

the historical narratives of the Old Testament.

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## CANADA

A vast, unevenly developed nation, Canada's culture has been significantly shaped by influences from France, Britain, and the United States. Approximately 75 percent of the population of 25 million is located in a 3000-mile long, 100-mile wide band along the top of the American border, making the development and survival of a nation-wide gay movement difficult and rendering local and provincial activity particularly important.

*New France.* Prosecutions of sodomy are recorded among the settlers in New France in 1648 and 1691, the latter involving three men. The death penalty was not imposed on any of the accused, perhaps because the population was too thin in the colony to permit unnecessary reductions. The French settlements on the St. Lawrence with their capital at Quebec were the base for extensive journeys by explorers and missionaries far to the west and south (where they reached the other French colony of Louisiana, established in the seventeenth century, with New Orleans, founded in 1718, as its capital). These trips familiarized the travelers with the North American Indian homosexual institution known as the *berdache*. Following his experience as a missionary in New France in 1711-17, Joseph François Lafitau wrote the first attempt at a synthesis of the phenomenon. Expansion of European patterns, of course, spelled the end of Indian social customs, and the *berdache* was not rediscovered by North American homosexuals until the 1950s.

*The Nineteenth Century.* English-speaking Upper Canada (largely populated by loyalist refugees from the American Revolution) was rocked by a scandal centering on Inspector-General George Herchmer Markland. This official, who was accustomed to having sexual relations with

young men (usually soldiers) in his office, was forced to resign in 1838. Several other cases came to light in the 1840s.

With the coming of the Confederation in 1867, Canada required its own legislative structure. Yet in matters of sexual law, the British example was imitated almost slavishly everywhere for almost a century. Thus Westminster's 1885 **Criminal Law Amendment Act**, the law under which Oscar Wilde was later to be prosecuted, was dutifully copied the following year by a Canadian law against indecent assault.

During the early pioneering days the Western provinces seem to have seen a good deal of variant sexual behavior that excited little notice. As in the United States, there are cases of women dressing as men: these may or may not have been lesbian. In the latter decades of the nineteenth century Canada was swept by the social purity movement of British and U.S. derivation. Through mass-circulation pamphlets and public meetings, the latter often held at churches, they sought to combat masturbation and other forms of nonprocreative sex, as individual pollution and "race suicide." Such agitation, and the "civilizing process" in general, spelled the end of the relative sexual liberty of the Canadian West, and a number of prosecutions for buggery occurred there from 1880 to 1910.

*Modern Canada.* Typical urban gay subcultures emerged in major cities, with distinctive cruising grounds and places of entertainment. As with U.S. service personnel, participation in the two World Wars gave many men and women ideas of sexual freedom that they could not have otherwise obtained. In Montreal and Toronto after 1945 a more visible gay subculture focused mainly on "queen's circles," coterie formed around one or more central figures, who controlled entrance to the group and set its standards. Through the mentor-protégé relations of such groups many young people were socialized into the gay subculture, in addi-

tion to a much larger number of closeted persons with more tenuous links to the subculture. Canadian homosexuals had to face the same practices of metropolitan vice squads as did their American counterparts—surveillance of cruising areas, entrapment, raids on gay meeting places. The McCarthyite witch hunt against perverts engendered a Canadian imitation, and the Royal Canadian Mounted Police began to keep personal records, a practice that continued, on a smaller scale, into the 1970s. Legislation, repealed in 1977, was also passed against homosexuals as immigrants on the model of the Walter-McCaran Act in the United States.

In due course, awareness of the American gay movement of the 1950s made its way over the border. Just as the *Mattachine* Society had begun on the U.S. west coast, the first organized Canadian gay group, the Association for Social Knowledge (ASK), began in Vancouver in 1964, generating a *Newsletter* and a social center. Later in 1964 two gay magazines began in Toronto, *Two* (imitating the Los Angeles *ONE*) and *Gay* (later *Gay International*), apparently the first periodical in North America to use the vernacular word in its title. Subsequently, several French-language periodicals appeared in Quebec, culminating in *Sortie* (founded 1982). There have also been books, supplementing the larger body of francophone literature from France itself. Playwright Michel Tremblay, author of the trenchant *Hosanna*, has achieved international recognition. Several novels of the lesbian writer Marie-Claire Blais have been translated into English.

Even before American developments, the official British *Wolfenden Report* of 1957 had made a significant impact on Canadian opinion. After some discussion the Ottawa parliament passed a new Criminal Code in May 1969, decriminalizing homosexual conduct in private between consenting adults. This change left gay public life still subject to harassment, but Canada only gradually adopted the

new militant model of gay liberation introduced in the United States after the Stonewall Uprising of June 1969. In February 1971 the Community Homophile Association of Toronto (CHAT) was formed, quickly becoming the country's most important gay organization. The fall of the same year saw the appearance of the first issue of the monthly, *The Body Politic*, which in its heyday was North America's finest gay paper. In Quebec, French-Canadian nationalism influenced gay organizations, and in 1977 that province passed an antidiscrimination provision, part of the Charter of Human Rights, that initially had no equal in English-speaking Canada but was followed first by several cities, and then by Ontario in 1986 and the Yukon in 1987. The 1970s saw a rapid development of commercial gay enclaves in major cities—baths and bars, bookstores and boutiques. Toronto, in particular, gained a reputation of being the "San Francisco of the North." There a magnet institution, the Canadian Gay Archives, issued several publications, and scholarship began to flourish, following—sometimes uncritically—New Left and French models.

Heralding conservative shifts in many advanced industrial nations, this climate became more adverse in the late 1970s. *The Body Politic* was subjected to several prosecutions, a form of harassment which contributed to its demise in 1986. "Pornography," meaning gay publications from abroad, was confiscated, bathhouses were repeatedly raided and charged with operating as "common bawdy houses." These attacks provoked justifiable anger and resistance on the part of Canada's gay communities. The country settled into an uneasy, but probably stable peace, but as elsewhere the AIDS crisis has meant changes; significantly, many communities and linkages—including artistic, religious, entertainment, interior design—have come together in support of charitable AIDS projects. Since the Third World communities in Canada are still

relatively small, about 90 percent of the AIDS cases affect homosexual men.

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## CANON LAW

Canon law, *jus canonicum*, is the totality of the established rules of the Roman Catholic Church: canons (the decisions of councils), disciplinary regulations, decretals, and other texts collected from local bishops and councils as well as from the New Testament. Like Roman civil law, canon law is divided into public—the constitution of the church and its relation to other bodies—and private—the internal discipline of members.

*History.* Canon law falls into three periods: (1) from the beginning to the decretum of Gratian, *Concordia discordantium canonum*, completed shortly before 1150; (2) from then to the Council of Trent (1545–63); and (3) from the Tridentine Council to the present. Gratian's collection completely superseded all earlier compilations and remained the text of the scholastics at medieval universities. In order to build a coherent system out of various precedents and writings of the Church Fathers, Gratian organized his five books on Roman law principles, thus introducing natural law, which became important in antisodomy provisions. In 1234 Gregory IX expanded the collection and created what in time came to be known as the *Corpus juris canonici*, the Five Books of Canon Law, as opposed to the *Corpus juris civilis*, the codification of Roman secular law by Justinian, to which were added the later Sextus in 1298 and the Clementines in 1317 to form seven books (to which two *extravagantes* were later added), all of which were over time glossed.

Increasingly homophobic theologians, often fanatic friars from Thomas Aquinas to Luca da Penne, continued to influence the glossators. With the aid of philosophy the Inquisition inspired feudal, royal, and municipal laws to order the fining, castration, and even burning of sodomites—all penalties that remained foreign to Canon law proper. The Council of Trent reformed doctrine and discipline, elevating Thomas Aquinas to the rank of the most important doctor of the church. In the twentieth century the canon law was twice recodified.

*Early Antisodomy Provisions.* As early as 177, Athenagoras had characterized adulterers and pederasts as foes of Christianity and subjected them to the harshest penalty the Church, itself still persecuted by the Roman state, could inflict: excommunication. Even before Constantine had ended the Roman state's persecution, the council of Elvira (305) had severely condemned pederasts. Canons 16 and 17 of the Council of Ancyra (314), mainly concerned with defining penance for those guilty of sin rather than with prescribing legal penalties, were interpreted as inflicting lengthy penances upon those guilty of sexual intercourse with males and excommunicating them from the church. Christian Emperors when they became heads of the church meted out savage penalties for unrepentant sodomites: the sons of Constantine the sword, and Theodosius and Justinian the avenging flames.

Of the Germanic kingdoms that succeeded the Western Empire in the West, only the Visigothic in Spain (ca. 650) enacted any penalty at all, namely castration, in spite of Tacitus' famous remark long interpreted to mean that primitive Germans threw homosexuals into bogs. Irish and other penitentials treated homosexual offenses more severely than heterosexual ones, most often condemning anal intercourse, but prescribing greater severity for anal than for oral sex, whether with a partner of the opposite or of the same