

THE MATTACHINE SOCIETY OF WASHINGTON

September 21, 1962

L. V. Meloy
General Counsel

GC:LVM:d

John W. Macy, Jr.
Chairman

Reference is made to your memorandum of September 15, 1962 regarding the correspondence from the Mattachine Society of Washington and the reply to Mr. Trimble, a free-lance writer.

You state "that any legal implications be fully understood before administrative action is taken." I have reviewed the correspondence keeping in mind the question of constitutionality regarding minority groups, and the administrative process under which the Commission makes determinations as to suitability. During the course of my study I reviewed the case of Franklin E. Kameny. Kameny was an employee of the Army Map Service. The Commission caused his dismissal because of "immoral conduct" based upon evidence of homosexuality.

This case went through the District Court which sustained the Commission, the Court of Appeals sustained, and a writ of certiorari was denied by the Supreme Court. The case of Kameny is pertinent because Kameny as of July 9, 1962 was President of the Mattachine Society of Washington.

I reviewed the Department of Justice file on Kameny and on July 9, 1962, further correspondence with Kameny was foreclosed by the Department. In the brief filed by Kameny, pro se, with the Supreme Court in seeking a certiorari he labored long and hard on his constitutional right. In fact, his whole brief was a constitutional argument and an attempt to persuade interest in the court that he and his kind constituted a "minority group" and entitled to constitutional protection under the same conditions as race and religion. A copy of his brief is attached. The court was not impressed and denied certiorari. The letters we have in the file are reiterations of the arguments presented in Kameny's brief. I think we can dispose of the constitutional question rather quickly.