

# They want to legalize homosexuality

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## The Great Relationships

The essence of Confucius' ethics lies in his formulation of the Five Relationships: between ruler and subject, father and son, husband and wife, older brother and younger brother, older friend and younger friend. These five are the 'great' relationships which Confucius recognised as fundamental to the social order.

*From 'Life', June 1955.*

### *A Fable for Critics*

When nature was shaping him,  
clay was not granted  
for making so full-sized a man as she wanted.  
So, to fill out her model, a little she spared  
from some finer-grained stuff, for a woman prepared.  
And she could not have hit a more excellent plan,  
for making him fully and perfectly man.

*James Russel Lowell.*

## They want to legalize Homosexuality

From PEOPLE TODAY, July 7, 1955.

Published in N. Y. C. National distribution.

Homosexual behavior shall no longer be punishable by law, unless it involves force or coercion, entangles minors, or offends in public. This proposal, sure to arouse many Americans, comes from a group made up of many of the nation's most distinguished lawyers and judges. What made them decide this? How, in their opinion, can the removal of penalties for homosexuality improve public morality? What action is likely to result? Herewith PEOPLE TODAY presents a close-up of a situation of concern to every American.

If you were a lawyer, law professor or judge, you'd be honored if you were asked to join the American Law Institute. It has about 1,300 members. Its annual meetings are addressed by the Chief Justice of the United States. One of the Institute's aims is 'to promote the clarification and simplification of the law and its better adaptation to social needs.'

Right now, the Institute is busy on a monumental project, aided by a 300,000 dollars grant from the Rockefeller Foundation: to write a Model Penal Code for the guidance of state legislatures, which keep revising state laws.

This year, the Institute produced a bombshell: Article 207 of the Model Code, dealing with sex offenses. Adultery, now punishable in 43 states, was removed entirely from the area of criminality.

Even more surprising are the provisions of Section 207.5—on homosexuality, referred to as sodomy or deviate sexual intercourse. This is now severely punishable in every state, with up to 20 years imprisonment in New York, to 60 years in N. Carolina, and life at hard labor in

Georgia. But Model Code Section 207.5 provides punishment for sodomy and related offenses only if they involve force, fraud, or partners who are minors, or soliciting in public. Homosexual relations between willing adult partners thus is to carry no punishment whatever.

Here are the Institute's reasons: 'No harm to the secular interest of the community is involved in a typical sex practice in private between consenting adult partners. This area of private morals is the distinctive concern of spiritual authorities. It has been so recognized in a recent report by a group of Anglican clergy, with medical advisers . . . The distinction between civil and religious responsibilities in this area is reflected in the penal codes of such predominantly Catholic countries as France, Italy, Mexico, and Uruguay, none of which attempt to punish private misbehavior of this sort.' (Among the Institute's comments, comprised of medical, legal, and sociological opinion, is this excerpt from the Kinsey report: '37% of the total male population has at least some overt homosexual experience . . . this accounts for nearly 2 males out of every 5 that one may meet').

The Model Code section on homosexuality caused a debate between two of the Institute's most illustrious members. Said Judge J. Parker (U. S. Circuit Court of Appeals, Richmond, Va.): 'When we fly in the face of public opinion . . . we are not proposing a code which will recommend itself . . . to the thoughtful members of this profession.' Parker rejected the idea that homosexuality shouldn't be forbidden just because laws can't stop it.

But Learned Hand (retired Chief Judge of the U. S. Circuit Court of Appeals, N. Y.) replied: 'Criminal law which is not enforced practically is much worse than if it is not on the books at all.' Members framing the Code's sex provisions voted 35 to 24 to strike sodomy from the punishable list.

How can such a code improve public morality? Here's a digest of opinion from leading lawyers questioned by PEOPLE TODAY: The law today should pertain only to acts that injure society. Anything a man does to himself, or to a willing adult partner, is strictly his own business. If some laws aren't enforced, others are weakened also, thus reduction of dead letter laws (like adultery legislation) would improve all law enforcement. Removing homosexuality from the criminal list might reduce blackmail, encourage homosexuals to seek psychiatric help.

'I think it (sodomy) is a matter of morals,' declared Judge Learned Hand, 'a matter very largely of taste, and it is not a matter that people should be put in prison about.' Previously, he had voted to make homosexuality punishable under the Model Code, because omitting it might make the entire Code less likely to be accepted. But later he changed his mind: 'I finally came to the conclusion that the chance of its prejudicing the Code is not sufficient.'