

that sexual orientation is fixed by the age of 16, but maintains that the age of consent for homosexual activity should be 18 to protect "the immature young man, who takes a little longer to fix his sexual orientation."

4181. LYNCH, A. C. E. "Counseling and Assisting Homosexuals," **Criminal Law Review** (1979), 630-44.

On the legal status of a hypothetical Homosexual Advice Centre: would it be guilty of corrupting public morals? Where the aim is to reduce the psychic distress and isolation of homosexuals, the activity is lawful. Where the furtherance of overt sexual activity by homosexuals is involved, statutory--and possibly common law--liability exists.

4182. PANNICK, DAVID. "Homosexuals, Transsexuals and the Sex Discrimination Act," **Public Law** (1983), 279-302.

The degree of protection afforded by the 1975 Sex Discrimination Act to homosexuals and transsexuals will depend upon the judicial construction of the opaque language of the legislation, the actual decisions will reflect the willingness of the courts to protect weak and oppressed minorities.

4183. ST. JOHN-STEVAS, NORMAN. **Life, Death and the Law: Law and Christian Morals in England and the U. S.** Bloomington: Indiana University Press, 1961. 375 pp.

A moralistic approach with comparative perspectives. See pp. 198-231 and esp. 310-35 ("Laws Concerning Homosexual Offences").

4184. SMITH, F. B. "Labouchere's Amendment to the Criminal Law Amendment Bill," **Historical Studies** (Melbourne), 17 (1976), 165-75.

Provides background on the still somewhat obscure circumstances under which gross indecency between males was appended to the 1885 Act, a provision that remained in force until the reform of 1967.

4185. STURGES, BOB. **No Offence: The Case for Homosexual Equality.** Manchester: Campaign for Homosexual Equality, 1975.

Statement representing the views of Britain's leading gay rights organization.

4186. WALMSLEY, ROY. "Indecency between Males and the Criminal Offences Act 1967," **Criminal Law Review** (1978), 400-07.

Retrospect: ten years after decriminalization in England and Wales.

4187. WALMSLEY, ROY, and KAREN WHITE. **Sexual Offenses, Consent and Sentencing.** London: H.M.S.O., 1979. 77 pp. (Home Office Research Study, 54)

Attempt to assess the results of recent changes in the law on prosecutions for buggery, attempted buggery, and indecency between males (see pp. 26-28, 38-48).

4188. WOLFENDEN, JOHN, SIR, et al. **Report of the Committee on Homosexual Offenses and Prostitution.** London: H.M.S.O., 1957. 155 pp.

This pivotal work, generally known as the Wolfenden Report, laid the foundation for the English reform of 1957. The Report represented not only an idea whose time had come, but persuaded with trenchant logic and remarkable clarity of exposition. In the English-speaking world its beneficent effect has probably been second only to that of the two Kinsey Reports. For some of the circumstances surrounding its creation, see Lord Wolfenden's memoirs, **Turning Points** (London: Bodley Head, 1976), pp. 129-46.

#### E. AUSTRALIA AND NEW ZEALAND

Australia, which became self-governing in 1901, inherited the British legal system, with the exception of the fact that it has a federal structure resembling that of the United States. Accordingly, it has been necessary to proceed to homosexual law reform in each of the state jurisdictions individually. New Zealand, where reform has been slow in coming, has a unitary system.

4189. BARTHOLOMEW, ALLEN A., et al. "Homosexual Necrophilia," **Medicine, Science, and the Law**, 18 (1978), 29-35.

Based on two cases of homosexual necrophilia, argues that defense based on the abnormal state of the accused should be excluded.

4190. CHAPPELL, DUNCAN, and PAUL R. WILSON. "Changing Attitudes towards Homosexual Law Reform," **Australian Law Journal**, 46 (1972), 22-29.

Public opinion on the subject of homosexuality is changing, but a wide disparity still exists between urban and rural attitudes.

4191. GARDINER, JAMIE, et al. **A Proposal for Reform of the Law Relating to Homosexual Offenses.** Second ed. Fitzroy, Victoria: Homosexual Law Reform Coalition, 1979. 28 pp.

Includes legislation.

4192. GRAHAM, CARBERY. "Conditioned Legal Responses to Homosexuality," **Gay Changes**, 2:4 (1979), 23-28.

Shows how in practice Australian lawyers and judiciary are influenced by antihomosexual prejudices.

4193. MCCLINTOCK, IAN, and JOHN ANDREWS. "Homosexual Law Reform in New South Wales--Who Is Satisfied," **Legal Service Bulletin** (Clayton, Victoria), 9 (1984), 138-41.

Compromises and maneuvers which led to (qualified) decriminalization in that state: buggery and indecent assault on males are abolished where both parties are over 18.

4194. MACKENZIE, D. F. "Homosexuality and the Justice Department," **New Zealand Medical Journal**, 66 (1967), 745-48.

Homosexual acts by males are punishable in New Zealand by imprisonment for up to 10 years if the partner is under 16, and up to 5 years if the partner is over 16. Women over 21 who participate in homosexual acts with girls under 16 are liable to imprisonment for a term up to six years; consenting adult women cannot be prosecuted for homosexuality.

4195. NEW SOUTH WALES. DEPARTMENT OF THE ATTORNEY GENERAL AND OF JUSTICE, **Homosexual Offenses**. Sydney: New South Wales Bureau of Crime Statistics and Research, 1977. 43 pp.

Official statistics from one Australian state.

#### F. CANADA

Canada has inherited the English common law tradition to which it has largely adhered. Since Canada has a unitary system of law, sodomy has been decriminalized throughout the country--though the legal age of consent is 21. In addition, Quebec's Civil Rights Code includes "sexual orientation."

4196. ADAM, BARRY D. "Stigma and Employability: Discrimination by Sex and Sexual Orientation in the Ontario Legal Profession," **Canadian Review of Sociology and Anthropology**, 18 (1981), 293-98.

In matched personal resumes sent to law firms, employers' responses were less likely to be favorable to gays and women.

4197. ADAM, BARRY D., and KATHLEEN A. LAHEY. "Legal Oppression: A Survey of the Ontario Legal Profession," **Canadian Bar Review**, 59 (December 1981), 674-86.

In a questionnaire sent to the entire 1974 graduating class of Ontario law schools, 1.5% of the respondents indicated that they were homosexual or bisexual.

4198. ADELMAN, HOWARD. "Publicizing Pedophilia: Legal and Psychiatric Discourse," **International Journal of Law and Psychiatry**, 4 (1981), 311-25.

Discusses the legal definition of pedophilia, the credibility and objectivity of witnesses, and trial evidence as illustrative of legal-psychiatric discourse.

4199. CARON, MADELEINE. "Les lois applicables au Québec concernant les homosexuels," **Revue Québécoise de Sexologie**, 2 (1981), 31-36.

The legal situation of homosexuals in Quebec.

4200. COHL, K. A. **Sexuality and the Law**. Toronto: I.P. I. Publishing Division, 1978.

In this popular survey, see pp. 67-76.

4201. DELEURY, EDITH. "L'union homosexuelle et le droit de la famille," **Cahiers du Droit** (Laval University, Quebec), (December 1984), 751-75.

One of a series of articles in this issue on homosexuality and the law, including Robert Demers, "De la Lex scantinia aux recents amendements du Code criminel" (pp. 777-800); Nicole Duple, "Homosexualité et droits à l'égalité dans les chartes canadienne et québécoise" (pp. 801-42); and Richard A. Goreham, "Le droit à la vie privée des personnes homosexuelles" (pp. 843-72).

4202. GIGEROFF, ALEX K. **Sexual Deviations in the Criminal Law: Homosexual, Exhibitionistic, and Pedophilic Offenses in Canada**. Toronto: University of Toronto Press, 1968. 218 pp.

See esp. pp. 39-50, 82-95, 100-24, 159-68. On the crimes of buggery, indecent assault, gross indecency, and the like. One legislator is quoted as saying that there are "fifty kinds of gross indecency."

4203. GOREHAM, RICHARD A. "Human Rights Code of British Columbia--Reasonable Cause for Discrimination--Discrimination against Homosexuals--Freedom of the Press," **Canadian Bar Review**, 59 (1981), 165-79.

In the case of *Gay Alliance Toward Equality v. The Vancouver Sun*, the Supreme Court of Canada invoked the principle of freedom of the press to diminish the scope of human rights legislation prohibiting discriminatory practices. See also: W. W. Black, "Gay Alliance Toward Equality v. Vancouver Sun (1979) (2 N R 117)," **Osgoode Hall Law Journal**, 17 (1979), 649-75; Harry Kopyto, "The Gay Alliance Case Reconsidered," loc. cit., 18 (1980), 639-52; and Jeff Richstone and J. Stuart Russell, "Shutting the Gate: Gay Civil Rights in the Supreme Court of Canada," **McGill Law Journal**, 27 (1981), 92-117.

4204. RODGERS, RAYMOND SPENCER. **Sex and Law in Canada: Text, Cases and Comment**. Ottawa: Policy Press, 1962. 62 pp.

On "Deviate behaviour not dangerous" which covers the offenses of buggery and gross indecency under Canadian law (pp. 67-74).

4205. RUSSELL, J. STUART. "The Offense of Keeping a Common Bawdy House in Canadian Criminal Law," **Ottawa Law Review**, 14 (1982), 270-313.  
On the ambiguity of the term "acts of indecency" in the Canadian and British Criminal Codes, and the question whether homosexual baths and bars constitute "common bawdy houses" because they existed "for no other reason but to provide sexual gratification in the homosexual sense."
4206. RUZOVSKY, L. E. and F. A. **Legal Sex**. Toronto: Doubleday Canada, 1982.  
Popular account.

## G. US LAW: GENERAL

Although the United States has inherited the British common law tradition, it has modified it in two significant respects. 1) According to the principle of constitutional review, no enactment of positive law can stand if it is in conflict with the Constitution of the United States. In addition, state laws must not violate state constitutions. This principle opens the door to challenges of sodomy laws on constitutional grounds. 2) In keeping with the federal system, each of the fifty states has its own penal code. In practice this federalism has meant that legal reform--in the absence of a general decision on the part of the United States Supreme court on the unconstitutionality of sodomy laws--must be achieved on a state-by-state basis. The continuing production of law review articles may be monitored in **Index to Legal Periodicals** (1909- ).

4207. ACHTENBERG, ROBERTA (ed.). **Sexual Orientation and the Law**. New York: Clark Boardman, 1985. ca. 600 pp. (loose leaf)  
Intended for legal practitioners and scholars, the work organizes a diverse body of material (with many case citations) under three major categories: Family and Property; Civil Rights and Discrimination; and Criminal Issues. Some users have felt that the volume has an overemphasis on California.
4208. AMERICAN CIVIL LIBERTIES UNION OF SOUTHERN CALIFORNIA. "Statement of Policy Regarding Sexual Behavior," **One Magazine**, 14 (January 1966), 6-8.  
After some years of sidestepping the issue, this was the first positive ACLU statement, becoming a model for national policy.
4209. AMERICAN LAW INSTITUTE. **Model Penal Code: Proposed Official Draft**. Philadelphia: American Law Insti-

- tute, 1962. 346 pp.  
 Sections 213.0, 213.2, 213.2 and 213.6 refer to "deviate sexual intercourse"; sections 251.1, 251.2, and 251.3 refer to open lewdness, prostitution, and loitering. Various tentative and proposed drafts of the code were published in the ten-year period prior to 1962, when this version was finally adopted. The Institute draft codified and modernized law for the use of legislators and commissions considering new codes or reforms of existing portion of codes in the separate states.
4210. APASU-GBOTSU, YAO, et al. (eds). "Survey on the Constitutional Right to Privacy in the Context of Homosexual Activity," **University of Miami Law Review**, 40 (1986), 521-657.  
 Comprehensive review of the historical background of privacy, including purported state interest in the prohibition of sodomy. This valuable survey was prepared by the editors of the **Review** in connection with the consideration of the (Georgia) *Bowers v. Hardwick* case, which the U.S. Supreme Court resolved in June 1986, restoring the state law. See also: "Elisa L. Fuller, "Hardwick v. Bowers: An Attempt to Pull the Meaning of Doe v. Commonwealth's Attorney out of the Closet," *ibid.*, 39 (1985), 973-95.
4211. BAER, JUDITH A. **Equality under the Constitution**. Ithaca: Cornell University Press, 1983. 308 pp.  
 This scholarly work on the philosophy of Constitutional law contains a relevant chapter.
4212. BLAIR, JERRY D. "Sex Offender Registration for Section 647 Disorderly Conduct Conviction is Cruel and Unusual Punishment," **San Diego Law Review**, 13 (1976), 391-409.  
 Holds that the notorious California requirement that convicted sex offenders maintain registration with the police for life is unconstitutional.
4213. BRADFORD, WILLIAM. **An Enquiry How Far the Punishment of Death is Necessary in Pennsylvania**. London: J. Johnson, 1795. 80 pp.  
 Following Montesquieu and Beccaria, supports the abolition of the death penalty for the "crime against nature." "Laws might have been proper for a tribe of ardent barbarians wandering through the sands of Arabia, which are wholly unfit for an enlightened people of civilized and gentle manners" (pp. 20-21).
4214. BRAGG, MORGAN STEVENSON. "Victimless Sex Crimes: To the Devil, Not the Dungeon," **University of Florida Law Review**, 25 (1972), 139-59.  
 Summarizes the now-classic arguments from the literature of the 1950s and 1960s to the effect that sodomy should not be a crime: separation of church and state, violation of the right to privacy, victimless offense, and the like.