

Bill on Homosexuals Held Unconstitutional

A bill aimed at cracking down on a Washington group that was formed to protect homosexuals from discrimination has drawn a legal broadside from an American Civil Liberties Union lawyer.

The measure would revoke the fund-raising permit of the organization, the Mattachine Society of Washington.

At a hearing yesterday before the House District subcommittee, attorney Monroe H. Freedman, representing the National Capital Area Civil Liberties Union, of the national union, attacked the bill on constitutional grounds.

Mr. Freedman, who is an associate professor at George Washington University's Law School, testified:

"The bill is rather remarkable in the amount of unconstitutionality packed into two short paragraphs."

Mr. Freedman's major attack, which reflected the same position taken earlier by the District Commissioners, was that the bill would violate the Constitution in singling out an organization and taking away its permit without a court hearing.

Members of the subcommittee, headed by Representative Dowdy, Democrat of Texas, have made it clear that they want a tougher law on fund raising in the District. The city's current rule is a "disclosure" statute and provides little control over fund-raising activities.

At yesterday's session the president of the Mattachine Society of Washington, Franklin E. Kameny, repeatedly refused to give the subcommittee a list of the group's members and other personnel information.

Mr. Kameny said his testimony was in line with restrictions carried in the organization's constitution. The witness

said that the reason for the organization's secrecy provisions was obvious, that the members would lose jobs and suffer other types of harassment if their names were made public.

A subcommittee member, Representative Horton, Republican of New York, questioned Mr. Kameny closely on the stated goals of the organization.

Mr. Horton was particularly critical of the group's aim to erase from the criminal statutes any ban on the committing of homosexual acts in private between consenting adults.

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Group Issued

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The application said the organization wanted funds to help give homosexuals sexual equal status.

HR 5990

Group Aiding Deviates Issued Charity License

The Mattachine Society of Washington, an organization formed to protect homosexuals from discrimination, has been granted a certificate by the District license office to solicit funds in Washington.

The application said that the organization wanted to raise funds to help give the homosexual equal status with his fellow men.

District records show the newly organized society was granted its certificate to ask for contributions under the Charitable Solicitations Act on August 14.

C. T. Nottingham, superintendent of licenses and permits, said his office had no authority to deny a solicitation permit to any organization whose representatives answer all questions on the permit application form.

The license chief added that he had informed society representatives that if the group solicits "as much as one dollar," he would order them to open their books and records for examination. If such an order is not complied with, he said,

the licensing department will move to have the society's permit revoked.

The president of the society, who asked that his name not be used, said that his organization "is dedicated to improving the status of homosexuals in our society in the interest both of that minority group and of the Nation."

The society president said that so far no funds have been solicited.

Asked how many members the society had in the Washington area, he replied "we would prefer not to say. It is small but growing rapidly."

He said that the original Mattachine Society was founded in San Francisco 10 or 12 years ago. Other independent Mattachine Societies, he said, have been organized in New York and several other American cities.

The organizations took their names, he said, from the Mattachines, court jesters in the Middle Ages who were permitted to make pointed social commentaries which would have been tolerated from no one else.

The Washington Post

City Life

B4

Friday, Oct. 4, 1963

Homosexual Group Turns in Permit

The Mattachine Society of Washington, an organization created to combat discrimination against homosexuals, has surrendered a charitable solicitation permit that the District proposed to revoke.

C. T. Nottingham, superintendent of licenses and permits, disclosed the return of the permit yesterday during a

hearing before a House District Subcommittee.

Capitol Hill opposition to the issuance of the permit led to the introduction of a bill ordering its revocation.

The Society's attorney, Monroe H. Freeman, told District officials the permit was returned because the organization is exempt from the solici-

tation law because it receives less than \$1500 a year in contributions.

School Band Fete

ATHENS, W. Va., Oct. 3 (AP) — More than 500 high school band members from Virginia and West Virginia are expected to participate in Concord College's fourth annual band festival this Saturday.

5/11/8

Mattachine Unit Loses Its Permit To Solicit Funds

Washington licensing officials have disclosed that the Mattachine Society has surrendered its registration permit to solicit funds under the District's Charitable Solicitations Act.

Issuance of the registration certificate has been criticized by congressmen who recently introduced a bill to revoke the fund-raising permit. The society was formed to protect homosexuals from discrimination.

A society attorney yesterday said the organization is exempt from the soliciting law because it receives less than \$1,500 yearly in contributions.

Last month, District officials scheduled a hearing on revocation of the society's registration on grounds that society officers had used false names in their application for the permit.

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Dowdy Vs. Mattachine Society

New Bill Mapped to Curb D. C. Group

The House District's Dowdy sub-committee is going to try again on legislation aimed at preventing the Mattachine Society of Washington from soliciting funds.

This decision was reached after Asst. Corp. Counsel Robert Kneipp outlined at a hearing yesterday Constitutional objections to the original bill submitted by Chairman John Dowdy (D., Texas).

REVOCATION

It contained a provision ordering the Commissioners to revoke the society's certificate of solicitation of funds.

Rep. Dowdy said the reason for this was that under present law, there is no way of denying a permit to the society which was formed, he said, "to protect homosexuals from discrimination."

His bill would also require the Commissioners to "find and publicly declare" that the solicitation for which a license is being sought "will benefit the health, welfare and morals of the city."

The Commissioners have tes-

tified that they have neither the time nor the resources to make this determination about the many groups seeking solicitation licenses.

Mr. Kneipp submitted on their behalf legislation requiring applicants to use their true names. He said the vice president, secretary and treasurer of the Mattachine Society did not use their true names in signing their application.

CANCELLED

The Society cancelled its certificate of solicitation last fall on the ground that it had raised less than \$1500, and a charitable organization does need a license under present law unless its goal is over that amount.

Mr. Kneipp said the Commissioners are considering eliminating a minimum figure entirely.

"What about a boys' baseball team that wants to raise \$50 to travel to some contest?" asked Rep. William Harsha (R., Ill.).

"They would have to come in and pay the \$25 fee to raise the \$50," Mr. Kneipp replied.

'Morality' Talk Slows Sex Hearing

By John M. Goshko
Staff Reporter

A Congressional hearing on a bill to hobble the Mattachine Society, a group dedicated to protecting homosexuals from discrimination, bogged down yesterday amid questions of legal constitutionality and public morality.

Most of the House District Subcommittee members debating the bill seemed to be for "morality"—as described by Rep. John Dowdy (D-Texas), the subcommittee chairman and author of the bill. Said he:

"If these people are a charitable organization promoting homosexuality, I've grown up the wrong age."

Law Requires Permit

The object of his frequently expressed indignation is a small group of homosexuals and persons sympathetic to them who have obtained a fund-raising permit under the city's Charitable Solicitations Act. The law requires issuance of a permit to any group whose representatives answer permit application questions.

Dowdy's bill would limit issuance of such permits to organizations that the Commissioners determine to be beneficial to "the health, welfare and morals of the District of Columbia." It also would specifically revoke the permit already issued to the Mattachine Society.

Robert F. Kneip, Assistant Corporation Counsel, told the subcommittee that the Commissioners oppose the bill. His objection was based on these grounds:

- The number of hearings required by the first part of the bill would impose an "unreasonable" administrative burden and expense on the District Government.

- The singling-out of the Mattachine Society for a specific penalty appears to be unconstitutional in the light of Supreme Court rulings against legislative acts that inflict punishment without judicial trial.

Dowdy Cites Other Curbs

These arguments were brushed aside by Dowdy who said: "You contrast that with permitting the solicitation of funds for perversion and immorality which is more important to the community?"

Dowdy also noted that Congress has passed laws designed to curb the Communist Party and remarked: "As far as I know, all the security risks that have deserted the United States have been homosexuals. Do you place them on a higher plane than Communists?"

He was joined by Rep. Basil L. Whitener, who asked if the Commissioners "want to repeal the section of the Criminal Code dealing with sodomy."

Kneip replied that "the position of the Commissioners is not to be construed as approving homosexual practices." He also noted that the D. C. Court of Appeals had ruled that homosexual relations may not be criminal acts if committed in privacy between consenting adults.

Will Try To Draft Bill

His only support came from Rep. B. F. Sisk (D-Calif.) who said he would vote against any bill imposing sanctions against a specific group. However, Sisk also won Kneip's tentative agreement to try drafting a bill that would give the District power to investigate and revoke charitable solicitation permits.

Also testifying yesterday was the Mattachine Society president, Franklin E. Kameny, an astronomer who was fired from the Defense Department after refusing to answer questions about alleged homosexual affiliations.

Kameny also dodged the subcommittee's questions about whether he is a homosexual. He was just beginning to read a prepared statement when the hearing was adjourned until today.

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'Not a Society of Homosexuals'

Group Defends Fund Collecting Role

By MILTON BERLINER

A House District subcommittee witness yesterday denied a charge by Rep. John Dowdy (D., Tex.) that the Mattachine Society of Washington "is a society of homosexuals."

"The Mattachine Society is a civil liberties organization," Franklin E. Kameny, president of the organization testified. "Homosexuals constitute a minority group no different, as such, from other minority groups."

Mr. Kameny was appearing in opposition to a bill revoking the group's right to collect funds to combat prejudice against homosexuals and

"achieve for the homosexual minority full equality with their fellow citizens."

Chairman John Dowdy (D., Tex.) first asked Asst. Corp. Counsel Robert F. Kneipp for the Commissioners' views.

The legislation, Mr. Kneipp replied, would require them to hold "due process" hearings on the applications of some 163 organizations for solicitation licenses.

Also, he said, since it was aimed specifically at a single organization, it was, in effect, a bill of attainder, which the Supreme Court has described as "legislative action which inflicts punishment without a trial."

"This is a security problem," said Rep. Dowdy impatiently. "If these people (Mattachine Society) are a charitable organization, I've grown up in the wrong generation."

Mr. Kneipp said that Congress made the District charitable solicitation law so broad that the city had no choice but to issue a license to any group with an educational purpose.

"I wasn't here then," said Rep. Dowdy. "It comes down to the fact that you are permitting the promotion of perversion."

Mr. Kneipp said that from its constitution, the Mattachine Society apparently had an educational aim and came within the definition established by Congress.

"Then you think this sort of 'charitable' fund solicitation should be permitted?" asked Rep. Frank Horton (R., N. Y.).

"It's not a question of SHOULD; the law DOES permit it," Mr. Kneipp replied.

Mr. Kameny said, "We are a reputable, responsible group, working seriously in an area where much work is needed and very little is being done."

"Did you work for the Government?" Rep. Dowdy interrupted the statement.

"Yes, in the Defense Department," replied Mr. Kameny who later said he was a physicist and an astronomer.

"Were you dismissed for security reasons?"

"No. For alleged immoral conduct, unproved."

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Unpopular Causes

A House District subcommittee is to hold a hearing this morning on an unfortunate bill introduced by Rep. John Dowdy of Texas. The bill would amend the District of Columbia Charitable Solicitation Act in two ways. First, it would forbid the issuance of a certificate of registration to any organization soliciting charitable contributions in the District unless the District Commissioners find that "the solicitation which would be authorized by such certificate will benefit or assist in promoting the health, welfare, and the morals of the District of Columbia." The second amendment would revoke a certificate of registration already issued to the Mattachine Society of Washington.

To make the solicitation of funds for an organization concerned with ideas dependent upon official approval of the purpose for which the funds are to be used would be to put a very serious crimp in the right of expression and petition. There is little need for a constitutional guarantee of free speech for ideas which already enjoy majority acceptance. The First Amendment was added to the Constitution to protect the advocacy of unpopular and unorthodox ideas. Mr. Dowdy's first section would violate the First Amendment.

There is little doubt that the Mattachine Society espouses an unconventional cause. It is a social action group dedicated, according to its constitution, "to improving the status of the homosexual in our society, in the interest both of that minority group and of the Nation." It aims, in short, to protect the rights of homosexuals and to promote understanding of them. It does not function in any way, of course, to promote homosexual activity.

We think that the organization has a clear right to make a plea for public support. The law under which it was licensed to do so is simply a law which recognizes that right. Mr. Dowdy's second section, revoking the license, looks to us very much like a bill of attainder—a legislative act inflicting punishment without judicial trial. The Constitution flatly forbids Congress to pass a bill of attainder.