory of Sexuality (1905). *Standard Edition*, (London: Hogarth Press, 1958) vol.7: 125-245.

⁹²Dr. Sigmund Freud, "Letter to an American Mother," dated April 9, 1935, *American Journal of Psychiatry*, vol. 107, 1951: 786-787.

contemporary psychiatric colleagues in Europe and the United States. Dr. Wilhelm Stekel, a disciple of Freud, argued that "by nature all human beings are psychically bisexual." Echoing Freud he argued that "fixed homosexuality" resulted as a "disturbance" in the development toward heterosexuality.⁹³ Dr. Constance Long, one of the few women in a still male dominated field, argued similarly that homosexuality was "a problem indicating a block in the development to mature heterosexuality, caused by social conditions."⁹⁴

Writing in 1968 Dr. Charles Socarides, persevered in his use of Freudian terminology to explain homosexuality, but differed with Freud in thinking it was the result of "learned behavior." Socarides claimed that "there is no inherent connection between sexual instinct and the choice of a sexual object. Such an object choice is learned, acquired behavior; there is no inevitable genetic or hormonal inborn propensity toward the choice of a partner of either the same or opposite sex."⁹⁵ Dismissing any constitutional factors

⁹³Dr. Wilhelm Stekel, "Masked Homosexuality," translated by Dr. S.A. Tannenbaum, *American Medicine* (Burlington, Vt.), vol.9, no.8 (August 1914): 530-537.

⁹⁴Dr. Constance Long, "A Psychoanalytic Study of the Basic Character," *Proceedings of the International Conference of Women Physicians 1919*, 6 vols., vol. 4 *Moral Codes and Personality* (New York: The Woman's Press, 1920) p. 77.

⁹⁵Socarides, p. 5.

in homosexuality, Socarides claimed that the answer to why "one would chose to be homosexual or choose the same gender when others were available," was "to be found in the developmental history of the individual."⁹⁶

Melanie Klein also linked homosexuality to the early stages of libidinal development. Klein argued that anxieties around oral and anal phases produced an "insatiable need which binds the libido to oral and anal forms."⁹⁷

Congenital and constitutional theories of homosexuality had forged a link between homosexuality and the gender characteristics of the opposite gender positing that gay men were detectable by their effeminacy, lesbians by their masculinity. Psychiatric models of homosexuality often posited that homosexuality was a result of either fearing or feeling inferior to the opposite gender.⁹⁸ One psychiatrist claimed that his "analysis of homosexual men regularly shows that they feared female genitals. . . the female genitals, through the connection of castration anxiety with all

⁹⁶Ibid., p. 11.

⁹⁷Melanie Klein, "Notes on Schizoid Mechanisms" in *Developments in PsychoAnalysis*, (London: Hogarth Press, 1952)

⁹⁸For example see Dr. Alfred Adler, p. 270. Adler argues that perversion in men was compensation for feeling inferior to women, and that "perversion in women is also . . . to overcome the feeling of inferiority against the greater power of the man."

anxieties, they perceive as the castrating instrument capable of biting or tearing off their penis."⁹⁹

Often these theories laid this blame on the child's relationship with one of his parents. Socarides, who uses a litany of explanatory factors to explain homosexuality, includes the parent/child relationship. He writes:

Homosexuality is based on the fear of the mother, the aggressive attack against the father, and is filled with aggression, destruction, and self deceit. It is a masquerade of life in which certain psychic energies are neutralized and held in a somewhat quiescent state."¹⁰⁰

Dr. J. Sadger claimed that the "[m]otivating force in homosexuality was the desire to eat the father's testicles."¹⁰¹

Theories like Freud's Oedipal complex implicated parents in their children's sexual development more overtly than ever before. Many psychiatrists including Dr. Carl Jung argued that "passive homosexuality" in both women and men was connected to the child's experience of incest.¹⁰² Dr. George Henry argued

⁹⁹ O. Fenichel, *The Psychoanalytic Theory of Neurosis*, (New York: W.W. Norton, 1945); pp. 340-343.

¹⁰⁰Socarides, p. 8.

¹⁰¹ J. Sadger, *Neue Forschungen zur Homosexualitat*. reported in Socarides, p. 14.

¹⁰²M. Sherman, and T. Sherman, "The Factor of Parental Attachment in Homosexuality" *Psychoanalytic Review*, vol. 13 (1926): 32-37. Carl Jung, *Psychology of*

that the adult's homosexuality had been determined by early trauma; homosexual interests were linked causally with early disturbances in sexual development.¹⁰³

Psychiatry's focus on childhood experiences as one of the most important factors shaping adult sexuality again implicated parents in their children's sexual deviance, only now in a more intimate way than ever before. The result of this has been that today, only the rarest of parents does not question his/her role in their child's "homosexuality."

Narcissism was also cited by psychiatrists and psychologists as a motivating factor behind homosexuality. Anna Freud argued that the male homosexual's desire for another man was really their love of self projected onto another. The younger Freud claimed that what the homosexual is seeking "is an image of himself."¹⁰⁴

Another explanation for homosexuality was offered by G.L. Bibring, who claimed that the homosexual was

the Unconscious, (New York: Moffett, Yard, 1916), and Socarides, *The Overt Homosexual*, p. 14.

¹⁰³Dr. George Henry, "Psychogenic Factors in Overt Homosexuality," *American Journal of Psychiatry*, vol. 93, no. 4, (January 1937): 889-908.

¹⁰⁴Anna Freud, "Homosexuality," *Bulletins of the American Psychoanalytic Association*, vol. 7 (1951): 117-118. Socarides also includes "narcissistic inferiority" to his long list of causes for homosexuality. p. 5.

motivated by his attempt "to regain his lost or endangered masculinity through an oral attack on the partner's penis in order to acquire it."¹⁰⁵

Psychiatrists did not stop with the creation of theories to explain homosexuality. Like the medical researchers before them, they also offered characteristics which explained the consequences of this sexual "immaturity" or arrested development.

Dr. A.A. Brill who began by stressing a distinction between "normal" and "pathological homosexuality" claimed that homosexuality was "part of the normal sexual instinct," that originated "in the polymorphous perversity of infantile sexuality." Brill, however, claimed to have detected a link between "paranoia and homosexuality." This homosexual paranoia led to "destructive impulses" pushing the erotic instinct to the background," and making way for the "death instinct."¹⁰⁶ Homosexuality was linked with the negative instinct to destroy.

¹⁰⁵G.L. Bibring, "On an Oral Component in Masculine Inversion," *International Z. Psychoanalysis*, vol. 25: 124-130, 1940. H. Nunberg's, "Homosexuality, Madness and Aggression," *International Journal of Psychoanalysis* vol. 19: 1-16 (1938), makes the same argument.

¹⁰⁶Dr. A.A. Brill, "Homoeroticism and Paranoia," *American Journal of Psychiatry*, vol. 90, 1934: 957-974.

Socarides also presents a very bleak picture of homosexuals and homosexual relationships claiming that in homosexuals,

. . .the unconscious manifestations of hate, destructiveness, incest and fear are always threatening to break through. Instead of union, cooperation, solace, stimulation, enrichment, healthy challenge and fulfillment, there are only destruction, mutual defeat, exploitation of the partner and the self, oral-sadistic incorporation, aggressive onslaughts, attempts to alleviate anxiety and a pseudo-solution to the aggressive and libidinal urges which dominate and torment the individual.¹⁰⁷

Socarides was writing just six years before the American Psychological Association de-classified homosexuality as a mental disorder.¹⁰⁸ While many in the mental health fields turned away from mental and medical explanations for homosexuality in the 1970's, others, like Socarides, still maintain that homosexuality is something to be medically regulated, treated, cured. And although no longer "officially" viewed as a medical illness, these mental health professionals set themselves up as the

¹⁰⁷Socarides, p. 8.

¹⁰⁸The American Psychological Association de-classified homosexuality as a mental disorder in 1974 on a mail vote of 5854 to 3810. However, the *International Classification of Disease* (9th edition) 1980, still lists homosexuality as a disease.

experts who could best recognize, "detect" and explain homosexuality.¹⁰⁹

One device which is still deployed to "detect" homosexuals is a subset of questions of the Minnesota Multi-phase Personality Inventory, (MMPI). The MMPI is a test which attempts to assess people's personalities by asking a great number of questions (550) about oneself, to be answered in a true/false manner. There is a scale on the MMPI designed to pick out male homosexuals (that is, a subset of questions which is supposedly answered in a distinctive way by male homosexuals). Some of these statements are "I like poetry," "I would like to be a journalist," "I like science," and "I am entirely self-confident."¹¹⁰

Twentieth century psychiatrists, no less than the medical researchers who came before them, did little to "liberate" or even change the social and cultural hostility toward sodomite or homosexuals. In many cases

¹⁰⁹The active way in which psychiatrists and psychologist supplanted their physician colleagues as the experts of homosexuality will be evidenced in the next chapter as they sought an institutionalized role with the military claiming that they could best "detect" homosexuals for separation.

¹¹⁰The MMPI and its subset of "queer" questions is treated with a bit too much respect by Philip Ruse in his *Homosexuality*, (New York: Basil Blackwell, 1988) pp. 216 -218. Answers of "True" to the first two questions and "false" to the second two were supposed to be indicative of a homosexual personality. How did you do?

their efforts led to much more sinister forms of regulation.

Medical Science and the Cures of the State

If it is true as DeCecco argues above that the term "homosexual" was first coined to be used as a weapon against the religious, legal, and medical forces that were brought to bear on sexual difference in the nineteenth century, one can only conclude that the success of this strategy, at best, has been mixed. Many of the early sexologists were sympathetic to the plight of those incarcerated for sex crimes, and their efforts did help create an alternative way of viewing sodomitical acts by offering medical theories which postulated that sodomitical acts stemmed from deep within the mysterious and incomprehensible world of genetics, disease, and biology.

In a discussion of schizophrenia, Thomas Szasz, arguing against contemporary institutional psychiatry, makes an argument that could have been made as easily and as applicably about the medical "liberation" of sodomy. Szasz's argument is that if schizophrenia is shown to have a biological component then the state could legitimately enforce compulsory medical treatment, but if it remained a "disorder of the spirit with no clear biological component, then the individual should

decide whether or not to visit his or her psychiatrist."¹¹¹ If homosexuality could be portrayed as a degenerative, biological, evolutionary threat, the greater the moral and scientific justification for state regulation.

By arguing that one's desire for those of the same gender was an "inborn characteristic" or a congenital condition," beyond the control of the individual, these sexologists helped to illustrate that the state had nothing to gain from the punishment of sodomites, as punishment would not be a deterrence. Medical science did succeed in usurping, at least epistemologically, the Church's claim to the exclusive right of "truth production" in the matters of the flesh. But medical science never completely succeeded in replacing the moral stigmatization, nor even in decriminalizing the accompanied acts of sodomy.¹¹² In fact, the medical incitement did much to increase the regulation of homosexuals, adding new dimensions to the way sexual difference was problematized. Physicians set out

¹¹¹Thomas Szasz, *The Manufacture of Madness*, (London: Routledge and Keegan Paul, 1971).

¹¹²Sodomy laws are still on the books in thirty-four states in the U.S. They are not, however, widely enforced. When they have been, the Supreme Court has said that states do have the right to forbid acts of sodomy as there exists no constitutional right to privacy that extends to the protection of "homosexual acts." See for example, The Supreme Courts opinion in *Bowers v. Hardwick*.

set out to quantify, objectify, define, describe, categorize, medicalize, identify and inscribe this new phenomenon, homosexuality. By the end of the first years of the twentieth century, both the words "homosexuality" and "homosexual" were used widely in the medical literature.¹¹³ The adjective had become a noun.

Having moved the problematization of sexual difference from the realm of moral weakness, where individuals could still be judged, blamed, and punished, to a new realm where "instinctual drives" and "congenital conditions" caused one to perform these sodomitical acts, the liberation was supposed to free these sexual acts from the oppressive forces of moral condemnation created by the church/state web of power. but their attempts at "liberation" from one oppression traveled the same cultural condemnatory path that had created sodomy as a problem in the first place. This "scientific" path not only further limited the freedom of the individual to imagine his/her sexual identity, but subjected this new phenomenon--the homosexual--to new forms of physical and mental regulation and abuse, all in the name of scientific explanation and cure.

¹¹³See Vern Bullough's *Homosexuality: A History*, (New York: Garland Press, 1979); and Weeks' *Coming Out, and his Sexuality and its Discontents*, (London: Routledge, 1985).

As Thomas Szasz has pointed out, sickness, disease or medical models become subject to the "correctional zeal of the doctor."¹¹⁴

The medical and psychiatric explanations of homosexuality offered in the late nineteenth century and early twentieth century were voluminous as we have seen. The "cures" or "prescriptions" for this disorder were no less numerous. Often a single doctor would proscribe several different courses of treatment simultaneously. One physician prescribed "association with virtuous women, " "severe study of abstract subjects such as mathematics," "cold baths every morning," "plenty of outdoor exercise" in addition to cauterization of "the nape of the neck and lower dorsal and lumbar regions . . . every ten days." One scarcely doubts the doctor's claim that his "patient improved after three months" if improvement mean a diminution of sexually aberrant behavior. In the clutches of such a rigorous medical regimen it would be all but impossible for him to find the personal time, space, not to mention the opportunity to engage in these acts.¹¹⁵

Dr. James Kiernan claimed that while female homosexuals could not be cured, their feelings could be

¹¹⁴Thomas Szasz, *The Manufacture of Madness*, (New York: Harper & Row, 1971) p. 173.

¹¹⁵Dr. William Hammond, *Sexual Impotence in the Male and Female*, (New York: Arno Press, 1974), pp. 55-70.

controlled. He sought to help them in this effort with "anaphrodisiac," "cold sitz baths," and "a course of intellectual training."¹¹⁶ Dr. Graeme Hammond claims to have "successfully treated" a twenty four year old man who "had observed for the past year a gradually increasing desire for members of his own sex."

Graeme's solution was "a bicycle ride" along with medicinal treatment. Graeme found that a "hard ride would invariably abolish all sexual desire, even if the appetite was as its strongest just before the ride was taken."¹¹⁷

But often the "prescriptions," "proscriptions," and "cures" were worse than the terms of imprisonment that state sodomy laws had imposed. If imprisonment for sodomy was bad, then institutionalization in an asylum, where one was subject to the Doctors' "correctional zeal," could often be worse. Many physicians believed that a suspected "homosexual" should be "submitted to a most thorough examination to determine responsibility,"

¹¹⁶Dr. James Kiernan, "Sexual Perversion" *Detroit Lancet*, vol. 7, no. 11 (May, 1884): 481-484.

¹¹⁷Dr. Graeme M. Hammond, "The Bicycle in the Treatment of Nervous Diseases," *Journal of Nervous and Mental Diseases*, vol. 17, no.1 (January 1892): 36-46

and then "removed from the community" and put in his proper place: "the asylum."¹¹⁸

Psychiatrists were not without their attempts at cure either. In addition to psycho-therapy, mental health clinicians often attempted to modify behavior, with two widely used forms of treatment, hypnotherapy and aversion therapy, both of which were used to treat homosexuals in the United States and Europe until the 1960's.¹¹⁹ Aversion therapy consisted of administering electric shocks to individuals as they watched pictures of same-sex people to whom they were attracted, or pictures of same sex people making love. Electro-shock therapy was also used to induce epileptic seizures in the hopes of erasing that part of the memory which affected sexual object choice.

Perhaps the worst "treatment" homosexuals faced was castration. Arlo Karlen reports that in a Kansas asylum in 1898 alone, forty-eight men were castrated.¹²⁰

¹¹⁸Dr. Francis Anthony: 291. Another examples of those who called for the incarceration of "homosexuals" is Dr. C.H. Hughes, "Erotopathia--Morbidity Eroticism," *Alienist and Neurologist*, vol. 14 no.4 (October 1893): 531-578. Also, Caesar Lombroso, an Italian criminologists, was one of the first to call for this treatment, and he is often included among those who were sympathetic to homosexuals. See Weeks, p. 27.

¹¹⁹Arlo Karlen, *Sexuality and Homosexuality*, (New York: W.W.Norton), p. 325. See also his article, "The Homosexual Heresy," *Chaucer Review*, Volume 6, 1971: 44-63.

¹²⁰Ibid.

Weeks reports that castration was used widely throughout Europe as a "cure" for homosexuality after the turn of the century and in Denmark over 600 men were castrated between 1900 and 1956, when the practice was finally abandoned.¹²¹

Dr. Emil Oberhoffer reported, not surprisingly, that castration was a successful cure for pederasty. After castration, his experimental subject "was never aroused by the sight or thought of boys." This subject did however feel "anxiety he had never experienced previously."¹²² Again, this is hardly surprising.

Calling castration the "radical asexualizing surgical procedure, such as the father of Heloise visited on Abelard," Dr. C.H. Hughes prescribed it for "Sexual perverts." Believing his solution was more humane than the law which was "inspired only by vengeance" and protected society by "punishing the criminal," Hughes argued "medicine would mercifully protect both society and the maimed victim of a sexually and mentally degenerate organism."¹²³ To many contemporary readers, Hughes' claim to be "merciful" sounds a bit confused, as does his claim that

¹²¹Weeks, p. 31.

¹²²Dr. Emil Oberhoffer, "The Influence of Castration on the Libido," *American Journal of Urology and Sexology*, vol. 12 (1916): 58-60.

¹²³Hughes: 531-578.

homosexuals were "maimed victims." Many of these individuals no doubt felt more like "maimed victims" as a result of their encounter with the "merciful" Dr. Hughes. Still his dialogue with the law represents a new discursive interaction between medical epistemology and the power of the state as turn-of-the-century physicians and psychiatrists attempted to solidify their alliance with the state by offering up themselves as the experts of sexual crime and "dysfunction."

*Courting Power:
Putting Medical "Knowledge" to Work on Society*

As Dr. Hughes' comments make clear, the interest of physicians and psychiatrists of the nineteenth and twentieth centuries was more than just academic. Realizing this was a chance to expand the scope of authority and prestige, these doctors sought and received an audience with the formal institutions of state power.

Many books and articles were published with just this "state" audience in mind. As the medical professional succeeded in changing sodomy into homosexuality, old laws would need to be examined and new ones written and the medical profession claimed to be uniquely qualified to offer insight into this new phenomenon: homosexuality. Magnus Hirschfield claimed

that one thousand works dealing with homosexuality appeared between 1898 and 1908 alone.¹²⁴ Most of these were directed at the legal profession. The main impetus of this medical attention was to address the demands of the new criminal codes developing in urban centers at this time.

It is important to remember that some of these book's authors sought to reform the law so that sodomy would no longer be prosecuted by the state. Havelock Ellis' *The Criminal* clearly fits into this category, as do the many works of Magnus Hirschfield and Richard von Krafft-Ebing. Krafft-Ebing argued that homosexuals should be "excepted from legal penalties and allowed to follow their inclinations when harmless and not violating public decency."¹²⁵ Caesar Lombroso, an Italian criminologists was actually successful in changing the sodomy laws of Italy in 1889.¹²⁶

Other doctors sought to bring a different agenda into the regulatory umbrella of the state, creating a

¹²⁴Magnus Hirschfield, *Sex in Human Relationships*, (London: John Lane Publishers, 1935).

¹²⁵Dr. Richard von Krafft-Ebing, "Perversion of the Sexual Instinct," translated by H.M. Jewett, *Alienist and Neurologist*, vol.9, no.4, (1888): 565-581.

¹²⁶Weeks, p. 27. Lombroso's argument that homosexuals, like criminals were atavistic throwbacks to an earlier stage of civilization, and therefore should be treated not in prison but in asylums, can hardly be seen as a ringing endorsement of homosexuals however.

state role for their "expertise" in the identification of "disease" and determination of "culpability" of these "sexual deviants." This was clearly the agenda of two of the leading European medico-legal experts of the nineteenth century, Drs. Johaan Casper and Ambrose Tardieu.¹²⁷ Arlo Karlen writes that both of these doctors "were chiefly concerned with whether the disgusting breed of inverts could be physically identified by the courts, and whether they should be held legally responsible for their acts."¹²⁸

American experts too, found new justifications for this expansive role of doctors in the monitoring, and regulation of public morality. Edited volumes like Allen McLane Hamilton and Lawrence Godkin, *A System of Legal Medicine*, and new academic journals like *The Medico-Legal Journal* gave physicians new opportunities to plead their case for an expanded role for themselves in the making of legislation and as expert witnesses in

¹²⁷Dr. Johann Ludwig Casper, *Vierteljahrsschrift fur gerichtliche und offentliche Medizin*, vol. 1, (Berlin: Augsut Hirschwald, 1852); and Ambrose Tardieu, *Etude medico-legale sur les attentats aux moeurs*, (Paris: J.B. Bailleiere, 1857) are discussed in Arlo Karlen, *Sexuality and Homosexuality*, New York: W.W. Norton, 1971. pp. 183-184, and in Greenberg, *The Construction of Homosexuality*, (Chicago: The University of Chicago, 1988), pp. 397-433.

¹²⁸Karlen, *Sexuality and Homosexuality*, p. 185.

court hearings and criminal prosecutions.¹²⁹ Doctors believed the logic of their involvement was self-evident. After all, it was physicians that had "demonstrated that conditions once considered criminal [were] really pathological," and should "come within the province of the physician." Therefore, "the profession can be trusted to sift the degrading and vicious from what is truly morbid."¹³⁰

Physicians positioning themselves as the new epistemological authority, the new sexual clergy, argued their skills were needed because "ignorance on such matters [homosexuality] is very general among the laity and it would seem an urgent duty of physicians to offer advice in similar cases." One doctor even argued that doctors should seek out opportunities to render advice "even though it may not be specifically requested."¹³¹ The danger of unregulated homosexuality was so great that it demanded the establishment of a link between physicians and policy-makers, whether or not policy-makers saw the need for this link.

¹²⁹Allen McLane Hamilton and Lawrence Godkin, *A System of Legal Medicine*, 2 vols. (New York: E.B. Treat, 1894).

¹³⁰Shrady: 71.

¹³¹Dr. Douglas McMurtie, "Notes on Homosexuality," *Vermont Medical Monthly*, vol. 19 (1913): 66-68.

Many of the justifications for the need for this increased medical and state regulation of homosexuality stepped well into the arena of full blown polemics. For example, Dr. C.H. Hughes argued that

Society, organized into government, for the better security of person and property and personal and collective happiness, is specially concerned in the maintenance of chastity and morals ... The State . . . cannot be too careful as a protector of morality . . . for sexual crimes are on the increase in our modern civilization. . . . Considerations of psychical sanitation demand alert attention to this subject from physicist [physician], moralists and jurists.. The moral pestilence is in our midst, Sodom and Gomorrah are revived and surpassed. ¹³²

Alfred Adler added that the homosexual represents "an active hostility toward society," his actions are "contrary to the requirements of social life" as they lack "public spirit."¹³³ Another medical "expert" claimed that "all medical men recognized that a healthy sexual sense" was a "great incentive to action, to the acquisition of property, the struggle for social eminence, and the foundation of a home."¹³⁴ Homosexuals did not possess this "healthy sexual sense."

¹³²Hughes: 563.

¹³³Dr. Alfred Adler, "The Homosexual Problem," *Alienist and Neurologist*, vol. 38, no.3 (August 1917): 268-287.

¹³⁴Dr. F.E. Daniel, "Should Insane Criminals or Sexual Perverts be Permitted to Procreate?" *Medico-Legal Journal*, (December, 1893), reprinted as "Castration of Sexual Perverts," *Texas Medical Journal*, vol.27, no.10, (1893): 369-85.

Having originally argued for the medicalization of sodomy and homosexual acts, many of the physicians of the nineteenth century used this same medical model to explain why homosexuality and homosexuals were threats to society.

Dr. F.E. Daniel argued that homosexuals presented a dilemma to society and that institutionalization in an asylum was not solution enough for "in fifty years" it would cost too much "to provide asylum and medical treatment for the many offspring of those in whom insanity is latent." Daniels argued that even among his colleagues, few realized that "unnatural acts" affected future generations. His recommendation was that those who committed sexual sins, including "confirmed masturbation," should be "rendered incapable of a repetition of the offense, and the propagation of his kind should be inhibited in the interest of civilization and the well being of future generations." As "hanging, electrocution" and "burning at the stake did not prevent sexual crime," Daniels proposed castration, as it prevented "the hereditary transmission of either disease or vices of the constitution." He included the removal of lesbian's ovaries in his plan to halt this hereditary degeneration.¹³⁵

¹³⁵Ibid.: 375.

Daniels had courted and received that dialogue with power, reporting his conversation with then Governor Hogg of Texas, who assured the doctor that an asylum superintendent had the "legal right" to "castrate a patient for mental trouble," or as a "therapeutic measure." In this same article, Daniels argued for the expansion of the castration solution to those incarcerated in prisons for sexual crimes. In the United States and Europe, many prisons heeded this call.¹³⁶

Psychiatrists were not left out of these attempts to offer themselves and their services to an endangered society. Dr. Edward Kempf claimed that "Much of the future work of psychiatry will be concerned with the reconstruction of the personality in the sense of shifting the values of undesirable forms of stimuli, which have become adequate for the primary sexual reflexes, to such forms and zones of receptors as meet with the approval of his race."¹³⁷ In plain english, this meant that the role of psychiatrists in the future would be to reeducate homosexuals into more socially acceptable forms of behavior.

¹³⁶Ibid.: 381.

¹³⁷Dr. Edward J. Kempf, "Social and Sexual Behavior of Infra-Human Primates with Some Comparable Behavior," *Psychoanalytic Review* Vol.4, no.2, (April 1917): 141.

The influence of medical experts spread beyond the walls of the asylum and the examination rooms seeking a wider audience and an expanded authority, claiming the possession of a knowledge which was necessary for the safety and health of society, permeating the halls of public institutions such as prisons, schools, even the juvenile courts. Dr. Merrill used his position as a Diagnostician with the Seattle, Washington Juvenile Court to conduct studies of sexual behavior of young boys, again combining the power of the state with the scientific investigatory power of modern medical science.¹³⁸

Medicine, Religion, and the State

Medical attention to homosexuality draped itself in the "objectivity" and "value neutrality" of science, but in reality it was imbued with the earlier moral concerns and condemnations of the religious epistemology. As Lewontin, Rose, and Kamin have argued in their book, *Not in Our Genes*, the pursuit of science always takes place within and is influenced by a social, cultural, and political milieu:

¹³⁸Dr. Lilburn Merrill, "A Summary of Findings in a Study of Sexualism Among One Hundred Delinquent Boys," *Journal of Delinquency*, vol. 3, (November 1918): 255-267, reprinted in *American Journal of Urology and Sexology*, vol. 15, (1919): 259-269.

One of the issues we must come to grips with is that, despite its frequent claim to be neutral and objective, science is not and cannot be above "mere" human politics. The complex interaction between scientific theory and the evolution of social order means that very often the ways in which scientific research asks its questions of the human and natural worlds it proposes to explain are deeply colored by social, cultural and political biases.¹³⁹

Never has this seemed more true than in the exploration of human sexuality. The consequence of this is that the medical researchers of the late nineteenth century, whether acknowledging, admitting, or even aware of it, reflected the values and epistemologies of the culture in which they worked, as do medical scientists today. Originally the Church's concern, the non-procreativity of sexual acts became the focus of one of the fastest growing areas of research during the last half of the nineteenth century, and as this was "a time when leaders of the medical profession were trying to upgrade its respectability," it was "in their interest to associate themselves with a conservative sexual morality."¹⁴⁰

This conservative sexual morality meant a reliance on earlier moral execrations, and as Greenberg has noted, "[t]hough the terminology and scientific

¹³⁹R.C. Lewontin, Steven Rose, and Leon J. Kamin, *Not in Our Genes: Biology, Ideology and Human Nature*, (New York: Pantheon Books, 1984), p. 8.

¹⁴⁰Greenberg, p. 402.

scaffolding were new, the fundamental opposition between normal sex and abnormal paresthesias was largely based on traditional oppositions. Sex was perverse if reproduction was not its goal,"¹⁴¹ or as one doctor put it, "normal and natural love" was linked with "reproduction physically and psychically."¹⁴²

Dr. William Robinson made this link even more explicit, casting the regulatory net wider, deploying medical explanations to cover all the same territory that the former religious problematization had encompassed. Calling homosexuality "a sad deplorable, pathological phenomenon" he claimed that every "sexual deviation or disorder which has for its results an inability to perpetuate the race is *ipso facto* pathologic, *ipso facto* an abnormality. . . ."¹⁴³ This would presumably include masturbation.

Some physicians recognized that the attention medical science was paying to homosexuality stemmed from the moral problematizations expressed by society and culture. Dr. Harold Moyer argued that "as long as the moral ideas of the majority of the people are opposed to homosexual acts and the law gives expression to these

¹⁴¹Ibid., p. 414.

¹⁴²Hughes: 533.

¹⁴³Dr. William J. Robinson, "My Views on Homosexuality," *American Journal of Urology*, vol. 10 (1914): 550-552.

ideas, the so-called contrary sexual persons must control their impulses. . . ."¹⁴⁴ These cultural and social ideas were first put into circulations in the religious condemnation of all non-procreative sexual acts.

Dr. Irving Rosse's comments were much more representative of the *fin-de-siecle* medical establishment in both tone and essence.

He wrote:

The uncleanness forbidden by God and despised by man calls at the present time for more earnest attention from the physician. . . . While the moral point of view does not concern us as Physicians, bodily and intellectual welfare is very much within our province. Medical men are clearly the only persons qualified to give trustworthy information in regard to sexual matters. There is no other subject about which people are more anxious to be correctly informed.¹⁴⁵

Rosse's statement brings together in one paragraph many of the themes examined in this chapter. It illustrates the expanded scope medicine had come to occupy in America by the end of the nineteenth century. He lays out what was and was not the proper "province" of the physician, making it clear that it was these same

¹⁴⁴Dr. Harold Moyer, "Is Sexual Perversion Insanity?" *Alienist and Neurologist*, vol. 28, no. 2 (November 1906): 197.

¹⁴⁵Dr. Irving C. Rosse, "Sexual Hypochondriasis and Perversion of the Genesic Instinct," *Journal of Nervous and Mental Disease*, vol. 17, no. 11, (November 1892): 798.

physicians who had access to a truth, an authority, a knowledge, that no one else had. He justifies the need for medical attention to sexual matters as they are the cause of much anxiety and consternation among the populace. Rosse does not admit, however, that medical theories that posited homosexuality as insanity, degeneration, or a result of masturbation did much to create this anxiety in the first place, but he does manage to reinscribe moral culpability and religious indignation onto a medical model that had originated with the specific intention to end just such feelings and discrimination.

The religious concern over non-procreative acts, codified in the laws of many states and nations would come to shape the direction and tone of medical and psychiatric studies of homosexuality. Dr. Maryania Farnum wrote that "basic masculinity and femininity" were "determined by the emotional attitude of any man or woman to his or her reproductive function." She argued that one's "basic masculinity or femininity is impaired in proportion as acceptance and assertion of the reproductive function is in any way qualified or denied." Such "qualification may take the most basic form possible: refusal or inability to engage in heterosexual relations on any terms. Such inability is clearly seen in full-fledged homosexuals" or it could be

seen among heterosexuals when they engage in sexual acts "but with the complete intent to see to it that they do not eventuate in reproduction. . . . Bachelor and spinster both represent examples of impaired masculinity and femininity. . . ." ¹⁴⁶

Gender behavior--masculinity and femininity--were becoming closely affiliated with one's relation to reproduction. As I have argued already, masculine and feminine models of being were already being deployed to reinforce "acceptable" cultural and social ways for men and women to behave. The Church's concern about "reproduction" becomes thrown into this hodge-podge of characteristics with the effect that failure to marry, failure to have children when married, birth control or masturbation all are put into the service of reinforcing masculine and feminine gender stereotypes. Not to marry, to remain a "bachelor" or a "spinster," is to be "impaired." Gender behavior, becoming more widely regulated, narrowed the avenues of socially acceptable expression for both homosexuals and heterosexuals.

Homosexual Identity Or Homosexual Identification?

The early years of the twentieth century witnessed the completion, although not the finish, of an

¹⁴⁶Ferdinand Lundberg and Dr. Maryania F. Farnham, *Modern Women: The Lost Sex*, (New York: Harper, 1947), pp. 381-382.

ontological process that continues to shape the way we think about gays and lesbians. The increasing abuse suffered by individuals as a result of thinking sodomy a moral wickedness and a criminal vice was met with a response which was crafted specifically to alleviate those committing acts of sodomy from moral repugnance, social persecution, and ecclesiastic and civil prosecution.

With the full force of Enlightenment rationalism, the homosexual person emerged from the pages of the scientific study of sexuality as a personage, albeit not a fully functional one. This new "type" of person came complete with genesis-like theories of origins and causation, pathologies diagnosed and circumscribed, genealogies investigated, and societal threats explained, all but requiring his delivery into the hands of medical experts for whatever slim chance of "salvation" he might have.

There is some evidence that many people began to accept the medicalization of sexuality, accepting it in the hope that sympathy or toleration might replace disgust and mistreatment, or in the words of one american physician, there developed a "prevalent tendency on the part of these anomalies to regard themselves as "interesting invalids" to whom sympathy is

due." ¹⁴⁷ Another American doctor, speaking of a twenty-six year old "invert" reported that he spent his time arraigning society for its attitude toward those of his type, and was prepared to ethically justify his characteristics and practices."¹⁴⁸

Krafft-Ebing reported about one of his Austrian contemporaries, a Dr. G., who defended his homosexuality before the police magistrate of Graz, Austria, claiming he was deserving of protection, or at least tolerance, for his "mental abnormality."¹⁴⁹ As the study of homosexuality was joined by many more scientific researchers in the nineteenth century, the tone that physicians adopted when speaking about homosexuality reflected anything but understanding and tolerance.

But Dr. Alfred Adler's work was more typical of the way in which homosexuality would be viewed once the medical experts were finished inscribing "abnormality"

¹⁴⁷Dr. James G. Kiernan, "Pyschical Treatment of Congenital Sexual Inversion," *Review of Insanity and Nervous Disease*, vol. 4, no.4 (June 1894): 293-294.

¹⁴⁸Dr. Douglas McMurtie, "Some Observations on the Psychology of Sexual Inversion in Women," *The Lancet Clinic*, vol. 108, no 18, (November 2, 1912): 487-490.

¹⁴⁹Krafft-Ebbing, p. 302; An Anonymous American reviewer of Krafft-Ebing's softly reproached him for not defending Dr.G.,'s position believing that Krafft-Ebing's own claim that homosexuality was an inborn mental condition should have led him to call for the decriminalization of homosexuality. The anonymous review of Krafft-Ebing's *Psychopathia Sexualis*, appears in *Alienist and Neurologist*, vol. 14, no. 3: 526-527.

on the corporeal entity of the "homosexual." Adler claimed that the "full-fledged homosexualist" always appealed "to the false thesis of an hereditary homosexuality" to establish "the *irresponsibility* of his conduct" and to "justify his existence." ¹⁵⁰

Establishing the "abnormality" of homosexuals was the primary task of physicians and the moral judgements of the religious problematization of sodomy continued to reverberate in the medical study of sexual difference. The result was that although a new language was created with which to speak of what was formally known as sodomitical acts, the same moral condemnation, the same system of cultural value judgements reinscribed the moral outrage and inferiority associated with non-procreative sexual acts on the new medicalized homosexual person. The scientific discourse would continue to be, as the religious discourse of sodomitical acts before it had been, a discourse of lack; a discourse of moral, physical, and mental inferiority.

Establishing the inferiority of homosexuality served a number of purposes. It amplified perceived "differences" between these sexual "inverts" and their "normal" counterparts, creating an epistemological chasm which must be avoided by those who wished not to be

¹⁵⁰Dr. Alfred Adler: 273-274.

identified as "homosexual," while also inventing, applying, and inscribing acceptable "ways of being" onto the rest of society. Addressing those who failed to comply with the "normal," the "natural" roles God, Nature, and society had set forth for their gender, doctors solidified their own position as the new guardians of public health and morality.

But more importantly for gays and lesbians today, the future struggle for liberation--the path, the issues, the arena for struggle--was born with this medicalized identification of the homosexual person. Gays and lesbians might adopt a different name, a different understanding of their history, their nature, and their future, but the path, the direction, and the goals of a political and social movement based upon this sexual identity were always already present, their liberatory agenda predetermined by the very power structures and institutions from which they seek legitimation.

CHAPTER 3

GAYS IN THE MILITARY, I: HOMOPHOBIA, HETEROSEXISM AND JUSTIFICATIONS FOR EXCLUSION

Tender Comrade

What will you do when the war is over, tender
comrade?

When we lay down our weary guns?

When we return home to our wives and families
And look into the eyes of our sons?

What will you say of the bond we had, tender
comrade?

Will you say that we were brave?

As the shells fell all around us?

Or that we wept and cried for our mothers

And cursed our fathers

For forgetting that all men are brothers?

Will you say that we were heroes?

Or that the fear of dying among strangers

Tore our innocence away?

And from that moment on, deep in my heart I knew
That I would only give my life for love.

Brothers in Arms, in each others' arms

Was the only time that I was not afraid.

What will you do when the war is over, tender
comrade?

When we cast off these khaki clothes

And go our separate ways

What will you say of the bond we had, tender
comrade?

(Billy Bragg, Workers Playtime, Electra
Communications, 1988)

In January, 1993, only days after taking the oath
of office, newly elected president Bill Clinton was
taken aback by a firestorm of protest and controversy
surrounding his efforts to end the Pentagon ban which
prohibited gays and lesbians from serving in the United

States armed forces. Attempting to fulfill a campaign promise, Clinton was not prepared for the public outcry nor the resistance from within the military that met his efforts to lift the ban.

Clinton had some legitimate cause for surprise. During the 1992 presidential campaign, he had repeatedly stated his desire to reverse the military's position. Asked as early as February of that year if he would issue an executive order ending the ban, Clinton responded "If elected I would reverse the ban on gays and lesbians serving in the United States armed forces. I believe every patriotic American should be allowed to serve their country, without regard to sexual orientation. People should be free to pursue their personal lives without government interference."¹

Clinton had been one of the first candidates nominated by either of the two major political parties to actively and successfully court the gay and lesbian vote. According to one exit polls, Clinton received over 89% of the gay and lesbian vote, and gay activists assert that gays and lesbians accounted for 7 million

¹Clinton's answer to this and other questions was reported in an article entitled "Do the Democrats Get It?," by John Gallagher in *The Advocate*, Issue 596, February 11, 1992, p. 36.

votes for Clinton in the Presidential election.² The Democratic Party Platform openly embraced gays and lesbians and declared the Democrat's commitment to "end Defense Department discrimination."³ Following his victory in the November election, Clinton again affirmed his intention to lift the ban.

Neither the public, nor military personnel should have been surprised when the White House announced Clinton's plan to lift the ban, but for nearly three weeks in January and February, 1993, the debate raged on the front pages of the nation's newspapers, and on talk radio and television programs.⁴

This public debate took many interesting twists and turns. In one notable turn which took place on the OP-ED page of *The New York Times*, a discussion of the effects of homosexual desire on troop morale and combat effectiveness in wars separated by thousands of years. On March 29, retired Marine lieutenant General Bernard Trainor who directs the national security program at

²Pat Towell, "Roles for Women, Homosexuals Among Clinton's First Tests," *Congressional Quarterly*, November 21, 1992: 3680.

³"The Report of the Platform Committee to the Democratic National Convention, 1992," Ronald H. Brown, Chairman. (Washington, D.C.: Democratic National Committee, 1992), p. 6.

⁴Elizabeth Kolbert, "The People are Heard, at Least Those Who Call Talk Radio," *The New York Times*, January 29, 1993, p. A12.

Harvard's Kennedy School of Government, quoted from William Manchester's *Goodbye Darkness*. Manchester described why he walked away from the safety of a hospital in a secure area to return to his comrades in combat:

It was an act of love. Those men on the line were my family, my home. They were closer to me than I can say, closer than my friends had been or ever would be. . . . Men I know, do not fight for flag or country, for the Marine Corps or glory or any other abstraction. They fight for one another.⁵

Trainor claimed that "without evil intention or misbehavior, gays would dissolve this intimacy and love. Inevitable sexual attraction and interest would destroy the intangibles that make fighting units greater than the sum of their members, for the love Mr. Manchester describes is not and can never be sexual."⁶

Two days later, on the same OP-ED page in an article entitled "Notes on a Grecian Yearn," David Cohen, Professor of rhetoric and classics at the University of California, Berkeley, instructed that although the indomitable valor of Spartan armies was regarded with awe and fear in Classical Greece, it was the Thebans who crushed the Spartan army at the Battle of Leuctra, led by an elite force of 300 warriors

⁵Bernard E. Trainor and Eric L. Chase, "Keep Gays Out," *The New York Times*, March 29, 1993, p. A15.

⁶Ibid.

constituted of pairs of male lovers and their beloved youths. Cohen explains that it was believed the presence of erotic love between soldiers increased morale and combat effectiveness because neither lover nor beloved would ever break ranks and runaway, thereby disgracing themselves in the eyes of their lover. Cohen writes that:

[h]undreds of year after Plato and Xenophon, the historian and moralist Plutarch praise[d] the valor of the Theban unit, the Sacred Band: "Some say that this band was composed of lovers and beloved. A band that is held together by erotic love is indissoluble and unbreakable."⁷

The OP-ED page was not the only place that divergent opinions made their presence felt. Pressure groups, both pro and con, organized White House and Congressional telephone and letter writing campaigns. Even the Joint Chiefs of Staff, in efforts that bordered on insubordination and the subversion of civilian authority over the military, lobbied members of Congress behind the scenes, and opened up their phone lines inviting public comment, entering the political process unabashedly.⁸ The organized opposition came from conservative religious groups and others on the

⁷David Cohen, "Notes on a Grecian Yearn: Pederasty in Thebes and Sparta," *The New York Times*, March 31, 1993, p. A23.

⁸"Ego and Error on the Gay Issue," *The New York Times*, January 29, 1993, p. A26.

political right. The Reverend Louis Sheldon of the Traditional Values Coalition boasted that his group shut down the telephone lines at the Capitol with its many calls, and Oliver North made public pleas for money which he would use to stop the Clinton plan.⁹

Clinton had underestimated the depth of homophobia in a move which delighted conservative and evangelical Christian organizations, who claimed they could not have "scripted" a scenario more to their liking for Clinton's first weeks in office.¹⁰ "Its a bonanza for building organizations and raising money; the fundraising letters are already in the mail," claimed one expert on the Christian right.¹¹

Emotions ran high on both sides of this debate. In an attempt to depict the Democratic party as the party of "queers," Haley Barbour, the new Republican Party Chairman claimed that Clinton, in moving to lift the ban, acted "not because of principle but as a political

⁹Anthony Lewis, "The Issue is Bigotry," *The New York Times*, January 29, 1993, p. A23.

¹⁰"Gay Issue Mobilizes Conservatives Against Clinton," by Peter Applebome, *The New York Times*, February 1, 1993; p. A 14.

¹¹Professor John Green, at the University of Akron, made these comments to *The New York Times*. See Peter Applebome, "Gay Issue Mobilizes Conservatives Against Clinton," *The New York Times*, February 1, 1993, p. A14.

payoff to a very powerful special interest group of the Democratic Party."¹²

The debate frayed the institutional collegiality that usually exists between members of Congress. It pitted the Chairman of the Senate Armed Services Committee, Sam Nunn of Georgia--once considered a likely choice to fill a cabinet position in the Clinton administration--against the president he had once seemed likely to serve. Only days after his election, Sam Nunn publicly criticized Clinton's commitment to lift the gay ban. This early disagreement possibly played a role in Clinton's decision to pass over Nunn in his search for a Secretary of State. Nunn would extract his revenge over the next six months, the first 200 days of the Clinton administration, leading the opposition to the Clinton proposal to lift the ban, often to the delight of Republican members of Congress.¹³

¹²Ibid.

¹³Michael Wines, "This Time Nunn Tests a Democrat," *The New York Times*, January 30, 1993, p. A1. Trying to explain Nunn's opposition to the president, Wines writes that "One school of thought has Mr. Nunn engaging in a fit of pique, taking measured revenge for Mr. Clinton's failure to consult him adequately on military matters, and more importantly, failing to name him Secretary of State, a job Democratic colleagues say he longed for."

"Mr. Nunn's denials of any grievance with the President fall on deaf ears."

"'Nunn was not given the deferential treatment he expected during the transition,' said one Democratic Senator, expressing a view held widely among his colleagues. That senator, like many others interviewed, refuse to be named."

Gay Performance in the Military

One of the most interesting elements of the recent manifestation of this debate has been the unswerving insistence of the military that "homosexuality is incompatible with military service," despite overwhelming evidence and arguments to the contrary. Often this evidence come from within the military establishment itself.

In 1957, the *Report of the Board Appointed to Prepare and Submit Recommendations to the Secretary of the Navy for the Revision of Policies, Procedures and Directives Dealing with Homosexuality*, addressed one of the principal justifications for the ban against gays and lesbians: that their sexuality makes them more susceptible to blackmail by enemy agents and spies, who threaten to reveal their sexuality. Called the Crittenden report after its chair Captain S.H. Crittenden, Jr. U.S.N., the findings were a surprise to the Navy. The report concluded that:

The concept that homosexuals pose a security risk is unsupported by any factual data. Homosexuals are no more a security risk, and in many cases are much less of a security risk, than alcoholics and those people with marked feelings of inferiority who must brag of their knowledge of secret information and disclose it to gain stature. Promiscuous heterosexual activity also provides serious security implications. Some intelligence officers considers a senior officer having illicit heterosexual activity with the wife of a junior officer or enlisted men is much more of a security risk than the ordinary homosexual... The number of cases of blackmail as a result of past

investigations of homosexuals is negligible. No factual data exist to support the contention that homosexuals are a greater risk than heterosexuals.¹⁴

Not finding the conclusions of this study to their liking, the Navy subsequently suppressed it for twenty years until a court order forced its release.¹⁵ Twenty-four years after this report was first submitted, and with no new evidence to contradict its findings, the 1982 Defense Department Directive included "to prevent breaches of security" among its summary of reasons why "homosexuality is incompatible with military service."¹⁶ By the end of his tenure as Secretary of Defense, even Dick Cheney would admit that this particular justification for the ban was "a bit of an old chestnut."¹⁷ In fact, in November 1992, Cheney told then President-elect Clinton, that the entire

¹⁴, United States Navy, *Report of the Board Appointed to Prepare and Submit Recommendations to the Secretary of the Navy for the Revision of Policies, Procedures and Directives Dealing with Homosexuality*, Chairman S.H. Crittenden, (Washington, D.C.: Government Printing Office, 1957).

¹⁵E.L. Gibson's *Get Off My Ship*, (New York: Avon, 1978), contains the history of the suppression and subsequent release of the Crittenden Report.

¹⁶Department of Defense Directive 1332.14, "Enlisted Administrative Separations, dated January 28, 1982.

¹⁷Timothy Egan, "Dismissed From Army as Lesbian, Colonel Will Fight Homosexual Ban," *The New York Times*, May 31, 1992, p. 18.

Department of Defense policy was "just a quaint little rule, but we're not going to change it."¹⁸

In 1988, a second study conceived, financed and overseen by the Department of Defense reached a similar finding. This study, conducted by the Defense Personnel Security Research and Education Center (PERSEREC), found that homosexuality "was unrelated to job performance, in the same way as is being left- or right-handed."¹⁹ Like the Crittenden Report before it, the PERSEREC report was suppressed by the Pentagon. In fact, this report was not made public until Congressional Representatives Gerry Studds of Massachusetts and Patricia Schroeder of Colorado received copies of it anonymously, releasing it to the press in October, 1989. Included with this report were the memos from the Pentagon chastising the researchers at PERSEREC for their findings. In a blatant example of politics driving research, the memos directed PERSEREC to

¹⁸Jeffrey Schmalz, "Difficult First Step: Promises and Reality Clash as Clinton is Moving to End Military's Gay Ban," *The New York Times*, November 15, 1992, p. 22.

¹⁹Defense Personnel Security Research and Education Center, *Nonconforming Sexual Orientations and Military Suitability*, Prepared by Theodore R. Sarbin, Ph.D. and Kenneth E. Karols, M.D. Ph.D. December, 1988. p. 33.

fundamentally rewrite the report to remove all claims that homosexuals are suitable for military service.²⁰

A second PERSEREC report, also released by Studds and Schroeder in October 1989, found that "homosexuals also showed better preservice adjustment than heterosexuals" as well as "greater levels of cognitive ability than heterosexuals."²¹

Each of these three reports, authored by officials from within the Department of Defense, cast doubt on the Pentagon's assertion that "homosexuality is incompatible with military service." In fact the last report claimed that homosexuals made *better* soldiers than heterosexuals.²²

This opinion was echoed, albeit ironically, by Vice Admiral Joseph S. Donnel, Commander of the Navy's surface Atlantic fleet. In a 1990 memorandum to the

²⁰The PERSEREC report, and the Pentagon memos with an introduction to the politics surrounding the release of the report, written by Gerry Studds has been published by Alyson Press, under the title, *Gays in Uniform*. Kate Dyer, ed. *Gays in Uniform: The Pentagon's Secret Report* (Boston: Alyson Publications, 1990).

²¹Michael A. McDaniel, "Preservice Adjustment of Homosexual and Heterosexual Military Accessions: Implications for Security Clearance Suitability," Defense Personnel, Security Research and Education Center, Monterey, California, PERS-TR-89-004, January 1989, p. 19.

²²Defense Personnel Security Research and Education Center, "Preservice Adjustment of Homosexual and Heterosexual Accessions: Implications for Security Clearance Suitability," Prepared by Michael A. McDaniel, PERS-TR-89-004, January 1989, p. 21.

officers in charge of nearly 200 ships and 40 shore installations in the eastern half of the United States, Donnel characterized lesbians as generally "hardworking, career-oriented, willing to put in long hours on the job, and among the command's top performers."²³

Contrary to the way it sounds, Donnel's description was not intended to be an endorsement of lesbians serving in the Navy. Rather, it was a description formulated to help senior officers identify the lesbians among their crew so they could be investigated and discharged from the service.

In 1992, A General Accounting Office report could find no rational basis for the military's ban. This report concluded that "no reasons to support this policy exist, including public opinion and scientific evaluations of homosexuality. If a more tolerant attitude were enforced it would lead to better functioning of all."²⁴

The ban was also attacked as costly and ineffective by the GAO report. Relying upon information provided by the Department of Defense, the report said that between

²³Jane Gross, "Navy is Urged to Root Out Lesbians Despite Abilities," *The New York Times*, November 2, 1990. p. A11.

²⁴United States General Accounting Office, "Defense Force Management: DOD's Policy on Homosexuality: A Report to Congressional Requesters," GAO/NSIAD-92-98, June 12, 1992.

1980 and 1990, 16,919 service men and women had been discharged for homosexuality. Adjusting for inflation, the cost of recruiting and training replacements for those discharged was placed at \$498 million.

Documenting an amazing waste of person-power and money, the GAO report tells only half the story. The defense Department acknowledged to GAO researchers that the figures used for numbers of discharges for homosexuality did not include gays and lesbians separated under other categories of misconduct. Department of Defense officials also admitted that coterminous with the adoption of the 1982 gay ban, local military commanders were given greater flexibility in discharging personnel under other categories.

It is likely the practical effect of this is that many more gay and lesbian service persons were discharged because of their sexual orientation, but were persuaded by commanders to accept discharges under regulations unrelated to sexual orientation as a way to avoid being "outed" by the military.

The GAO's financial estimates are limited as well. The report notes that the GAO was "not able to calculate the original investment cost of training and compensation, the cost of investigating alleged or actual homosexual cases, or the cost of out-processing servicemen and women who have been identified as

homosexual."²⁵ When these costs are added in, the cost increases perceptibly. One estimate puts the cost of the Pentagon policy at three to four times the number suggested by the GAO report.²⁶

Expenses in military readiness and financial costs aside, if the objective of the Department of Defense policy was to make sure that there are no homosexuals in the military, it has been ineffective. Many within the military realize this. One Navy Admiral, speaking on the condition of anonymity, told a *New York Times* Reporter, "we know we have a certain number of gays performing extremely well, but they're in the closet, and as long as they stay there we're fine."²⁷

Legitimizing Discrimination

With voices from within the military testifying to the effectiveness of gays and lesbians, the military's anti-gay policy begins to look more and more like discrimination. In the last few years Courts have begun

²⁵Ibid.

²⁶For example, Miriam Ben Shalom, President of Gay, Lesbian, and Bisexual Veterans of America. makes this claim. See John Gallagher, "GAO: Military Spent \$500 million Discharging Gays," *The Advocate*, July 30, 1992, pp 19-20.

²⁷Eric Schmitt, "Joint Chiefs Fighting Clinton Plan to Allow Homosexuals in Military," *The New York Times*, January 23, 1993, p. 1.

to question the military's policy as well. In August of 1992 a three member panel of the Ninth Circuit Court of Appeals acknowledged that "past rulings upholding the ban were based, at least in part, on acceptance of prejudice of others."²⁸

Writing for the Court, Judge William C. Canby, wrote that "a blanket policy of discrimination cannot be upheld in the absence of any supporting factual record." He also demanded that the Army establish, on the record, that its ban is rationally related to a permissible government purpose."²⁹

In another case, Judge Terry Hatter in reinstating Keith Meinhold pending the outcome of his lawsuit against the United States Navy (Meinhold challenged the military's ban against gays and lesbians After the Navy dismissed him for admitting he was gay on ABC's World News Tonight in May of 1992), wrote "Gays and Lesbians have served, and continue to serve the United States military with honor, pride dignity and loyalty." He concluded that, "The Department of Defense's

²⁸ *Pruitt v. Cheney* (943 F.2d. 989) 1991. Also, See

²⁹ *Pruitt v. Cheney*, (943 F.2d. 989) 1991. This is a standard that is much more permissive than the scrutiny courts use for racial discrimination. See "Court Reinstates Lesbian's Lawsuits Against Army," *The New York Times*, August 20, 1991, p. A22; John Gallagher, "U.S. Appeals Panel, Psychological Group Chip Away at Gay Ban," *The Advocate*, September 24, 1991, p. 16.

justifications for its policy banning gays and lesbians from military service are based on cultural myths and false stereotypes. These justifications are baseless and very similar to the reason offered to keep the military racially segregated in the 1940's."³⁰

PERSEREC reached the same conclusion in their 1988 study claiming that the major reason for excluding homosexuals "employ precisely the same arguments used against blacks and women before they were integrated into the armed services--namely that their inclusion is contrary to 'good order and discipline.'"³¹ In fact, the arguments have been similar. A 1940 War Department statement read:

The policy of the War Department is not to intermingle colored and white enlisted personnel. This policy has been proven satisfactory over a long period of years, and to make changes would produce situations destructive to morale and detrimental to the preparations for national defense.³²

³⁰*Meinhold v. Sect. of Defense* (808 F. Supp. 1455), 1993. Also see Thomas Friedman, "Judge Rules Military's Ban on Homosexuals is Void," *The New York Times*, January 29, 1993, p. A12.

³¹Defense Personnel Security Research and Education Center, *Nonconforming Sexual Orientations and Military Suitability*, Prepared by Theodore R. Sarbin, Ph.D. and Kenneth E. Karols, M.D. Ph.D. December, 1988. p. 35.

³²Craig Stoltz, "Gays in the Military," *USA Weekend*, August 7-9, 1992, pp 4-5. Also see Ronald Sullivan, "The Military balked at Truman's Order, Too," *The New York Times*, January 31, 1993, Section 1, p. 21.

Still, those opposed to lifting the gay ban remained unpersuaded. General Colin Powell, the Chairman of the Joint Chiefs of Staff, whose importance in this public debate has been amplified by the fact that he is an African-American, operating in an institution where African-Americans are still grossly under-represented in command positions, rejects the comparison. He explained that skin color is "a benign, non-behavioral characteristic," while sexual orientation is perhaps the most profound of human behavioral characteristics. Comparison of the two is a convenient but invalid argument."³³

Retired Army Colonel David Hackworth, the most decorated living U.S. veteran, agreed with Powell, claiming "it's an insult to Afro-Americans that they're being lumped into this thing. The argument [of those attempting to lift the ban] is 'Look: What you're saying was applied to blacks,' That's mixing apples and oranges. We're talking about a cultural bias vs. a biological impulse. The bottom line is [that] sex is an incredible impulse. It's the strongest thing going, especially among 20 year olds."³⁴ But as the 1982 Department of Defense ban made clear, on-duty sexual

³³Craig Stoltz, "Gays in the Military," *USA Weekend*, August 7-9, 1992, pp 4-5.

³⁴Craig Stoltz, "Gays in the Military," *USA Weekend*, August 7-9, 1992, pp 4-5.

behavior was not all the military has sought to regulate.

The Department of Defense Ban

At the center of the most recent debate is a regulation promulgated January 16, 1982, by Ronald Reagan's Secretary of Defense, Casper Weinberger which made *declarations* of homosexual identity grounds for removal from the military. Department of Defense Directive 1332.14, applicable to all branches of the Armed Services reads:

Homosexuality is incompatible with military service. The presence of such members adversely affects the ability of the Armed Forces to maintain discipline, good order, and morale; to foster mutual trust and confidence among the members; to ensure the integrity of rank and command; to facilitate assignment and worldwide deployment of members who frequently must live and work under close conditions affording minimal privacy; to recruit and retain members of the military services; and in certain circumstances, to prevent breaches of security.³⁵

Interestingly, the 1988 PERSEREC study discussed above, ended with the note that despite the ongoing practice of separating homosexuals from the military, there was no Department of Defense regulations or military law that made distinctions between homosexuality and bisexuality. It "seems likely" the

³⁵Department of Defense Directive 1332.14, "Enlisted Administrative Separations," January 28, 1982.

report concluded, "that many of those individuals discharged as homosexuals are probably bisexual (and could be completely heterosexual except for one incident)." ³⁶

The importance of this point is that although the Department of Defense dismissed this report as "technically flawed" and having "missed the target," ³⁷ four years earlier, in 1982 would use part of the report's findings to tighten the grip of its policy of excluding gays and lesbians. Rather than following the recommendations of the PERSEREC report and ending its ban against gays and lesbians, the Pentagon in Directive 1332.14 made homosexual orientation and homosexual desire--*regardless of the commission of any homosexual acts*--grounds for removal from the military. At the same time, it also created stipulations which would excuse heterosexual's involvement in the commission of a homosexual act, if it could be demonstrated that this act was a one-time incident of sexual experimentation and that no future "experimentation" was likely.

³⁶Defense Personnel Security Research and Education Center, "Nonconforming Sexual Orientations and Military Suitability," Prepared by Theodore R. Sarbin and Kenneth E. Karols, PERS-TR-89-002, December, 1988, p. D-3.

³⁷Craig Alderman, Deputy, The Under Secretary of Defense, "Memorandum for Director DOD Personnel Security Research And Education Center," January 18, 1989.

Sticklers for bureaucratic thoroughness, the Department of Defense also took it upon themselves to define homosexuality in the 1982 directive. It instructs:

- (1) Homosexuals means a person, regardless of sex, who engages in, desires to engage in, or intends to engage in homosexual acts;
- (2) Bisexual means a person who engages in, desires to engage in, or intends to engage in homosexual or heterosexual acts.
- (3) A homosexual act means bodily contact, actively or passively permitted, between members of the same sex for the purpose of satisfying sexual desires.³⁸

Part C of this directive advises that "The basis for separation may include pre-service, prior to service or current service conduct or statements."³⁹ The shift in 1982 was clearly from homosexual *acts* to homosexual *identities*. Heterosexuals engaging in homosexual acts could be retained for service, but homosexuals, regardless of conduct or behavior, could be discharged.

On the face of it, the Department of Defense Directive appears to be blatantly violative of Constitutional protections guaranteed by the 14th Amendments equal protection clause and the 1st Amendments guarantee of freedom of speech. The fact that even declarations of sexual orientation made years

³⁸Department of Defense Directive 1332.145, January 16, 1981.

³⁹Ibid.

earlier could be used as the basis for discharging someone from the military is a grossly intrusive measure.

Historically, however, the federal courts have upheld the constitutionality of the military's limits on personal freedom--including freedom of speech, accepting the Pentagon's assertion that because of the uniqueness of the military mission, that the imposition of limits on the freedom of members is justifiable.⁴⁰ Even when challenging the military's discriminatory practices, the courts have acknowledged that the "military decisions by the Army are not lightly to be overruled by the Judiciary."⁴¹

Most importantly, for the first time in the history of the United States Armed Forces, a declaration of sexual orientation made at any time in one's life was made the legal grounds for removal from military service, shifting the emphasis from sexual acts to sexual identities in a significant way. Although not as true today as in the past, discharges from the military can affect one's life and employment appointments as the

⁴⁰For examples see *U.S. v. Phillips* (3 USCMA 137) 1953; *Augenblick v. United States* (509 F.2d. 1157) 1975; *U.S. v. Miller* (3 MJ 292), 1977; *U.S. v. Scoby* (5 MJ 160) 1978; *Beller v. Middendorf* (632 F.2d. 788) 1980; *Hatheway v. Secretary of the Army* (641 F.2d. 1376) 1981; and *Gay Veterans v. Secretary of Defense*, (668 F. Supp 11) 1987.

⁴¹*Pruitt v. Cheney* (943 F.2d. 989), 1991.

reason for the discharge is written clearly on the discharge form, available to all prospective employees.

Today, most of those discharged for violations of the 1982 Defense Department Directive are given honorable discharges from the military. But, this has not been the case historically. The policy governing the type of discharge given to those separated for being gay or lesbian has changed over time. In the 1940's and 1950's homosexuals were separated with either an undesirable discharge, or suffered a court martial and were separated with a dishonorable or bad conduct discharge. Those service men and women court-martialed were often sentenced to military prisons. In the 1960's and early 1970's gays and lesbians were likely to be administratively discharged, but with a general discharge. Today, homosexuals are likely to be given an honorable discharge when their sexuality is discovered.⁴² Even though receiving an honorable

⁴²There are five types of discharges for military personnel: honorable, general, undesirable, bad-conduct, and dishonorable. The first three are given by administrative action; the last two are given only by court-martial. Only those discharged honorably are eligible for veteran's benefits, pension, and re-enlistment.

My assertion that the nature of military discharges for homosexuality have evolved over time is based upon my research into over 100 federal court cases involving contested discharges. I believe the reasons for this is not some new generosity of the armed forces, but rather reflect a strategy of self interest on the part of the military. The courts have recognized the stigma a less than honorable discharge carries with it, and as the

discharge, the discharge form still lists homosexuality and the reason for the dismissal.

The federal courts have realized the power wielded by the armed services when determining the fitness of its members for continued service. Many court decisions have taken cognizance of the stigmatization that can result from receiving a discharge that is other than honorable.⁴³ In *Glidden v. United States*, the Court of Claims held that "an undesirable discharge carries with it a definite stigma and other unfortunate consequences,

judicial climate became more liberal, the armed forces were facing an increasingly difficult task of proving service members unfitness for service based on nothing more than the accusations of others. Coupled with the ever increasing litigiousness of American society, this meant more service persons discharged for homosexuality were willing to go to court to contest their discharges, thereby increasing the threat of bad publicity and the ever present possibility of a precedent setting court defeat for the military. I speculate that the Pentagon has sought to minimize its chances of suffering such a defeat by liberalizing the type of discharge as the social climate toward gays and lesbians has changed.

Until quite recently, honorable discharges were much less likely to be contested than any of the other types of military discharge. By providing honorable discharges, the military could accomplish its goal of separating gays and lesbians without providing as many possibilities for the courts to overturn this policy.

⁴³For example, see the Courts' decisions in *Clackum v. United States*, (148 Ct. Cl. 404) 1960; *Harmon v. Bruckner* (355 U.S. 579); *Murray v. The United States*, (154 Ct. Cl. 185) 1961; *Middleton v. United States*, (179 Ct. Cl. 36) 1965; *Conn v United States*, (180 Ct. Cl. 120); and *Glidden v United States*, (185 Ct. Cl. 515) 1968. Also see Colin J Williams and Martin S. Weinberg, *Homosexuals and the Military: A Study of Less than Honorable Discharges*, New York: Harper & Row, 1971.

such as loss of veterans' benefits."⁴⁴ The general discharge, even under conditions, can have the same stigmatizing effect. Quoting from the Air Force's own regulation, the Court rejected the arguments that a general discharge under honorable conditions was the same as an honorable discharge. The opinion states "the Air Force itself says that a general discharge may be a disadvantage to an airman seeking civilian employment. A general discharge received by a female airman precludes her reenlistment."⁴⁵ Anything less than an honorable discharge from the military can have a negative impact upon the future employment prospects and benefits received by former service persons. It can officially "destroy the reputation of a decent woman"⁴⁶ or man. Even an honorable discharge can have a deleterious effect upon someone who had chosen to make the military his/her career.

Discharges from the military for homosexuality are not distributed equally among the various military services. The Navy, for example, constitutes only 27%

⁴⁴*Glidden v. United States*, (185 Ct. Cl. 515) 1968.

⁴⁵*Murray v. United States*, (154 Ct.Cl. 188) 1961. Though not a part of this particular aspect of my research, the Air Force's categorization of women in the service as "female airmen" (as well as the Navy's categorization of women as female seamen) is reflective of the Armed Services attitude in general about the accommodation of difference.

⁴⁶*Clackum v. United States*, (296 F2d. 226) 1961.

of the total military forces, but Navy personnel constitute a whopping 51% of those discharged for homosexuality. Table I documents the relationship between branch of service and percentages of total military discharges for homosexuality.

Service women are hit particularly hard by this ban. Already suspect in a military environment, even the rumor that one may be a lesbian is enough to start

 Table 1

Percentage of Total Discharges for Homosexuality by
 Branch of Military Service

Percentage of Total Armed Forces		Percentage of Total Military Discharges for Homosexuality
Navy	27%	51%
Army	37%	25%
Air Force	27%	18%
Marines	9%	6% ⁴⁷

an investigation. While only 10% of all military personnel, service women constitute 23% of those discharged for homosexuality. In the Marines, the branch of the armed services with the greatest reputation for "machismo," women constitute 29% of those

⁴⁷The source for these statistics is the United States General Accounting Office. See "Defense Force Management: DOD's Policy on Homosexuality: A Report to Congressional Requesters," GAO/NSIAD-92-98, June 12, 1992.

discharged for homosexuality, yet are only 5% of the total Corps.⁴⁸

There is little doubt that military women face greater scrutinization of their sexual lives than do men. In 1988, one investigation at Parris Island, S.C., the only boot camp for female Marines, grew to involve 70 suspected lesbians.⁴⁹

"We've heard a lot of women say, especially aboard a big ship, if they're not willing to put out for sailors, they're accused of being a lesbian, whether they are or not," said Gerry Studds, a Congressman from Massachusetts. "It's pretty brutal."⁵⁰

Lawrence J. Korb, an Assistant Secretary of Defense in the Reagan Administration, echoed Studd's observation. "I think a lot of the initial inquiries about women are a result of their spurning men's sexual advances," he said.⁵¹

Throughout the 14 year history of the Department of Defense's policy governing homosexuality, there has been

⁴⁸Ibid.

⁴⁹"In Debate Over Military Gay Ban, Attention is Turning to Lesbians." *The New York Times*, May 4, 1993 p. A 23.

⁵⁰John Gallagher, "GAO: Military Spent \$500 million Discharging Gays," *The Advocate*, July 30, 1992, p. 21.

⁵¹"In Debate Over Military Gay Ban, Attention is Turning to Lesbians." *The New York Times*, May 4, 1993 p. A 23.

a growing sense of the prejudice inherent in such a ban. In early 1992, Pat Schroeder (D-Colorado), a ranking member of the House Armed Services Committee and a leading advocate for lifting the ban, together with 60 co-sponsors, introduced legislation in Congress which would overturn the Defense Department's ban.

In 1992, Following the Gulf War, when soldiers returning from distinguished tours of duty, service persons were discharged upon their return because of their sexual orientation, Barbara Boxer, D-California, introduced a non-binding resolution which urged Bush to reverse the Pentagon's policy. She had 22 co-sponsors. Neither Schroeder's legislation nor Boxer's resolution were ever brought to a vote on the House floor. Such votes, if recorded, were likely to fail. Barney Frank has claimed that on a voice vote in the House and Senate the military ban would go down to defeat, but in a recorded vote, many in Congress, not wanting to appear to be "pro-homosexual," would vote to keep the ban intact.⁵²

Mixed with issues of masculinity, patriotism and morality, the public debate has been explosive. Pitting an amazing array of high ranking, decorated War veterans and senior Washington policy makers against a handful of gay and lesbian spokespersons and a President whose lack

⁵²Interview with Barney Frank. May 5, 1993.

of military experience has marked him as "out of touch" with military matters, this public debate has shifted public opinion, at least for the short run, against allowing gays and lesbians to serve.

In May of 1992, a New York Times reporter wrote that "polls over the last decade have shown a steady increase in support for homosexuals in the military to the point where majority of people now favor overturning the ban."⁵³ In August of 1992, a Newsweek poll found that 78% of respondents believed that "homosexuals should have equal rights in job opportunities." A full 59% of respondents believed this equality in job opportunities should extend to military service.⁵⁴ Following the fury that accompanied the Clinton negotiations with the Joint Chiefs of Staff, in January of 1993, polls began to reflect a growing resistance among the American public to the idea of permitting openly gay men and women to serve in the military. A January 14-17 *Los Angeles Times* poll found 47% of those answering disapproved of "allowing openly homosexual men and women to serve in the armed forces of the United States." Only 45% approved. During that same period,

⁵³Timothy Egan, "Dismissed From Army as Lesbian, Colonel Will Fight Homosexual Ban," *The New York Times*, May 31, 1992, p. 18.

⁵⁴"Newsweek/Gallop Poll," *Newsweek*, September 14, 1992, pp.36-37.

a *New York Times*/CBS News poll found only 42% favoring "permitting homosexuals to serve in the military." The following week this number had dropped to 35% in a *Newsweek*/Gallop poll.⁵⁵

The Military (In)Justice

Someone once observed that military justice is to justice as military music is to music. There is much evidence that justice often takes a back seat to other more pressing military concerns. In the national debate over gays in the military that raged for months in 1992 and 1993, not much was reported regarding the military's practices in the identification, investigation, treatment and separation of gay and lesbian service personnel. Often, the military's practices are so abusive, intrusive and disrespectful of human rights that they threaten the principles contained in the United States Constitution, the same Constitution members of the military have take an oath to defend.

These principles, often sound cliché, but are nonetheless important concepts used to distinguish democratic regimes from non-democratic ones. Examples of these are: the provision of procedural rights to

⁵⁵These poll numbers were included in the following article by Eric Schmitt, "Military Cites Wide Range of Reasons for Its Gay Ban," *The New York Times*, January 27, 1993, p A1.

those accused of crimes; the guarantee of civilian control over the military; and the notion that the United States there is a rule of law that applies equally to everyone or, in the vernacular of students of American government, "The United States is a government of laws, not of men."

One need look no further for the military's lack of respect for these principles than to the behavior of the Joint Chiefs of Staff (the military's top officers who advise the President on military matters), during the early days of the Clinton administration. In what *The New York Times* called an "angry challenge to the administration," which "surprised and dismayed" Pentagon officials by the "intensity of [their] reaction,"⁵⁶ the Joint Chiefs openly rebelled against their superior--Bill Clinton--over his plan to lift the ban which makes the presence of gays and lesbians in the military illegal. Lobbying members of Congress, and inviting the public to call the White House and their Representatives and Senators to express their opposition, the Joint Chiefs had additional telephone lines installed for the purpose of tallying calls from the citizenry in its own unofficial survey. There were rumors and accusations that the Joint Chiefs leaked these telephone numbers to

⁵⁶Eric Schmitt, "Joint Chiefs Hear Clinton Vow Anew To Ease Gay Policy," *The New York Times*, January 26, 1993, p.A1.

Conservative political organizations days before they were made public, artificially inflating the opposition to Clinton's plan, which they then used to suggest that Clinton's proposal was unpopular among citizens.⁵⁷

Once the telephone numbers were made public, officers manning the phones in Colin Powell's offices often attempted to persuade callers that lifting the ban would be "disastrous for the military."⁵⁸

Even more worrisome than the challenge to civilian control over the military was the relative lack of protest and outcry generated by the behavior of the Joint Chiefs of Staff. Theirs was a move almost without parallel in American history. The military, having found a proposal from their Commander in Chief distasteful, entered the political arena in an attempt to influence the outcome of a political decision,

⁵⁷Eric Schmitt, "Joint Chiefs Hear Clinton Vow Anew To Ease Gay Policy," *The New York Times*, January 26, 1993, p.A1. Schmitt reports, "A spokeswoman for [General Powell] said that by 6 P.M. today his office had received 681 calls to keep the ban and only 21 to lift it."

⁵⁸On two separate occasions military personnel answering the phone in General Powell's office attempted to explain to me why my opinion that the ban should be lifted was ill informed and indeed, dangerous both to the defense of the country as they would undermine preparedness for war, and to those gays and lesbians who might openly serve. Similar reports were widespread on Queernet, a computer generated distribution/e-mail list that acts as a clearing house for information about Queer Nation's activities, protests, and demonstrations. The lobbying campaign by General Powell's office seemed too widespread to be merely coincidental.

dauntlessly trammeling the tenuous safeguards which provide for civilian control over the military.

This challenge to the Commander in Chief--the only elected official in the military command structure, and the only direct substantive and symbolic link between the military and the people they serve--would likely have met with a very different public response had the Joint Chiefs so openly and disdainfully challenged Presidential authority on almost any other issue. The fact that gays and lesbians were the target of this military insubordination made it acceptable in a way that it would not otherwise have been.

Indeed, when examining the activities of other countries' militaries who challenge their democratically elected governments, the media has never hesitated to call such activities "military coups" or "attempted coups." Back at home, the fact that the President of the United States, the Commander-in-Chief, together with his Secretary of Defense were forced to negotiate with the military over a public policy decision was met with only minimal protest and concern by the public and the media.

Emboldened by the lack of public outcry against their prejudicial and discriminatory practices, the military has demonstrated a dangerous willingness to take on their civilian superiors on this issue. Only

days after Clinton's election and a news conference on Veteran's Day where he again affirmed his attention to lift the ban against gays and lesbians, the Naval Reserve Officer's Training Corps announced that it would require all R.O.T.C. midshipmen to sign a new affidavit which stated that they would agree to be discharged and to pay back their scholarship if found to be a homosexual. While each branch of the military services and each of the service academies have for years required their members to say whether they are homosexual and whether they had ever engaged in homosexual activity, the new Navy policy seemed to reinforce the gay ban at the moment when the President-elect had pledged anew to end it. The new policy also went further than the pre-existing policy, making it clear that the Navy meant to recoup education and training costs if an officer was discharged for homosexuality.⁵⁹

Willing to take on their Commander-in-Chief, the members of the Joint Chiefs of Staff extended their campaign against Clinton's proposal to end the gay ban, complaining that the presence of homosexuals would undermine military discipline and good order, and adversely effect the integrity of rank and command. The

⁵⁹Eric Schmitt, "R.O.T.C. Uses Oath On Homosexuality," *The New York Times*, November 19, 1992, p. A10.

Joint Chiefs, nonetheless, were willing to risk such insubordination themselves in their "angry challenge" to Presidential authority. Unconcerned with their own behavior and unrepentant in their attitude of insubordination toward Clinton, one of the Chiefs, speaking to *The New York Times*, on the condition of anonymity, boasted, "We feel we're in a position to convince the President that this would be the wrong decision."⁶⁰

Setting the tone for this debate from the top, the actions of the Joint Chiefs of Staff reverberated through the chain of command, sending the word that it was all right for all military personnel to give voice to their fear, ignorance and hatred of gays and lesbians.⁶¹

The justification for excluding gays and lesbian from the military have evolved over the last decade. As many of the seven reasons set forth in the 1982 Defense Department Directive which declared homosexuality

⁶⁰Eric Schmitt, "Joint Chiefs Fighting Clinton Plan to Allow Homosexuals in Military," *The New York Times*, January 23, 1993, p. 1.

⁶¹See Pater Applebome, "Army: Ranks are Split, as in Society," *The New York Times*, January 28, 1993; B. Drummond Ayres Jr., "Marine Corps: Even the Thought is Off Limits," *The New York Times*, January 28, 1993, p. A16; Dirk Johnson, "Air Force: Are Homosexuals the New Enemy?" *The New York Times*, January 28, 1993, p. A16. Eric Schmitt, "Forum on Gay Ban Starts and Stays Shrill," *The New York Times*, March 25, 1993. p. A13.

"incompatible with military service" have been controverted (often by the military's own reports and personnel itself), new ones have been manufactured to justify the need for this policy of exclusion.

The latest of these justifications was set forth by the Joint Chiefs of Staff in their meetings with the Clinton officials. While still claiming that the presence of homosexuals would wreck morale and discipline, they added new justifications which claimed that gays would undermine unit cohesion and recruiting, force devoutly religious members of the military to resign, and increase the risk of A.I.D.S. for heterosexual troops.⁶² Senior Navy Officials and General Powell complained about lack of privacy on combat ships, where all-male crews are squeezed into triple bunks for six months at sea. Other officers opposed to the policy claimed that heterosexual service members would feel uncomfortable sharing group showers with homosexuals or a dance floor at a military social club next to a homosexual couple.⁶³ In fact, the

⁶²Eric Schmitt, "Joint Chiefs Hear Clinton Vow Anew To Ease Gay Policy," *The New York Times*, January 26, 1993, p.A1; Eric Schmitt, "Joint Chiefs Fighting Clinton Plan to Allow Homosexuals in Military," *The New York Times*, January 23, 1993, p. 1; Eric Schmitt, "Pentagon Chief Warns Clinton on Gay Policy," *The New York Times*, January 25, 1993, p. A1.

⁶³Eric Schmitt, "Joint Chiefs Fighting Clinton Plan to Allow Homosexuals in Military," *The New York Times*, January 23, 1993, p. 1.

vehemence and the frequency of military servicemen, and indeed they have been almost exclusively men, who object to the presence of gays in their showers seems to reveal that despite the many rationalizations offered for keeping this policy, a deeper fear drives this exclusion of gays and lesbians than previously acknowledged.⁶⁴

⁶⁴It is ironic that men practiced in combat and capable of acts of heroism, soldiers willing to face death in the defense of their country, go to the showers terrified by the prospect that gays may await them there. Showering in front of gays must provoke a fear that runs deeper than mere modesty. But what is this fear?

Psychologists long ago discovered that indiscriminate killing on the scale that war demands, requires a de-humanization of the enemy. This process, called objectification, allows soldiers to treat other human subjects, as "objects," alleviating those in combat of the moral and societal strictures against killing. During wars, entire nations are objectified to make the killing easier.

In our early history, native Americans were constituted as savages, making their genocide and confinement on reservations possible with only a minimal amount of collective, cultural guilt.

But the creation of otherness is not limited to war time. In the not too distant past, slaves were routinely beaten if they dared meet their master's eyes. For years following their emancipation, blacks in the South could face abuse for returning the gaze of white citizens. Today, as many African-Americans will attest, white Americans habitually avoid eye contact with them when passing on the street. Having freed the slave, having given up the absolute right to control him with a glance, we ignore him as a person.

Women, too, have been subjected to the power of "the gaze." Traditionally, deferring to the authority of men--be it of the father, the husband, or the stranger--meant diverting one's eyes. To do other than this today, still is interpreted by men as a sign of a woman's sexual interest. While men can stare at women without consequence, a woman staring at men is thought to be "loose," morally corrupt, not at all the kind of "girl" you would take home to Mother.

These new justifications suggest an interesting shift that has occurred in the strategy of those arguing to keep the ban in place. In the past, justifications for this policy had focussed on the activities of gays and lesbians, and why they were a threat to national security and combat readiness. The new explanations for why homosexuals are "incompatible with military service," focus on how the presence of openly gay

An unspoken agreement exists among men that they should not "turn the gaze" on one another. Men, as the subjects of culture, are not to be objectified. In fact, a man who maintains eye contact with another man for too long, renders himself sexually suspect.

In the hyper-masculine atmosphere of military culture, the hysterical cries of soldiers on their way to the showers has given voice to the real fear: the perceived subversion of the privilege of objectification which benefits white, heterosexual, men at the expense of all who are different. Gays in the shower undermine "morale, good order, and discipline" by turning this process of otherness creation upside down. The presence of gays threatens the straight serviceman's position as masculine Subject--the creator and consumer of objectified images be they women, slaves, or enemies of the nation.

In a recent interview a 20 year old airman told a New York Times reporter "We're all crammed together in the showers, and I don't want to worry that some gay guy is staring at me." He recognized the stakes involved in this "gay guy's stare." As did a fellow airman who lamented to the same reporter, "Now how am I going to feel if I walk into a dormitory and see pictures on the wall from Playgirl Magazine?" He would feel, no doubt, as women have felt for years when subjected to the very same objectification.

As the all male, all white Senate Armed Services Committee begins "looking into" this issue, perhaps we should ask whether the rhetorical excess in which this debate has been mired is really motivated by the threat of gays in the military. It seems much more likely that it is motivated by the threat to "The Gaze" in the military."

soldiers will likely affect their heterosexual counterparts.

The most interesting of the latest group of explanations is that homosexuals increase heterosexuals' risk of getting A.I.D.S. As recently as November of 1991, that justification was not among the Pentagon's repertoire. In fact, while listening to oral arguments in a case that challenged the Pentagon's policy on November 7, 1991, Judge Oliver Gasch surprised attorneys by inviting them to comment on statistics indicating that the incidence of AIDS among gay men is greater than that among the general population. Attorneys for the Midshipman Joseph Steffan declined to comment on the statistics, and the Navy's lawyers admitted that concern about A.I.D.S. was not part of the Pentagon's rationale for the ban.⁶⁵

That would not stop Judge Gasch however, who in his decision denying Steffan's reinstatement, wrote that because of A.I.D.S., "The exclusion of homosexuals from the armed forces constitutes a reasonable step toward the protection of those forces' health." He concluded that the Pentagon ban "is rational [because] it is directed, in part, at preventing those who are at the greatest risk of dying from serving. The interest we

⁶⁵Chris Bull, "Judge Cites AIDS While Upholding Enlistment Ban," *The Advocate*, January 14, 1992. p. 19.

have as a nation in a healthy military cannot be underestimated."⁶⁶ Fifteen months later, the threat of A.I.D.S. infection was among the reasons cited by the Joint Chiefs for keeping the ban in place.

This claim is made more interesting when the military's policy toward A.I.D.S. is examined. The military has mandatory A.I.D.S. testing for all potential service personnel. Anyone who tests positive for HIV is excluded from enlisting. In addition, all active duty personnel are re-tested every six months, and those who test positive are reassigned to non-combat positions where they are not likely to incur injuries that would need emergency medical treatment on the battlefield. These policies, though in place, are rarely needed. The incidence of HIV infection among military personnel is well below that of the general population.

Military training films shown to all inductees emphasize the importance of safe sex and the use of

⁶⁶Steffan v. Cheney (780 F. Supp. 1) 1991. Paula Ettlebrick, the legal director of the Lambda Legal Defense and Education Fund, the gay public interest law firm that represented Steffan was not surprised by Judge Gasch's decision. She said, "We have known exactly what kind of judge we were dealing with ever since the hearings--when he repeatedly called our client a 'homo.'" When his prejudicial language became the subject the basis of a motion to remove Judge Oliver Gasch from the case, he refused to step aside. See Greg Scott, "A Good Liberal Gone Sour," *The Advocate*, January 14, 1992, p. 55.

condoms to protect themselves from A.I.D.S. and other sexually transmitted diseases. This film, interestingly, never mentions homosexuality--after all, official policy dictates that there are no homosexuals in the military. Exclusively heterosexual in their safe sex instructions, the military admits in this training film that A.I.D.S. is a concern for heterosexuals and they therefore should take precautions to protect their health.⁶⁷ Yet, when generating reasons why gays should be excluded, they cite the increased risk of A.I.D.S. that the presence of homosexuals would foist on heterosexuals in the military. Following this rationale, the military would do well to encourage the enlistment of lesbians whose statistical risk of being infected by HIV is much lower than any other group in the population.⁶⁸

This hypocritical embrace of double standards is typical of the military's policy toward homosexuality. Historically, when the United States was at war and needed troops, the military would slow its investigations and discharges of homosexual service personnel. In the late 1940's the navy alone discharged over 1100 gay soldiers a year. In 1950 at the height of

⁶⁷Interview with Colonel Margarethe Cammermeyer, conducted May 6, 1993.

⁶⁸A similar relationship exist between the military's claim about unit cohesion

the Korean War, that number was down to 483. But by 1954 when the armistice was signed at Panmunjom, the Navy resumed its former practices and discharged 1353 gay sailors.⁶⁹ A similar pattern can be seen during the Vietnam war. Table II illustrates how during the years 1966-1975 when the need for soldiers was at its peak, the discharge of personnel for homosexual acts dropped off perceptibly, only to increase again upon the United States' withdrawal from Vietnam.

Cal Andersen, an Army Court Reporter who would later join the Washington State Assembly, recalled in *My Country, My Right to Serve*, that he was once caught *in flagrante delicto* with another member of the Army. The commander's reprimand of Andersen was short and mild: "Now, I don't care what people do in their own time," he told Andersen. "But the Army doesn't feel that way, so in the future, be more discreet."⁷⁰

Looking to beef up the number of troops available for the Persian Gulf war, the Department of Defense would repeat this practice in 1991 during the Persian Gulf War, quietly putting aside its decade-old policy prohibiting enlistment of gays and lesbians. It is

⁶⁹Randy Shilts, "What's Fair in Love and War," *Newsweek*, february 1, 1993, p. 58.

⁷⁰Mary Ann Humphrey, *My Country, My Right to Serve: Experiences of Gay Men and Women in the Military, World War II to the Present* (New York: Harper Collins, 1990). pp. 61-72.

estimated that over 50,000 gays and lesbians served in the Gulf war.⁷¹ Many active duty personnel and reservists who hoped to test the gay ban, "came out" to their commanding officers during this time, and were

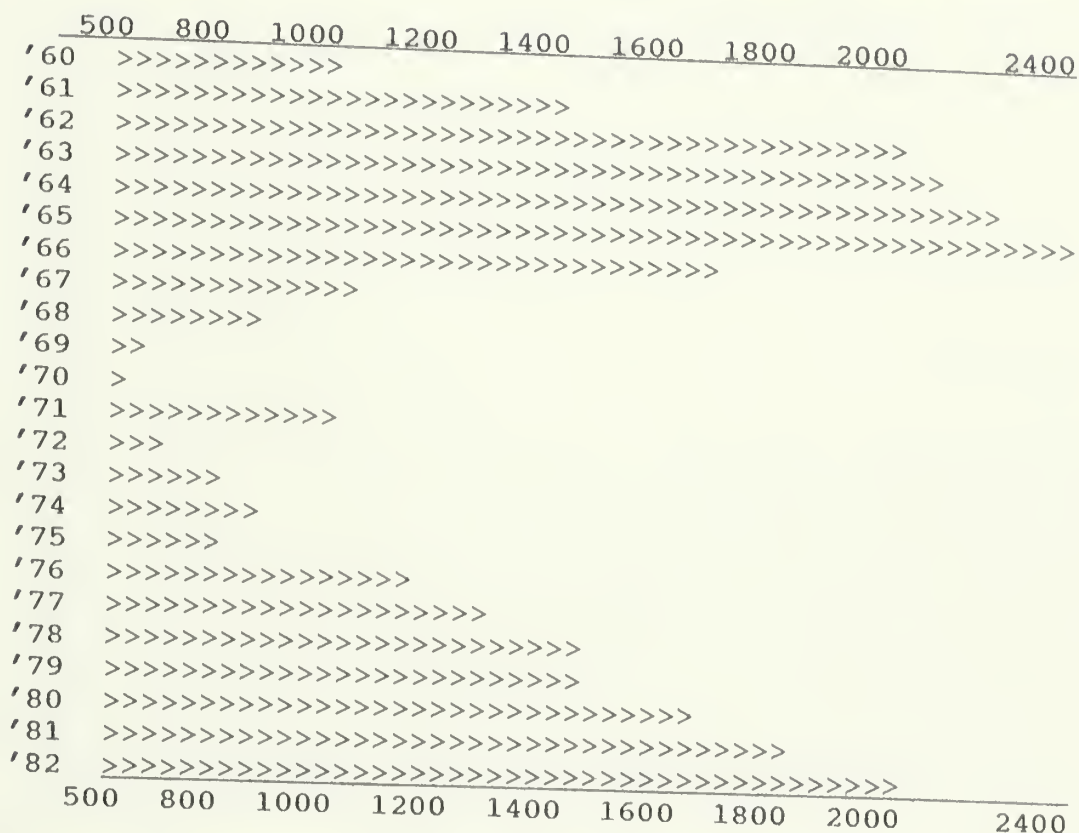


Figure 1: Homosexual Discharges From the Military 1960-1982⁷²

⁷¹"National News," *The Advocate*, April 23, 1991, p. 38.

⁷² The numbers for 1960-61 represent only the discharges issued by Navy and Marines, and come from the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 87th Congress, 2nd Session, 1962, p. 913. The numbers for 1962-63 include the Air Force discharges, but still do not represent any discharges from the Army, for that period. They come from the Subcommittee on Constitutional Rights of the Senate Judiciary Committee, 89th Congress, 2nd Session, 1966, pp. 697, 1001, and 1004. The numbers for the years 1964-1965 are more complete, and do include some, but not all

told they would not be discharged at this time and should prepare to be shipped out for the Gulf. But many of these same reservists and enlisted personnel also acknowledged that they were told that they were likely to be discharged when the war was over.⁷³ Paul Di Donato, director of National Gay Rights Advocates, a gay public interest law firm claimed that a woman calling the NGRA in mid February of 1991, explained how after telling her commanding officer she was a lesbian, the commanding officer sent a letter back to her saying that unless she had a marriage certificate showing that she is legally married, the regulation would not be enforced

of the discharges from the Army. These numbers come from the 1966 Subcommittee Hearings, pp. 697, 919, 61001, 1004. The number for the period 1966-70 represent only the discharges from the Navy, the only division of the service to keep records consistently on numbers of homosexuals discharged. The numbers for the period from 1966-1982 come from the Department of Defense. The numbers have been reproduced in a number of places. See Eric Schmitt, "Pentagon Aides to Study Option of Segregation For Gay Soldiers," *The New York Times*, January 31, 1993, p. A1; Randy Shilts, "What's Fair in Love and War," *Newsweek*, February 1, 1993, p. 58; and United States General Accounting Office, "Defense Force Management: DOD's Policy on Homosexuality," GAO/NSIAD-92-98, June 12, 1992.

⁷³Rick Harding, "Commanders Quietly Ignore Antigay Rule To Build Gulf Forces," *The Advocate*, February 26, 1991, p. 20. Miriam Ben-Shalom, founder of Gay, Lesbian and Bisexual Veterans of America, a political and support group said she talked to more than ten gay and lesbian reservists who told their commanding officers about their sexual orientation but were scheduled for Gulf duty anyway.

against her at this time, and she should prepare to leave for the Persian Gulf.

The treatment of gays and lesbians in the military has always been fraught with ambiguity, inconsistency, and incongruity. Between the years 1961 and 1966, the Navy guaranteed that all who were accused of homosexuality would be found guilty of homosexuality. In a form for Administrative Field Board Hearings that determined whether a suspected homosexual should be retained by the service, there was no provision made in the form for a finding of innocence. This form entitled "Findings of the Board," include only the following options:

() Sexual Pervert, () Committed Homosexual Acts, or
() Homosexual Tendencies. The form instructed "use one or more of the following ."⁷⁴

In the case which brought attention to this form, *Nelson v. Miller*, Kenneth Nelson succeeded in convincing the Administrative Board hearing his case that he was a victim of a homosexual assault, but by the instructions proscribed by this form, the Field Board was forced to check the box marked "committed homosexual acts." Nelson was subsequently discharged despite an appeal by the Board which complained of the form and recommended

⁷⁴*Nelson v. Miller*, (373 F.2d. 474) 1967. The form was prescribed by 32 C.F.R. 730.15(h) in 1961 and again in 1964.

that he be retained in the service. All those accused of homosexuality by the Navy between these years literally had to be guilty. There was no other finding possible. Given that even a letter or rumor can start an investigation into a service person's background, this was an unusually punitive measure, even by the military's draconian standards.

In 1981, in a move that was too blatantly discriminatory for the courts to overlook, the Army discharged a Tacoma, Washington man, Perry Watkins, after 16 years of service. This in itself would be atypical except that in this case Watkins from his very first enlistment had openly admitted his homosexuality on Army enlistment and re-enlistment forms.⁷⁵ In 1990, Watkins won his lawsuit against the Army when the Supreme Court refused to hear his case leaving the lower court ruling in tact.⁷⁶

⁷⁵Department of Defense enlistment and re-enlistment forms all contain the following questions: "a. Are you a homosexual or bisexual? ('Homosexual' is defined as: sexual desire behavior directed at a person(s) of one's own sex. 'Bisexual' is defined as: a person sexually responsive to both sexes.)

b. Do you intend to engage in homosexual acts (sexual relations with another person of the same sex)?" (Department of Defense Enlistment/Reenlistment form. Also see Eric Schmitt, "Compromise to Revise Rules on Homosexuals in Military," *The New York Times*, January 30, 1993, p. A9.

⁷⁶Rick Harding, "Commanders Quietly Ignore Antigay Rule To Build Gulf Forces," *The Advocate*, February 26, 1991, p. 20.

Reaching an agreement with the Army, Watkins agreed not to reenlist when the Army granted a retroactive promotion, \$135,000 in back pay, full retirement benefits and an honorable discharge.⁷⁷

The Investigative Power of the Military

Perhaps the best kept secret in the public debate over allowing gays in the military has been the wide-ranging powers granted the military investigators who pursue suspected homosexuals among the military ranks. The enforcement of this ban is almost always cruel and without many of the safeguards civilians take for granted in judicial proceedings. The majority of discharges involve routine third degree harassing of the soldier, who is sometimes hand-cuffed and interrogated under bright lights. The officer in charge of these investigations threatens to reveal the soldier's homosexuality to friends, acquaintances, and family members. Many of these soldiers, young and vulnerable, have not begun contemplating coming out. Sometimes they threaten to inform the soldier's hometown newspaper. When the soldier is a parent, investigators even threaten the loss of custody of the soldier's children.

⁷⁷Rick Harding, "Commanders Quietly Ignore Antigay Rule To Build Gulf Forces," *The Advocate*, February 26, 1991, p. 20.

Marine Corporal Barbara Baum's girlfriend was threatened with the loss of custody of her child. She testified against her lover, and Baum was sentenced to a year in the brig.⁷⁸

Even marching in a parade can lead to discharge. Air Force officials discharged Captain Greg Greely after learning that Greely led the Washington, D.C. gay pride parade in June of 1991. Only one day before the completion of his service with the Air Force, Greely's discharge was held up while investigators attempted to force Greely to name other gay or lesbian Air Force officers. Greely refused and his discharge was issued on June 25.⁷⁹

Often those interrogated do give names of other known gays in their unit, having been promised that their discharge would be upgraded to honorable if they cooperate. Those accused by others of being gay are often interrogated for hours without breaks for food or rest after being coerced to sign "interview consent" forms. No legal counsel is given or required for those accused of a crime in the military. Service personnel have been subjected to anal cavity searches in front of

⁷⁸Richard Rouillard, "Editor's Comments," *The Advocate*, August 27, 1991, pp. 6-7; Scott Shuger, "American Inquisition: The Military vs. Itself," *The New Republic*, December 7, 1992, pp. 23-29.

⁷⁹"News In Brief," *The Advocate*, July 30, 1991, p. 28.

their colleagues and during the Gulf War, one Marine Corporal, Eric Barker, was sent to a war zone without ammunition once his commander found out he was gay.⁸⁰

Each branch of the military has its own investigative arm. The Naval Investigative Service (NIS), the Air Force Office of Special Investigations, (OSI) and the Army Criminal Investigation Division (CID) each have hundreds of investigators looking into the pre-service and off-duty activities of military personnel. The NIS alone employs over 1200 investigators, many of them civilians, who have wide ranging authority.⁸¹ Often these civilian investigators frequent gay bars looking for suspected military personnel.

Danny Leonard, owner of Friends, a gay bar near Camp Lejeune in Jacksonville, North Carolina told the *New York Times* that military investigators and the sheriff would park across from the bar and pull people over when they left.

A 29 year-old staff sergeant at Fort Meade, MD., recalled being summoned by Army investigators after he visited a bar in Texas that was popular with homosexuals

⁸⁰Scott Shuger, p. 26.

⁸¹Francis Wilkinson, "The Gay Cadet," *The Village Voice*, March 13, 1990. p 25.

and heterosexuals after investigators had jotted down his license plate while cruising the club's parking lot.

"They dumped it on me that I was a homosexual, they had witnesses, and that I should sign a paper saying so," said the sergeant. "I was so scared, I was almost sick. They treated me like I was a criminal, but presented no evidence. It was guilt by association." The sergeant refused to sign the document and the investigators dropped the allegations.⁸²

The military's surprise visits to gay bars are not always successful. The owner of another gay bar near Norfolk Navy base in Virginia, said surprise visits by the Naval Investigative Service ended several years ago. "Usually we had a call from the base telling us they were coming, " said Mr. Belcher. "Homosexuals are everywhere in the military."⁸³

As recently as the summer of 1991, San Antonio, Texas gay-bar owners said local military police, sometimes assisted by San Antonio city and Bexar County law enforcement officers, blocked exits from gay-bars while military personnel searched inside for armed forces personnel. Those found were arrested for being

⁸²Eric Schmitt, "Military's Gay Subculture Off limits but Flourishing," *The New York Times*, December 1, 1992, p. A1.

⁸³Eric Schmitt, "Military's Gay Subculture Off limits but Flourishing," *The New York Times*, December 1, 1992, p. A1.

in an off-limits area.⁸⁴ In blocking the entrances and forcing everyone to stay inside, and enlisting the support of civilian police, the military's discriminatory policy affects the lives of gays and lesbians who have never served and never wanted to serve in the military, assuming powers and denying civil liberties in gross violation of constitutional guarantees against search and seizure.

The activities on the part of military investigators make Judge Terry Hatter's angry rebuke of the Navy early in 1993 seem much more than rhetorical ire. Refusing to reinstate Petty Officer Keith Meinhold, pending the outcome of his challenge to the military's gay ban as had been instructed by the court only days earlier, the Navy had angered Hatter, who scolded, "This is not a military dictatorship" and gave the Navy two days to reinstate Meinhold. At that time, he said, he would hold the Navy in contempt of a court order. "It is not the former Soviet Socialist Republic," the Judge went on. "Here, the rule of law applies to the military."⁸⁵

⁸⁴"Military Maneuvers," *The Advocate*, August 13, 1991. p. 2.

⁸⁵The court order was issued on November 11, 1992. See Seth Mydans, "Navy is Ordered to Return Job To a Gay Sailor," *The New York Times*, November 11, 1992, p. A14.

The outcome of this policy debate is unclear, but one thing is certain: whether or not gays and lesbians are allowed to "openly" serve in the United States armed forces, there will always be gays and lesbians in the military. Certain too, is that regardless of "official" military policy, they will face greater scrutinization, intolerance and discrimination than their heterosexual counterparts. This is due in large measure to the way in which homosexuality has been constructed through the policy debates, decisions, and texts of the United States regarding the fitness of its members for service.

CHAPTER 4

GAYS IN THE MILITARY, II: CONSTRUCTING THE HOMOSEXUAL 'OTHER'

The Federal policy governing participation in the Armed Services is a particularly rewarding area to research questions concerning construction of identity and otherness. The provision of a common defense is one of the general principles enumerated in the preamble to the United States Constitution which explain the very reasons why a government is necessary and desired. Also, defense of country traditionally has been considered a defining characteristic of citizenship. In fact, it has been suggested that the legal disabilities women incurred in classical Greece with respect to property rights, rights within marriage, and rights in questions concerning inheritance occurred because they were prohibited from bearing arms.¹ The prohibition against certain groups serving in the military adversely affects these groups in other areas where rights and privileges of citizenship are involved. The military,

¹For a complete discussion of this see, Raphael Sealey, *Women and Law in Classical Greece*, (Chapel Hill: University of North Carolina Press, 1990). The question of women and their exclusion from combat is a related question, but one that I pursue only as it relates to lesbians. Let it suffice to say that gender differences seem to present similar threats to troop morale and discipline as does sexual difference. The combined effects seem almost too much for the armed forces to bear as witnessed by the much higher percentages of lesbians compared to gay men that are separated from military duty because of homosexuality.

as the largest single employer in the United States is both substantively and symbolically important.

Federal civil rights laws do not prohibit discrimination based on sexual orientation, and the courts have upheld the military's right to exclude gays and lesbians. Although aversion to homosexuals is present in all facets of society, in no other part is the hostility toward them as absolute or as codified as it is in the armed forces.

The issue of homosexuality and military service has provided a perfect opportunity to examine how widely the constructions of homosexuality described in Chapter two have become. All of the historical discursive tenets of homosexuality are present in this debate, often expressed by military personnel and elected public servants, exploding into the "official" public discourse of the United States. These diverse tenets-- often overlapping, sometimes contradictory--come together in their construction of the homosexual as one "unfit for military service," for reasons almost always unrelated to job performance or any objectively verifiable standards of military readiness or effectiveness. By the military's own evaluative standards, gay and lesbian personnel have excelled. But the threat and fear of homosexuals runs deep, and despite overwhelming evidence that they make excellent service personnel, hostility

toward and discrimination against gays and lesbians continues to be tolerated by many in the United States.

Still, it is not the separation from the armed forces that is the most revealing aspect of these policy decisions; nor is it the perceived or actual consequences of this separation for the individuals involved. Rather, it is the ways in which these decisions, employing the authority and legitimacy of the United States Government, politically construct the Homosexual, all homosexuals, in a manner that makes their exclusion appear rational.

The history of the way in which the military has constructed homosexuals and homosexuality parallels the epistemological models outlined in Chapter 2. First seen as "unnatural, immoral and criminal vice," then as social and medical "perversion," disease and "degeneration," and finally as psychological "instability," immaturity, and dangerous personality disturbances, sexual difference has undergone a series of epistemological shifts and re-categorization. This chapter will revisit these epistemological categories demonstrating that the arguments about homosexuals created within each category of sexual difference have circulated, and circulate still, in the representations of gays and lesbians in the public policy texts which address military service.

Sodomy: Unnatural, Immoral, and Criminal

Although for many people, the issue of "homosexuals" in the military dates only to the early 1980's when the Pentagon issued their latest policy governing homosexuality, in truth the United States military has had a policy discriminating against homosexuals for nearly sixty years. In fact, it is in texts of military policy that the "homosexual" first makes his appearance in United States public policy, and hence its importance to this study.

Throughout the eighteenth and nineteenth century, the military never officially excluded or discharged homosexuals from its ranks as homosexuality, and the homosexual person, were not the subject of medical and social discourse until the late nineteenth century. From the days of the Revolutionary War, however, the Army and Navy did prosecute those who were caught engaging in acts of sodomy, which they defined as anal and oral sex. These acts were criminal for members of the military, just as they had been under their British predecessors and as they had been in the original thirteen colonies.² Any soldier in the American military forces convicted of sodomy could be sent to prison. In fact, in an ironic turn, it was revealed in

²In fact, 23 of the 50 American states still have some form of sodomy laws on the books today.

1993, that the creator of Westpoint, the first United States military academy, had done so at the instructions of President George Washington as a way to escape being punished for sodomy. The military's sodomy law today is contained in Uniform Code of Military Justice.

Part (a) of Article 125 of the Uniform Code of Military Justice, which covers all branches of the armed forces, advises that "[a]ny person . . . who engages in unnatural carnal copulation with another person of the same or opposite sex or with an animal is guilty of sodomy. Penetration, however slight, is sufficient to complete the offense." Part (b) directs that "[a]ny person found guilty of sodomy shall be punished as a court-martial may direct."³

This definition of sodomy is an interesting one. The key phrase, "unnatural carnal copulation," is open to varying interpretations. Indeed, carnal copulation, taken by itself, literally means copulations relating to the body, or copulation of the flesh. It is difficult, even with a fertile imagination, to think of copulation that is other than carnal, in this most literal sense. But carnal also carries a negative connotation indicating that which is base, animalistic, or lascivious. In this understanding, carnal copulation

³10 USCS Section 925; (August 10, 1956, ch.1041, sec. 1, 70A Stat 74).

suggests one who is more concerned with matters "of the flesh" than the more noble pursuits of the intellect or spirit. If this statute is interpreted using this second understanding of carnal copulation, the military's prohibition of sodomy is remindful of Judaeo-Christian proscriptions governing all sexuality that is other than procreative. As indicated in Chapter 2, sodomy becomes a social concern because it was a religious one. There are ways of copulating that are more pleasing to God than are others. The pervasiveness of the Christian construction of sexuality is notable. By the strictest reading of this statute, anal intercourse and oral intercourse are lumped together with bestiality as activities that are offensive to God, as none lead to the only legitimate end of sexual concourse: live human birth. If the intention of sodomy laws is to promote live birth, then birth control and masturbation are also problematic. Indeed, that has been, and continues to be, the traditional teaching of the Church as well as of many of its protestant counterparts.

But sodomy, as defined in this statute, is also violative of the laws of nature witnessed by the addition of the word "unnatural" and the inclusion of a prohibition against copulation with animals. In nature, so the story goes, sex is used as an evolutionary

guarantee of survival of species. It follows that sexual activity not represented in nature, sexual acts that are not tied to species survival and evolution, cannot be considered "natural." These justifications citing sodomy's offense to God and nature are often conflated, and remindful of what John Boswell has described as a "vehement circumlocution" where "unnatural" operates as a coded synonym for "bad" or "unacceptable."⁴

That sodomy should be defined in Article 125 as unnatural is an example of just such a vehement circumlocution and a good example of the ways in which a culture's values and beliefs make their way into the official discourses of the federal government. The Congressional construction of sodomy as "unnatural carnal copulation" does little to explain the rationale behind the statute, or the threat or danger that this form of sexual behavior presents members of the military. It does, however, succeed in constructing the sodomite as one of questionable moral character, an offender of Christian doctrine⁵ and a freak of nature.

⁴John Boswell's work is discussed in Chapters 1 and 2. Also see Boswell, *Christianity, Social Tolerance and Homosexuality*, pp. 11-14.

⁵If the reasons for prohibiting sodomy are of religious origin, they would seem to conflict with the 1st Amendment's prohibition against the establishment of religion. However, see *Hatheway v Secretary of the Army* (641 F.2d. 1376).

Through his/her violation of this statute, the sodomite is also a criminal and can be imprisoned in one of the military's own prisons.

Not specific to homosexuality, Article 125 is the only statutory provision regarding sodomitical acts enacted by Congress with respect to the military. And, although Article 125 criminalizes both homosexual and heterosexual sodomy as an offense when a member of the armed services is involved, only a few examples exist of the dismissal of military personnel for heterosexual sodomy. The enforcement of this statute, if not its intent, is to exclude homosexuals from military service.

In *Hatheway*, the court writes, "he [Hatheway] has referred to the religious origins of laws against sodomy, a fact that the Army does not dispute. Whether Article 125 violates the establishment clause thus depends on whether 'it still retains its religious character.'" The Court chose an earlier decision which dealt with Sunday closing laws, *Maryland v. McGowen* (81 S.Ct. 1101), as the controlling precedent in *Hatheway*. As statutes "had undergone extensive changes from their earliest forms" and were "valid because their present purpose and effect, to provide a uniform day of rest, reflected legitimate secular goals." *Hatheway*, p. 1383.

Setting aside the suitability and the legitimacy of the comparison of Sunday closing laws and sodomy statutes, the Court decided that like Sunday closing laws, "the secular policies asserted by the Army, such as preventing disruptive conduct, were accepted . . . as legitimate prohibition of homosexual conduct. . . . We therefore hold that in a military setting the proscriptions of Article 125 have a legitimate secular purpose and effect." p. 1383-1384.

It should be noted that Article 125 deals with both heterosexual and homosexual acts of sodomy, but the Court speaks only to the "legitimate justifications" for preventing homosexual conduct.

It is quite rare for heterosexuals to be separated from the military for violations of Article 125. In one of only two court cases on record that does deal with a discharge for heterosexual sodomy, the seaman in question, "received a general discharge because of an act of oral sodomy with a female prostitute . . . during his last enlistment in the U.S. Navy." Although stating that the discharge was "based on the act above recited," it is revealed later in the court's decision that the administrative proceedings occurring prior to his discharge also uncovered the seamen's involvement in "four abnormal sexual acts prior to entering the Navy and during his first enlistment." These abnormal sexual acts were "as a passive partner in homosexual acts of oral perversion (fellatio) on several occasions prior to his entry in service, and on two occasions during his first enlistment."⁶

It is telling that the decision in *Grant v United States* describes the act for which Grant was discharged as "an act of oral sodomy with a prostitute," but

⁶*Grant v United States*, (162 Ct. Cl. 601) 1963. As there are very few cases of heterosexuals discharged for violations of Article 125 makes me suspect that the presence in the court record of *Grant v United States* of past homosexual encounters might actually have had more to do with the willingness of the courts to uphold the discharge, then the Court was willing to admit. It is one of only two contested discharges for heterosexual sodomy, lending strength to this interpretation. The other case, *U.S. v. Doherty*, also supports this interpretation.

describes his homosexual encounters as "abnormal sexual acts" or "acts of oral perversion." By the court's standard, there is nothing "perverted" about sodomy per-se, nor even with prostitution, perversion applies only to homosexual sodomy.

The conflation of homosexuality with sodomy, defined as "unnatural, carnal copulation," already begins down the road to the exclusion of the homosexual from military service. Sodomy, in the words of one court, "is one of the most heinous offenses, for few crimes are more revolting."⁷ That homosexuals come to be defined by this "immoral" act makes their exclusion from the military appear more plausible for the bible makes sodomy and therefore homosexuality a sin. In a 1993 town meeting in Jacksonville, N.C., held to debate the Military's ban against homosexuals, participants clearly connected the military's policy with the religious problematization of sodomy as sin. Eric Schmitt, a reporter for *The New York Times*, described the scene:

As some people waved bibles over their heads and shouted "Amen," one questioner denounced what he said was a lessening of moral standards in American Society.

"Is being old a sin?" asked the citizen, who did not identify himself.

"No!" the crowd yelled back.

"Is being handicapped a sin?" the man then asked.

⁷*U.S. v. Phillips*, (3 USCMA 137) 1953.

"No!" the crowd screamed, louder this time.
"Is being homosexual a sin?" he came back.
"Yes!" roared the crowd, loudest of all."⁸

As those who engage in sinful acts, homosexuals become the embodiment of that sin; the constant corporeal representation of those sinful acts, regardless of sexual behavior.

In a 1993 floor debate, Senator Jesse Helms, the Conservative senator from North Carolina, claimed that gays and lesbians "know that the armed forces are the last bastion of traditional morality in this country." With undermining traditional morality as their goal, "[t]his attempt to remove the military ban . . . is the number one priority of the homosexual political movement."⁹

Members of the military have echoed these sentiments citing the immorality of homosexuality as the primary reason why gays and lesbians should be excluded from the armed forces. "Homosexuality is morally wrong

⁸Eric Schmitt, "Forum on Military's Gay Ban Starts, and Stays, Shrill," *The New York Times*, March 25, 1993, p. A 11.

⁹Carol Doherty and Pat Towell, "Fireworks Over Ban on Gays Temporarily Snuffed Out," *Congressional Quarterly*, February 6, 1993: 273.

and has no place in the United States Marine Corps," claimed one Marine Corporal.¹⁰

A 25 year-old sailor stationed aboard the carrier Saratoga said, "There's a general consensus that this goes against the moral grain of what the Navy is about. When you're proud of something, you don't want to see it defaced by something like this."¹¹

Even at the official level, the belief that homosexuals are defined completely by their immoral sexual acts of sodomy can be heard. In a May, 1993 Committee hearing of the Armed Services Committee, Strom Thurmond, the ranking Republican member of that committee, entered into an angry exchange with Senator John Kerry, a Democrat from Massachusetts who was testifying before the committee that the ban should be lifted.

Thurmond: Homosexuals practice sodomy. The code of military justice and many states have provisions against sodomy. How would you reconcile the situation with homosexuals in the military?

Kerry: Make it consistent for heterosexuals and homosexuals; whatever the standard is going to be, and apply it appropriately . . .

¹⁰Daniel Brown, a driver at the headquarters of the Lejeune Service Support Schools, made this comment to B. Drummond Ayres Jr., "Marine Corps: Even the Tough is Off-Limits," *The New York Times*, January 28, 1993, p. A16.

¹¹ Brian Grenard made this comment to Larry Rohter, "Open Hostility to Homosexuals Outside Navy Base," *The New York Times*, January 31, 1993, p. 20.

Thurmond: Heterosexuals don't practice sodomy. Homosexuals do. . .¹²
 The laughter in the Hearing room in response to

Thurmond's remarks was conspicuous. Once it subsided, Kerry assured Thurmond that many heterosexuals do indeed engage in acts of sodomy.¹³ But the belief that only homosexual sodomitical acts are immoral and worthy of punishment is widespread and reflective of the fact that it is not the criminal act of sodomy that merits punishment, but the immoral *desire* to engage in acts of homosexual sodomy. As discussed in chapter 2, today many Bibles include the word "homosexuality" despite the fact that there was no comparable word or concept present at the time the Bible was written.

¹²Armed Forces Committee, Hearings on Homosexuals in the Military. This exchange was transcribed from the televised Hearings broadcast live, May 7th 1993, on C-Span. The Committee report and "official Transcripts" were not as yet available at the time of this writing.

¹³Another exchange only minutes later deserves documentation:

Kerry: "Today you have gays working in the workplace. You have them right here in the Senate. It is against the law. Has Senator Thurmond, or have the Capitol Police arrested anybody because we have people up here that we know practice sodomy? No. Do we do it out in the workplace every day? No."

Thurmond: "Do you want them arrested for that?"

Kerry: "Do you, Sir? I mean my question is are we going to apply . . ."

Thurmond interrupts.

Thurmond: "If they are practicing sodomy and its against the law why shouldn't it [sic] be arrested."

The selective enforcement of Article 125 is consistent with the armed forces own regulations which make homosexuality, not sodomy, the test of sexual unsuitability for military service. Even prior to the 1982 Department of Defense Directive 1332.4, promulgated in 1982 which made homosexual orientation the basis for exclusion from the military, each branch of the service had its own regulations which constructed three levels of homosexual disqualification. Class I homosexuals were defined as "Servicemen who have committed homosexual offenses involving force, fraud, intimidation, or the seduction of a minor." Class II homosexuals are "servicemen who have willfully engaged in, or attempted to perform , homosexual acts which do not fall under the Class I category." In the most interesting and discriminatory of these, Class III homosexuals were defined as "servicemen who exhibit, profess, or admit homosexual tendencies or associate with known homosexuals."¹⁴ Separation from the military is the proscribed course of action for all three classes.

The courts have upheld these regulations. In *Rich v. Secretary of the Army*, the separation of an Army man

¹⁴Army regulations AR 635-89, April 15, 1955, Air Force regulations AFR 35-66, and SECNAV INSTRUCTION 1900.9, and 1620.1 all distinguish between three classes of homosexuality which are grounds for separation from the military.

was upheld even though no acts of sodomy were proven. In the *Rich* decision, the court admitted that it was unable to distinguish between an act of sodomy and a person's homosexual orientation, writing that "a statement that a person is homosexual or gay is different from a statement of gender identification" because the "latter refers to physical characteristics, but the former to conduct."¹⁵

Rejecting arguments that Army regulations which exclude homosexuals "intrude into fundamental matters at the core of one's personality, self image, and sexual identity," the court said instead that while a "male may feel sexually attracted to another male without engaging in orgasm, just as a male may feel sexually attracted to a female without copulation, the justification for the exclusions of homosexuals are applicable regardless of the level of activity involved." Regulations excluding homosexuals can be interpreted as "equally applicable to declamations as to deeds."¹⁶

The court in *Rich v. Secretary of the Army* acknowledged that both heterosexuals and homosexuals feel sexual desire for one another, but only homosexual desire is constructed as an activity. This legal design

¹⁵*Rich v. Secretary of the Army*, (516 F. Supp. 621) 1981.

¹⁶*Rich v. Secretary of the Army*, (516 F. Supp. 621) 1981.

lets the court avoid the 1st Amendment issues raised when a person is excluded from service merely for declarations of sexual identity or preference by equating homosexual desire with the prohibited "homosexual activity" of sodomy. It also simultaneously posits heterosexual desire as the standard that has been violated.

With all acts of sodomy perceived as "homosexual" acts and all homosexuals, regardless of "levels of activity," perceived as sodomites, the tautological reasoning is complete. The circularity permits exclusion for either homosexual acts or homosexual "being" because both are viewed as symptomatic acts; activities which indicate a criminal character flaw or defect, a diseased body, a disturbed personality, a medical aberration which could endanger the mission of the military.

As argued earlier, the creation of homosexuality and the homosexual was an attempt to save sodomites from the punishment that Senator Thurmond and the laws of many states would inflict upon them. But the conversion of sexual activities into a medical condition, and then into an person who has this condition, only increased the number of stigmatized behaviors which could be grafted onto the immorality of sodomitical acts. If one is immoral enough to engage in

acts of sodomy, than one can become suspect in all avenues of his/her life.

*From 'Sodomitacally' Sinful to Criminally
Deviant: Adding Injury to Insult*

The public record of gays and lesbians in the military suggest that engaging in the activity of sodomy comes to define them absolutely. As witnessed above in *Hatheway v. Secretary of the Army*, even the courts have not been able to distinguish between sexual acts and declarations of sexual identity. Homosexuality has become the "damned spot" of Lady Macbeth that no amount of rubbing will remove. All parts of a person's life are affected, and the term homosexual becomes synonymous with "lecherous deviant," "psychologically disturbed," "emotionally immature," "liar," and "criminal," as the military races to find reasons why even gays and lesbians with exemplary service records should be excluded. In one such case, the court upheld the discharge of a soldier who was "morally unrepachable except for his sexual perversion."¹⁷ The understatedness of this remark is almost humorous as sexual "perversion" has never been a small exception in the eyes of the military, nor in the eyes of society.

¹⁷*Glidden v. U.S.* (185 Ct. Cl. 515) 1968.

As early as 1919, homosexuals were coming under greater investigation by the military. As Acting Secretary of the U.S. Navy, Franklin D. Roosevelt approved the establishment of a military vice squad to investigate homosexual activities at the Naval Training Station at Newport, Rhode Island. In 1921, it was revealed that many of the "investigators" (none of which had any professional investigative training), as a matter of standard operating procedure, had engaged in sodomy in order to entrap suspected homosexuals. Roosevelt's Republican opponents quickly moved to use this information against him and a scandal ensued.

Investigated by a Subcommittee of the Senate Naval Affairs Committee, the two minority members of that committee released their report to *The New York Times* on July 20, 1921. Using enlisted men for such activities, the report claimed, violated "the rights of every American boy who enlisted in the Navy to fight for his country." Indeed, the report claimed that the activities in which these boy "investigators" were engaged was "conduct of such a character at which seasoned veterans . . . would have shuddered." The report also asserted that these activities were "practically thrust upon boys, who, because of their

patriotism had responded to the call."¹⁸ The report does not explain that each of the boy "investigators" was given the opportunity to decline the assignment, and none were "forced" to engage in sodomy, but often did so as their own initiation.¹⁹

The Report represents one of the earliest and most persistent constructions of the gay man, portraying him as a person of bad character, a person with a defective personality, a sexual pervert. *The New York Times* attributed the "difficulty at Newport" to "a few men of bad character among the many thousands concentrated there under the emergency of war."²⁰ The Committee

¹⁸"Lay Navy Scandal to F.D. Roosevelt: Senate Naval Sub-Committee Accuses Him and Daniels in Newport Inquiry," *The New York Times*, July 20, 1921, Section 4, p. 7.

¹⁹The investigation of the "boy investigators" and of those allegedly identified as homosexual seamen at Newport Station, by a Naval Court of Inquiry filled six thousand pages of testimony and fifteen volumes. Lawrence R. Murphy's *Perverts by Official Order: The Campaign Against Homosexuals by the United States Navy*, (New York: Haworth Press, 1988) examines the Navy's 1991 activities and the subsequent scandal and makes use of testimony from this investigation.

It is also of interest that Ervin Arnold, who actually headed the "military vice squad" hand picked the "boy investigators" because of their youth and good looks, saying in an ungrammatical way, "a good looking man from the average of 19 to 24 will be the best people." The question "how might Arnold know who would make the best objects of homosexual desire?" remains unasked, and sadly, unanswered. See Murphy, p. 22.

²⁰U.S. Senate, 67th Congress, First Session. Committee on Naval Affairs, "Alleged Immoral Conditions at Newport (R.I.) Naval Training Station, Report of the Committee on Naval Affairs," (Washington D.C.: Government Printing Office, 1921; Reprinted in *Government Versus*

report, entitled "Alleged Immoral Conditions at Newport," declared that,

to send out into Newport young men, some of them mere boys, to use their own discretion and judgement whether they should or should not actually permit to be performed upon them immoral acts, is in the opinion of the committee utterly shocking to the American standard of morality and that any civilian or naval officer in charge of young men and boys to be trained for service in the United States Navy should permit such a thing is absolutely indefensible and to be most severely condemned.²¹

In the morality play constructed for the benefit of the "utterly shocked" but titillated Americans, "patriotic boys" became the innocent victims, the defenseless prey of perverted, corrupt "men" of bad character. These corrupted "men" lack the moral decency to resist the temptation of the "boy bounty" presented by the close conditions afforded by military life, and turn this proximity into sexual advantage. The use of the opposition of "innocent boys" versus "corrupt men" is intriguing given that there was little difference in age between the "boy investigators" and the "men of bad character." In fact, often the investigators were older than the perverted old men of 19 and 21 that they were entrapping. However, the distinction between boys and men serves well the morality play in which it is used, summoning images of the child molester; the immoralist

Homosexuals, (New York: Arno Press, 1975), p. 22.

²¹Ibid.

who cannot, or will not make the distinctions that polite society requires. As the sexual pervert, the homosexual was constructed in opposition to the patriotic, innocent young boys who have left hearth and home to defend their country. In another example of this construction, one court went as far as to allow the characterization of a suspected homosexual as a "chickenhawk," claiming that these [comments] were not beyond bounds of fair comment."²²

In a third example, the court lectured a victim of a sexual attack for not coming forth sooner. The man testified, that "from what I have heard about these homosexual cases I was scared." The victim, "a career man" in the Air Force, should have come forth, according to the court, based upon his feelings of "outrage and revulsion against the infamous crime against nature, involving as it does a degradation of the virile organ of manhood."²³ Anything short of outrage and revulsion throws suspicion on the victim himself.

Homosexuals, as violators of morality, cannot be trusted. The 1982 Defense Department Directive 1332.14 discussed in the previous chapter claimed that the

²²*U.S. v. Napoleon Viches*, (17 MJ 851) 1984. Chickenhawk is slang both within the gay community, and without, for an older man who finds younger men--chicken--attractive.

²³*U.S. v. Miller*, (3 MJ 292) 1977.

presence of homosexuals adversely affected the Armed Forces ability to "foster mutual trust and confidence among the members."²⁴ Many examples exist of doubts concerning the veracity of service personnel once they have been labeled a homosexual. Even in the unfortunate cases where a person is a victim of rape or forced sodomy "evidence of victim's homosexual activity [is] relevant as to the issue of consent and the victim's credibility."²⁵ In *Rich v Secretary of the Army*, the court rejected Mr. Rich's explanation that as he was not gay when he entered the Army, and therefore had not lied on his enlistment questionnaire when answering "no" to the question which asked if he was a homosexual. This is true of many young men and women who enter the military, before their sexual identity is clear even to themselves. For example, James Holobaugh, who had been chosen by the Army R.O.T.C. to be a "poster boy," for recruitment advertisements, and was, no doubt, chosen partially for his obvious good looks, was asked in 1990 to repay his R.O.T.C. scholarship after admitting he had

²⁴Department of Defense Directive 1332.14. All seven reasons that the military listed for why they believe "homosexuality is incompatible with military service" are contained in this directive. See p. 176.

²⁵*U.S. v. Miller*, (3 MJ 292) 1977. In this case the victim is constructed as both liar and as promiscuous. The Court seems to suggest that consent is not an issue. Once one is a homosexual he/she loses the right to say no to unwanted sexual advances.

discovered he was gay. The Army does not usually seek to recover scholarship money from cadets discharged for homosexuality unless there is evidence of deceit.²⁶ Holobaugh's alleged deceit involved his claim that when he entered college in 1984 he was dating women and had no idea he was gay. When lawyers for Holobaugh insisted that he would be willing to fulfill his contractual obligation and serve in the Army, the Army dropped the lawsuit against him. In November of 1992, the Navy R.O.T.C. attempted to institute a new form which would require repayment of scholarship when it was discovered that a mid-shipman was gay.²⁷ In the military, a homosexual cannot be believed about his past, or trusted in the future, and any acts, no matter how distant, remain evidence of one's present homosexuality.

In *U.S. v. Kindler*, Airman Kindler was discharged although he vehemently denied the charges of homosexuality made against him, and claimed he was as "normal as anyone." In upholding the Air Force's discharge for homosexuality, the court relied on "acts of sodomy committed between accused and his twin brother at the ages of twelve, thirteen and fourteen," to

²⁶Tamar Lewin, "Gay Cadet is Asked to Repay R.O.T.C. Scholarship," *The New York Times*, March 4, 1990, p. A7.

²⁷Eric Schmitt, "R.O.T.C. Uses Oath on Homosexuality," *The New York Times*, November 19, 1992, p. A10.

establish that he was, and had always been, a homosexual, and thereby was subject to discharge.²⁸ Fannie Mae Clackum ultimately fared better in the outcome of her 1960 case against the United States, but the circumstances as recorded in the court's decision again reveal that despite her denial, and with absolutely no evidence, the Air Force discharged her, dismissing the possibility that she could be telling the truth.²⁹

Suspicion of homosexual activity by a member of the military becomes an automatic reason to question the veracity of the person accused. Homosexuality is seen as such a blemish, such a weakness of character, that the former trusted associate must be reevaluated in light of this newly uncovered character flaw. In this evaluation, "it may often take corroboration--or strong evidence of good character--to overcome the repelling nature of the testimony," for the "heinous" and "revolting" crime.³⁰

²⁸*U.S. v. Kindler*, (14 USCMA 394) 1964. In both this case and the 1990 example of James Holobaugh, the armed services will not accept the word of the accused, as if homosexuality affects their veracity. The armed services will not entertain the possibility that sexual identity could solidify later in some people than in others.

²⁹*Clackum v. U.S.*, (296 F.2d. 226) 1966.

³⁰*U.S. v. Phillips*, (3 USCMA 137) 1953.

Indeed, it is more than just one's truthfulness that is in questions when accusations of homosexuality are made. In *U.S. v. Marcey*, the Court writes, "certainly a person who practices homosexuality is likely to assault for the purpose of satisfying his perverted sexual cravings."³¹ In fact, the court believes that all homosexuals are potentially guilty of assault, writing:

the accused asserts that his motivations were toward consensual homosexuality which would have no probative value with regard to offenses involving violent acts. That is a specious argument when consideration is given to the homosexual who misjudges his prospective partner. If it turns out that his perverted advances are unwanted and the hoped for consent is lacking, the prospect has been victimized by an assault with sodomitical intent."³²

Following this logic, a man who asks out a woman who does not desire to go out with him is guilty of assault with intent to rape.

Untrustworthy and likely to assault, one court also claimed that homosexuals, "like birds of a feather, flock together," and allowed the admission of testimony which indicated one man must be a homosexual because he had been spotted with other men who, as a part of the same investigation, had been court-martialed for homosexuality. While saying they did not "accept the

³¹*U.S. v. Marcey*, (9 USCMA 137) 1958.

³²*U.S. v. Marcey*, (9 USCMA 137) 1958.

principle of 'guilt by association'" they found that "there is much in human experience consistent with the probability that homosexuals are characterized by a stronger tendency to congregate than is possessed by other criminals. Conceivably some special rationale exists in the area of the prohibition against evidence of suspicious associations."³³ Even being seen with a gay or lesbian was enough to bring suspicion on oneself.

Not only behavioral characteristics would be added to the list of corroborating characteristics that could lead to the identification of homosexuals, but physical, psychological and biological difference as well. It is no surprise, given the medical community's overwhelming role in the invention, definition and regulation of "homosexuality" in the late nineteenth and early twentieth century, that they would also play a role in the military's attempts to describe/inscribe the homosexual. After all, it was in the intersection between the medical bureaucracy--the link between "truth" and power, "expert" and administrator--that the

³³*U.S. v. Adkins* (5 USCMA 492) 1955. Navy Fireman Adkins won a right to a new hearing, but not for any of the reasons or issues cited here. His rehearing was on the basis of testimony by a Naval investigator concerning the likelihood that Adkin's childhood sleeping arrangements (three or four children in a single bed) made homosexuals.

homosexual first became a public concern, and therefore a state concern.

It was argued that homosexuality, constructed either as illness or moral vice, would undermine "combat readiness" as well as the effectiveness of the U.S. fighting force. Armed with the medical community's expert assessments of homosexuality's debilitating and degenerative effects, those interested in the maintenance of an effective military force would recognize the "danger" of having "gays in the military," and the utility of a scientifically sound means of detecting them for separation.

*The Medical Construction of the Homosexual:
The Search for Signs of Degeneration*

During the first world war, a test was developed whose inventor believed could detect homosexuals in pre-induction screening, disqualifying them before they entered the Armed Forces. This test was based upon levels of electronic measurement of the naturally occurring radioactivity emanating from men's testicles. Dr. Albert Abrams, the device's inventor, recorded the levels of "normal" men's testicular radiation and the levels of radiation emanating from women's ovaries. Scaling these readings, Abrams claimed he could detect homosexuals by their "ovarian reactions" on his scale.

The importance of this device was underscored by Abrams in an article entitled, "Homosexuality--A Military Menace," in which he cautioned that "in recruiting the elements that make up our invincible army, we cannot ignore what is obvious and which will militate against the combative prowess of our forces in this war From a military viewpoint, the homosexualist is not only dangerous, but ineffective as a fighter." With the discovery of homosexuals as the devices intended goal, Abram's experiment conducted on six "known homosexualists," "yielded from anatomically perfect testes an ovarian reaction in four instances, and in two other subjects an ovario-testicular reaction (ovarian predominating by measurement)." Abrams proclaimed these results to be "of stupendous importance."³⁴

While there is no record that Dr. Abrams' device was ever used in the recruitment process, its existence, and Abrams' intended application for it, illuminate a number of interesting points. First, it illustrates the expansion of the medical model of homosexuality into the arena of public policy, the expansion of the role of scientific/medical expert in the formulation of national

³⁴Dr. Albert Abrams, "Homosexuality--A Military Menace," *Medical Review of Reviews*, Vol. 24, pp. 528-529, San Francisco, 1918. I am indebted to Jonathan Katz's *Gay/Lesbian Almanac* for first bringing this to my attention.

public policy. As Abrams imagined it, his device was useful to the military because homosexuality constituted a threat to the security of the United States; a threat that only the medical profession was knowledgeable enough to combat. Second, its existence is testimony to the cultural persistence of the justifications employed by the Pentagon to exclude homosexuals. Indeed, almost 40 years later, the court lamented the absence of a medical test to detect homosexuality saying "it seems fairly clear that science has found no ready agent for the isolation of the sex pervert . . . were the converse true, the Armed Forces presumably would avoid the homosexual offender through pre-induction screening."³⁵

By 1921, partly in response to the navy's Newport Rhode Island scandal, the Army issued expanded screening standards that remained in effect until the eve of World War II.³⁶ These inter-war standards reflected the epistemology of the nineteenth century medical model of homosexuality which argued that homosexuals were the product of physiological degeneration. Characteristics which deviated from white, heterosexual, male norms were considered a product of a constitutional disorder. Feminine characteristics were among the tale-tell signs

³⁵*U.S. v. Adkins*, (5 USCMA 492) 1955.

³⁶Army regulation No. 40-105, 1921.

of "degeneration" that made a man unfit for military service. The standards cautioned that men with a

degenerative physique may present the general body conformation of the opposite sex, with sloping shoulders, broad hips, excessive pectoral and pubic adipose tissue, and lack of hirsute and muscular markings.

In addition to these anatomical signs of degeneration, the inter-war standards listed "sexual perversion" as a category that included "oral and anal sex between men" as one of many "behavioral" cues of homosexual degeneration, re-packaging religious and moral condemnations against sodomy and sodomite in a medical model. The army standards also listed "sexual psychopathy" as one of many "constitutional" psychopathic states, reflecting early inroads made by the psychiatric model of homosexuality which would become the accepted authority on homosexuality in America as the twentieth century progressed.

By the second world war, new standards for admission to the Army were issued that instructed doctors about how they should go about detecting homosexuals. These guidelines state that:

Persons habitually or occasionally engaged in homosexual or other perverse sexual practices are unsuitable for military service and will be excluded. Feminine bodily characteristics, effeminacy in dress or manner, or a patulous [expanded] rectum are not consistently found in

such persons, but when present should lead to careful psychiatric examination.³⁷

While acknowledging that not every homosexual has these physical manifestations, these guidelines still includes them in the standards for admission, as if, when present, they do constitute an indication of homosexuality making further examination necessary.

Implicit in the 1921 and 1942 military standards of admission, and quite a bit more explicit in Dr. Abrams test for testicular radioactivity, is the understanding of homosexuality as a biological failing which produces "dangerous," "ineffective fighters" who are "unsuitable for military service."

But, these comparisons document more than a society's distaste of homosexuals, also signaling a culture's undervaluation of women, as gay men are excluded because of "abnormal" effeminacy in manner or dress or because his levels of testicular radioactivity are "unnatural," falling as they do on the end of the scale representing "normal" ovarian radioactivity. The conclusion is clear to a culture having difficulty with the issue of women in combat: the presence of homosexuals, like the presence of women, would "militate

³⁷These guidelines were established in 1942. See William C. Menninger, *Psychiatry in a Troubled War: Yesterday's War and Today's Challenge*, (New York: Macmillan, 1948), p. 228.

against the combative prowess" of the virile armed forces, rendering it soft, ineffective, effeminate. This conflation of homosexuals with socially constructed gender characteristics of the opposite gender, is evident still today. One of sailor Keith Meinhold's Navy co-workers, Tom Paulson, told *The New York Times*, that he had guessed Meinhold was gay long before Meinhold had announced it on ABC's World News Tonight. What tipped Paulson to Meinhold's sexuality? Meinhold's "multi-colored in-box."³⁸ In the military, and perhaps in culture, a man who is too "colorful" and who interest in his appearance or the appearance of his work environment opens himself to speculations about his "manhood."

A 1942 study of screening procedures at the Boston Induction Station recommended that even a man who was not a homosexual should be disqualified for service if he "is so effeminate in appearance and mannerisms that he is inevitably destined to be the butt of all jokes in the company."³⁹ Alan Berube, in *Coming Out Under Fire*, also describes a form that the draft boards sent to an

³⁸Jane Gross, "Gay Sailor's Colleagues Unsettled and Unheard," *The New York Times*, April 5, 1993, p. A5.

³⁹Gustaff D. Tillman, "Detecting Schizoid and Pre-Schizophrenic Personalities," *Bulletin of the Menninger Clinic*, vol. 5, no. 5, September 1941, pp. 167-70, in Alan Berube, *Coming Out Under Fire*, (New York: The Free Press, 1990), p. 20.

Army recruit's high school, asking teachers to comment on their former student's level of effeminacy.⁴⁰

Lesbians too, are thought to be identifiable by their abnormal masculinity. Vice Admiral Joseph S. Donnel's 1992 memo, discussed in the last chapter, claimed that lesbians were particularly difficult to root out because they are "more aggressive than their male counterparts" and "intimidating" to those who might turn them in to authorities.⁴¹ An interesting argument, in his desire to rid the Navy of lesbians, Donnel seemed to be claiming that their "aggression" and "intimidation" makes lesbians unsuitable for military service. The same behavior by men, would no doubt be rewarded.

But as the 1942 pre-induction guidelines discussed above, makes clear, physical signs were no longer a reliable indicator of homosexuality. Increased psychiatric screening would be necessary to ensure that homosexuals did not "slip into" the military.

The Psychiatric Model of Homosexuality

During the national mobilization of troops in preparation for the United State's entrance into the

⁴⁰Berube, p. 20.

⁴¹Jane Gross, "Navy Urged to root Out Lesbians," *The New York Times*, November 2, 1990, p. A11.

second world war, the selective service system and the Army and Navy began to concern themselves in earnest with the sexual orientation of potential soldiers when screening men for military service.

In 1940 alone, over sixteen million men between the ages of 21 and 35 registered for the draft.⁴² With this great increase in potential personnel, the could be more "selective" in its criteria for who would serve and who would be excluded.

Psychiatrists seized the opportunities of a massive mobilization of American society to expand their influence, by lobbying the military that their "science" could help military officials discover undesirables through psychological and psychiatric screening procedures. In the United States, psychiatry, had yet to achieve the level of respectability that it had attained in Europe and was treated as the step-child of the medical professions. Very shrewdly, psychiatrists sought to change that fact, and the military would be the vehicle for that change. By becoming part of the military bureaucracy, they could expand their influence and acceptability throughout American society.⁴³ A

⁴²Berube, p. 10.

⁴³There is little doubt that Psychiatrists believed the military was their ticket to legitimation, nor that they actively lobbied the military with a greater legitimacy in society as the eventual goal of interaction with the military. In a quite frank and amazingly unself-

role in the screening process of potential soldiers offered psychiatrists the opportunity to introduce tens of thousands of physicians and drafts board members to the value and basic principles of psychiatry.

Psychiatrists used economic arguments to convince the War Department and Selective Service officials of the importance of psychiatric screening for potential soldiers. Their argument was persuasive. Over a billion dollars had been spent caring for the psychiatric casualties of World War I. By the beginning of World War II, more than 50% of the beds at the Veterans administration Hospitals were occupied by these psychiatric casualties.⁴⁴ Psychiatric screening, it was argued, could reduce these costs by identifying those who were at potential risk for mental illness before they entered the military. Neither the military nor the psychiatrists seeking to gain acceptance within the military hierarchy argued that the conditions of war itself might be the root cause of what we would today call post-traumatic stress syndrome.

reflective manner, William Menninger, the father of American psychiatry explains this in his work. See, William Menninger, *Psychiatry in a Troubled War: Yesterday's Challenge and Today's Challenge*, (New York: Macmillan, 1948).

⁴⁴Harry Stack Sullivan, "Psychiatry and the National Defense," *Psychiatry* 4 (may 1941): 201-17; cited in Alan Berube', *Coming Out Under Fire: The History of Gay Men and Women in World War II* (New York: Free Press, 1990) p. 10.

The brain-disease model of insanity was the dominant psychiatric theory in the United States in the first two decades of the twentieth century. The brain disease model classified various mental and moral and emotional abnormalities including homosexuality, as symptoms of brain lesions and neurological disorders caused by heredity, trauma, even masturbation. But the growing interests in psychiatry and Freud's theories of sexuality described homosexuality more as a psychosexual than a constitutional condition. This new approach took into account a patient's unique life situation, integrating biological and personality factors, and led psychiatrists to try and diagnose severe disorders in their early stages in an effort to prevent mental disease.

Two American psychiatrists, indispensable to the increased influence of psychiatry, and its merger with the bureaucratic power of the military were believers in this new psychoanalytic approach. Harry Stack Sullivan and Winfred Overholser were central to the development of an expanded psychiatric screening process, ultimately succeeding in their goal of bringing greater prestige and legitimacy to the profession of psychiatry. Ironically, both men were quite unrepresentative of the psychiatric profession's attitude toward homosexuals. Both believed that homosexuality was not an aberration

nor a symptom or result of degeneracy. In fact, Dr. Sullivan was himself, a homosexual and Overholser had argued from his position on the National Research Council against the military's policy of imprisoning homosexuals.⁴⁵

As happened with the sexologists of the century before, Stack and Overholser could not control the use toward which their work would be put. Although Sullivan's initial plan for psychiatric screening contained no mention of homosexuality, that changed as it passed through the Washington military bureaucracy.⁴⁶

By 1941 the Army Surgeon General's Office had created its own screening circular which did in fact make homosexuality a disqualification for military service. The Selective Service revised Sullivan's draft of the screening guidelines in order to bring it into line with that of the Army. Both sets of guidelines included "homosexual proclivities" as a "disqualifying deviation." As a result, homosexuality became a disqualification at both levels of the pre-inductive screening process for servicemen entering the Army. The

⁴⁵Beruse, p. 20.

⁴⁶"The William Alanson White Psychiatric Foundation Bulletin: A Minimum Psychiatric Inspection of Registrants," October 27, 1940, Published in *Psychiatry* 3 (November, 1940); 625-27.

Navy, too, was developing its own policies for the exclusion of the mentally unfit.⁴⁷.

The psychiatric screening process would become the basis of the introduction of a greater scrutinization of sexual behavior, especially homosexuality, and the "psychiatric diagnosis" the justification for excluding potential recruits who might be gay, as well as the eventual investigation of those who, already in the service, were believed to be gay. By mid 1941, several months before the United States entered the war, the administrative apparatus for screening out homosexuals was already in place at the Selective Service System, the Army and the Navy with the full support of Director of Selective Service, and the surgeons general for the Army and the Navy and their respective psychiatric consultants.

The great breakthrough that Dr. Abram's 1916 homosexuality detector, invented decades before psychiatry was to expand its influence within the military, was to be in the time saved in the detection of homosexuals. Because Dr. Abrams believed (though the

⁴⁷Patrick S. Madigan, "Military Psychiatry," *Psychiatry* 4 (May, 1941); 228-29. In January of 1941 the Navy issued its own directive which created regulations for the separation and exclusion of the "neuropsychiatrically unfit." It declared unfit those men "whose sexual behavior is such that it would endanger or disturb the morale of the military unit." Forrest Harrison, "Psychiatry in the Navy, *War Medicine* 3, (February 1943): 122.

authors of the 1944 Army admission apparently did not), that homosexuals exhibit "no secondary sex characteristics," it could take "months of painstaking psychoanalysis before the inversion was discovered."⁴⁸ Even in the 1940's when psychiatric exams were a part of the pre-induction screening process, psychiatric screening of individual recruits were brief, partially because psychiatrists in the 1940's were developing short-cuts in the "identification" of homosexuals.

By 1943 a group of doctors had developed another test for detecting homosexual. Called the Cornell Selectee Index, it would identify homosexuals by their reported interest in certain "occupational choices." Men who checked off interest in occupations such as "interior decorator," "dancer" or "window dresser" were excluded as they were believed to have problems with "acceptance of the male pattern."⁴⁹

Once a member of the military, those suspected of homosexuality were sent to psychiatrists for a more thorough examination. None of the military discharges contested in the courts report "months of painstaking psychoanalysis," but almost all report that once

⁴⁸Abrams, p. 382.

⁴⁹Arthur Weider et al., "The Cornell Selectee Index: A Method for Quick testing of Selectees for the Armed Forces," *Journal of the American Medical Association*, 124, January 22, 1944: 224-228. Berube, also discusses this form. See *Coming Out Under Fire*, p. 20.

homosexual acts or tendencies were suspected or discovered, the person involved was immediately sent for psychiatric evaluation. Depending upon the result of this evaluation, the soldier's future as a member of the military might be over, for courts have illustrated their unwillingness to keep homosexuals in the service any longer than is necessary. One court claimed they were not willing to "hobble the Army by forcing it to retain even one soldier, for an indefinite period of time, where there are serious questions concerning his emotional health." In this case, these serious questions arose from nothing more than "a letter received by Headquarters, Department of the Army, Washington D.C., which alleged the plaintiff had homosexual inclinations."⁵⁰

Other psychiatric evaluations reveal more about the extent to which homosexuality has been perceived by the military as a mental or personality disorder. Phrases such as "habitual . . . uncontrollable homosexual tendencies in the true psychodynamic sense,"⁵¹ "sexual deviate manifested by homosexuality latent,"⁵²

⁵⁰*Crawford v. Davis*, (249 F. Supp. 943) 1966.

⁵¹*Murray v. The U.S.* (154 Ct. Cl. 185) 1961.

⁵²*Clackum v. United States*, (296 F.2d. 226) 1960. This case also reveals that this psychiatric evaluation, the only "evidence" ever considered after an anonymous tip regarding her homosexuality was sent to investigators, lasted all of 20 minutes.

"indication of homosexual orientation in the appellant;s psychodynamic formulation,"⁵³ and personality disorder . . . (homosexuality) of such severity that he cannot be expected to function adequately in the military"⁵⁴ literally abound in the public record of the military's trials of service men and women for homosexuality.

Though this construction of homosexuality as a psychological disorder might perhaps be explained by the position of the American Psychiatric community for most of this century, this position was abandoned in the early 1970's and the military's use of this as a reason for the separation of gays and lesbians persists. In 1981, in *Rich v. Secretary of the Army*, the court writes "the Army regulations do indicate that homosexuality can be considered as an indication of a personality disorder."⁵⁵

The Power of Lust

One of the most frequent forms that psychological justifications for excluding gays and lesbians from the military takes is in the argument that homosexuals lack the ability to control their sexual desire. Putting

⁵³*Nelson v. Miller*, (373 F.2d. 474) 1967.

⁵⁴*Falk v. Secretary of the Army*, (870 F.2d. 941) 1989.

⁵⁵*Rich v. Secretary of the Army*, (516 F. Supp 621) 1981.

them in the gender segregated barracks, sleeping berths and showers which afford minimal privacy is tantamount to letting the fox in the chicken coop. This is evident in the depiction of gay men as corrupt old perverts who go into the military with the intention of assaulting young boys,⁵⁶ in the court's claims that describing gay men as "chickenhawks," is not unfair,⁵⁷ and in the courts attitude that homosexuals are likely to engage in assault in order to satisfy their sexual cravings.⁵⁸

In the current debate over lifting the military's ban against gays and lesbians it has never been far from the center of discussion. It is present in Vice Admiral Donnel's warning that the presence of lesbians creates a "predator-type environment," in which "more senior and aggressive female sailors" exert "subtle coercion" or "outright sexual advances" on their "young, often vulnerable" female colleagues."⁵⁹ It reverberates in the public objections of enlisted personnel whose fear of the homosexual's lack of sexual self-control makes

⁵⁶See discussion of 1921 Navy scandal on pages 227-230.

⁵⁷See *U.S. v. Napoleon Viches* (17 Mj 851) 1984 on p. 30.

⁵⁸*U.S. v. Marcey*, (9 USCMA 137) 1958. See the discussion of this case on pp. 234.

⁵⁹Jane Gross, "Navy is Urged to Root Out Lesbians Despite Abilities," *The New York Times*, November 2, 1990. p. A11.

showering with them, sleeping near them or even touching them unthinkable.⁶⁰

And it can be seen in the agreement made by retired Army Colonel David Hackworth who claimed that "During my Army career I saw countless officers and N.C.O.'s who couldn't stop themselves from hitting on soldiers."⁶¹

Writing in 1975 the court in *Augenblick v. U.S.*, with only a bit more subtlety, reached the same conclusion:

I suppose that in civilian society the sovereign people formerly considered they had a right to prohibit and punish by law, behavior they considered infamous, without being required to show the offense had a victim . . . The old attitude, however, is eroding and we are now told we have no right to punish a victimless crime. Exemptions of

⁶⁰One radar instructor who elected not to fly with Keith Meinhold, said the Meinhold's presence in the cockpit would distract him from his responsibilities. "I'd rather have my whole thinking on the safety of the flight and not on what he just said and why did he say it," said the instructor.

One of Meinhold's supervisors said that some of those who opted out of flying with Meinhold were unwilling to risk the inevitable incidental contact in a small aircraft or flight simulator. "They didn't want to touch him, like he had cooties," the supervisor said.

See Jane Gross, "Gay Sailor's Colleagues Unsettled and Unheard," *The New York Times*, April 5, 1993, p. A18.

Jason Alexander, a 20 year old airman said "We're all crammed together in the showers, and I don want to worry that some gay guy is staring at me."

Another Airman told the same *The new York Times* reporter "Now how am I going if I walk in to a dormitory and see pictures on the wall from Playgirl magazine?"

Still another commented that "I couldn't sleep at night. I'd be worried that some homosexual is going to sneak over and make a pass at me." See Dirk Johnson, "Air Force: Are Homosexuals the New Enemy?" *The New York Times*, January 28, 1993, p. A16.

⁶¹Senator Dan Coats, "Clinton's Big Mistake," *The New York Times*, January 30, 1993, p. A21. Emphasis mine.

"consenting adults" from laws against sodomy, etc. are now frequently urged and sometimes enacted. I suppose such a person who urged such an exemption might still, if heterosexual, think twice about making a long journey with a homosexual.

Civilians can chose their companions but when you join the military you embark upon an extended voyage with persons not of your choice . . . If persons you regard as undesirable are in the crew, their companionship is foisted upon you.⁶²

Even the supporters of gays and lesbians would get drawn into this debate. Testifying before the Senate Armed Services Committee, Lawrence Korb, the former Assistant Secretary of State made the following observation:

There's a body of evidence that shows that not every gay man is attracted to every other man, or the same for women. That's really what we're talking about here. That somehow or another there's a feeling that just because you are a homosexual, you're attracted to everyone who happens to be your same sex.⁶³

That Korb, who believes that gays and lesbians should be allowed to serve in the military, thought it would be useful to instruct members of the Senate and the general public that homosexuals can indeed control their sexual desire is testimony to how persuasive the counter argument remains today. This lack of control, this psychological defect which makes gays and lesbians

⁶²*Augenblick v. United States*, (509 F.2d. 1157) 1975.

⁶³Eric Schmitt, "Calm Analysis Dominates Panel Hearing on Gay Ban," *The New York Times*, April 1, 1993, p. A1.

unable to control their sexual desire makes their enlistment a threat to the morale, good order, and discipline that is demanded by the military.

In reality of course, there is no evidence that any of the characteristics, immoralities, constitutional defects or psychological deficiencies are any more frequently present among gays and lesbians than among heterosexual men and women. But often these exclusions are justified by the greater hardships military life imposes on members of the military. The military then claims it is rational that they demand of its members conduct and behavior which would not be tolerated in society.

The Military as the 'Exceptional' Community

Attorneys for the various branches of the armed services have spent much time convincing courts that the military community is a specialized community and as a result, can place restrictions on freedoms and liberties unheard of in civilian life. Most courts accept this argument even elaborating on the many demands faced by the unique military community.⁶⁴ Even when challenging the military's discriminatory practices, the courts have

⁶⁴*Beller v. Middendorf*, (632 F.2d. 788) 1980.

acknowledged that the "military decisions by the Army are not lightly to be overruled by the Judiciary."⁶⁵

In *U.S. v. Scoby*, the court stated that the "military community is different from the civilian community" and "within the community there is simply not the same autonomy [on the part of the service person] as there is in the larger civilian life."⁶⁶ In *U.S. v. Brown*, Brown's act of consensual sodomy "demonstrates a substantial threat to the military community and creates a distinct military interest without parallel in the civilian community."⁶⁷

This "distinct military interest" goes well beyond the way in which a soldier performs his/her duty. A soldier who "engages in conduct that disrupts good order or discipline, or reduces the morale of the other soldiers has failed in one or more of his or her important tasks as a member of the armed forces."⁶⁸ This comes close to justifying any kind of discrimination as the ignorance and hatred upon which prejudice is based is constructed as disruptive to the troop morale, and therefore, justification for

⁶⁵"Court Reinstates Lesbian's Lawsuits Against Army," *The New York Times*, August 20, 1991, p. A22.

⁶⁶*U.S. v. Scoby*, (5 MJ 160) 1978.

⁶⁷*U.S. v. Brown*, (5 MJ 501) 1979.

⁶⁸*Gay Veterans v. Secretary of Defense*, (668 F. Supp. 11) 1987.

separating the "offender" from the military service.

In the 1993 Senate Armed Forces Committee Hearings on Homosexuals in the military, Virginia Senator John Warner echoed this justification arguing that allowing homosexuals in the military would constitute such an egregious imposition on other soldiers, and so radically change the conditions of the military environment, and that if "let in," enlisted personnel should all be given the opportunity to quit without penalty.⁶⁹ Sam Nunn, chaired these hearings despite his own documented prejudice against gays and lesbians,⁷⁰ echoed this belief that the military was an exceptional community. In a tense exchange with Senator John Kerry, in which he equated military regulations which prohibited adultery with its ban against gays and lesbians, Nunn said, "perhaps the military has a slightly higher standard [than society], maybe we ought to welcome that. I am not sure we should go for the lowest common denominator

⁶⁹United States Senate, Armed Services Committee Hearings on Homosexuals in the Military, March 15, 1993.

⁷⁰Senator Sam Nunn had twice fired members of his Senate staff when he discovered they were gay. See Michael Wines, "This Time Nunn Tests A Democrat," *The New York Times*, January 30, 1993, p. A1. Some have also charged that the hearings themselves have not been objective. One Navy admiral questioning the fairness of the proceedings said, "Nunn's already made up his mind." Nunn himself said "we've had as fair a hearing as I know how to put forth." Nunn, undercutting his own claim, added, "Is everyone in this town supposed to be partial but me?" See Jill Smolowe, "Hearts and Minefields," *Time*, May 24, 1993, pp. 41-42.

approach."⁷¹ Gays and lesbians represent this "lowest common denominator" and by their presence in this "exceptional community," violate standards of behavior and codes of conduct which the military demands of its members.

*Behavior or Identity:
Constructionism, Essentialism and the
Military's 'Identification' of Homosexuals*

One of the most interesting manifestation revealed in the representations of gays and lesbians in public policy texts and debates only the military has been how little agreement that exists over what homosexuals and homosexuality are. In public policy, the official consciousness of the United States, those claiming homosexuality is innate--a product of genetics, biology, or some other deep and immutable property-- have been pitted against those who emphasize that gays and lesbians are nothing more than their activities and desires. At this level, the voices in this debate parallel the positions outlined in chapter one between essentialist and non-essentialist understandings of sexuality.

Arguments on both side of this issue have also deployed essentialist views of sexuality. Retired

⁷¹United States Senate, Armed Services Committee Hearings on homosexuals in the Military, March 15, 1993. Transcribed from video tape.

Colonel David Hackworth described homosexuality as a "biological impulse." Because the sexual impulse itself "is the strongest thing going among 20 year olds," Hackworth would conclude that gays and lesbians should be excluded from the military.⁷² Massachusetts Senator Edward Kennedy, explaining why he believed the military's ban against homosexuals should be overturned, said that, "Its time for the armed forces to stop discriminating against anyone because of who they are . . ." ⁷³

Although many accept that homosexual is now a noun, that is signifies a person, within the military texts and policy debate an interesting evolution can be witnessed. As sexual acts of sodomy and the 'medical' condition homosexuality were transformed into the noun homosexual, it did not rescue the homosexual from state rescue and public abomination as those who led this transformation had hoped. Rather, the noun--homosexual--came to describe one who *chose* to engage in those sexual acts which our culture has anathematized.

For example, in the statements of General Colin Powell discussed in the previous chapter he responded to

⁷²Craig Stoltz, "Gays in the Military," *USA Weekend*, August 7-9, 1992, pp 4-5.

⁷³Eric Schmitt, "Calm Analysis Dominates Panel Hearing on Gay Ban," *The New York Times*, April 1, 1993, p. A1.

claims that the treatment of gays and lesbians by the military was similar to the armed forced discrimination against african-americans only decades earlier. In dismissing the analogy, he claimed that skin color was "a benign, non-behavioral characteristic, while sexual orientation is perhaps the most profound of human behavioral characteristics."⁷⁴ *Orientation*, for Powell, is a short cut way of excluding those who might engage in behavior of which we do not approve. *Orientation becomes behavior.*

The court in *Rich v. Secretary of the Army* reaches a similar conclusion, when it disagreed with the claim that homosexuality was a "fundamental matter at the core of one's personality, self image, and sexual identity." Instead, the court decided that there was no difference between acts of sodomy and a person's homosexual orientation as a statement that a person is homosexual or gay . . . refers not to physical characteristics, but . . . to conduct."⁷⁵ Senator Sam Nunn Chairman of the Senate Armed Forces would echo this opinion again and again during hearings when he would ask witnesses "If

⁷⁴Craig Stoltz, "Gays in the Military," *USA Weekend*, August 7-9, 1992, pp 4-5.

⁷⁵*Rich v. Secretary of the Army*, (516 F. Supp. 621) 1981.

you declare your homosexuality, is that not a statement of behavior?"⁷⁶

Senator Strom Thurmond during the Senate Armed Services Committee's tour of the Norfolk Virginia Naval Base, lectured Navy bombardier Lieutenant Tracy Thorne about his homosexuality.⁷⁷ Thorne was stunned when Thurmond playing to the military audience at the base--most of whom opposed allowing gays and lesbians in the military--said "Your lifestyle is immoral, it is not normal. It's not normal for a man to want to be with a man or a woman with a woman." Thurmond then asked if Thorne had ever sought help from "medical or psychiatric aids."⁷⁸ Thurmond, deploying all three of the

⁷⁶Ana Puga, "Military Code on Sex Activity May Figure in Gay Ban Debate," *The Boston Globe*, May 20, 1993, p. A17.

⁷⁷Thorne has been removed from active duty pending the resolution of the present debate. He is one of over 300 openly gay and lesbian members of the service whose hangs in the balance of this debate. Thorne called Sam Nunn's orchestration of events at the Norfolk Navy base, "Nunn's dog-and-pony show." adding "he's got the witness list totally skewed against those who want to lift the ban." In fact, 15 of the 17 witnesses heard during the visit did oppose lifting the ban, although several straight officers and enlisted men were willing to testify, but were screened out by base officials working with Nunn's staff, according to Thorne. The Campaign for Military Service, a coalition of groups opposed to lifting the ban, also collected affidavits from over 100 gays and lesbians at Norfolk who were willing to testify, provided that they would not be discharged once the hearings were over. Nunn's staff turned them down. See Jill Smolowe, "Hearts and Minefields," *Time*, May 24, 1993, p. 42.

⁷⁸Ibid.

epistemological tenets of homosexuality at once, used each in tandem with the others to legitimize his opinion that gays and lesbians should not be allowed to serve.

Described as vice, constitutional degeneration and mental imbalance, descriptions of homosexual acts and behaviors have been *inscribed* onto the bodies and souls, the very personhood of the homosexual, transforming acts and behaviors into identities and orientation. But rather than liberating the homosexual from these anathematized behaviors, in the final torturous turn of this epistemological screw, orientation *reduces persons to the anathematized* sexual acts, and produces a litany of devices that can help "detect" those who might have this problematized orientation. From Dr. Abrams testicular radioactivity measurements, to the search for "patulous rectums" and "effeminacy in manners and dress in the military's directions for pre-inductive screening exams"; from "inappropriate" interest in occupations listed in the Cornell Selectee Index such as "dancer" and "interior decorator" to "multi-color in-boxes," homosexuals have become *detectable*, making more rigorous scrutiny and greater conformity to gender stereotypes the rule of the day.⁷⁹

⁷⁹Even one's choice of reading material can be regarded as symptom and threat by signalling your sexual orientation to others. During the Senate Armed Service Committee hearings, Senator Levin asked General Norman Schwarzkopf if reading a magazine that catered to

The next chapter will explore this interchangeability of essentialist and constructionist explanations of homosexuality in other policy texts in the United States, and, more importantly, will explore the trend within gay and lesbian communities toward essentialist understandings of their sexuality.

homosexual constituted homosexual activity, the General replied, "No." But then he added that if a soldier was reading the magazine "in the barracks on a continuous basis to the point where caused all around you to be concerned about your sexual orientation and it started to cause polarization within your outfit," then the offending service member should be removed. See Eric Schmitt, "Compromise on Military Gay Ban Gaining Support Among Senators," *The New York Times*, May 12, 1993, p. A1.

CHAPTER 5

BECOMING IDENTITY: PUBLIC POLICY, GAY IDENTIFICATION AND THE 'QUEER' RESPONSE

As noted in the preceding chapters, the aim of the 1982 Department of Defense directive was to create a category of exclusion based upon homosexual *identity*, not merely homosexual *acts*. This increased stigmatization, this tighter regulatory inspection of intimate affairs was accompanied by a relaxation of the supervision of heterosexual conduct by the military.

Even prior to 1982 very few heterosexuals were ever discharged from the military for violation of the military's sodomy law. Those heterosexuals who are discharged for sodomy are usually separated for homosexual violations of Article 125, even when these service men and women are the victims of homosexual assault.¹ Under the 1982 Pentagon directive it became possible to retain heterosexuals who have engaged in homosexual sodomy as long as it is not a fundamental expression of their identity.

¹For examples of service members being discharged after they were victims of sexual assault, see *Nelson v Miller* 373 F.2d. 474 (1967) and *Martinez v. Brown* 449 F. Supp. 207 (1978). In 1993, the Air Force did discharge two heterosexual officers for sodomy, but only after a homosexual soldier discharged earlier gave their names as two service members with whom he had had sex. This was the only evidence of these heterosexual members violation of the military's sodomy law, yet they were still discharged. See Eric Schmitt, "Military's Zeal Decried in Sodomy Cases," *The New York Times*, Monday, June 21, 1993 p. A15.

Section C of the Department of Defense Directive 1332.14 states that:

- C. The basis for separation may include pre-service, prior to service or current service conduct or statements. A member shall be separated under this section if one or more of the following approved findings is made:
- (1) The member has engaged in, attempted to engage in, or solicited another to engage in a homosexual act or acts unless there are approved further findings that:
 - (a) Such conduct is a departure from the member's usual and customary behavior;
 - (b) Such conduct under all the circumstances is unlikely to recur;
 - (c) Such conduct was not accompanied by use of force, coercion or intimidation by the member during a period of military service.
 - (d) Under the particular circumstances of the case, the member's continued presence in the Service is consistent with the interest of the service in proper discipline, good order and morale, and
 - (e) The member does not desire to engage in or intend to engage in homosexual acts.²

This section makes it clear that the new regulatory strategy of the Defense Department was directed toward sexual *identities* not sexual *acts*. Heterosexual service members could engage in homosexual sodomy and be retained for service as long as they have no future desire to do so.

²Department of Defense Directive 1332.145, January 16, 1981.

It is the persistence of homosexual desire which constitutes the real threat to military morale, discipline and good order, as all homosexuals are *potential sodomites--potential criminals violators of moral and civil strictures as well as of military law.* Apparently heterosexual sodomy contains no similar potential threat.

Seen in this light in 1981, the Department of Defense Directive 1332.14, which declared that "homosexuality is incompatible with military service," can be seen less as a radical departure than as a formal codification of existing practices. It makes explicit what has always been implicit in the gap between the strict reading of Article 125 (which makes no mention of homosexuals or homosexual identity) and the inter-service regulations issued by each branch of the armed services which do: All homosexuals are sodomites, and by definition guilty of a criminal violations of Article 125. In the military today, suspicion of homosexual *being* remains enough to begin an investigation into a service member's background, and *declarations of identity*, not sexual activities, grounds for removal from service. But the military is not the only arm of the federal government to deploy the concept of homosexual identity as a tool for greater regulatory

identification and discrimination against gays and lesbians.

In its much publicized decision *Bowers v. Hardwick*, the Supreme Court travels a similar path. In this case, the Court, in upholding the Georgia state sodomy law, went well beyond the question of the constitutionality of laws which criminalize *acts* of sodomy, to address the privacy rights of gay and lesbian *people*. Michael Hardwick, a gay man from Atlanta, found by a policeman in bed having sex with another man, was arrested and charged with violating the State's sodomy law. Although the state of Georgia subsequently dropped the charges, Hardwick challenged the law. The law in question, Ga Code Ann. § 16-6-2 provides in pertinent part: "A person commits the offense of sodomy when he performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another. . . ." Those found guilty of committing this offense could be imprisoned for "not less than one nor more than 20 years."³ This law, like the military sodomy law discussed above, clearly criminalizes a certain kind of sexual *activity*, not sexual *identity*.

But the Supreme Court was not interested in ruling on the constitutionality of laws which punish certain

³*Bowers v. Hardwick*, (106 S.Ct. 2841) 1986, footnote 1.

sexual acts between consenting adults in the privacy of their homes. The Court admits as much, saying "[t]his case does not require a judgement on whether laws against sodomy between consenting adults . . . are wise or desirable."⁴ To make this the focus, as attorney's for Hardwick pointed out, would raise issues about whether such a law violated a constitutional right to privacy, affecting gays and straights alike. The Supreme Court was much more interested in addressing whether constitutional rights, in general, applied to homosexual *people*.

The Court argues that because Hardwick is a "practicing homosexual," the only claim properly before them "is Hardwick's challenge to the Georgia Statute as applied to consensual homosexual sodomy. We [the Court] express no opinion as to the constitutionality of the Georgia statute as it applies to other acts of sodomy."⁵ Because homosexuals constitute a different form of life, a different *identity*, a ruling could be issued which applied only to them. The logic proceeds as follows: Michael Hardwick has challenged the Georgia sodomy law; Michael Hardwick is a "practicing homosexual"; Therefore, the only challenge to the

⁴*Bowers v. Hardwick*, (106 S. Ct. 2841) 1986. p. 2843.

⁵*Bowers v. Hardwick*, (106 S. Ct. 2841) 1986, footnote 2.

Georgia sodomy statute is one brought by a homosexual and therefore the ruling need apply only to homosexuals.⁶

But the sodomy law in contest in *Bowers v. Hardwick* makes no distinction between heterosexual and homosexual and indeed, could not, as the terms "homosexual" and "heterosexual" did not enter the english language until 1860's, some 50 years after the Georgia sodomy statute was passed by the state legislature. But by using homosexual *identity*, the Court can sidestep the tougher constitutional issue of whether or not the sodomy law *per se* infringes upon a constitutional right to privacy.

This distinction between homosexual and heterosexual abuses of the Georgia law is totally one of the Court's own creation. But this construction is all important as it leaves open the possibility that heterosexual sodomy is protected by a constitutional right to privacy. The intent of this distinction was not lost on the lower courts, one of which, in 1989,

⁶It is important to note that if similar logic were applied to other cases then the federal court's case load would rise exponentially, and the rule of law, which characterizes the American judicial system, would cease to be a defining principle as the descriptive identity of the person violating the law would become more relevant to judicial outcome than the law itself.

exempted married persons from the Georgia penal code criminalizing sodomy.⁷

Isolating all other acts of sodomy from homosexual sodomy, the Court is able to move well beyond the issue of sodomy and sexual acts altogether, addressing instead its real interest: whether or not homosexuals are to be granted the same rights and privileges which are granted to heterosexual citizens. Justice Byron White, author of the decision, makes this clear when he states that the "issue presented is whether the Federal Constitution confers a fundamental right upon homosexuals to engage in sodomy . . ."⁸ But clearly this is not the subject of the Georgia sodomy statute challenged by Hardwick, and in claiming that this is *the issue* raised by Hardwick's challenge to the Georgia law, the court's intention to send a signal that gays and lesbians are not equal citizens guaranteed the same constitutional rights as straights is unmasked.

Targeting gays and lesbians, the Court creates a definition of the "practicing homosexual" which bridges

⁷ In this 1989 case, a heterosexual man, James Moseley, convicted of having oral sex with his wife, served 18 months before a lower court ruled that Georgia would exempt heterosexual married persons from the prosecution under the Georgia sodomy law. Exempting heterosexuals from the sodomy law, while leaving exposed gays and lesbians, is consistent with the wink and nod Justice White gives to straights in *Bowers v. Hardwick*.

⁸*Bowers v. Hardwick*, (106 S.Ct. 2841) 1986, p. 2843.

the gap between sexual acts and sexual identities. Michael Hardwick, the Court reasons, was a "practicing homosexual" and as such was placed in "imminent danger of arrest" by the Georgia sodomy Statute. This in spite of the fact that the Georgia sodomy statute makes mention of neither different acts of sodomy nor different types of actors. By the standards defined by the Georgia law, all non-missionary sex is defined as sodomy. While the Georgia law might put a *practicing sodomite* in imminent danger of arrest, but the only way it places a *practicing homosexual* in imminent danger is if one believes a homosexual is defined by the act of sodomy; A homosexual, by Justice White's definition, is a sodomite. In the Court's view, sodomy is the essential characteristic and defining aspect of homosexual identity. The unwillingness to recognize anything redeeming in gay and lesbian relationships leads the court to conclude that a homosexual's activity is not "a private and intimate association that is beyond the reach of state regulation"

Following the court's (il)logic, how could homosexual activities be beyond the reach of the state when that which defines homosexual people--acts of sodomy--have been regulated by the state for centuries? If a homosexual is defined by sodomy, and sodomy is a

⁹*Bowers v. Hardwick*, (S.Ct. 2841) 1986, p. 2844.

criminal act, then a homosexual is a criminal. In the eyes of the Court, the homosexual is comparable to the drug user, who still violates the law even when he uses drugs in the "privacy of his own home." The Court writes:

Plainly enough, otherwise illegal conduct is not always immunized whenever it occurs in the privacy of the home. Victimless crimes, such as the possession and use of illegal drugs do not escape the law when they are committed at home.¹⁰

In *Bowers v. Hardwick*, and in the 1981 Department of Defense Directive making homosexuality the basis for exclusion, sexual *identity*--gay and lesbian *being*--has been employed as a way to exclude a whole class of people from certain rights of citizenship such as military service and a right to privacy. This wider casting of the state's regulatory net is accomplished by defining a homosexual *person* as nothing other than one who commits criminal sexual acts such as sodomy, and then excluding from citizenship all those who engage in these criminal sexual acts, *regardless of whether or not any such acts have ever occurred.*

This use of identity, rather than liberating homosexuals from state and religious persecution, reinscribes the same religious and criminal stigmatization of sodomy that it was hoped the model of

¹⁰*Bowers v. Hardwick*, (106 S.Ct. 2841) 1986, p. 2846.

homosexual identity would help alleviate. Rather than freeing those found guilty of acts of sodomy from criminal prosecution and religious persecution, as the medical model of homosexual identity was invented to do, the model of homosexual *being* has given these practices a target. Homosexuals now experience hatred, violence, extermination based not upon what they have done--acts are no longer necessary for judgement--but for what they *are*. In the Armed Services today, homosexual being is incompatible with military service, and the Supreme Court has found that homosexuals, as either practicing or potential violators of criminal sodomy laws, are not guaranteed a right to privacy within which to break the law. In the 1980's gay and lesbian identity has been turned against gays and lesbians, deployed as a tool to deny gays and lesbians rights that are taken for granted by *citizens* of the United States.

The 1980's also witnessed a battle over arts funding deemed homoerotic, sado-masochistic and anti-religious; art, it was argued, which appealed to a depraved minority and threatened the nation's belief in traditional "family values." After National Endowment for the Arts (N.E.A.) Director John Frohnmayer was fired, he was replaced with a "gay unfriendly" lesbian continuing the cynical game of identity politics that

foreshadowed the nomination of Clarence Thomas to the Supreme Court.¹¹

The immigration restrictions which target HIV infected persons also are directed at gays and lesbians, at least in part. Despite campaign promises by Clinton to lift this ban, it continued in effect until June of 1993 when an Appeals Court declared it unconstitutional.

And in May of 1992, it was revealed that a top official at the Federal Emergency Management Association (FEMA) had demanded that a gay employee of FEMA help him create a list of all the FEMA employees who were gay, under threat of job loss if he refused to cooperate.¹² The reason for the existence of the list was never explained, and it was subsequently destroyed, but with increasing frequency gays and lesbians have become the subject of political and legislative discourse.

Gays in the 1992 Elections

Subject(ing) gays and lesbians to the rhetoric and power of political and legislative discourse reached a

¹¹In a June 16, 1992 editorial, *The Advocate*, called NEA Acting Chair Anne-Imelda Radice " a new doormat homosexual who could give this administration's self-hating blacks and male identified women a serious run for their money." The former chair of the Human Rights Campaign Fund, Vivian Shapiro, called Radice "a lesbian from hell."

¹²Warren Leary, "U.S. Agency Shreds list of Gay Workers and Plans Inquiry," *The New York Times*, May 19, 1992. p. A. 17.

new peak in the 1992 elections. With gays figuring so prominently in the debates of the 1980's, it was no surprise that 1992 was called by some, the "Year of the Queer,"¹³ and the emphasis on equal rights led still others to conclude that gay political movement had gone "mainstream."¹⁴ The 1992 elections demonstrate both why an equal rights approach bolstered by essentialist conceptions of sexual identity has become necessary, but also why it has become, potentially, so dangerous.

In the race for the American presidency gays and lesbians figured prominently in 1992, both as potential voters and as anathematized scape-goats who threatened chaos and disorder. In the contest for the Democratic Party nomination, all five major candidates declared their support for lifting the ban against gays and lesbians in the military.¹⁵ Each of the Democratic candidates were also supportive of increased spending on

¹³The Year of the Queer was the Cover of the last edition of *The Advocate*, for the year 1992.

¹⁴Jeffrey Schmalz, "Gay Politics Goes Mainstream," *The New York Times Magazine*, October, 11, 1992. p. 18.

¹⁵The five candidates, Bill Clinton, Jerry Brown, Tom Harkin, Robert Kerrey and Paul Tsongas, all said they would issue an executive order reversing the ban against gays and lesbians in the military in interviews with *The Advocate*. See John Gallagher, "Do the Democrats Get It?" *The Advocate*, February 11, 1992).

A.I.D.S. research, courting gay votes more openly than ever before.¹⁶

In May of 1992, the same month that FEMA was busy "naming names" of gay and lesbian employees, Candidate Clinton surprised many observers when he spoke so passionately about A.I.D.S. issues at a gay and lesbian fund-raiser. Clinton said, "If I could raise my arm for those of you who are HIV-positive and make it go away tomorrow, I would do it, so help me God I would. If I had to give up my race for the White House and everything else, I would do that."¹⁷

David Mixner, an openly gay Los Angeles Democratic Party gay activist joined up with the Clinton forces, claiming that Clinton's "campaign is the biggest breakthrough in the history of gays and lesbians."¹⁸ In addition to having representation within the inner circle of the Clinton campaign, gays and lesbians were accorded serious representation at the Democratic Party's national convention in July, 1992. Over 100 openly gay and lesbian delegates participated in the

¹⁶Todd S. Purdum, "Democrats' Efforts to Lure Gay Voters are Persistent But Subtle," *The New York Times*, April 8, 1992, p. A11.

¹⁷John Gallagher, "20/20 Hindsight: In Televised Interview, Perot Stumbles on Gay Rights Question." *The Advocate*, (Los Angeles: Libertarian Publications June 30, 1992). pp 18-19.

¹⁸Ibid.

convention and Bob Hattoy, a gay man with A.I.D.S., even addressed the convention and members of the television audience during prime time.¹⁹ The Democratic Party Platform, accepted by the entire convention, spoke of "tolerance" as a traditional family value, claiming Democrats "would oppose discrimination on the basis of sexual orientation," and "would provide civil rights protection for gay men and lesbians."²⁰

The Democratic Platform also promised "to put an end to Defense department discrimination."²¹

Even the Republicans would give some cause for hope that a second Bush term would be more gay friendly than the first. Following Ross Perot's claim that he would not support gays or adulterers for Cabinet positions, George Bush was asked if he agreed with Perot's statement. He replied "we have no litmus test on that question here, and there aren't going to be any. And I would say, 'How would I know?'" He went on to agree with Perot's position that gays should not be allowed in

¹⁹Pat Buchanan described this address by Bob Hattoy in the following way: "A militant leader of the homosexual rights movement could rise at the same convention and say that Bill Clinton and Al Gore represent the most pro-lesbian and pro-gay ticket in history, and they do." Address to the Republican Convention, August, 1992.

²⁰1992 Democratic Report to the Platform Committee, p. 6.

²¹Ibid.

the military, saying it was part of his "adherence to traditional family values."²² Perot would later change his mind about allowing "homosexuals" in the military. And during the Republican National Party Convention, Barbara Bush wore a red ribbon on her dress, signalling her support and solidarity with people with A.I.D.S. Of course, Barbara Bush would remove this ribbon whenever she stepped onto the speaker dais at the convention.²³

But positive representation of and support for gays and lesbians was only half the story in 1992. A significant amount of the attention gays and lesbians were receiving from the national candidates was not positive. In an early debate among democratic candidates for the presidential nomination, Bob Kerrey was overheard telling an "off-color joke, the butt of which was a lesbian. And Ross Perot's exclusion of gays and adulterers from consideration for Cabinet level positions should he win election linked gays with adulterers. Perot's exclusion of homosexuality suggests that as the basis for exclusion from the corridors of

²²Associated Press, "Bush Says He Wouldn't Bar Gays From Cabinet," *The San Francisco Chronicle*, June 26, 1992 p. A4.

²³Jeffrey Schmalz, "Gay Politics Goes Mainstream," *The New York Times Magazine*, October, 11, 1992. p. 18.

power, sexual identity is conflated with "immoral" activities that would not meet with public approval.²⁴

But the real hostility toward "homosexuals" originated among the Republican candidates and those speaking on their behalf. During the primary election for the Republican Party nomination, Pat Buchanan said that gay people "violate human nature,"²⁵ and in June, George Bush declared, "I can't accept as a normal lifestyle, people of the same sex being parents. I'm very sorry. I don't accept that as normal."²⁶

Often "homosexuality" was used by the Republicans as a rhetorical form of name calling in their efforts to discredit the Democratic Presidential ticket. While stumping for their President, Republican surrogates called Clinton and running mate Al Gore, "pretty-boys"²⁷ and during his speech to the Republican Party Convention, Pat Buchanan called the democratic convention a "masquerade ball" where "20,000 liberals

²⁴Perot justifies his exclusion by saying that "I don't want anybody there [who] will be a point of controversy with the American people." John Gallagher, p. 19.

²⁵Elaine Herscher, "Gays Under Fire in Presidential Race," *The San Francisco Chronicle*, June 26, 1993, p. A1.

²⁶Interview with George Bush, published in *The New York Times*, June 25, 1993. Cited in "Dossier," *The Advocate*, July 5, 1992, p. 9.

²⁷Jeffrey Schmalz, "Gay Politics Goes Mainstream," *The New York Times Magazine*, October, 11, 1992. p. 18.

and radicals came dressed up as moderates and centrists in the greatest single exhibition of cross-dressing in American political history."²⁸

The Republicans disguised many of their attacks on gays and lesbians behind their "support" for traditional "family values." That is evident in Bush's remarks cited above about what constitutes a "normal lifestyle." And by the August Party Convention, Buchanan had put aside his differences with Bush, claiming that he and his supporters "stand with him [George Bush] against the amoral idea that gay and lesbian couples should have the same standing in law as married men and women."²⁹

It was clear that the Republicans hoped to connect "family values" with the potentially explosive issue of gay and lesbian rights. A senior official in the Bush campaign, speaking on the guarantee of anonymity, targeted Clinton's Los Angeles visit in May as one such connection, claiming that "when we talk about family values, part of it will be to point out that Clinton went out to California, had a fund-raiser by the biggest

²⁸Pat Buchanan, Speech to the Republican Convention, Monday, August, 1992.

²⁹Pat Buchanan, Address to the Republican National Convention, August, 1992.

gay group there and bought into their agenda, which includes government preferences for gays."³⁰

In a speech to a Southern Baptist Convention in Indianapolis, Quayle implied that the only good family is one with two heterosexual parents and criticized "the cultural elite" for failing to abide by those standards. Quayle said "they seem to think the family is an arbitrary arrangement of people who live under the same roof, that fathers are dispensable and that parents need not be married or even of opposite sexes. They are wrong."³¹

The Republican Party Platform was no more tolerant of sexual difference than were their candidates, accentuating their belief in "traditional family values and the Judaeo-Christian heritage which informs our culture."³² Describing the Democrats as "moral relativists" they affirmed that "Republicans oppose and resist the efforts of the Democratic party to redefine the traditional American family."³³

³⁰Steven Greenhouse, "G.O.P. Plans 2-Edged Effort To Restart Bush Campaign," *The New York Times*, July, 19 1992, p. 18.

³¹Elaine Herscher, "Gays Under Fire in Presidential Race," *The San Francisco Chronicle*, June 26, 1993, p. A1.

³²1992 Republican Party Platform, p. 2.

³³*Ibid.*, p. 4.

The platform was also quite specific in making clear that one of the greatest threats to the family's redefinition was that presented by gays and lesbians: "We oppose any legislation or law which legally recognizes same sex marriages and allow such couples to adopt children or provide foster care." The Republican Platform also opposed what it characterized as "the efforts by the Democrat party to include sexual preference as a protected minority receiving preferential status under civil rights statutes at the federal, state and local level."³⁴

Drawing distinctions again between their party and the Democrats, the Republican Platform declared "we support the continued exclusion of homosexuals from the military as a matter of good order and discipline. The Department of Defense will not be an exception to our assertion of family values."³⁵

Having accepted the most openly homophobic and one of the most discriminatory political Platforms in the history of the two major political parties in the United States, ironically, the Republicans would also claim that their party was unique in one regard: "since its inception it has respected every person even when that proposition was not universally popular. Today as in

³⁴Ibid., p. 16.

³⁵Ibid., p. 70.

the day of Lincoln, we insist that no Americans rights are negotiable."³⁶

In the rhetoric of the 1992 presidential politics, gays and lesbians were both courted for their support and vilified for their perversion. Democrats made promises to the gay community while Republicans made threats against it. Both parties helped to make them "targets." Whether targets of political rhetoric designed to attract their votes, or of abuse and ridicule designed to create a category of despised "otherness," both strategies helped put gays and lesbians into the public and political discourse, creating the contested territory of struggle for the gay rights movement.

Interestingly, the reason for the denial of equal rights rested roughly on the constructionist notion that "homosexuality" was a choice. While heterosexuality represents the only "authentic" and essential "truth," homosexuality was a perverted option. For example, in September, Dan Quayle, speaking on the ABC News program "This Week," argued that homosexuality "was more of a choice than a biological situation." When pressed on where he stood, Quayle said, "I think it is a wrong

³⁶Ibid., p. 22.

choice. It is a wrong; it is a wrong choice. I do believe in most cases it certainly is a choice."³⁷

The Republican Party Platform echoed this emphasis on "choice" when addressing the A.I.D.S. crisis. It declared, " a large part of our health care costs is caused by behavior."³⁸ The Platform continued further to say that A.I.D.S. "prevention is linked to personal responsibility and moral behavior."³⁹

In the 1992 national elections, it became clear that equal rights for gays and lesbians was a recurrent theme. Homosexuality was described as an immoral choice, an anathematized behavior, and a perverted activity in attempts to justify the exclusion of gays and lesbians from "equal rights" as well as scapegoat them as the "population" responsible for A.I.D.S. As people, gays and lesbians become perverted demons seeking to undermine the cultural institutions of family and heterosexuality, and equal rights and equality of treatment under law are transformed into "preferential treatment."

At best, gays are represented as just another interest group seeking "special treatment" by bleeding

³⁷Karen De Witt, "Quayle Contends Homosexuality Is a Matter of Choice, Not Biology," *The New York Times*, September 14, 1992, p. A-17.

³⁸The 1992 Republican Party Platform, p. 13.

³⁹*Ibid.*, p. 14.

heart liberals; another lost cause which helps fragment the Party and its platform. Acknowledging the cultural, legal and social inferiority and oppression directed toward gays and lesbians becomes the "progressive" alternative to hate mongering. But, in order to be accepted as "just another interest group," their sexuality must be transformed into an identity; both a personal one and a political one.

And these examples of sexual identity being deployed as a way to distinguish between the two National political parties mark only the tip of the iceberg. Homosexuals have been "identified" with A.I.D.S. in this country. They have been targeted in the debate over National Endowment for the Arts Funding of "homoerotic" art as immoral subverters of public morality and sensibility. And now, most recently, they have had their fate, their future, their very being subjected to the whims of the majority in the referenda process in places as diverse as Oregon, Colorado, Portland, Maine, and Tampa, Florida.

This year in Iowa, the religious right which opposed passage of that states Equal Rights Amendments, citing lesbianism as an example of what the ERA would encourage if passed. The Iowa ERA failed. In Tampa, voters repealed the city ordinance which protected gays and lesbians in housing, accommodations and employment.

And in Colorado, a referendum passed which amended the state constitution to include the following:

Neither the State of Colorado, through any of its branches or departments, nor any of its agencies, political subdivisions, municipalities or school districts, shall enact, adopt or enforce any statute, regulation, ordinance or policy whereby homosexual, lesbian or bisexual orientation, conduct, practices or relationships shall constitute or otherwise be the basis of, or entitle any person or class of persons to have or claim any minority status, quota preferences, protected status or claim of discrimination. This section shall be in all respects, self-executing.⁴⁰

This amendment invalidated city ordinances that Aspen, Boulder and Denver formerly had enacted to provide protection against discrimination based upon sexual orientation. In the 1992 elections, Colorado, a state with a progressive political history, voted to put a Democrat in the White House, to send the first American Indian to the United States Senate, and to amend the state constitution to make discrimination against gays and lesbians legal. It is quite possible, that this section of the Colorado State Constitution will be used remove gays and lesbians from teaching positions, and jobs with the state; as the basis for removing books from libraries; and to deny parade permits to gay organizations or liquor licenses to gay and lesbian bars. It also makes problematic, the

⁴⁰John Gallagher, "Colorado Goes Straight to Hell," *The Advocate*, February 23, 1993, pp. 34-42.

reporting of gay bashing as a hate crime as directed by the federal Hate Crimes Statistics Act.

The Oregon initiative which failed, still found 44% of the population voting in favor of passage and, like Colorado, would have prohibited equal protection for gays and lesbians. More than this, the Oregon initiative would have required that all state funded institutions, especially "the State Department of Higher Education and the public schools, . . .[to] assist in setting a standard for Oregon's youth that recognizes homosexuality . . . as abnormal, wrong, unnatural, and perverse and that these behaviors are to be discouraged and avoided." The closeness of the vote in Oregon where it was thought the initiative would lose by a margin of 2 to 1, and the passage of the Colorado initiative makes it likely that similar efforts in other states will be launched. Organizing has already begun in Idaho, Missouri, Alabama, California and seven other states.⁴¹

It is hoped that when challenged in the Courts. Colorado's anti-gay amendment will be found to violate the U.S. Constitution's 14th Amendment guarantee to equal protection of the law. But, if *Bowers v. Hardwick* is any indication of the Supreme Court's attitudes toward the Constitutional rights guaranteed to gays and

⁴¹Ibid.

lesbians, the outcome of this likely challenge is far from certain.

But what does seem certain is that within these debates a shift has occurred in way in which society and public policy has come to problematize sexual difference. Sexual *identity* has become the new focus of attention, and with it a model of homosexual identity that still reflects all of the former abhorrence of "unnatural" sexual acts. The modern emphasis on gay and lesbian identity is just the latest turn in this evolution, and while gays and lesbians today reject many of the causes, symptoms, and treatments prescribed by the medical model of homosexuality, they have accepted the fundamental premise of this model--that the sexual practices at issue were the result of some pre-existing cause or inherent identity. Throughout the twentieth century gays and lesbians have struggled to escape many of the medicalized explanations of their *being*, but have done so from within the very medical model with which they take issue, accepting its premise that certain sexual acts and feelings constitute a different form of identity and being.

This is hardly surprising given the rhetoric of those who argue that the spread of A.I.D.S. was the result of sexual acts or sexual behavior in which those "other" people engage or those who would blame the

erosion traditional family values on the immoral choices of a sick homosexual minority.

What is surprising has been the disappearance of alternative explanations for sexuality which came with the first wave of gay and lesbian activism following the 1969 Stonewall riots. In this race for equal rights the political organizations of the gay and lesbian community have rushed to embrace essentialist, often highly medicalized explanations for who and what they are, often silencing any in the gay community who would argue that sexuality is other than inherent, or biological. But as Jean Elshtain demonstrated in her article, "the Paradox of Gay Liberation,"⁴² this was not always true of the gay and lesbian community.

The Abandonment of Liberation

There is a specter haunting homosexuality: the specter of gay liberation. For to the extent that the aims of the gay liberation movement are attained, the homosexual, as he presently defines himself, will disappear. The conditions which, for example, place him outside his society and furnish a basis for critical detachment, will have been washed away in the flood tide of a new order. Jean Elshtain, *The Paradox of Gay Liberation*

So begins Jean Elshtain's 1981 *Salmagundi* article, one of her only forays into the area of gay politics.

⁴²Jean Elshtain, "The Paradox of Gay Liberation," *Salmagundi*, Vol. 58-59, 1981, pp. 252-280.

In this article Elshtain explores the paradoxes inherent in the goals of a gay "liberation" movement which seeks to destroy the very society which has given gay politics birth. Describing the goals of the "organized gay political movement" in terms that sound revolutionary compared with the modest agenda of today's gay and lesbian community, Elshtain's article seems dated, although only a decade old. But the articulation of these 1970's gay liberationists represents an evolution which has taken place in gay and lesbian epistemology and ontology. It also clearly articulates why constructionist understandings of sexuality comprise such a threat to heterosexuals and homosexuals alike.

Elshtain's exploration is based upon a number of texts written by gays and lesbians including Dennis Altman,⁴³ Richard Goldstein,⁴⁴ John Murphy,⁴⁵ Edward Delph,⁴⁶ Stuart Byron,⁴⁷ and Allen Young.⁴⁸ Perusing

⁴³Dennis Altman, *Coming Out in the Seventies* (Boston: Alyson publications, 1981).

⁴⁴Richard Goldstein, "Sex on Parole," *Village Voice* (August 20-26, 1980, 1, 20-23).

⁴⁵John Murphy, *Homosexual Liberation* (New York: Praeger, 1971)

⁴⁶Edward William Delph, *The Silent Homosexual Community: Public Homosexual Encounters* (Beverly Hills, California: Age Publications, 1978).)

⁴⁷Stuart Byron, "The Closet Syndrome," in Jay and Young, *Out of the Closets*, pp. 58-65.

the pages of these "Gay Liberationists," she articulates a basic fear of societal (dis)integration that many felt in response to the counter-culture movements of the 1960's and 1970's.

According to Elshtain, the liberationists imagine themselves a revolutionary vanguard, "a universal class which by liberating itself from that status will simultaneously destroy the old society and give birth to the new."⁴⁹

Calling the "liberationist" agenda "strange" for, if successful, it would "culminate in the withering away of the group in behalf of which its efforts are being mounted,"⁵⁰ Elshtain argues that the politics of gay liberation is no politics at all, but rather a "pseudo-politics" in which private preferences get couched as public imperatives *simpliciter*.⁵¹ Ever mindful of the liberal commitment to privacy and the public/private dichotomy, Elshtain's nightmarish vision of gay liberation is one where "an overpersonalized politics and an overpoliticized personal identity [are] fused to

⁴⁸Allen Young, "Out of the Closets, Into the Streets," in Karla Jay and Allen Young, *Out of the Closet: Voices of Gay Liberation* (New York: Douglas Books, 1972).

⁴⁹Elshtain, pp. 255-256.

⁵⁰Ibid.

⁵¹Ibid., p. 254.

create a situation in which everything is grist for the public mill, nothing is exempt from political redefinition or control, there is nowhere to hide, and skepticism itself is declared reactionary, forbidden."⁵²

The paradox of gay liberation, Elshtain argues, is one inherent in the liberationist's ontology. She writes that among gay liberationists there is a tacit recognition that homosexuality "exists as an internal margin or boundary in contemporary American society and is called into being *by* that society."⁵³ Comparing homosexuality to adultery the allure of which, at least partly, rests upon its status as "forbidden fruit," Elshtain writes that "homosexuality remains an "existential choice, a distinctive identity, *only* within a wider social system in which gays provide an identity for themselves and their group by 'negating' the norms, standards, and way of life of the culture's heterosexual majority."⁵⁴

The thrust of Elshtain's criticism is that if homosexuality is socially constructed, as the liberationists claim, then an attack on the society that has helped define it, and has made their organization as

⁵²Ibid., p. 254.

⁵³Ibid., p 271.

⁵⁴Ibid., p. 273.

a political group possible, is itself an attack on homosexuality; A kind of collective, unconscious, masochistic cry of *mea culpa*.

Elshtain's "paradox" is made evident when she writes that the liberationists claim:

Homosexuality is wholly called into being by the social relations and arrangements of the very society gay liberationists condemn as oppressive. Yet that society gives birth to a group, a class on their terms, which goes on to reject its standards and to refuse (at least ostensibly) its values. . . . to declare homosexuals a class is to claim that certain social conditions give birth to homosexuality and that it is these very conditions which, paradoxically, must be destroyed.⁵⁵

Through revealing this paradox, Elshtain believes to have demonstrated the "illogic" behind the liberationists' political agenda. But it is not only the liberationists' "assault" on the institutions of

⁵⁵Ibid., p. 258. Part of Elshtain's argument rests upon her notion of gays as a "class." She argues that as gays themselves admit they "are everywhere," move between gay and straight worlds freely, and can be found among the "dominant" class, rendering any notion of the term "class" in the Marxist or Weberian sense, meaningless, for it be inconceivable for a 'invisible class' to exist, as a class, that by 'coming out' reveals its class status."

Similarly, Elshtain objects to the "looser" application of class as it has been applied by "political activists and theorists" who use it to apply to blacks, women, and Jews, -- all of whom are "born into a race, sex, or ethnicity and cannot opt out of a definition which is in large measure, ascriptive." Elshtain argues that gays face no such dilemma as they can "opt out" of being gay, or at least go undetected, meaning that the fact of "being born gay" is not an "inescapable fact" which would affect the opportunities and social interactions in the way that race and gender do.

culture that Elshtain finds problematic, but their constructionist understanding of 'self.'

The specter haunting homosexuality, the ghost of gay liberation is frightening if one accepts Elshtain's characterization of its intentions. This ghost is no friendly Casper, as it hopes to move beyond disrupting social institutions and "embark upon the remaking of human nature itself" possibly giving birth to "a terrible engine of social control."⁵⁶

She argues that gay liberationists seek to merge the political with the personal, the private with the public, bringing the authority and power of the political arena to bear on their presumption "that the sex distinction *itself* can and must be transcended or eliminated; that human beings can somehow return to a state of nature and start to build up language and culture all over again."⁵⁷

Seeking to alter human nature, to "liberate" the homosexual in everyone, to make "anonymous sex . . . our individual and social anodyne,"⁵⁸ Elshtain fears gays'

⁵⁶Elshtain, "The Paradox of Gay Liberation," p. 253.

⁵⁷Ibid., p. 274.

⁵⁸Ibid., p. 276. Clearly A.I.D.S. has shifted the gay community's emphasis away from an ethos of sexual freedom where freedom is defined as how much, how often and with how many different partners can I have sex, in favor of a more "heterosexual" model of monogamy and commitment.

efforts at liberation would both destroy respected social institutions, and unleash powerful forces of social control, invading every aspect of an individual's personal and private life.

This total collapse of the public and private distinction constitutes the real threat for Elshtain. Taking issue with the liberationist claim that homosexuality and heterosexuality are artificial categories created by society, she writes "This [claim] is problematic at best, because *important* distinctions like those of sexual identity, are not only embedded in ordinary language, they are constitutive of ordinary life." "The distinction between the sexes is the 'primary social distinction' and like gender differentiation, the distinction between homo-and heterosexuality is, if not so primary, nonetheless vital and important."⁵⁹

Acknowledging that many gays and lesbians seek only "equal rights," something Elshtain takes as "an ongoing imperative of our constitutional system," she nonetheless believes that for many others equal-rights efforts are only an

"'interim agenda' put forward by 'pro-normal faggots' who want to settle down, have a job, perhaps a permanent mate just like 'normals.'"

⁵⁹Ibid., p. 275.

. . .[T]he idea that homosexuality can and should become the basis from which present social institutions are assaulted and through which a new, liberated social order will arise, is heady brew on which much of the organized gay movement appears to be drunk.⁶⁰

Today, Elshtain's article seems trapped in a time that is no more. The "liberationist" agenda which sought to change the social order, challenge the institutions of heterosexuality, traditional family, and cultural and social practices which make participation in these institutions almost "compulsory,"⁶¹ has been dismissed as the radical rhetoric of an "immature," political movement. Today, the bold claims of the constructionist are almost exclusively the province of fuzzy headed academics, while there has been "a growing inclination in the gay movement in the United States to understand itself and project an image of itself in ever more 'essentialist' terms."⁶²

What the many gay political groups of the 1990's have in common is their equal rights approach to

⁶⁰Ibid., p. 254-255.

⁶¹Adrienne Rich argues that heterosexuality, rather than a "natural outcome" is an institution which depends on a great amount of power, energy, and violence in order to be maintained. See "Compulsory Heterosexuality and Lesbian Existence" *Signs*, Volume 5, no. 4, 1980).

⁶²Stephen Epstein, "Gay Politics, Ethnic Identity, : The Limits of Social Constructionism," *Socialist Review* 93/94 (1987); p. 12.

political change.⁶³ That which Elshtain takes as a given--that "gays or any other group of citizens have the civil right to be protected from life threatening intrusion or simple harassment under the right to privacy, as well as the right to be free from discrimination in employment, housing, and other areas"⁶⁴--has become the contested territory, the social and political battleground for the gay and lesbian struggle. This increasing legitimacy and success of this approach has gone hand in hand with an ever greater "essentialization" of sexuality.

But in the haste to distant themselves from the liberationists' radical agenda, today's mainstream gay and lesbian political organizations an interesting point is revealed: to a one, each of these organizations posits an understanding of sexuality and its expression as a natural, unchangeable "truth." Rejecting any understanding of sexuality that is other than "essential," these organizations seek integration, not disintegration, assimilation with cultural institutions, not their obliteration.

⁶³The following groups are the most powerful national gay and lesbian organizations which typify the equal rights approach to political change: The National Gay Rights Advocates, Lambda Legal Defense Fund, The Human Rights Campaign Fund, The National Gay and Lesbian Task Force, The Victory fund, and The Campaign for Military Service.

⁶⁴Elshtain, p.254.

The connection between an essentialist understanding of sexuality and the quest for equal rights for gays and lesbians is in sharp contrast with the liberationist agenda described by Elshtain premised on a more malleable construction of sexuality. Pondering the shift in attitudes among gays and lesbians separated by less than a generation leads inevitably to some difficult questions.

For example, what kind of limits are imposed on the possibilities for political change when "essentialist" understandings of homosexuality are accepted? If sexuality, both heterosexual and homosexual, is natural, essential, and "constitutive of everyday life" then why must the liberationist voices be silenced, dismissed, or subjected to such rhetorical excess? What threat could the voice of gay liberation possibly present if the constructionists' assumptions about sexuality are so wrong-headed? What challenge is presented by a "liberation" imagined by Elshtain as so nightmarish, so bleak, that gay and straight alike would have to be out of their mind to risk choosing *it* over that which they already know: the socially, culturally and historically inevitable truth of the heterosexual/homosexual dialectic?

Finally, has an "assault" of the type Elshtain characterizes gay liberationists wish to make against a

culture's social and political institutions ever led to a reality different from the one she imagines: the Hobbesian nightmare of social anarchy where sex defines and drives everyone; the Robbespierrean terror of political assassination and cultural collapse? In the hope of shedding light on the former questions I will begin with an examination of the latter, exploring it from within the framework of what for many constitutes a queer text indeed: Plato's *Symposium*.

Assaulting the Social Institutions of Athens

Page duBois, in her book *Centaurs and Amazons: Women and the Pre-History of the Great Chain of Being*,⁶⁵ examines the shift from one discursive system for the formation of difference to another. DuBois builds on A.O. Lovejoy's seminal work, *The Great Chain of Being*,⁶⁶ in which he traces a particular version of hierarchy throughout Western thought, beginning with Plato.⁶⁷

⁶⁵Page duBois, *Centaurs and Amazons: Women and the Pre-History of the Great Chain of Being*, (Ann Arbor: The University of Michigan Press, 1982).

⁶⁶A.O. Lovejoy, *The Great Chain of Being: A Study of the History of an Idea* (Cambridge, MA, 1936).

⁶⁷duBois argues that Lovejoy's *The Great Chain of Being*, as well as other works such as David Brion Davis' *The Problem of Slavery in Western Culture*, treat the problem of hierarchy as something that begins with Plato, without ever addressing the context in which this idea of hierarchy came to be.

But unlike Lovejoy who treats the subject of hierarchal logic as if it sprung fully formed with Plato, DuBois seeks to contextualize the rise of this new hierarchal logic, providing a social context for its invention, while also exploring the system of difference creation which existed prior to "The Great Chain of Being." The shift duBois narrates is one which problematizes difference through polarity and analogy to on which employs logic and hierarchy. In examining the literary works of the fifth century duBois illustrates that the fourth century works of Plato and Aristotle constitutes a rupture with the past. The new hierarchal reasoning is essential to a clarification of superiority and inferiority which becomes the predominant way of theorizing gender, racial and species difference.

DuBois argues that an examination of the literary texts of the fifth century reveals that in the earliest speculation on difference, "the human Greek male, the subject of history and of the culture of the *polis*, is defined in relation to a series of creatures defined as different. He is at first simply not animal, not barbarian, not female."⁶⁸

But as the fifth century progresses, the speculative process of difference evolves, focussing more on the subject of the *polis*: the Greek male

⁶⁸duBois, p. 4.

citizen. Constituting the center, the citizen is encircled; he is surrounded by those who are "other"--aliens, female, and beast--those who, set at the edge of culture, define those within the circle as equals. But the flaws in this model of the city were revealed by the role women assumed in the institution of marriage which placed them both inside and outside the *polis*.

Dubois writes "the metaphor of marriage, as a founding and sustaining act of culture, was set against that of war" in the literary discourse."⁶⁹ Male citizen equals were those who exchanged women, this exchange helping to define citizenship and the boundaries of the city. But women's position vis-a-vis the *polis* was revealed to be contradictory, as they were excluded from the city, and yet necessary for its definition and reproduction.

If speculation about the problematic nature of women strained the analogical method of defining self/other, the Peloponnesian War broke it. In this war between Greeks, "[t]he myth of *isonomia*, of the city as a community bound together by sameness, could no longer be invoked in the definition of the human subject."⁷⁰ Greek warred with Greek, man with woman rendering the analogical model of difference creation as it applied to

⁶⁹Ibid., p.5.

⁷⁰Ibid., p. 4.

the model of the city unworkable, as the forces formerly set at the edge of the city were seen to have broken in.

The war of Greek against Greek made it appear that civilization had broken down. The authors of civilization warred not with the "other"--barbarian, alien, Amazon, Centaur--but among themselves. The war of Greek with Greek meant that the conflict had moved within the city, within the polis, within civilization and a new system for creating "otherness" had to be created.

It is within this context of the radical rupture with the past problematization of difference creation through analogy and polarity that duBois believes the works of the 4th century philosophers must be examined. Much of Plato and Aristotle's discourse centers on problems of *stasis*, of civil war and conflict among people who, in the former century, would have thought themselves bound up in relations of similarity and community. DuBois traces "a growing appreciation of the utility of an explicitly formulated *hierarchy* within culture, and a gradually more explicit defence of differentiation through hierarchy in the 4th Century."⁷¹

The focus on difference *within* culture led Plato to move away from the Greek/barbarian distinction focusing

⁷¹Ibid., p. 132.

more on internal divisions, creating a new approach, a new "hierarchy which rationalized differences *inside* the troubled city."⁷²

DuBois argues that in the works of the philosophers of the 4th century a new system of problematizing difference gradually emerges. Focussing not on the forces of harmony and similitude that made citizens within the circle of the polis alike, the shift was one in which the writings of the philosophers took increasing notice of *stasis*--the conflict within the polis--seeking to invent and explain differences among those who are "alike." It is in this vein that the Myth of the Metals can be understood.

In the "Myth of the Metals," an analogy is made between different kinds of men and different kinds of metals. These differences, understood as essential and natural, help to connect different kinds of men together in a hierarchical relationship within the city, the former arena of similitude. DuBois argues that the myth of the metals breaks new ground as it looked inside the city and reasoned about difference within.

In the new hierarchy of being, the Greek male citizen no longer stood at the center of culture surrounded by "others." Like the philosopher of Plato's *Republic*, he stood at the top of the chain of being,

⁷²Ibid., p. 132. Emphasis mine.

closest to the divine and to immortality. As the man of gold, the best, the *aristos*, he ruled over all "others" who also live within the *polis*.⁷³

This new hierarchy becomes the justification for relations of domination and submission which circulate still in our modern theorizing about difference. The importance of the new "chain of Being" is that "men who are like beasts can be treated as beasts. . . .It must be remembered that no only *Barbaroi*, foreigners, were seen by Plato to be deprived of reasoning ability. Women and slaves as well as animals formed part of the 'Chain' which descended from the Ideas, from the Idea of the good, from God."⁷⁴

Concerned most with the hierarchy of gender difference, of the subordination of women to men in the "Great Chain of Being," duBois argues that this creation of a hierarchy of difference is the same epistemological system of difference creation that has theorized women as "other" for centuries. This hierarchy of the male/female dichotomy can be seen circulating in everything from the Biblical genesis story; to Rousseau's construction of Emile's "natural" helpmate, Sohphy; to Freud's explanation of women's psychology in terms of sexual "lack" and "envy"; to the

⁷³Ibid., p. 136.

⁷⁴Ibid., p. 13.

modern economic system which continues to undervalue women's contributions even when performing tasks comparable to their male counterparts.⁷⁵

Going beyond the scope of her study, duBois does not examine the problematization of difference as it was coming to operate within the re-problematization of male-male sexual relations. The Greeks, are often lionized by modern gays as a tolerant society that accepted "homosexual" relationships. But in fact, in the fourth century sexual relationships were undergoing reproblematicization and redefinition in accordance with this new explanation of differences between citizens.

Symposium, Plato's most explicit exploration of Man-boy sexual relations has been both vilified and celebrated through the centuries as "evidence" of the Greek's "homosexuality." Upon closer study however, this text represents an attempt on Plato's part at subversion; an attempt to create a mythology, a rhetoric "from which present social institutions are assaulted

⁷⁵Catherine A. MacKinnon argues that the bias against women runs deeper than issues of comparable worth. She writes "the fact that male employers often do not hire qualified women, even when they could pay them less than men suggests that more than profit motive is implicated." See Catherine A. MacKinnon, *Sexual Harassment of Working Women: A Case Study of Sexual Discrimination*, (New Haven, Conn.: Yale University Press, 1979), pp. 15-16.

and through which a new . . . social order will arise"⁷⁶

Symposium has an amazingly modern setting: A group of friends have come together to celebrate the "first victory" of Agathon, a tragic poet, whose tragedy had just won the highest honor in a festival in the Theater of Dionysos. After (too?) much to eat and drink, the exclusively male participants in the banquet take turns paying tribute to Eros--the "ancient, mighty god" of Love--for whom no poetic ode had been written. As the competition ensues, each man tells his story, weaving explanations of the origins of Love with descriptions of how Love affects and influences men. Most of the men describe *Eros* from within a decidedly male perspective of man-boy love. This is not surprising, given that Athenians believed that the desire of adult men for handsome youths to be normal and natural, even praiseworthy.⁷⁷ The competition inherent in this game of "story-telling" is evident as each man attempts to top the one before with his account of *Eros*.

The very structure of the *Symposium* is subversive, constructed in such a way to create authority for the new hierarchical understanding of sexual relations,

⁷⁶Elshtain, p. 255.

⁷⁷See K.J. Dover, *Greek Homosexuality* (Cambridge: Harvard University Press, 1978).

while simultaneously allowing Socrates--the protagonists of the dialogue, and, perhaps more importantly, Plato--to escape responsibility for the assault on this accepted institution of man-boy love. For example, the events of the *Symposium*, as reported by Plato, are already some fifteen years old when Plato's dialogue begins. Looking backward through a lens of history creates a distance that makes the actual events of the banquet difficult to ascertain. This distance also make Plato's story less a threat to his contemporary readers, as the ideas contained in the dialogues had already circulated for 15 years prior to its writing, bringing no revolutionary disruption to the society or its institution of man-boy *Eros*.

Plato's uneasiness is witnessed in the lengths to which he has gone to "disguise" his voice in this text. Plato's voice, his authorship, is completely obscured. Not only are his ideas given voice through Socrates, a common device in many of the Platonic texts, but Socrates' words themselves, come not directly from him, but are retold by Apollodoros as he recounts the events of the banquet to a friend some fifteen years after the fact. Veiling responsibility for these subversive ideas even more, we discover that Apollodoros himself--the teller of the story--was not even present at the banquet, but had been told of these events himself by

Aristodemos, someone who was, supposedly, present. Through this literary device layer upon layer of obfuscation is created, disguising Plato's role as author, and alleviating him of responsibility for the arguments made in the text.

Plato's voice obscured, his own personal views made impossible to discover for certain, the male one-upmanship of the jocular story-telling banquet of the *Symposium*, proceeds. The revellers' stories about *Eros* emerge one by one leading finally to the end; leading, finally, to Socrates. Socrates' story is clearly the best. The other participants in the contest admit this. But Socrates's story also comes last, representing, quite literally, *the final word*, on Love; the text's structure itself yielding to Plato's new system of hierarchy. From the perspective of hierarchy, his story is not only last, but best; resting atop the other stories, his words come closer to *Truth*.

Although a formidable character who Plato uses skillfully as the messenger of "Truth" in many of his dialogues, Plato bestows further authority upon Socrates, from, what seems at first, an unlikely source.

As mentioned already, all of these discourses on *Eros*, are addressed from a decidedly male perspective, with most of the speakers theorizing love within the context of man-boy relations. From within this exclusively

masculine discourse, the central figure of the *Symposium* emerges in the form of Diotema, Socrates' teacher, and more importantly, a woman.

As David Halperin has pointed out, much of the authority of Socrates' story stems from the fact that Diotema is the only non-male voice represented at the banquet.⁷⁸ Diotema's voice, her perspective on sexuality, has authority in the context of the Symposium, because of her gender. As a woman she is free from the kind of erotic desire associated with the man-boy love affairs; the same affairs which often led men to do things that under different circumstances would have been frowned upon in classical Athens.⁷⁹ Her voice is the only voice, her story, the only one that we can be sure is free from the sexual desire for beautiful boys.

In the Greek understanding of the generative process women constituted little more than receptacles

⁷⁸David Halperin, "Why is Diotema a Woman?" in *One Hundred Years of Homosexuality* (Routledge: New York, 1990).

⁷⁹For example, see Pausanias' account of the lengths to which men are driven by Love in the Symposium. Also, see Alcibiades' erotically shameless account of his pursuit of Socrates. Alcibiades story is especially interesting as it serves as both an affront of the Lover/Beloved dichotomy, and as a testament to Plato's inability to be seduced Alcibiades represents an inversion of the man/boy, active/passive dichotomy by actively seeking to seduce Socrates, the older of the two men. I will discuss Alcibiades' "testimonial" to Socrates' virtue later in this chapter.

into which men placed the new life where it could grow. Having constructed woman's sexuality in a way that gives them limited participation in both desire and procreation. Diotema's gender gives her a greater claim to objectivity. Re-teaching what Diotema had taught him, Socrates is given an authority the others do not have. Diotema's feminine voice, critically detached from the man-boy institution, makes her voice not only different, but superior to the male participants of the Symposium. Her status as the *only* woman, makes it difficult for the male speakers to contradict her words, as she *embodies* a truth completely apart from their masculine experience.

But Diotema is not *merely* a woman. She is also a prophetess; a seer whose counsel had helped Athens escape a plague. As one who can see more clearly than the rest, she is not only superior to woman, but also superior to man. This ability to see the *Truth* more clearly, gives her words more authority partaking as they do, in a greater share of the divine, the godly, the eternal. Her account of Love is neither myth nor story, but *Truth*.

In the new evolving hierarchical understanding of difference Diotema stands at the same time, both below man and above him in the Great Chain of Being. As a woman, neither sexual desire nor her "natural" role in

the procreative process can be said to color her judgement. As a prophetess, she has knowledge above that of mortal man giving her the necessary "credentials" to teach the greatest teacher of all: Socrates.

Carefully hidden behind a series of narrators who have told and re-told this story, and having established an authoritative voice of wisdom, free from sexual desire, Plato attempts to bring man-boy love, within regulation of this emerging hierarchy of difference. Diotema's account of Love is an engaging one. Love represents a desire to share in, and possess Beauty for all times. The new hierarchical problematization of sexual difference is revealed in Diotema's seduction/education of Socrates. The following passage, although quite lengthy, makes evident the re-problematization of the physical relationships between man and boy underway in Plato's work:

First, . . . he should love one body and there beget beautiful speech; then he should take notice that the beauty in one body is akin to the beauty in another body, and if we must pursue beauty in essence, it is great folly not to believe that the beauty in all such bodies is one and the same. When he has learnt this, he must become the lover of all beautiful bodies, and relax the intense passion for one, thinking lightly of it and believing it to be a small thing. Next he must believe beauty in souls is greater than beauty in body; so that if anyone is decent in soul; even if he has little bloom, it should be enough for him to love and care for, and beget and seek such talks as will make young people better; that he may moreover be compelled to contemplate the beauty in our

pursuits and customs, and to see that all beauty is of one and the same kin, and that so he may believe that bodily beauty is a small thing. Next, he must be led from practice to knowledge, that he may see again the beauty in different kinds of knowledge, and, directing his gaze from now on towards beauty as a whole, he may no longer dwell upon one, like a servant, content with the beauty of one boy or one human being or one pursuit, and so be slavish and petty. . . .⁸⁰

Plato makes this new implicit hierarchy, explicit when Diotema describes to Socrates the "right way to approach love." It is "to mount for that beauty's sake ever upwards, as by a flight of steps, from one to two, and from two to all beautiful bodies, and from beautiful bodies to beautiful pursuits and practices, and from practices to beautiful learnings. . . ."⁸¹

The image of ascending stairs, from one level of understanding about Love to the next, is indicative of the new hierarchical ordering. Plato, through Diotema, makes it even more explicit that Love is not for corporeal beauty; as indicated above, man-boy love might be a starting place, but it decidedly not the finish, if one wants truly to know Love.

Plato's assessment of the Greek institution of man-boy love as "slavish and petty" is a rather radical commentary, one, no doubt disturbing to many of his listeners. But Plato's promised reward for turning

⁸⁰Plato, *Symposium*, 211c-217d. p. 105.

⁸¹Plato, *Symposium*, 209c-211c.

one's back on these slavish "practices" in order to pursue "knowledge," Beauty, and the Truth of Love, is seductively irresistible. Diotema tells Socrates, that the "hardship" endured in order to acquire this knowledge will be worth it when one beholds "a beauty marvelous in its nature,"⁸² Beauty, itself, the very Form of Beauty.

Beauty, like the Good, is a Form, a philosophic essence. To the extent that men attain or share of this Form, they share a part of the immortal, for as Diotema describes this Beauty, it is:

. . . everlasting, and never being born nor perishing, neither increasing nor diminishing, secondly, not beautiful here and ugly there, not beautiful now and ugly then . . . this beauty will not show itself to him like a face or hands or any bodily thing at all, nor as any discourse or a science, nor indeed as residing in anything, as in a living creature or in earth or heaven or anything else, *but being by itself with itself always in simplicity*; while all the beautiful things elsewhere partake of this beauty in such manner, that when *they* are born and perish *it* becomes neither less nor more and nothing at all happens to it . . .⁸³

Diotema connects the natural "intention" of man's Eros, procreation and the quest for immortality together in a knot that would persevere for millennia:

All men are pregnant Socrates, both in body and soul; and when they are the right age, our

⁸²Plato, *Symposium*, 209c-211c.

⁸³Ibid., 209c-211c.

nature desires to beget. But it cannot beget in an ugly thing, only in a beautiful thing. And this business is divine, and this is something immortal in a mortal creature, breeding and birth. . . . because begetting is, for the mortal, something everlasting and immortal.⁸⁴

And:

Mortal nature seeks always as far as it can to be immortal; and this is the only way it can, by birth, because it leaves something young in place of the old.⁸⁵

Diotema, the one who can see more clearly, teaches that the intention of Eros, erotic Love is toward procreation, for only in procreation can men share in the divine, immortal Beauty that is love.

Under the old epistemological system of creating difference through analogy, women were part of the analogies of difference which encircled man. Although helping to define him, they were rendered analogous to the other forces at the edge of culture and polis: slave, alien, beast, centaur, and amazon. Eros then, was something male, something shared between equals, or at least those that have the potential to be equal to men: boys.

But under this new epistemological system of problematizing difference necessary to explain the changing relations between Greeks, formerly equals, now placed in positions of servitude and domination to one

⁸⁴Plato, *Symposium*, 204d-207a.

⁸⁵Ibid., 207a-209c.

another, a new order is born. In this new hierarchy, women, while subordinate to men, were superior to slaves, beasts and non-citizen aliens. Women were closer to men, and therefore closer to the Divine than were these "others." While not fully able to share in *Eros*, in this new hierarchical epistemology women could nonetheless share in it *incompletely* and were tied necessarily to men as it is only male-female sexual relations which can lead to procreation, and in turn give man a glimpse of *Beauty*; a taste of immortality.

Socrates, in the way in which he lives his life, to represent the new understanding of Nature's intention for sexuality. The text of the Symposium does not end with his triumphant re-telling of Diotema's "truth" about sexuality. Following this, Alcibiades enters and tells the party-goers, not of his "Ode to Love" but of his personal experience in attempting to repeatedly seduce Socrates, and of Socrates' refusals. Socrates, has learned correctly the lessons of Diotema.

Heterosexual union which leads to "birth," is the intent of the mortal nature of man; It is that which allows his mortal nature to share in the divine nature of *Beauty*; It is, simply, what love *is*. Foreshadowing the Church's emphasis on the procreative sexual acts, *Eros* itself was being brought under the new hierarchy as the purpose of

Love, was to beget beauty, and in that way, share in the divine *Beauty* which is immortal.

In the *Laws*, Plato's final work, he makes his assault of the institution of man-boy love more overt. Addressing the regulation of "erotic love of and for children" in the "second best *polis*" he connects his agenda, again to the intention of sexual acts as revealed by Nature. Plato argues that it would be a good thing:

If someone were to follow nature and lay down the law that prevailed before Laius, if he were to say that it was correct to avoid, with males and youths, sexual relations like those one has with females, bringing as a witness the nature of the beasts and demonstrating that males do not touch males with a view to such things because it is not according to nature to do so. . . .⁸⁶

He also realizes, that changing this practice will be difficult to accomplish claiming that these arguments against man-boy love "would be unpersuasive, and not at all in consonance with your cities."⁸⁷

Arguing that one must get the entire city to hold this pronouncement *sacred* if one is to achieve the end he desires, Plato writes:

In regard to this Law I have an art that would promote the Natural use of sexual intercourse for the production of children--by abstaining on the one hand from intercourse with males, the deliberate killing of the human race, as well as

⁸⁶Plato, *Laws*, 836c-836d.

⁸⁷Ibid., 836d.

wasting sperm on rocks or stone where it will never take root and generate a natural offspring. . .⁸⁸

The appeal to Nature is one of the oldest and most powerful appeals that can be made. Although still not fully formed in Plato's work, one can see the evolution of an understanding of Nature, not as something set outside the boundaries of civilization, but instead that which comes to have a divine intentionality which should inform civilization; an intentionality which human beings should emulate. To do other than this would be to "deliberately kill the human race."

More than two thousand years after his death, Plato's "liberation" of sexuality from the classical Greek institution of man-boy *Eros* lives on as our "truth." His "art" of making "sacred" the belief that "homosexual" relationships are "murderous," and "unnatural, thwarting the intentionality toward which all sexual acts tend--procreation--has been incorporated into our theology, our religion, even our scientific "truth."

Plato was successful in undermining a powerful, accepted cultural institution, bringing sexual relations into a hierarchal regulation of sexual difference in which we remained trapped. Replacing the analogies and polarizing opposites of the fifth century system of

⁸⁸Ibid., 838e-839b.

difference construction with the logic of hierarchy, dichotomies like man/woman, white/black, heterosexual/homosexual, straight/gay, citizen/alien have come to connote not only difference, but a relationship of superiority/inferiority.

But, perhaps Plato's voice, rather than maligned as the agent which gave rise to this new hierarchal problematization of sexuality, can serve as an important historical example. An example in which the prominent social institutions of a culture were assaulted, overturned and re-problematized without the dystopian nightmare of social anarchy and reign of terror Elshtain characterizes as one of the possible outcomes of gay "liberation."

*Back to the Future:
Assimilating to the Social Institutions of the U.S.*

What I hope to represent is a part of the normality of being homosexual, of not being in leather or shaving my hair, but rather showing how much we are all alike. If People can see the sameness of me to you, then perhaps they won't have the walls that make it so they have to hate us without a reason.

Colonel Margarette Cammermeyer⁸⁹

Almost as if following Elshtain's script, today's gay political movement, and many of today's gay and

⁸⁹Colonel Margarette Cammermeyer explaining why she was contesting her discharge from the military. Quoted in Timothy Egan, "Dismissed From Army as Lesbian, Colonel Will Fight Homosexual Ban," *The New York Times*, May 31, 1992, p. 18.

lesbian youth have "sobered up." The "heady brew" of liberation upon which their constructionist predecessors were drunk, has been abandoned in favor of "Liberation-Lite"--a less filling equal rights alternative made more palatable to the bland taste of the 1990's queer--for whom "Were Here, We're Queer, Get Used to it" constitutes a political agenda.

The gay political agenda today includes spousal benefits, privacy and employment rights, legitimation of gay and lesbian marriages, and the right of military service. Nothing on this agenda seeks to challenge, to disrupt, nor even to fundamentally alter the central institutions of society. Instead, this agenda seeks integration with these institutions. The voice of rupture--the liberationists--have fallen silent. Raising issues which made the struggle for equal rights more problematic, liberationists with their "radical" constructionist alternative have become inconvenient, an excess the new legitimate gay and lesbian movement can no longer afford. To understand sexuality in any way other than "essentially" is now politically incorrect as it makes the case for "equal protection" less viable, again opening the door again to behavioral explanations for homosexuality. As Elshtain writes:

. . . to declare homosexuality a class by virtue of their behavior . . . to insist that what makes homosexuals a class is the imposition of social control on a minority;

yet simultaneously, to admit, that "homosexual members of the *dominant class* by and large manage very well, moving quite freely between the gay and straight worlds," seems unacceptably tendentious.⁹⁰

The answer to this dilemma has been to declare sexuality "essential"; an intractable aspect of a person's *being*, determined by genetics, biology, or some other "deep property" over which the individual has no control. Witness the discomfort gays and straights alike manifest toward the "bisexual," attributing to him/her everything from untrustworthiness to immaturity; Or the meteoric rise to prominence of Dr. Simon Levay, a gay neurologist whose theory that there are differences between the hypothalamus glands of gays and straights has been embraced by the queer community as "proof" that all gays and lesbians are "born," not "made."⁹¹

In order to free "homosexuality" from the stigma associated with problematized sexual behavior, a flight into identity is required. As one's identity, sexuality is inexorable, unchangeable, and not the responsibility of the individuals involved. The fact of my homosexuality, *like heterosexuality*, is simply "beyond my control."

⁹⁰Elshtain, pp. 259-260. The quote within Elshtain's quote is from Altman, p. 36.

⁹¹See "GrAY Matter," *The Advocate*, June 1, 1993, pp. 38-42.

Currently gay teen groups have been created to assist questioning teens "discover" their authentic sexuality; Adults, through therapy and self-exploration, re-interpret events in their life within the framework of this powerful new truth. The *truth* of sexuality has become so obvious to those possessing this knowledge that many gay people "will often remark of someone that he does not yet 'realize' he is gay--a clear indication that the category is not necessarily a self-conscious one in their view."⁹² It is an "essential" category of personal identity. Ever increasingly, it has become, a form of political identification.

The dilemma presented by today's gay equal rights movement is that in welcoming the "essentialization" of personal identity, it also accepts the inferior status that this identity assigns gays in the heterosexual/homosexual dichotomy. The fact that lesbians and gays seek state protection is evidence of their present social and political inferiority however unjust the discrimination they face.

In the struggle for equal rights, equality is defined by the superior partner in the dichotomy; in short, equality means "sameness." Gays and lesbians

⁹²John Boswell, "Concepts, Experience and Sexuality" in Edward Stein, *Forms of Desire: Sexual Orientation and the Social Constructionist Controversy*, (New York: Garland Publishing, Inc. 1990). p. 147.

must struggle and fight to gain access to the same rights held by heterosexuals. They must take their demands to the state, seeking definition and protection and, after a long, often bitter struggle, they, no doubt, will be granted the same "formal" rights that the state provides for heterosexuals.

But the danger of this drive to conform, this equal rights agenda, is that it adversity affects our desire to combine "what we regard as the better parts of the alternative; we want equality without its compelling us to accept identity; but also difference without its degenerating into superiority and inferiority."⁹³ Simply demanding the same rights as heterosexuals, requesting integration into the social institutions of marriage and family, gays and lesbians do nothing to change the process by which difference was constructed in the first place, leaving in tact the cultural and social institutions which produce "otherness." Within the equal rights ethos, the goal becomes integration with that which we do not have. Demands for change become pleas for admission to the privileges held by the dichotomous "self" from whom we have been estranged in the process of "otherness" creation.

⁹³Tzvetan Todorov, *The Conquest of America: The Question of the Other* (New York: Harper Torchbooks, 1987). p. 249.

Even when successful, the guarantee of equal rights and integration will leave the same bias and hatred towards gays and lesbians operating within the dichotomy straight/gay. By overwhelmingly accepting essentialism as our ontology and its corresponding goal of "equal rights," we limit our ability to change, to reconstitute ourselves and the process of differentiation which produced the dichotomy heterosexual/homosexual in the first place. We simply limit our ability to imagine ourselves differently, and differentiate ourselves imaginatively.

CHAPTER 6

CONCLUSION: NIGHTMARES, FANTASIES, AND SEXUAL PERFORMANCE

In 1951, writing in the *Origins of Totalitarianism*, political theorist Hannah Arendt documented the rise of "racism" directed at Jews in Nineteenth century Europe. Integral to this racism, was the identification of Jews as a "race," as those *born* to a certain inescapable identity. She writes,

As far as the Jews were concerned, the transformation of the "crime" of Judaism into the fashionable "vice" of Jewishness was dangerous in the extreme. Jews had been able to escape from Judaism into conversion; from Jewishness there was no escape. A crime, moreover, is met with punishment; a vice can only be exterminated. The interpretation given by society to the fact of Jewish birth and the role played by Jews in the frame work of social life are intimately connected with the catastrophic thoroughness with which antisemitic devices could be put to work. The Nazi brand of antisemitism had its roots in these social conditions¹

Arendt was one who realized the same transformation was taking place in the arena of sexuality, arguing that "the 'vice' of Jewishness and the 'vice' of homosexuality . . . became very much alike indeed."²

The medical transformation of criminal *acts* of sodomy into sexual *vice* and *identities*, parallels the transformation described above by Arendt. By replacing

¹Hannah Arendt, *The Origins of Totalitarianism*, (New York: Harcourt Brace Jovanovich, Publishers, 1973). p. 87.

²*Ibid.*, p. 80.

the terms "Judaism" and "Jewishness" with "sodomy" and "homosexual" in the quote above, the danger to gays and lesbians today becomes clear.

Until quite recently, historians had conveniently overlooked that in the most apocalyptic use of identity politics by the modern state--the Holocaust--the Nazis included gays and lesbians among those to be purged from society. And while many today, even in the gay and lesbian community, remain convinced that "it can't happen here," the political success of candidates like Pat Buchanan and David Duke, and of initiatives like those passed in Colorado should give us all pause.

As should medical research such as Simon Levay's hypothalamus study and Allen and Gorshki's anterior commissure study,³ both of which claim to find differences between the brains of homosexuals and those of heterosexuals. While these researchers hope their research "proves" that gays and lesbians are born that way, and therefore should not be persecuted, they have no more control over how the results of their research are used than did the early sexologists who created similar theories over a century ago.

For example, the notion of sexual identity has trapped gays and lesbians in the statistical game that

³Joe Dolce, "G(r)AY Matter," *The Advocate*, June 1, 1993, p. 38.

science plays. Both the medical and psychiatric communities now proffer that homosexuals represent about 10% of the citizens of the United States. Gays and lesbians have also accepted this approach to statistical identity claiming that 1 in 10, or 1 in 7 is "naturally" a homosexual, born to an unchanging sexual identity. But if this homosexual identity is innate, natural, predetermined, how does one explain the practice of man/boy love among the ancient Greeks? Clearly many more than 10% of the Greek male citizens engaged in this practice. Without recognizing that homosexuality is socially constructed--A madness invented to combat a madness as Gore Vidal has described it⁴--then how does one explain the difference between the percentages of Greek "homosexuals" among the population in the fourth century, and the lower percentage of gays and lesbians alive today?

One insidious way that this problem could be rationalized, spinning out of the control of those who first proffered these statistics, is thorough the lens of a Darwinian epistemology of natural selection. Often Darwinian explanations have been employed to understand phenomena well outside of Darwin's own field of study;

⁴Lawrence Mass, *"Homosexual as Acts or Persons: A Conversation with John De Cecco," Homosexuality as Behavior and Identity*, New York: Harrington Park Press, 1990, p. 167.

indeed such explanations are inherent in the debate over the non-procreativity of homosexuality discussed above. Relying on explanations of a biological sexual identity and then projecting it, unchanged, backward into history, could lead to a Darwinian explanation of survival of the sexual fittest. Following this line of argument, one could demonstrate scientifically that as a percentage of the entire human population, gays are fewer today than they were in fourth century Athens because the "deep properties" that give rise to their homosexual condition predestines their evolutionary extinction, the homosexual "gene" growing weaker and weaker as the centuries pass. As the last vestiges of a stubborn atavistic abnormality, homosexuals could again be subjected to the correctional zeal of medical science. Clearly this vision of the enforcement of "normality" is as frightening as those faced by the nineteenth century sodomite.

In fact all of the pieces of just such a justification are already in place. In April of 1993 a study by the Alan Guttmacher Institute found that only 1% of American men were gay. Setting aside the data for this study was collected in face to face interviews, where very few are likely to admit their homosexuality, the study has been used by religious and conservative political organizations to undermine the "need" for

equal rights protections for gays and lesbians, as science has demonstrated that they are but a tiny group of sexual deviants undeserving of legal protection.⁵ Interestingly, the same religious leaders argue that over 1 million gays and lesbians marched in the streets of Washington, D.C. in April of 1993. They use this as evidence of the strength, power, and threat of the "homosexual political movement" which must be stopped.⁶

Sexual Identity and the Power of Life and Death

The final chapter of the first volume of Michel Foucault's *History of Sexuality*, suggests that the scientific power to invent sexualities and the power of the sovereign over life and death have merged in the

⁵See Felicity Barringer, "Sex Survey of American men Finds 1% are Gay," *The New York Times*, April 15, 1993, p. A1.

⁶Jerry Falwell in his Sunday morning national broadcasts now sells a video purporting to tell the real story behind the April 1993, March on Washington. Falwell uses the 1 million figure, agreeing with D.C. police and gay activists who put the numbers at or close to 1 million. The "official" government estimate, made by the U.S. Parks Service, appeared in all national news accounts was much lower. The selective use of numbers is evidence of the hypocrisy of Falwell, and others like him, who will argue on the one hand that gays are a tiny minority with no need for legal protection, and on the other fill their own coffers with stories of a powerful homosexual political organization infiltrating the top echelons of power in the United States.

modern state.⁷ The alliance between sexual difference, medical epistemology and the state has caused possibilities for regulation to be imagined that are new in the history of the world, making modern political movements based on identity, dangerous landscapes to traverse. I share Foucault's uneasiness about the future, and his dread that a sexual apocalypse is possible. I wish to give one possible shape to this potential apocalypse haunting gay and lesbian identity.

It should not be forgotten that the discourse of sexual identity was born of the earlier desire to find causes and cures for the homosexual, and has never fully escaped it. The search for causes and cures has been waiting for the next opportunity, the next level of medical miracles to be invented. Once invented, new forms and methods of scrutinization will again be brought to bear on this stubborn problem that medical science has so miserably failed to explain. The latest shift in the medical-epistemological system of truth creation is already underway, and has been for some time.

Today science has the ability to determine what gene determines eye color, hair color, and baldness. It is only a matter of time before the gene that determines

⁷Michel Foucault, "Right of Death and Power Over Life," *The History of Sexuality, Volume I: An Introduction*, pp. 135-159.

"homosexuality" is discovered. There is little doubt that medical science will find the gene for which they search, just as they discovered originally that homosexuality was contagious, the result of too much masturbation, or that homosexual men could be detected by their low levels of testicular radioactivity. The only question is how medical science will attempt to use this new "discovery" on the lingering problem of sexual "abnormalities." These new Drs. Frankenstein claim already to have discovered the gene that causes alcoholism, a problem similarly constructed by the medical epistemology.

The danger to gays and lesbians rests in what latest group of cures for homosexuality will arise from these "discoveries." Will carriers of the offending gene be allowed to marry? If so, will they be allowed to have children? Will homosexual adults be "cured" through genetic surgery?, or will "scientists" be satisfied to help Darwinian evolution along by altering the genetic make-up of children in the womb who carry this atavistic gene? These may seem extreme, even ridiculous concerns, and I hope they are, but I believe they are quite real possibilities as the next generation of medical epistemologies begin to be reflected in the law.

Regulation of our lives need not come in the form of the Orwellian totalitarian state; it is not only in complete domination, not in ordering us, against our will to report for genetic surgery, that I believe the present danger lies. The most insidious forms of regulation occur at the very point where we believe our liberation has escaped them. As Margarete Cammemeyer's quote from the last chapter makes clear, no such force will be required. In a liberal democracy where social opinion guarantees that the drive to conformity is absolute, this new knowledge will be offered up as choice. Marital blood tests or amniocentesis are technologies already in place through which this new scientific discovery could be deployed to regulate the intimate affairs of our lives. What parent, given the knowledge and the *choice* would choose to carry a child to term knowing that child would grow up to be gay or lesbian? Under the rubric of greater knowledge, greater truth, expanded choices, we are unwittingly enslaved.⁸

⁸Interestingly, under this scenario, the present position of religious "right to life" groups and liberal "pro-choice" organizations likely would be reversed, with liberals arguing against persecution of unborn gays and lesbians and conservatives allied with the right to choose to correct these sexual abnormalities. I am indebted to Nick Xenos for pointing out this potential political reversal.

Homosexuality as a Stage: Performing Sexual Identity

As I have attempted to illustrate in this dissertation, both constructionist and essentialist conceptions of homosexuality circulate within the policy texts and debates of the United States today. Often explanations for discrimination against gays and lesbians embrace both essentialist and constructionist explanations of homosexual *being*. Those pressing for these civil rights make similar arguments, although unfortunately, these voices have become increasingly one-sided as essentialist cries of "I was born this way," have become the liberatory mantra offered to all gays and lesbians. Still, Diana Fuss' question cited many pages ago, is relevant. In any single discussion of gay and lesbian identity, politics or community the question should not be whether or not identity is "essential" or "constructed" but rather, *"What motivates the deployment of each of these conceptions of identity?"* As such, the recent rush to an essential gay identity can be seen as the quite sane response to the epistemological, philosophic, moralistic, and political attacks launched against the homosexual in the last one hundred and fifty years.

But I believe, that to be rational and useful, the response to these epistemological and political forces must be strategic, and therefore flexible.

Strategically deploying essentialist arguments makes sense in some debates, but not in others. As we have seen, the enemies of gays and lesbians certainly are willing to deploy both kinds of arguments in their efforts to keep gays and lesbians from achieving equal protections in law and society. As a possible answer to this dilemma, I offer, as a jumping off point for future investigations, the concept of sexuality as *performance*.

"You're just going through a stage," is a familiar phrase to many gays and lesbians whose friends and family have hoped, encouraged, even enforced their conformity to a model of "compulsory heterosexuality." Often psychiatrists and psychologists have advised that homosexuality was just a "stage" or "phase" of development, through which "normal" people would pass.

But "stage" is meaningful to this discussion for another reason. Fleeing abusive families and oppressive small towns many gays have historically found refuge in the theater. Finding acceptance and creating new families, activities were tolerated among "theater people" that would have been unacceptable in almost any other environment. Theater companies, often composed entirely of men, gave birth to the modern practice of cross-dressing, as out of necessity, male actors would perform the roles of women in stage productions of plays. The modern antecedent of this theatrical

transvestism flourishes today in the gay bar culture in the form of "drag" performances.

The butch/femme dichotomy that is customary among many lesbian communities is another example of the inversion of gender and sexual stereotypes that are common practice among gay and lesbian sexualities within gay and lesbian communities. But when moving outside of these communities, many gays and lesbians must perform identity differently again, "passing" as straight while visiting families, holding down jobs, even when walking down the street. To do other than this means risking loss of family, employment income, or even opening oneself up to possibility of violence.

Common to each of these experiences is the practice of performance. Lesbians and gay men, out of necessity have become quite accomplished "actors," moving between roles and "performances of identity" with remarkable ease. However oppressive having to "pass" as straight may feel to many men and women, it is no more a performance, no less "socially constructed" than the many mannerisms, behaviors, and presentations of self as gay or lesbian that exist within gay and lesbian communities today. Indeed, the whole notion that gays and lesbians have constructed communities in which they give their identities expression--world stages onto

which they openly and freely perform--is itself an admission of the constructivity of sexuality.

In her book *Gender Trouble*, Judith Butler has argued that gender is a constructed category, with no essential characteristics. She writes:

. . . acts, gestures, and desire produce the effect of an internal core or substance, but produce this *on the surface* of the body, through the play of signifying absences that suggest, but never reveal, the organizing principle of identity as a cause. Such acts, gestures, enactments, generally construed, are *performative* in the sense that the essence or identity that they otherwise purport to express are *fabrications* manufactured and sustained through corporeal signs and other discursive means. That the gendered body is performative suggests that it has no ontological status apart from the various acts that constitute its reality.⁹

The effect of thinking gender this way, is that "if true gender is a fantasy instituted and inscribed on the surface of bodies, then it seems that genders can be neither true nor false, but are only produced as the truth effect of a discourse of primary and stable identity."¹⁰ If gender can be revealed as a truth effect, a construction of various discourse of power, then so too, it seems to me, can sexuality. In fact, sexuality is even *better* suited to such "revelations" as gays and lesbians already *consciously* choose to perform

⁹Judith Butler, *Gender Trouble: Feminism and the Subversion of Identity*, New York: Routledge, 1990, p. 136.

¹⁰*Ibid.*

sexual identity differently, in a variety of different situations.

The future task of gay and lesbian studies lies in excavations like the one attempted here, which demonstrate the forces that have come together to inscribe on the bodies of homosexuals, their unique sense of identity. Partially chosen, partially responses to forces not of their own creation, gay and lesbian identities do not pre-exist, fully developed, as if queers were a single people waiting to be granted the same rights and privileges of other social groups. Rather, gay and lesbian identities are constantly evolving as part of the process of state identification and the struggle for equal civil and social rights.

No less than heterosexuality, homosexuality needs to be studied as an institution, a commingling of discourses of power, epistemologies of science and theories of identity and identification: a politics of social change and political (r)evolution. As such, gays and lesbians can begin to turn the forces of history, philosophy, science, and politics on these institutions asking, and answering, questions like the one posed by Adrienne Rich in her path-breaking 1980 *Signs* article entitled "Compulsory Heterosexuality and Lesbian Existence." Rich asks, "Why species-survival, the means of impregnation, and emotional/erotic relationships

should ever have become so rigidly identified with each other; and why such violent strictures should be found necessary to enforce women's total emotional, erotic loyalty and subservience to men."¹¹

This approach would enable gay men to ask what forces have forced their heterosexual counterparts into such a rigid and narrow expression of their sexuality when examples in history suggest that men in the past were able to move freely between sexual and emotional relationships with their wives and comparable relationships with their male "beloveds." Enlisting the power of scientific investigation we could ask what has happened to heterosexuals? What biological or genetic forces have rendered them so uncultured, so narrowly "straight," so unable to realize Greek Eros in this modern period, parodying the questions that are used to shame, silence and demonize gay men today. This reveals for straights what gays and lesbians have always known: the decision to search for causes, explanations and cures for homosexuality is driven by morality and politics, not by "objective" science.

This approach also gives lesbians and gay men the ability to resist the state's attempts to legislate their relationships into "normality," forcing a

¹¹Adrienne Rich, "Compulsory Heterosexuality and Lesbian Existence," *Signs*, Summer, 1980. p. 637.

heterosexual model onto gay and lesbian relationships, defining their political liberation as a banal integration into the universe of the "same."

Adopting an understanding and a political strategy that recognizes identity as performance, the opportunities both to imagine ourselves differently, and differentiate ourselves imaginatively are expanded, ushering in a new era of gay and lesbian activism as well as more interesting and productive endeavors for the newly emerging academic discipline of gay and lesbian studies.

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