

LGLC

NEWSLETTER

LIBERTARIANS FOR GAY AND LESBIAN CONCERNS

NUMBER 28, SPRING 1993



LGLC to Meet in Salt Lake City

AN LGLC BUSINESS/SOCIAL meeting is scheduled concurrent with the Libertarian Party National Convention in Salt Lake City, UT, September 2-5, 1993. The LGLC business meeting commences at 4:00 pm Friday, September 3, in the LGLC suite at the Marriott Hotel, the site of the LP Convention.

Pizza and cocktails are scheduled an hour or so later, probably in the same room, and then LGLC members may want to join Convention attendees at a rock concert by a

women's band in a nearby park starting around 7:30 pm.

LGLC International Coordinator James L. Hudler will speak to the LP Convention Thursday afternoon, September 2, on "Gays, Lesbians and the Libertarian Movement."

Salt Lake City has lots of attractions, including more than a dozen gay bars, according to the Convention's contracted organizer, Bob Waldrup. National Parks are located several hours' drive away.

Contact Morning Glory

Productions, PO Box 526175, Salt Lake City UT 84152 to register for the LP Convention.

Please write to LGLC at our Chelsea, Michigan address if you are planning to attend the LGLC meeting. □

Secretary's Report

By Raymond Warner

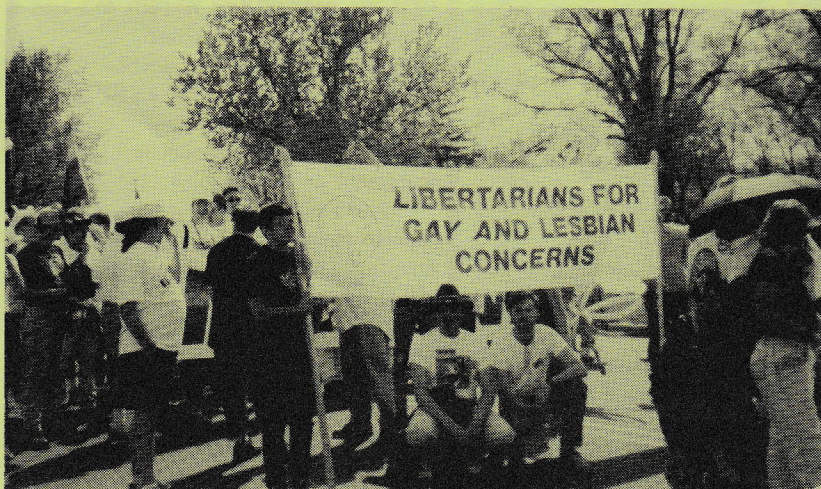
(Editor's note: Secretary Warner has submitted these Minutes of the most recent LGLC meeting, held in conjunction with the March on Washington.)

LGLC MEETING, SATURDAY April 24, 1993, at the Channel Inn, Washington DC.

James Hudler chaired the meeting. Twelve members were present.

Hudler reported on the increased LGLC Newsletter circulation outside the USA and noted a number of new persons to be listed in the activist directory.

Hudler questioned the membership on the necessity for by-laws, (See SECRETARY, page 3)



LGLC at the March on Washington. See story on page 2, more photos, page 7.

From the International Coordinator:

Our March on Washington

By James L. Hudler

LGLC's MEETING and associated festivities held concurrent with the April 23-25, 1993 March on Washington were well-attended and gave us national exposure in the gay community. We sponsored four events: (1) the LGLC/Gays and Lesbians for Individual Liberty (GLIL) brunch at the home of H. Beard; (2) the LGLC International Business Meeting, the minutes of which are presented in the Secretary's Report on page 1; (3) the LGLC Fund-Raising Dinner, featuring David Boaz as guest speaker; and (4) LGLC participation in the March itself, complete with twelve-foot banner (LGLC Secretary Ray Warner had it professionally made, complete with the Statue of Liberty/Lambda logo that Dave Edmondson designed).

My View of the March

Here is a short journal of the weekend's events. After leaving Ann Arbor, I picked up Ray Warner in Detroit and we drove eastward

through Ohio, Pennsylvania, and Maryland, noting many pink triangles and rainbow banners on the highways and in rest areas along the way. After arriving at the Channel Inn, our meeting site, on Friday night we met Phil DeBlock in the lobby and off we went to see the sights of Dupont Circle. It was a gay circus!

On Saturday morning, Phil and I met other LGLC members from out of town for our trip to the home of H. Beard. These members included Chris Bogart (Colorado); Alan Lopp and Gary Meade (Los Angeles); George Meyer (San Francisco); Jack Levine and J. J. Pechacek (Las Vegas); John Northrup and Tony Salerno (Boston); John Pelman and his group from Michigan; and Jeffrey Corrick and Nelson Rosado (New York City).

LGLC Brunch

H. Beard's brunch was a high-styled affair, attended also by prominent members of GLIL, including David Edmondson, Kelly Young, David Boaz, James Long, and 1980 Clark campaign activist Bruce Majors.

On Saturday afternoon LGLC had its business meeting. It was a profitable, substantive meeting, so please see the Secretary's Report as noted above.

LGLC Meeting

On Saturday evening, over thirty people attended our LGLC fund-raising dinner. Beside those already named, several members of the Liberty Belle Political Action Group drove down from Philadelphia to attend both our dinner and the March.

Following an excellent dinner I gave a short talk on the progress of LGLC I highlighted our plans for a business meeting and cocktail party at the Salt Lake City LP National Convention this autumn and our planned participation in the Gay Games in New York City next

summer (for details, again, please see the Secretary's report). Before introducing our featured speaker, I proposed this goal for LGLC in the 1990s: "It is time to take back the gay movement in America from the statists. It is time to tell the gay community throughout the world that the state is not our friend but, to paraphrase A. J. Nock, our enemy is the state."

David Boaz, Executive Vice President of the Cato Institute addressed the group next. See related story on page 3.

Following Boaz's excellent speech, I was off with the John Pelman gang to a dance at the DC Armory. It was titled "The Freedom Dance" and featured Sabrina Johnston. I hadn't ever heard of her, but then my disco days were in the decadent 70s and the sobering early 80s. Anyway there were a whole lot of writhing half nude bodies mesmerized

(See MARCH, page 4)

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We welcome contribution of news stories, opinion pieces and other material of interest to our readers. Signed articles contain the opinions of the writers and do not necessarily reflect the position of LGLC or *LGLC Newsletter*. Persons mentioned herein are not necessarily gay or lesbian.

Subscribers are eligible for a free 30-word personal ad. Display ads available at \$20.00 per quarter page. The editor reserves to right to refuse any ad.

Subscription to *LGLC Newsletter* is included in \$15 annual LGLC membership dues. LGLC officers are James L. Hudler, International Coordinator; and Raymond Warner, Secretary. Our world headquarters is in Ann Arbor, Michigan.

Mailing Address for LGLC and *LGLC Newsletter* is PO Box 447, Chelsea MI 48118.

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Boaz Addresses LGLC

By James L. Hudler

DAVID BOAZ, EXECUTIVE Vice President of the Cato Institute, addressed members of LGLC at their April 24, 1993 meeting in Washington, DC. Boaz (rhymes with "knows") spoke about the importance to gays and lesbians of the philosophy of market liberalism (apparently the term that his Washington-based thinktank prefers to libertarianism).

Boaz characterized market liberals as being comfortable with a changing world and enthusiastic about the market process as well as being tolerant and favoring individual liberty.

Condemning our government's presumption to rule people's lives more closely than even the autocratic

governments of prerevolutionary France, Boaz placed the blame on the socialism's "Fatal Conceit" (as Hayek termed it), the notion that well-meaning people can reshape the world into a better place through the use of political power.

Boaz quoted economist Robert Heilbroner, prominent socialist, who in 1978 admitted that socialism requires suppression of individual liberty: "The rights of individuals [are] directly opposed to the basic social commitment to a deliberately embraced collective moral goal....Under socialism every dissenting voice raises a threat."

The stated goals of the March on Washington organizers, Boaz said, show a socialist mentality that gay market liberals must work against. Boaz called on his audience to oppose in particular two unlibertarian values, namely collective entitlement and

victim psychology.

By collective entitlement, Boaz explained that he meant the presumption that individuals should gain their entitlements through their membership in a group. Group leaders enhance their own power by getting individuals to define themselves by group identity, the speaker pointed out.

In explaining victim psychology, Boaz quoted Shelby Steele's remarks about the "formula that binds the victim to his victimization by linking his power to his status as a victim."

In perhaps the most quotable remark of the evening, Boaz observed that the increasing criticism of Fidel Castro came first from gays, and said, "Dictators should all learn that they can do anything they want to if they will just leave Jews, writers and gays alone." □

(*SECRETARY, from page 1*)

which were rejected without dissent. Members also rejected use of parliamentary procedure.

Members then proceeded to discuss current issues. What follows are remarks made during a general consensus discussion.

Regarding the Colorado/Oregon-type ballot initiatives, members cited the following arguments:

(A) Ballot proposals that allow government to discriminate on the basis of sexual orientation are a clear violation of libertarian ideals.

(B) Such measures seek to remove only sexual orientation from the law, in what members viewed as a denial of equal protection.

(c) Members generally did not want to be on the same side of an issue with the theocratic Right for purely tactical reasons.

(D) The individualist philosophy underlying libertarianism compels us to oppose all forms of bigotry.

Hudler called for papers to constitute a new LGLC pamphlet, hopefully to be published before the

Salt Lake City meeting in September, 1993.

Announcements regarding the March followed.

Members agreed to make the Salt Lake City meeting official.

Members agreed to meet in New York City June 18-25, 1994 in conjunction with the twenty-fifth anniversary of Stonewall and the Gay Games. Philip DeBlock agreed

to make arrangements.

It was announced that the *LGLC Newsletter* will be loaded onto a computer bulletin board.

Members discussed direct action measures. Any actions for the current weekend were rejected. Members agreed to reconsider the matter for New York City 1994.

Meeting adjourned. □

New Pamphlet Enclosed

LGLC-SAN FRANCISCO, West Coast affiliate of LGLC, has begun to publish a pamphlet series.

Current titles in the LGLC-SF series are *What Liberty Offers to the Gay Community*, *The Government and AIDS*, and *Libertarianism and Gay Rights*.

LGLC is adopting *What Liberty Offers to the Gay Community* as its semi-official information pamphlet for individuals who inquire about our positions. A copy of this pamphlet is enclosed with your *LGLC Newsletter*. Further copies are available at \$6.00 per 100 postage paid from LGLC in Michigan.

Geoffrey Erikson, publisher of the new series, also introduced a new periodical, the San Francisco *LGLC News* this past March. Erikson plans for it to be informative and entertaining, and to present up-to-date gay/libertarian news.

LGLC-SF's address is 1800 Market St., #210, San Francisco CA 94102.

(MARCH, from page 2)

by a deafening disco beat.

GayTurf Battle

I was up at 6:30 am Sunday in order to meet David Edmondson in the Channel Inn lobby at 7:30 for the purpose of setting up our LGLC literature table near the Washington Monument. David had donated the \$25 table fee for the privilege of a space for LGLC and GLIL literature. As we started walking from the Channel Inn to the literature site ten blocks away, the sun was rising over the yacht basin on which the Inn sits. I love boats and our room had a balcony overlooking a basin full of them.

Upon reaching the literature site carrying two boxes of increasingly heavy paper, David and I were confronted with the elusive and frustrating March bureaucracy. The March officials had our name and location, but when we arrived at that location some very belligerent Persons for Breast Cancer (or something like that) told us that we had been moved and to find "Linda," who was in charge of such things. "Linda" was nowhere to be found. The Cancer Persons had grown to nearly a dozen in number and would absolutely not let us share their table.

So David and I decided to call it a loss and we headed back to the Channel Inn with all of our literature. As we waited for a cab, I heard one of the Cancer Persons exclaim to the others, "I'm not going to let any of those anarchist libertarians distribute their leaflets here, I don't care what you say! You know, they're against taxes, Clinton and national health care! Fuck them!" (Anyone who says that I'm too harsh when I label most of the gay leadership in America as left-wing fascists, please take heed.)

The twenty of us participating in the March assembled at the Channel Inn and departed with our LGLC banner (courtesy of Raymond Warner), walking the ten blocks to

the Washington monument whence David and I had come. Upon reaching the Morning Stage, where participants had been asked to gather, we learned that we were eighty-third in line and would probably not start marching until 5:00 pm. It was at that time noon and we had a lot of time to fill.

How Many Marched?

Here it would probably be good to document my own eyewitness account of the number of people at the March. As many of you know, the March on Washington leadership claimed there were over one million people, but the statist (in the guise of the National Park Service) declared that the number was closer to

Onlookers cheered several times during our trek. Our three-by-twelve-foot banner drew attention and recruited us two new members from the crowd.

300,000. Well, George Meyer, Ray Warner and I all climbed the hill to the Washington Monument to view the crowd. What we saw at different times that afternoon was a near solid mass of people from the Monument east along the Mall to the U.S. Capitol. Raymond said that when he attended the 1968 antiwar march, the mall was not nearly so full and the estimate then was 300,000. Our estimate was 600,00 plus.

To entertain us while we waited, the March Committee had recruited among others: Rozalla (African American drag queen and 1992 presidential candidate), the comedy ensemble Pansy Division, comedian Georgia Ragsdale, the national touring company of *A Chorus Line*, and the Reverend Jesse Jackson. The latter's speech was impassioned as usual, very anti-Clinton and at times very libertarian-sounding.

We March!

Sunburned, tired and thirsty, we lined up to march about 5:00 pm. We were located in front of the Indiana and Arkansas delegations, who were three from the rear. While waiting another forty-five minutes, we found out that the delay was due in part to a group of antigay veterans and evangelical Christians who lay down near the White House to block the path of the March.

We set off marching at 6:00 pm. Onlookers cheered several times during our trek around the White House and up Pennsylvania Avenue. We witnessed only one middle finger and negative comment. Our three-by-twelve-foot banner drew attention and recruited us two new members from the crowd.

When we reached the White House our group chanted "Where's Slick Willy?" The Arkansas delegation countered with "We're here, we're queer and we're bringing up the rear from Arkansas, home of Bill Clinton." To which we made the friendly amendment, "I wouldn't be proud of it."

It was dusk when we finally reached the mall and its masses of people. The air was actually pink with dust from the reddish gravel that covers the walkways of the mall, pounded by the footsteps of hundreds of thousands of people marching toward the Capitol.

Statists Speak

Our march ended at the Afternoon Stage, which consisted of a twenty-by-forty foot Sony TV screen behind a lectern. Taking turns at the lectern and being magnified on the screen were such statist gay luminaries as David Mixner (a Clinton-Gore campaign senior adviser who was instrumental in forging the alliance between Clinton and the statist leadership of the nation's gay and lesbian community),

(See MARCH, page 5)

Sodomy Repeal Urged

THE LIBERTARIAN PARTY of Virginia has adopted a motion that calls for the repeal of that state's sodomy law, as reported in a story in *The Washington Blade*, a District of Columbia gay newspaper.

The paper credited Richard Sincere of the Virginia LP with drafting the motion. "It's a long-standing policy of the Libertarian Party to support repeal of sodomy laws," Sincere is quoted as saying. The LP motion calls for the Virginia legislature to repeal the state's sodomy law and urged police and prosecutors to cease enforcing it, according to the story.

In a story reported in the *Northern Virginia Sun*, Sincere has also been active in an Virginia LP petition drive for marijuana legalization. The petition asks the Virginia congressional delegation to introduce legislation to permit prescription of marijuana by physicians.

"Marijuana is a useful way to restore the appetites of AIDS patients," Sincere is quoted as saying.

Sincere has been a leader in the Washington-based Gays and Lesbians for Individual Liberty (GLIL) and has been a conference organizer for LGLC. □

DC Newsletter

GAYS AND LESBIANS for Individual Liberty (GLIL), the Washington, DC-based libertarian organization associated with LGLC, has begun a newsletter, *The Quill: Queer Individual Liberty Letter*. Issued every two months, the publication is edited by DC attorney and LGLC Newsletter contributor David Edmondson.

In its first number, dated February 1993, *The Quill* included a letter from GLIL President Kelly R. Young, a commentary on gay life in Brazil, and an exposition of

libertarian principles by editor Edmondson. Most recently *The Quill* has printed an essay by Edmondson on libertarian views of criminal law; we have reprinted this essay on page 11.

Edmondson says he's only had a few objections to the use of "queer" in the newsletter title.

For submissions and subscriptions to *The Quill*, write to GLIL, PO Box 65743, Washington DC 20035-5743. Currently there's no subscription charge, but donations are solicited. □

Affiliate News from Both Coasts

Washington, DC

RICHARD RUE, HEALTH Care Project Director for the Heartland Institute, spoke about drug price controls and other drug industry laws in a talk sponsored by Gays and Lesbians for Individual Liberty (GLIL) in Washington, DC on June 16. The title of the talk was "Will Bill Clinton Sign Our Death Warrant?" The Heartland Institute is a Midwest libertarian thinktank.

GLIL hosts an evening Happy Hour at Trumpets, a DC tavern, on the first Tuesday of every month.

For more information on any GLIL activity, call (703) 920-4023.

Philly Pride Fest

Philadelphia's Liberty Belle Political Action Group participated in Pride Fest Philadelphia, the first national gay and lesbian festival scheduled Friday through Sunday May 7-9, 1993.

"During every hour of the Festival," reports Liberty Belle president Charles Kroekel, "there were multiple events for people to participate in: political action and health forums; literature, performing and visual arts events; athletic competitions, dances, religious services, seminars on safer sex, parenting, and self-defense."

San Francisco

Mark Fulwiler was host to a recent LGLC/San Francisco meeting which featured a viewing of *Victim*, a 1962 gay-sympathetic film about blackmail. A dozen or so members attended.

Mark plans to bring the video of this film to the September 3 LGLC meeting in Salt Lake City.

LGLC/SF plans to participate in the Gay Pride Parade in San Francisco June 27, 1993. □

(MARCH, from page 4)

Carmen

Vasquez (self avowed butch Puerto Rican lesbian socialist), Tim McFeely (Executive Director of the Human Rights Campaign Fund) and Larry Kramer (ACT-UP leader). These people chanted and demanded praise for Clinton, national health care insurance, massive increases in funding for AIDS-related projects and the National Endowment for the

Arts and equal economic "rights" and an end to poverty for all Lesbian Gay, Bisexual and Transgender people. "War is Peace, Freedom is Slavery."

This proved to be an all too real life scene from an Orwell novel and we decided to call it a day and left the mall for a restaurant.

Conclusion: in my estimation we made our presence known at this March and we must continue to do so at future gay events. □



The Threat of Nudity

By Paul Varnell

SEVERAL WEEKS AGO, a young sophomore at the University of California at Berkeley, Andrew Martinez, achieved a brief celebrity when he decided the cultural taboo against nudity was unjustified and people should get over their unreasoned hostility to naked people.

Noting that there was no law or regulation against nudity on campus, Martinez proceeded to attend classes and conferences and to stroll around campus naked.

Subsequently he dropped out of sight. A university spokesperson said that Martinez had been suspended, but she was not at liberty to say what had happened to him.

Multiculturalism?

In conversation with a member of the university community, I expressed surprise that such suppression had occurred at Berkeley, the home of the Free Speech Movement in the '60s and aggressive "multiculturalism" in the '80s. Multiculturalism, after all, replaced the traditional canon of texts by mostly white, mostly male European writers with those of a wide range of women, African-American, Asian and other minority writers-and it did so precisely in the name of an openness to new and different cultural world views, new ways of looking at things and new ways of experiencing life, of breaking down culturally-limited preconceptions and boundaries.

"Well," came the reply, "yes, we are a very diverse community and we have people here from many different cultures with many different traditions and backgrounds. Some of those people might be made uncomfortable by someone's going around without clothes. For instance, we

To many people...even mentioning that we are gay is called "flaunting our lifestyle."

have some very conservative Moslem women here and certainly they would be deeply offended by that sort of behavior."

Note what has happened here. The notion of a multiculturalism which was open to everything that has been written and thought and lived has somehow been transmuted into a multiculturalism which permits only what everyone is comfortable with and what does not offend any one of the diverse groups which compose the community. Whereas previously no one, especially not those dead white European males, had a veto over other views, now everyone gets a veto.

Where, one wonders, is the multicultural challenge to the preconceptions and world views of those deeply religious Moslem women? or those of fundamentalist

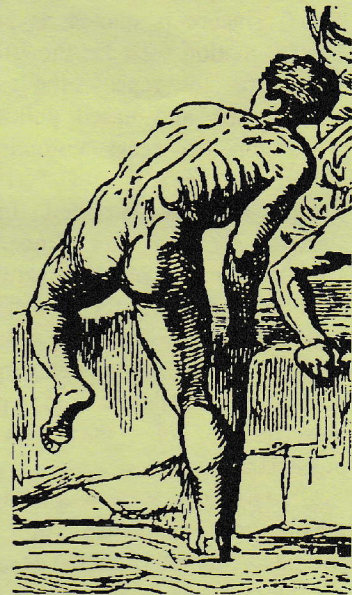
Protestants, or any number of other religious view, social conformities, and sexual inhibitions and phobias?

It is possible, for instance, to imagine a fairly sophisticated challenge nudity might make on behalf of the reassertion of man as a part of nature, the reification of a primary environmentalism, an embodiment of Henry David Thoreau's message of "Simplify, simplify," or the rejection of a technology some feel has lost contact with its original human purposes.

Defending Nudity

Nudity could even be viewed as the affirmation of the primacy of the person as against institutional limitations, governments and power structures generally. Revealingly, my campus source seemed most offended by the fact that Martinez had appeared nude for a meeting with a vice chancellor of the university. The institution itself was attacked and diminished by someone's not wearing clothes.

To make remarkably similar points, the British poet William Blake and his wife occasionally received guests in their garden stark naked, Blake announcing that they were Adam and Eve. But perhaps Berkeley does not these days read or read about William Blake; or for that matter Thoreau.



Effect on Gays

This is no mere matter of academic interest for gays. If this is a growing trend, then we are especially threatened here. Certainly being gay, expressing gay ideas, is going to be offensive to many people by whom our even mentioning that we are gay is called "flaunting our lifestyle." May we touch, hold hands, kiss, live together, display our art, have our ideas considered, have our sexuality in its varied forms given its due legitimacy? May gay students in psychology and sociology or sex education classes bring the evidence of our lives and experience to bear on the topic under discussion?

Verbal Violation

Consider the case of Frank Lostaunau, a therapist in the psychiatry unit at a San Francisco hospital. After a staff meeting in which Lostaunau and other participants

(See NUDITY, page 10)



George Meyer and James Hudler wait for the March to begin.



Jack Levine, John Northrup and Tony Salerno.

WHY YOU SHOULD JOIN I.S.I.L.

Libertarianism is becoming such a major world movement that is going to be hard to ignore it for much longer. Libertarians are in the forefront of change around the world.

DID YOU KNOW:

- ♣ There are 24 elected libertarians in the Norwegian parliament?
- ♣ The largest political faction in St Petersburg, Russia is the libertarian Free Democratic Party?
- ♣ An LP/ISIL member — **Tom Grey** of California — is Chief Advisor to the Minister of the Economy in Slovakia?
- ♣ That a libertarian — **Leon Louw** of South Africa — is conducting a major restructuring in Siberia?

We think that no libertarian activist can afford not be connected to ISIL's world libertarian network and benefit from the exchange of ideas and strategies. But don't take our word for it. Here's what leading libertarians have to say about ISIL:

"Every member of the LP should also be a member of ISIL . . . there are few more important or worthwhile organizations in the world today." Karl Hess

"I.S.I.L. is the international libertarian network and is instrumental in maintaining a sense of community among freedom lovers worldwide." Mary Ruwart

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Nelson Rosado
and Jeff Corrick
of Greenwich
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to march near
Washington
Monument.

Attend Upcoming LGLC Meetings:

**Salt Lake City
September 3,
1993**

**in connection with LP
National Convention**

June 1994
**in connection with Gay
Games and Stonewall**

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by Thomas Szasz

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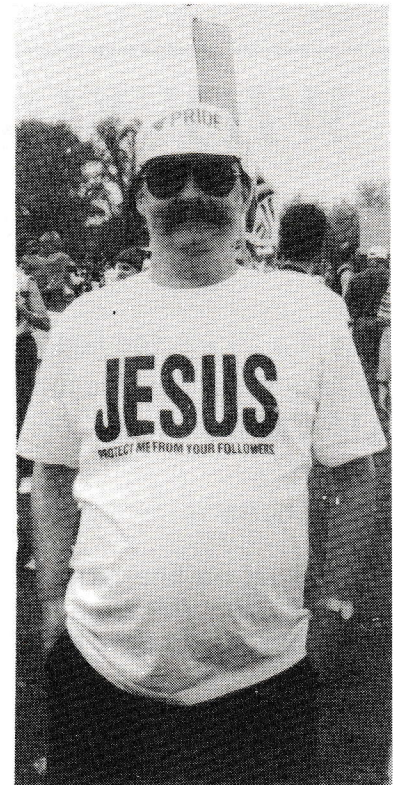
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Ray Warner wears a shirt popular with marchers, which said "Jesus, protect me from your followers." Fundamentalist religion people delayed the March with a belligerent protest.

Defending Public Sex

By Paul Varnell

WITHIN THE LAST YEAR there have been conflicts between gays and the guardians of public morality in a number of cities over the issue of public sex—the fact that some gay men engage in sex in various "public" places: bars, bathhouses, movie theaters, adult bookstores, alleys, rest stops, parks, forest preserves, even at parties in private residences.

A dozen years ago, the National Organization for Women announced to anyone who cared to listen that public sex, among other things, was not a lesbian rights issue. Well and good. But it is emphatically a gay men's issue. It is impossible to walk around a bar, party, or other gay gathering and find many gay men who have not engaged in public sex in one form or another and would not cheerfully do it again. In fact, a *Playboy* reader survey found that among the 1,000 gay men who answered, "most" (say, roughly 65-80 percent) said they had done sex in public.

And yet, though I have seen defenses of other socially disapproved behaviors, I have never seen a defense of public sex. When gays are harassed by the police, community reaction ranges from "They got what they deserved," to the defensive whining of "Don't the police have anything better to do?" Nonsense. The police are doing what police always do: creating the illusion that they are promoting public safety. Since they cannot catch real burglars and murderers until too late, they turn to the easier (and safer) practice of harassing people who behave differently to assure the public that they are somehow "on the job" protecting "public order." But no one should be arrested for behavior that does not hurt anyone.

What are the Arguments Against Public Sex?

So we need to develop an affirmative response on public sex in order to put the police on the defensive, embarrass the politicians and hold off the predations of moral entrepreneurs. One way to do that would be to mount a successful attack on the argument against it. But here we find a paradox: Never have I seen a sustained and cogent argument against public sex; it is just assumed to be bad.

So we will have to imagine what the reasons might be. For instance:

"It is illegal." True. But irrelevant. That is only a description of its legal status. What we are looking for is an argument about why it should be illegal.

"It is immoral." Who says, and why? Again, this is not an argument but a category claim that needs an argument or two to support it. Why is public sex immoral? There are a number of behaviors conventionally viewed as immoral (or sinful) that are not criminalized or harassed by the police: simple fornication, for instance, or even homosexuality in many states.

Offensive Behavior?

"It is rude and offensive to others." Maybe, maybe not. In our culture, rudeness is not criminalized, nor an object of police concern. As to its supposed offensiveness to others, we should ask, "Which others?" People who go where they think sex might happen "in public" surely know what they are doing and are giving tacit consent. I cannot imagine some saying, "I know that there is sex going on at the Hotsy-Totsy Bar and I am offended by it—and now I am going to go there."

With regard to places far more open and public: Those of us who live in big cities assume as a part of

our lives that we will regularly encounter a number of distasteful experiences every day. We run into intrusive panhandlers, youths with boom boxes, truly ugly people, street preachers declaiming at us, places where people have urinated, squalling babies, grossly fat people on buses, and women with too many children. We learn to avert our eyes and practice avoidance. If people really are offended, why should public sex be different?

"It doesn't really bother us adults, but we need to protect the children." Again an interesting claim offered as if self-evident. It assumes that seeing sex is bad for children, at that we are running our society geared to children's sensibilities. But it seems to me that adults should be ashamed to hide behind their children when they are asked to give serious arguments. Children are seldom in gay bars, bathhouses, adult bookstores, by theaters, or parks, alleys or forest preserves or anywhere else out in public late at night. They are usually accompanied by an adult who, if disapproving, can

(See *PUBLIC*, page 10)



(NUDITY, from page 6)

discussed sexual transmission of HIV among gay men, a female co-worker filed a complaint against Lostaunau saying that he had "verbally violated" her and "verbally sexually abused" her with his graphic description of gay men's sexual practices.

Presumably Lostaunau had to discuss the various mechanism by which HIV could and could not be transmitted, such as masturbation, fellatio, rimming, anal sex, fisting, the use of dildos and so forth.

Lostaunau was, understandably, outraged. The *San Francisco Chronicle* quoted him as saying, "How can a heterosexual woman feel sexually harassed in a clinical meeting in which I talk about how to assess risk factors by describing the sexual practices of chemically dependent gay men?"

Put aside the extraordinary metaphorical extension of the concepts of "sexual abuse" and of "violating" someone to include language and speech. Lostaunau's comments were not in any way intended as sexual attentions nor even directed at the woman. So the complaining woman was grabbing at the notion of sexual harassment—which once had the specific meaning of unwanted sexual attention directed at someone—and using it to refer to anything with sexual content that she did not like. It became the legitimizing language for her homophobic response and even what used to be called sexual prudishness. But "prudishness" was considered one's own problem. Calling it "sexual harassment" manages to put the blame on the other person.

Conspicuous Masculinity

Clearly some—many—people do not want to hear about gays and gay sex or even sex at all, and prudish and closed-minded people will try to stop any discussion of sex they do not approve of, or even anyone else's sexual expression.

Which brings us back to Martinez. Another Berkeley resident told me that several sexual harassment charges had been filed against Martinez. Apparently there was no implication that Martinez had done anything untoward or inappropriate; he had just been nude—and that was what prompted the sexual harassment charges. So "sexual harassment" has been extended from "unwanted sexual attentions" to a man's simply existing conspicuously as a man, regardless of his sexual intentions. The charges were some people's way of imposing their standards on him, though he did not impose his on them: He did not require others to be nude; they demanded that he be clothed.

It is possible to conjecture that there is something very anti-sex, anti-male, psychologically constricted and very insecure here, which imputes sexual intent and aggressiveness into simple male being. I think many people do in fact believe exactly this. But a society that is absolutely physically and psychologically safe for such people may ultimately be inconsistent with anything like a free society.

Reprinted from the Windy City Times, January 28, 1993. □

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change course in advance. If parents with children encounter couples engaging in sex, they can tell their children whatever they say when they go to the zoo and the chimpanzees start copulating. Children have been sexual innocents and in a society saturated with sexuality on cable and daytime network soap operas, it seems unworldly to think that children can or should be so protected.

"Sex by its nature should be private." An interesting idea, but

what is the argument for the claim? Like many of the other reasons given, this is a normative claim presented as if it were a factual statement. Clearly people who do sex where others are present do not agree.

"But sex is so beautiful and wonderful that it should be shared only in private." This claim gives up trying to argue that observers will be harmed and substitutes the assertion that the participants will in some undefined way be harmed. But even if we were to agree that sex might be of better quality in private, that doesn't prove that in public it is without value, only that it is of less value there.

Psychological Attraction

After all this, sociologist Murray Davis (author of *Smut: Erotic Reality and Obscene Ideology*, always a sage and sober guide, suggests it is not the offensiveness of public sex but the very attraction it holds for people that is the threat. Somehow it tends to draw people in, at least on a psychological level, and they feel the need to resist, experiencing that effort to resist as an aversion. Another possibility, Davis suggested, is that people engaging in sex are usually preoccupied with each other, or themselves, and therefore not ready for social interaction with us. Public behavior that tends to widen social distance or increase people's sense of alienation from others tends to be frowned on, Davis noted.

To understand the irrational supports for a law is to see why that law is improper, unjustified and properly an object of disrespect. To understand the difficulty of overcoming the law because it's supports are irrationally based is to understand the limited and indirect role that reason can play in altering society.

Nevertheless, if the analysis here is correct, it can tell us what is right and wrong, where we should place

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Criminal Law: a Libertarian View

By David Edmondson

MOST PEOPLE have a vague notion of criminal law as a legal mechanism designed to protect us from bad people who want to rape us, break into our homes, and so forth, and to achieve justice when they do. In truth, however, criminal law as understood in the common-law legal tradition has nothing to do with making crime victims whole and has more to do with preserving the sovereignty of the state than with preventing harm to individuals. Moreover, insofar as it even aims to prevent harm to individuals, it largely fails in that aim.

The Majesty of the State

Criminal law in the common-law tradition views the offense not as a harm to an individual, but rather as a breach of "the King's peace" or, in other words, the majesty of the state.

Legislatures have broad freedom to assign arbitrary and disproportionate punishments, so that Congress may make it a felony to ride a bicycle on the grounds of National Airport (as it has done) and so that Maryland may provide longer prison terms for consensual sodomy than for some forms of sexual assault (as it has done). By contrast, traditional common law does not criminalize simple breach of contract or even most forms of negligent homicide.

Moreover, the decision to bring charges lies within the practically limitless discretion of police and prosecutors; the actual victim, if there even is one, has no standing to force a prosecution. For instance, it is all too common for police in cruising areas to make numerous arrests for sodomy solicitation while ignoring fag-bashing.

When and if the state prosecutes, the victim is not a party to the proceedings, but merely a "complaining witness." When the

criminal prosecution is over, the victim has still not received damages and must bring a separate civil action.

Advantages of Tort Law

By contrast, the private law of tort views the offense as a breach of some duty to a private party; for example, tort law defines negligence as the breach of the duty of care that a reasonable person would have exercised. The person alleging herself to have been wronged may choose to sue; if she so chooses, she must prove both the occurrence of the tort and the amount of damages that she has sustained as a result. In a suit for

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negligence, for instance, she must prove the four elements of duty, breach, causation, and damages. The common law of tort also seeks to protect defendants from unreasonable results; for instance, a plaintiff who brings in a \$1,200 repair estimate for an old car valued at \$600 will have a hard time arguing for damages over \$600. Thus, doing justice both to the victim and to the defendant is the function of tort law, not of criminal law.

Why Have Criminal Law?

What purpose does such a state of affairs serve? Since most politicians are not brazen enough to attempt to justify criminal law as an exercise of raw power for its own sake, and since such a justification would most likely not arouse the passions that criminal law does, one might expect some sort of rationalization for such a system. Commentators on criminal law have

advanced several, but none will survive scrutiny.

The simplest explanation of the purpose of criminal law, and one with an undeniable emotional appeal, is the idea of retribution; that is, that the wrongdoer should get what's coming to him. The problem is that the appeal does not extend beyond emotion. Certainly, there is no law of conservation of well being, whereby doing bad things to the criminal somehow improves the lot of the victim. Tort damages do more to make the victim whole than criminal punishment ever can.

Another theory states that we must "warehouse" criminals to prevent them from repeating their crimes. This theory ignores the high incidence of repeat offenses. In other words, it plainly cannot work unless the state imposes life imprisonment without parole, or perhaps the death penalty, for all crimes, no matter how petty. For example, if a rapist receives a certain sentence, the state must free him once he has served his sentence, if not before; once released, of course, he will be free to rape again. Besides, it is less than completely rational to keep people from repeating crimes involving drugs and sodomy by sending them to America's prisons, which are notorious dens of drugs and sodomy.

A more sophisticated variant of prevention is rehabilitation, or somehow using prisons to turn criminals into virtuous, productive citizens. Unfortunately, there seem to be as many hypotheses as to what makes a person a criminal as there are commentators on the subject. Moreover, far from reforming criminals, criminal punishment in the common-law tradition has generally further brutalized them.

The Myth of Deterrence

Deterrence differs from the last two explanations for criminal law in that its goal is to prevent criminal

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acts by others rather than by the defendant at bar. The empirical evidence for deterrence is not much stronger than that for prevention or rehabilitation.

England punished pickpockets by hanging until the first half of the nineteenth century. Originally, the hangings were public spectacles designed to deter the audiences from picking pockets. In the eighteenth century, however, the authorities had to make hangings private because the spectators at the public executions had too often fallen prey to pickpockets. In the 1840's, during the debate over the reform of capital punishment, the advocates of hanging suddenly discovered that this form of punishment, originally devised as public degradation, was in fact the most humane form of capital punishment.

Two more modern examples illustrate the level of effectiveness of deterrence: the Nazi deportation of the Danish police in 1944 and the strike of the Montréal police in 1969. In both cases, while nonviolent property crimes increased, violent crimes did not. Since nonviolent property crimes would seem to be those most susceptible to prevention by private security measures, deterrence through criminal enforcement appears to be redundant.

Some suggest still another justification for criminal law in that victims do not have the resources to conduct a prosecution. This justification ignores those legal systems, such as Islamic law, that have traditionally provided only private prosecution and have adopted public prosecution only as a recent Westernization. North Yemen, for instance, did without public prosecution until the 1960's.

Society Registers Disapproval

When advocates of criminal law have exhausted the other rationales,

they fall back on the idea of criminal law as a formal pronouncement of society's moral disapproval of certain acts. This rationale does not explain why we need such a formal pronouncement or why it should take the form of criminal punishment.

The concept of criminal punishment as moral censure also raises the troubling questions of the definition of society and of the authority of society thus defined to express its morality through criminal punishment. Does society speak only through consensus? If not, what percentage suffices, and do dissenters somehow cease to be society? What gives the majority the right to impose its moral outrage on the minority through brute force?

Considered thus, the idea of criminal law as an expression of moral censure is quickly seen as circular. That is, it says only that the mob should have its way quite simply because the mob should have its way.

Libertarian Solutions

Since our tradition of criminal law completely fails to serve one of its purposes, doing justice for the victims of crimes, and is at best inefficient and more often ineffective at the other, preventing crimes, what remains is the simple assertion of the state's dominance over its subjects. Even non-libertarians should quickly grasp the circularity of maintaining a state for the purpose of upholding the majesty of the state.

I believe that inhabitants of a libertarian society could more effectively protect themselves from wrongdoers by relying on such means as self defense and security, which reduce potential criminals' ability to commit crimes, and private-law remedies, which seek to make victims whole.

Reprinted from The Quill: Queer Individual Liberty Letter, June, 1993. David Edmondson is an attorney in the Washington, DC area. □

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the burden of moral opprobrium, where we should feel that injustice is being done, what direction we want to push society in, and when it is legitimate to fight back against the law, the police and religious ideologues. Tactical prudence will help us choose among the means to use.

Remember the British lady who said, "Just don't do it in the streets and scare the horses?" How many horses have you seen on city streets lately?

Reprinted with permission from January 14, 1993 Windy City Times, 970 West Montana, 2nd Floor, Chicago IL 50514. □

Letter to Editor

TO THE EDITOR: Your commentary on the Colorado "Anti-gay" Amendment [*LGLC Newsletter*, Winter 1993, p. 7] was marred by an unlibertarian lapse. Your writer slipped when he said that discrimination should be outlawed in "public accommodations," assuming the phrase referred to public toilets and the like. Don't you guys realize that the term "public accommodations" has been used for many years in so-called civil rights legislation to denote *privately-owned* businesses that offer services to the public, like privately-owned restaurants and hotels? A libertarian would grant the owners of "public accommodations" the right to do business with anyone they wish.

Name Withheld, Michigan □

Personal Ad

Hoping to correspond with other homosexual women interested in free market/individual sovereignty ideas. Let's talk Objectivism, Libertarianism, philosophy applied to literature, aesthetics, etc. Reply 3712 25th St., San Francisco CA 94110.

Notes from a Backroom

By Raymond Warner

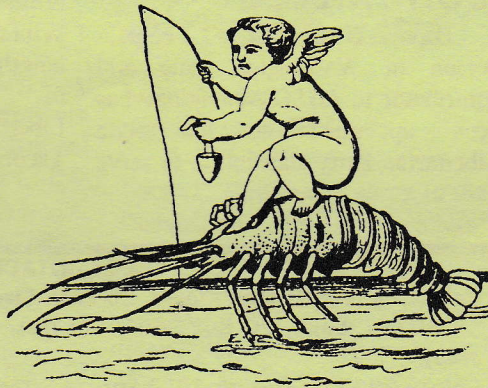
THE CITY OF DETROIT is the largest bordertown in North America. Living here on the Fourth Coast, I often troll riverfront bars looking for merchant marines. I recently met a fellow, a full-blooded Mohawk, with a great disdain for US-Canadian border personnel. He tells me that our customs officials are using audio guns to pick up conversations of people approaching their booths. Small talk such as: "How did we ever get seven aliens in that trunk," or "They'll never look under the hubcaps for that product." These private conversations are recorded for judicial use. A word to the wise: if Big Brother is watching, he may also be listening.

Odorizer

Score One for the Market. Recent attempts by the gay leadership and the drug inquisition to outlaw poppers have failed. Here in Detroit and other cities I am aware of there is now a thriving business in under-the-counter butyl nitrite sales at many adult bookstores.

What had happened, in brief, was that in one test in a lab dish HIV was shown to replicate faster after sniffing "room odorizer." Or maybe it was the strobe lights. So the gay leadership promoted legislation locally, then on a national basis to outlaw the sale of poppers.

The heterosexual culture never would have noticed the use of this inhalant if elements of the gay leadership hadn't brought up the subject. Currently "Rush" can be manufactured in the US for export, and simple possession is still legal. Party On!



White has announced his retirement from the US Supreme Court. Good riddance! His opinion in the Hardwick (Georgia bedroom sex) case will go down in history next to Dred Scott. With the possible exit of Justice Blackmun, Clinton will have the chance to restore some balance in the Court.

Clinton seems to be backing off from the queer soldier issue now, perhaps under threat of a coup d'etat. What Clinton needs to do first is immediately fire Powell and the entire Joint Chiefs. Perhaps then we can reestablish civilian control of the military. But the hostility of the officer corps is just short of treason.

Have you heard the rumors that Hillary has forbidden uniformed personnel in the White House? And how about the story that queers want gay discos on Marine bases? I hadn't thought of that one myself, but jarheads are such great bottoms it seems like a good idea.

And speaking of jarheads, that tour of the aircraft carrier by Senator Sam Nunn (D-GA) and the Senate Armed Services Committee was the best display of homoeroticism I've seen recently. Into the wee hours of the morning I kept watching C-SPAN for all those reruns of showers, toilets and bunks. Such tight quarters, I don't know how anybody could drop the soap. Maybe soap on a rope is the solution.

If it is true, as Churchill said, that "rum, the whip, and buggery made the British Navy great," then they couldn't hurt ours. Finally, in all this debate the Queer Forces have never used that ancient axiom of Plato's: that an army of lovers cannot lose. And then again, that may be what the military fears the most.

Culture Carousel

NBC's "The Gay 90's" with Maria Schriver-Schwarzenegger was the most blatant piece of assimilationist propaganda I've seen. Sure, we're all going to live in pairs, raise children—we're just like everybody else. Sorry, I'd rather be in a backroom than at a PTA meeting. Also of note: Maria reported that the Clinton campaign received \$3.8 M in gay PAC money.

Liz Taylor to Larry King: "Without homosexuals there would have been no Hollywood, no Art, no Literature." Now, Liz, we know why they talk about your husbands.

Washington Notes

Justice Byron "Whizzer" (I wanted to say "Geezer")

Favorites from the DC March

My choices for the best chants heard at the March on Washington: "Two four six eight—we don't want to assimilate!"

"Two four six eight—suck my dick and fuck the state!"

"Hey hey ho ho, the nation state has got to go!"

"FBI-ATF-Bar-B-Que!"

My choice for best tee-shirt motto: "Butch Queen on her Umteenth March."

Best Banner (by Radical Faeries): "Ban the Military."

Most missed contingent: NAMBLA.

(A life-long Detroit, Raymond Warner has been an avowed libertarian for many years and was one of the founders both of the Gay Liberation Front and of the Libertarian Party in his home state.) □

Soldiers' Tales

By Charles Lempke

Conduct Unbecoming: Gays and Lesbians in the U.S. Military, Randy Shilts, St. Martin's Press, 784 pages, \$27.95.

GAY JOURNALIST Randy Shilts' new book will be of interest to civil libertarians, for it documents the U.S. Armed Forces inhuman persecution of homosexual servicemembers.

The book goes back as far as the Revolutionary War, with intriguing evidence that Prussian-born General Friedrich von Steuben joined our Continental Army after a homosexual scandal made things too hot for him in Europe.

But by far the greatest part of the book covers the period from 1969 until the current day, presenting the recent history of individual U.S. servicemen and servicewomen who were ferreted out, browbeaten, threatened, induced to betray their fellow gays, court martialed, dishonorably discharged, imprisoned and even driven to suicide by the investigative and judicial branches of the military services.

If you're maybe a little naive about the ferocity and meanness with which your own government can attack you, or if you doubt that your mortal enemies are on government payroll in Washington, you need to read this book.

Shilts is a professional journalist who documents his sources (there are twenty-six pages of footnotes in the back) and he identifies his subjects by name. Shilts treats closeted gays with respect, however, and does not out the unwilling. Shilts scrupulous regard for the privacy of individuals will please libertarians.

Shilts also avoids unlibertarian pleading for special entitlements for gays and lesbians. He only points out that homosexuals have been denied the equal protection of law by agencies of the U.S. government. So Shilts' book gets its libertarian *nihil obstat* and we can read it without

sorting though and censoring out socialist and statist impertinences.

For many readers, the length and detail of this book may prove an obstacle. Because Shilts divides and interweaves the stories of individual servicemembers, one must read many chapters to cover the complete story of any one subject. But don't avoid the book on this account, as one can read excerpts with great benefit and get fired up to fight for equal rights for gays.

Charles Lempke is a Viet Nam era veteran of the U.S. Army. □

John Vernon Honored

JOHN VERNON, gay libertarian activist and former Libertarian Party candidate, received the Karl Bray award for activism from the Samuel Adams Society during the state party convention of the California LP in February, according to a story in the San Francisco *LGLC News*. □

Doss Appointed to LP Platform Committee

DAVE DOSS, LCLG contact person in Washington state and contributor to *LGLC Newsletter*, has been appointed at his state Libertarian Party convention to serve

on the National LP Platform Committee.

LGLC Newsletter notes with pride that Doss's commentary on hate crimes, originally printed in our Winter 1993 issue, was excerpted at length in *NOVA Liberty*, newsletter of the Arlington (Virginia) Libertarian Committee. Doss lives in Tacoma, Washington. □

LGLC CONTACTS

California: (1) George Meyer, 20 Ford Street, San Francisco, CA 94114; (2) Allen J. Lopp, PO Box 3691, Cerritos, CA 90703-3691 (Los Angeles area).

Colorado: Chris Bogart, 2030 Spruce Street, Apt. 1, Boulder CO 80302.

District of Columbia: Kelly Young, c/o GLIL, PO Box 65743, Washington Square Station, Washington, DC 20035.

Florida: (1) Ron Farago, PO Box 143, Cape Canaveral, FL 32920; (2) Pedro A Romañach, 2319 S.W. 22nd Terrace, Miami FL 33145.*

Maryland: Donald C. Monroe, PO Box 383, Bladensburg, MD 20710.

Michigan: (1) James L. Hudler, PO Box 447, Chelsea, MI 48118 (Ann Arbor area); (2) Raymond Warner, 1001 E. Jefferson Avenue, Apt. 417, Detroit, MI 48207.

Nevada: Jack L. Levine, 305 N. 11th #B, Las Vegas NV 89101.*

New Jersey: Philip De Block, PO Box 89, Kearny NJ 07032.

New York: Ross Ivan Jacobs, (212) 473-6248 (NYC).

Pennsylvania: Liberty Belle Political Action Group, Continental Station PO Box 40085, Philadelphia, PA 19106.

Texas: Donald Jatho, c/o Chain Drive, 504 Willow Street, Austin, TX 78701.

Utah: Willy Marshall, PO Box 526175, Salt Lake City UT 84152.*

Virginia: Dave Edmondson, 120 A East Raymond Avenue, Alexandria VA 22301-1140.

Washington: Dave Doss and David Morton, 3724 N. 28th Street, Tacoma, WA 98407, CompuServ e-mail 75070,2252.

Australia: Steven Gerakiteys, P.O. Box 352, G.P.O., Canberra, A.C.T. 2601, Australia.

* new listings.