

COPYRIGHT NOTICE:

The following material has been published and copyrighted by The University of Akron Press. All rights reserved. No part of this book may be reproduced in any form by any electronic or mechanical means (including photocopying, recording, or information storage and retrieval) without permission in writing from the publisher, except for reading and browsing via the World Wide Web. Users are not permitted to mount this file on any network servers.

For course pack and other permissions or for more information, send e-mail to apeters@uakron.edu.

SEXUAL POLITICS

Series on Law, Politics, and Society

Jack Gieck, *Lichfield: The U.S. Army on Trial*

Walter Hixson, *Murder, Culture, and Injustice: Four Sensational Cases in American History*

Christopher P. Banks and John C. Green, editors, *Superintending Democracy: The Courts and the Political Process*

Donald F. Melhorn Jr., *"Lest We Be Marshall'd": Judicial Powers and Politics in Ohio, 1806–1812*

Christopher L. Peterson, *Taming the Sharks: Towards a Cure for the High-Cost Credit Market*

John C. Blakeman, *The Bible in the Park: Religious Expression, Public Forums, and Federal District Courts*

Chip Bok, *The Recent History of the United States in Political Cartoons: A Look Bok!*

Mary K. Kirtz, Mark J. Kasoff, Rick Farmer, and John C. Green, editors, *The Elections of 2000: Politics, Culture, and Economics in North America*

Douglas Litowitz, *The Destruction of Young Lawyers: Beyond One L*

Shannon Gilreath, *Sexual Politics: The Gay Person in America Today*

SEXUAL POLITICS

The Gay Person in America Today

SHANNON GILREATH

The University of Akron Press
Akron, Ohio



Copyright © 2006 Shannon Gilreath
All rights reserved
First edition 2006
Manufactured in the United States of America
10 09 08 07 06 5 4 3 2 1

All inquiries and permissions requests should be addressed to the publisher,
The University of Akron Press, Akron, OH 44325-1703

Library of Congress Cataloging-in-Publication Data

Gilreath, Shannon, 1977-

Sexual politics : the gay person in America today / Shannon Gilreath.— 1st ed.

p. cm. — (Series on law, politics, and society)

Includes bibliographical references and index.

ISBN-13: 978-1-931968-34-8 (cloth : alk. paper)

ISBN-10: 1-931968-34-9 (cloth : alk. paper)

1. Gays—United States—Social conditions. 2. Gay rights—United States.

3. Homophobia—United States. I. Title. II. Series.

HQ76.3.U5G55 2006

306.76'60973—dc22

2006002269

The paper used in this publication meets the minimum requirements of American National Standard for Information Sciences—Permanence of Paper for Printed Library Materials, ANSI Z39.48—1984. ∞

Cover design by Jordan McLaughlin.

These thoughts are dedicated
to Beau Ward and Shane Ward, who give me courage,
and to my many “out” sisters and brothers—you are my heroes.

A partial listing of those I know and love includes

Gus Chrysson
Max Wolff
Kevin Crutchfield
Mark Huffman
Will Shields
Chase Key
Miki Felsenburg
Daniel Bates
Robert Davidson
Gary Lowman
Monique Williams
Dan Ellison
Wil Nordbruch

But mostly these thoughts are dedicated to the generations of young people who will come of age in the twenty-first century. To these innocents falls the task of eradicating bigotry, promoting acceptance, challenging despotism, and achieving equality—in short—making possible the fuller enjoyment of “life, liberty, and the pursuit of happiness” for every person.

Contents

Preface ix

Acknowledgments xi

PART 1

Introduction

For Jimmy 3

Chapter 1

A World Not of Their Making: The Closet in American Life 9

Chapter 2

“Through a Glass Darkly”: American Religious Fundamentalism
and Homophobia 43

PART 2

Chapter 3

Gay Citizenship: The Politics of Transformation 83

Chapter 4

What Gay People Want: Equality, and I Will Be Free 127

Epilogue

Who Has Believed Our Report? 136

Appendix

 Helpful Resources for Activists and Concerned Citizens 141

Notes 158

Selected Bibliography 167

Index 171

Preface

The only true hope for civilization—the conviction of the individual that his inner life can affect outward events and that, whether or not he does so, he is responsible for them.

—Stephen Spender

IN 1906, W. E. B. DU BOIS OPINED that “the problem of the twentieth century will be the problem of the color line.” In the fledgling years of the twenty-first century, I find myself wondering whether this century’s problem won’t be the sexuality line. An ominous shadow crept across the horizon of gay rights in the early morning hours of November 3, 2004, as it became apparent that John Kerry, the presidential candidate who, despite disavowing gay marriage, was the best political choice for American gays, was defeated, in no small part due to his refusal to distance himself from gays entirely.

If after the utterly homophobic performance by Pat Buchanan at the 1992 Republican National Convention, gays felt they were in, as Gregory King of the Human Rights Campaign put it, “the election of our lives,” gays found themselves no less scrutinized, sexualized, or vilified in the 2004 campaign. The run-up to election day 2004 was marred by an ugly discussion of amending the federal Constitution to ban gay marriage and civil unions, and, indeed, several states did just that to their state constitutions. Election exit polling showed that “morality”—not two years of futile war in Iraq, government secrecy not seen since Nixon days, a tanked economy, or the ballooning deficit—was the single top issue cited by voters.

Those of us who had pinned many of our hopes for the future on Kerry’s

election (really more on the political climate that we hoped would emerge in a Bush-free nation) couldn't help but shudder, couldn't help but feel that somehow, cosmically, across time, the heavy foot of history had tamped upon our collective graves. Time will tell whether our concern over the election outcome is warranted—the progress of gay rights won't be derailed entirely, but surely our efforts have been hindered. The tide of conservatism and moral Calvinism that kept Bush in office also swept in eleven more state marriage amendments—Arkansas, Georgia, Kentucky, Michigan, Mississippi, Montana, North Dakota, Ohio, Oklahoma, Oregon, and Utah.

But, prior to the election, there was among many gay people an overriding apathy toward the American political process. Long before election day, I presided at a gathering of young gay men to discuss the proposed federal marriage amendment. I was surprised and chagrined to hear so many voices in this chorus offering an overwhelmingly defeated conception of their place in the American republic. More than once I heard, "Why should I get involved? Why should it matter who wins the election? Nobody will do anything for us anyway." These exchanges and many more like them were the genesis of this book. The results of November 2, 2004 simply cemented my conviction of its necessity. As Dr. Martin Luther King Jr. recorded in his 1967 book, *Where Do We Go from Here: Community or Chaos?*: "One of the great liabilities of history is that all too many people fail to remain awake through great periods of social change . . . fraternities of the indifferent who are notorious for sleeping through revolutions. But today our very survival depends on our ability to stay awake, to adjust to new ideas, to remain vigilant and to face the challenge of change."

Amen, I say, and *allons!* I hope that this book will challenge its reader to awaken to this revolution and to turn necessary attention to the politics that will bring the gay person the deserved equality that is so long overdue.

Acknowledgments

THIS IS A RELATIVELY SHORT BOOK that entails a relatively long list of thanks. First, I would like to thank the authors and scholars from whose work I have drawn in writing this book. Despite the logistical choice of limited citation (unheard of and uncomfortable for law scholars), I would like particularly to note the work of Arthur Lipkin, on which I drew heavily for the retrospective aspects of chapter 1, and that of Alan Dershowitz, Letha Scanzoni, Virginia Mollenkott, and Bruce Bawer, on which I particularly relied in chapter 2. I should also acknowledge that part of chapter 3 was published originally in the *Texas Journal on Civil Liberties and Civil Rights* as “The Technicolor Constitution: Popular Constitutionalism, Ethical Norms, and Legal Pedagogy,” (volume 9, pages 23–44).

Many people saw the value of this project and encouraged me to turn my thoughts into a book. For comments on a previous draft, I thank Professors Michael Curtis, Wilson Parker, Michael Perry, Dick Schneider, Suzanne Reynolds, and Bryan Wildenthal. They, of course, cannot be held responsible for errors in opinion they tried to correct. I also thank Associate Deans Miles Foy and Marian Parker at Wake Forest University School of Law for facilitating research assistance and for other support. Thanks go to Scott Gerber for introducing me to the University of Akron Press and to Chris Banks, my editor there, a more dedicated champion and patient shepherd for this work I could not have hoped for. I also thank Amy Freels for her skillful and gracious production coordination. I thank Dean Bill Leonard of Wake Forest University Divinity School and Steve Nickles for initially encouraging me to teach my course on sexuality and the law.

I thank research assistant Gail Sullivan, particularly for her work compiling the information for the appendix, and graduate student Jarica Watts

proved a most efficient and capable manuscript editor. Thanks also to Beth Malone and Ellen Makaravage for computing assistance.

Additional thanks go to Mr. and Mrs. F. for renewing my faith when it lagged, and to Dr. Maya Angelou for her inspiration to liberation through the written word. I must also express my gratitude to the “café crew”: Kevin, Chase, Matthew, Daniel, Max, Gus, Monique, Katie, Greg, Jorge, Chris, and Brooke, who in general good humor put up with my frequent outbursts occasioned by writing this book.

Finally, but perhaps foremost really, I must thank the students of Wake Forest University (Divinity School, Women’s and Gender Studies Program, and Law School) who participated in a dialogue about many of the issues that found their way into this book. Indeed, the missing ingredient in this book is just that kind of interactive dialogue. Perhaps I can make up a little for that by extending to the reader an invitation to share her or his thoughts. You may e-mail me at gilread@law.wfu.edu, and I will do my best to respond.

PART 1

*Oh, I ran to the rock to hide my face.
The rock cried out, "No hiding place!"
No hiding place down here.*

—Traditional

INTRODUCTION

For Jimmy

The very time I thought I was lost, My dungeon shook and my chains fell off.

—James Baldwin, *The Fire Next Time*

AMONG THE MANY ICONS cluttering the walls of my home library is a photograph of James Baldwin. Baldwin has been my hero since I read with voracious interest *The Fire Next Time* many years ago. *The Fire Next Time*, a book that ignited blacks and whites alike in the other great civil rights struggle in our country, the struggle for African American equality, is, in my opinion, a work never equaled. Baldwin, also a gay man, wrote in contribution to the gay rights struggle as well, notably *Giovanni's Room*. But there is nothing like *The Fire Next Time*. It was something of a love letter to the American people; critical and chastening at times, it was, above all, loving and hopeful.

The love letter is an art little-practiced these days. In our instant-messaging, Internet world, few people know how to write a good one, and fewer still know how to receive one in the right spirit. This book, despite its weighty title, is my own love letter to my country, for I love it above all other countries. It is because of that very love that I reserve the right to criticize it—vehemently and frequently. Like the themes explored in these pages, the love letter is at once a private and a public thing: private in its intimate, sensitive topics and public in its commitment of such thoughts to paper and delivering them to the beloved. The love letter is an act of some courage, for it lays out things that are frightening because there is the pos-

sibility they will go unfulfilled, unrealized, unrecognized. Yet these things so terrific as to be otherwise unutterable must be uttered, because to do otherwise would be a horrible, untenable neglect.

These things must be spoken because gay people, on the whole, live lives of silent disillusionment, believing that their country and its politics have failed them. They ignore their inner urgings to action and swallow hard against the voice struggling to find its way into the open, because they believe that the voice will fall on deaf ears. What I hope for is a turning of some of these secret longings into public aspirations, worked for and toward as public realities. I hope for a gay community that approaches its country, mindful of its circumstances, with attention and care and with a broader, deeper politics of transformation than the gay community otherwise has practiced. This book is an invitation to turn essential attention to our neglected lives and needs and desires. My writing is nurtured by political commitment and the hope that writing of the kind represented here can make a difference in changing the rancor and discord of the gay rights debate into a conversation of reason and understanding.

I don't think it unfair of me to say that society in general does not know what to think about gay people. Generations of social taboos about sexuality, and homosexuality in particular, have left a void in the community's understanding. Recent times have seen enormous advances in filling that void. Slowly, slowly, the homosexual as a socially tolerable sexual variation has replaced the homosexual as a sexual invert. Despite the reactionary backlash that followed the U.S. Supreme Court's decision in *Lawrence v. Texas*, enormous strides have been made in the recognition of gays as valid, contributing members of our society, deserving of some measure of respect and legal protection. But gays remain unequal citizens. Even the gay rights movement has been scant on actual discourse about gays as people, as opposed to political or legal objects about whom much has been said in the way of rights and legalities but about whom very little has been said in terms of personal experience. Some of that has been a necessary consequence of policy arguments that have resulted in an increased measure of social tolerance for gays but have done little to advance true understanding. The gap between tolerance, which, in my opinion, is worth little more than the effort to say the word, and true understanding is very wide indeed.

This book is titled *Sexual Politics*. For some, no doubt, this is a curious concept. To the many Americans not engaged in the battle for gay rights, what happens in the bedroom (the sexual) is a matter completely separate

from what happens in the public forum (the political). No doubt, too, there are some involved in the gay rights movement who bristle at the title, and various formulations of the idea—the truth—that we are more than sex have leapt to their lips. This book is, therefore, an answer to both audiences. To make the work as accessible as possible, I have used citation sparingly. The reader may rely upon the selected bibliography for those sources that have most informed my argument. Because this book is as much a political pamphlet as anything else, I have relied heavily on the historical and expository work of those authors listed there; I am in their debt.

The gay person in American society is as he is because his interpersonal sexual relationships have been politicized and used as an instrument of his domination by others. In the United States today, one's sexuality remains the chief factor in defining one's civic fitness and, indeed, one's entire humanity. If one falls into the disfavored sexual category—homosexual—one is automatically unfit to serve openly in one's country's armed forces. In most of the United States, one is not allowed to marry the person of one's choosing; one is unfit to adopt and raise children; one can be fired or not be hired in the first place. All of these things are very real possibilities simply if one is a gay person. To deny the politicization of sexuality in such circumstances is foolishness.

Social definition on the basis of sexual orientation is quintessentially political; in many ways, it is the heart of American politics today. Whether out of the closet or in, the gay person assumes a slotted role in a predefined power structure. The out person finds himself set against the predominating political grain, whereas the closeted gay person also fills a political role by accommodating the prevailing sociopolitical power structure. Even the most closeted of the closeted is not apolitical.

But there is another view of sexual politics—that of the gay rights movement as progressive social reengineering. Gays sexualize politics simply by bucking long-held notions of pathology and inferiority by claiming and asserting those rights held in common by other Americans. Thus, this book is also my attempt to articulate the current political position of the homosexual and to call for political attentiveness by those who have buried their heads, believing—like much of straight America—that what goes on behind the closed doors of the bedroom or, more aptly, the closed doors of America's closets doesn't affect their status as American citizens. My argument for collective concern and for the further emergence of a gay and les-

bian ethos of public attentiveness is essentially political because it is bent toward the reshaping of public norms that ultimately define private life.

Today, America remains a place where virtually no act by a gay or lesbian person can be apolitical; simply because that act is performed by a gay or lesbian person, it takes on a dimension and meaning to the greater society that it otherwise would not have. The very act of publicly acknowledging oneself as gay or lesbian is itself a quintessentially political act, because it challenges the otherwise coerced definition of what it means to be a normal, natural person and a fully participating member of society. That very visibility provides the basis for the transformative politics discussed later, which is an overall cultural politic encompassing all those activities of the gay and lesbian person: art, literature, sports, business, education, spirituality, and otherwise conventional forms of politics.

A purely private reconciliation with one's homosexuality is an inadequate response to the political sexualization faced by the gay individual in the United States. Consequently, the first chapter of this book seeks to give definition and meaning to the otherwise amorphous concept of the closet and to address the need of closeted individuals to move outside the isolation and secrecy of the closet to claim their dignity and the rights concomitant with that dignity. Chapter 1 explores the historical foundations of the closet and the effects of the closet on the private and communal lives of gay people in America, and it makes a plea for honest and responsible living on a personal and civic level.

Chapter 2 discusses the religious factors that have resulted in the pariah status of gays and lesbians in the United States. The condemnation of same-sex sexuality as sinful and abominable is not historically static, nor is it based on some universal principle. Despite constitutional guarantees of a separation between religion and government, America is the only modern Western nation in which religion and politics remain extensively commingled. For that reason, chapter 2 explores the religious foundations of homophobia and the inescapable consequences of America's religiously infused politics, while offering a hopeful solution to the American religious dilemma.

Any understanding of the historical and contemporary position of an oppressed minority is virtually meaningless unless its ultimate end is to feed a healthy politics of social progression. Consequently, after outlining the position of the gay person in American society, chapter 3 frames a plea for political involvement and attentiveness to the public dimensions of

homosexuality. And because a civil rights movement must, by its very nature, operate within the confines of the prevailing political system, some knowledge and understanding of the sociopolitical climate as it affects gays in the United States is imperative to the development of an effective politics. Thus, chapter 3 also outlines the institutional obstacles to successful gay politics and addresses the future prospects for equality.

Chapter 4 is a summation of the legitimate desires of gay people and an attempt to describe the necessary means of getting there.

Because this book is based, in large part, on my own experiences and observations, it is to some extent autobiographical. It may, therefore, seem to emphasize the experiences of gay men at the expense of a discussion of issues exclusively affecting lesbians in this country. To the extent that this is so, it was merely unavoidable. It certainly should not be taken as a suggestion that I do not feel that the plight of the lesbian is equally as important as the plight of the gay man in America.

It is my hope that this work will shed some light, for straight people, on gays as individuals rather than simply as political or legal lightning rods. It is also my hope that it will be enlightening for the gay reader, because the gay rights movement itself has been largely devoid of personal discourse. A necessary part of enlightenment is taking the unpleasant along with the pleasant. In this book, I discuss many unpleasant aspects of the gay experience. The knowledge void and, in some cases, willful ignorance have made the discussion of those things unavoidable. In discussing those things, however, my idea is not to project an utterly morbid outlook on gay life in America but rather to put forth some knowledge about the reality of being gay in America—and that reality in relation to gays and straights alike. I hope that, by discussing these unpleasant, unattractive aspects of our society, I will prove that the advancement of gay rights is good not only for gays but for everyone—for every member of our society.

Ultimately, of course, I realize the enormity of the problem of arguing for social change in an area in which feelings are as deeply entrenched as they are in the area of gay rights: One's opponents are not always willing to discuss and debate in good faith. In matters as politically, emotionally, and spiritually charged as gay rights, reason is often the missing ingredient. A huge contributing factor to the slow pace of gay advancement in this country is that, from the beginning, the debate has been dominated by people who have nothing at all to say. The content of their argument is a mystery to all but them, and they make no effort to say more than a bald assertion

of their empty belief. But reason and truth are the enemies of the bigot. Thus, the goal of this work is to share some useful knowledge with the sympathetically inclined or impartial participant in the gay rights debate—they have been ignored for too long. It is with these individuals that the future of gay rights in this country rests. Filling the void with useful knowledge rather than empty rhetoric will arm these critical people with the information they need to spot the disingenuous argument of the bigot when confronted by it. Like Dr. Martin Luther King Jr., I believe that, when all is said and done, it is not “the violent actions and the vitriolic words of the bad people” that will be remembered but rather “the appalling silence and indifference of the good people.” Surely, we will be asked to account not only for the misdeeds of the “children of darkness,” but also for the “fears and apathy of the children of light.”¹ Fears must be confronted. Only when the good people are given the necessary understanding can they be expected to break their silence.

CHAPTER 1

A World Not of Their Making

The Closet in American Life

His remembrance shall perish from the earth and He shall have no name in the street. He shall be driven from light into darkness, and chased out of the world.

—Job 18:17–18

HISTORY, FOR ALL TOO MANY PEOPLE, is the convenient referent for a fact or set of facts that has fallen into a void of unimportance, irrelevant to modern concerns. The historical knowledge possessed by most Americans is sadly substandard, and gays as a community share this abysmal appreciation of time gone by. But “[y]ou have to look at history as an evolution of society,” said Jean Chrétien, prime minister of Canada, after his cabinet approved a policy to open marriage to gay couples.¹ Indeed, a society pays a consuming price for failing to understand its own history. In that spirit, understanding the closet as a cultural phenomenon necessitates understanding the history that created the closet.

Unfortunately, there is much in American history to suggest that our democratic social ideal is perhaps more the possession of theoreticians than it is a practically attainable goal. By letter, the United States began as a society in which religious passion was kept separate from public reason and separation of church and state was the benchmark. This much is enshrined in that great monument of democracy, the Constitution.

The roots of what became American society, however, reach further

than 1787 and the drafting of the Constitution; they reach back to groups like the Puritans, who came to America's shores in search of a place to practice a way of life so stern that even the Cromwellian harshness of their contemporary England was unacceptably lax. They migrated to Holland, but the Dutch of five centuries ago were too liberal to countenance the heavy-handed righteousness of the Puritans, whom they promptly expelled.

Like most religious fundamentalists, the Puritans were inclined to see God as an evasive being who created a labyrinth of rules to thwart the petty human's attempt to attain everlasting life. For them, the charity of Jesus was a footnote, whereas the sum of biblical wisdom was to be found in the severer passages of the Old Testament and in the unforgiving dicta of Saint Paul. Accordingly, because adultery was forbidden by commandment and because Saint Paul specifically denounced homosexuality, the Puritans promptly criminalized such abominations in the theocracy they were eventually free to create in the American wilderness.

The Puritans' rigorous persecution of the sinner—in an effort to save his soul by force, if he would not do so volitionally—developed into a legal moralism that American society has never quite been able to rise above. The result: American penal history, and even modern criminal law, are the scandal of the free world. Only in the twenty-first century were gay Americans afforded the basic rights of sexual privacy and bodily autonomy by order of the U.S. Supreme Court.² Yet since its earliest days, the republic has been a place of sharp division between the scarlet letter of the law and the actual practice of citizens' private lives. The states' police powers over morality resulted in a host of laws governing sex, which, while often textually neutral (that is, applying to both heterosexual and homosexual conduct), were usually applied inequitably to punish the vilest offender, the sexual deviant—the homosexual.

Because of this concerted effort to stamp out homosexuality for the good of the greater society, homosexual history in the United States must be pulled from a past of degradation and shame. We might say that our history itself has been buried in the back of our communal closet. Despite this, once uncovered, the history is a vital one from which much can be learned about the present-day place of the gay individual in American society. Since the 1970s, a burgeoning body of literature has emerged, and many schools and universities now devote courses and seminars specifically to gay studies. Numerous historians and commentators have documented gay history. The record of the closet, pulled from centuries of secrecy and isolation,

brings to light a fascinating social history of survival and, finally, self-actualization.

WHERE WE COME FROM . . .

As long as there have been people in North America, there have been homosexuals. Although much of the cultural memory has been blotted out by homophobic whites and Christianized Native Americans, the explorers and missionaries who first came to the New World encountered Native American androgynes wholly accepted and playing vital roles in tribal life. The French term *berdache* was used to describe Native American men who dressed as women and performed the roles of women in public and private life. In many tribes, some women fought in battles and were feared and revered as effective warriors, whereas some men expressed effeminate mannerisms and contributed to the artistic and cultural life of the tribe. Ruth Benedict, an anthropologist, noted the comfortable niches created for gender-role variants who would today be known as homosexual.³ The Native American cultural view of the gay person focused on gender-role identity and not exclusively on sexual habits.

The coming of the white colonialist to America brought not only the oppression of the Native American but also a differing view of sexuality and gender identity. America became the escape of the Pilgrims and other puritanical groups whose rigid religious legalism propelled them outside of a changing European society. Left to their own devices, these groups created a host of ostensibly Bible-based regulations governing sex and morality. Puritanical society emphasized submission of women to their husbands and the sinfulness of nonprocreative sexual activity. Many sex acts that did not come to procreative ends were made capital offenses.

But if America's early fundamentalists used the Bible to craft oppressive laws, they did so with as much of a spirit of equality as oppression can be said to command. When they outlawed sodomy, they forbade it equally between the sexes. Their concern was the sinfulness of all nonprocreative sexual activity; therefore, the homosexual was not relegated to an especially reprehensible class of offender by the letter of the law. For the most part, homosexuals of this early period did not identify themselves as intrinsically different from heterosociety, nor did they have opportunities to identify with others like themselves. They most often married and had children, indulging their homosexual inclinations at great risk.

The Industrial Revolution that swept the United States at the end of the nineteenth century, however, changed the ways in which homosexuals lived and related to one another. People left the isolation of country and village and came to the city, where life was freer and association easier. The large population and the confined geography of the city increased the chances of discovering others with similar sexual identities and inclinations. This confluence of circumstances inevitably led to the birth of the gay subculture, which survives in a very real way today.

If the city provided gay individuals with the opportunity to connect with others like themselves, life outside the infant homosexual community was still harsh. Information about homosexuality was scarce; most individuals continued to think of their sexuality not in terms of natural orientation but of sinfulness and deviance. Homosexuality was a legally punishable offense, and it would remain so until the twenty-first century. Self-censorship of the press contributed to a lack of understanding. When gay-related news was reported, it was usually bad, and even then details were glossed over and euphemisms employed. Even the trial of Oscar Wilde for sodomy in Britain, which so sensationalized Europe, was given short shrift in the U.S. media.

As the twentieth century dawned, the medical community became the greatest enemy of the homosexual. As psychiatry grew to become a respectable field of medicine, psychiatric theories about gay deviance and its curability circulated throughout the country. Young men and, to a lesser degree, women were subjected to untold horrors in the search for a cure—including chemically induced convulsions, electroshock therapy, castration for men, sterilization, lobotomy, and other surgical nightmares.⁴

Within the subculture, however, gays could find some measure of normalcy and escape from repression. In a study of pre-World War II gay males in New York City, George Chauncey described a thriving gay community situated primarily in ethnic and working-class neighborhoods. Gays existing within that community developed a self-contained society with its own language, social norms, and group associations. Sexual inverts like Ralph Werther, who wrote an autobiography describing his life in the gay subculture of New York City in the 1890s, were allowed to live relatively open lives. When forced to interact with heterosociety, the gays of the subculture devised ways of distinguishing themselves and identifying with one another. Red ties and bleached hair, for example, signified membership in the gay community.

LEGAL OPPRESSION . . .

The penal code of New York in the 1880s was typical of post–Civil War lawmaking. It placed a heavy emphasis on public morals, prohibiting rape, abduction, carnal abuse of children, abortion, bigamy, incest, sodomy, indecent exposure, possession or publication of obscene materials, and keeping a disorderly house as “crimes against the person and against public decency and good morals.”⁵ But to the extent that same-sex sexual activity was penalized under this regime, it was penalized indirectly. Even the sodomy laws, enacted by all but three states in the Union, were rarely applied to same-sex individuals. This is not to say that same-sex activity was unknown or sanctioned; Walt Whitman had already published the homoerotic poems of *Leaves of Grass*, which were met with a great deal of scandal. But there was no attempt at legal suppression. If the society of the middle and late 1800s did not sanction same-sex eroticism, neither did that society overtly penalize it.

In the decades after the Civil War, the country began a campaign for homogeneity that threatened the gay subculture and eventually drove it completely underground—into the emerging closet. Soon, civic groups began to form in order to quell sexual deviance, a job they believed the law was not doing satisfactorily. New York City’s Comstock Society (the Society for the Suppression of Vice) was founded in 1872 for such a purpose. By the 1890s, the Comstock Society was assisting police in monitoring degenerate behavior in the subculture’s principal areas. The Society, its outrage seething, urged officials to use the sodomy law to combat sexual deviants. Anthony Comstock, from whom the Society took its name, had this to say after reading Ralph Werther’s autobiographical account: “These inverts are not fit to live with the rest of mankind. They ought to have branded in their foreheads the word ‘Unclean,’ and as the lepers of old, they ought to cry ‘Unclean! Unclean!’ as they go about, and instead of the [sodomy] law making twenty years imprisonment the penalty for their crime, it ought to be imprisonment for life.”⁶ Driven by intensifying social outrage and a millennialist revival of puritanical morality, the law began to change toward a more pointed and effective suppression of sexual deviance.

Antisodomy statutes were the most effective mechanism by which government sought to restrain homosexual conduct. However, most sodomy laws covered only anal sex, and prosecutions were mainly of opposite-sex offenders.⁷ But by the late nineteenth and early twentieth centuries, many

states changed their sodomy laws to make it easier to target gays; legislatures simply rewrote their sodomy or buggery statutes to encompass oral sex.⁸ In other states, the definition was expanded by judicial decision.⁹ In others still, a more indirect approach was taken; Massachusetts, for instance, made it a crime to be a “lewd, wanton, or lascivious person.”¹⁰

Once sodomy laws encompassed oral sex, they were more easily applied to prostitutes, especially male prostitutes who dressed as women and offered oral pleasure to their customers. It also made lesbians vulnerable to prosecutions for sodomy, a virtual impossibility before, although lesbians still accounted for a mere fraction of the sodomy arrests of the period.¹¹ Sodomy laws, however, still proved unwieldy; because they carried felony penalties, their use was proscribed by procedural safeguards like indictment and trial by jury. Aggressive laws against cross-dressing were implemented to take up the slack. Homosexuals joined the ranks of Joan of Arc and Elizabeth Cady Stanton as degenerates for wearing *dress not belonging to his or her sex*. A proliferation of disorderly conduct laws further added to the arsenal of gay suppression.

Furthermore, the psychological quackery of the early twentieth century fueled many Americans’ suspicions that homosexuals were sexual predators out to defile their children. The linkage of homosexuality to pedophilia reached hysteria by the 1930s. Obscenity laws were increasingly employed to suppress literature branded degenerate, like British novelist Radclyffe Hall’s lesbian-themed work, *The Well of Loneliness*.

INTO THE CLOSET . . .

An aggressive social campaign against homosexuals influenced the development of the law; the law, consequently, perpetuated misunderstanding and restricted opportunities for change of societal attitudes. As the law became increasingly oppressive, the gay subculture enjoyed by the likes of Ralph Werther was driven completely underground.

World War II was a watershed in the evolution of gay culture. Thousands of men entered gender-segregated environments for the first time. Although there was screening to avoid enlisting homosexuals in the military, most gays did not dare reveal their sexual orientation and joined the swelling ranks sent to the European and Pacific theaters, perhaps disproportionately, given the military’s preference for single, childless men. Living and fighting closely together, these men had a great opportunity to form