

HOMOSEXUALS
ASK FOR THE
RIGHT TO THE
PURSUIT
HAPPINESS

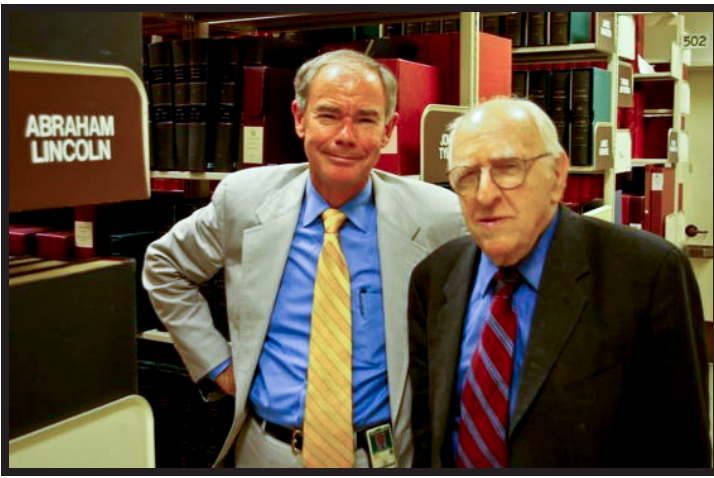
Kameny Papers Expose a Dark Legacy

How a civil servant's "revulsion letter" doomed a generation.

by Charles Francis

(from "The Gay and Lesbian Review", January, 2011)

THE "REVULSION LETTER" is on its way to the Supreme Court. Triggered by gay and lesbian Americans picketing the White House in 1965, and hidden away in the attic of pioneer gay civil rights activist Frank Kameny until he donated it to the Library of Congress in 2006, this single-spaced, three-page letter established a viciously discriminatory federal policy toward homosexuals that lasted for decades. It reverberates still, each time a judge scrutinizes a law that treats gay and lesbian Americans differently from everyone else.



Library of Congress Political Historian John Haynes and Dr. Franklin Kameny in the stacks of the Library's Manuscript Division where Kameny's Papers and the "Revulsion Letter" now reside. (Kameny Papers Project)

U.S. District Court Judge Vaughn Walker cited this 1966 letter from President Lyndon Johnson's U.S. Civil Service Commission chairman to The Mattachine Society of Washington, DC, as a "finding of fact" in his opinion in *Perry v. Schwarzenegger*, which struck down California's voter-approved Proposition 8 banning same-sex marriage in California. What Judge Walker documented with this letter is the fact that gays and lesbians have long been victims of discrimination in the U.S. for no good reason, and for one bad reason: a sense of "revulsion." What John W. Macy, Jr., Civil Service Commission Chairman, wrote in 1966 was this:

"Pertinent considerations here [for maintaining the ban on homosexuals in government] are the revulsion of other employees by homosexual conduct and the consequent disruption of service efficiency, the apprehension caused other employees by homosexual advances, solicitations or assaults, the unavoidable subjection of the sexual deviate to erotic stimulation through on-the-job use of common toilet, shower and living facilities, the offense to members of the public who are required to deal with a known or admitted sexual deviate."

Macy was a colossus in Washington politics at time. He identified or cleared every political appointee and significant promotion in the Johnson Administration: assistant secretaries, undersecretaries, ambassadors, federal agency heads, and commission appointees. Macy reported directly to LBJ, often through the President's special assistant, Bill Moyers (yes, that Bill Moyers). Originally appointed by President Eisenhower as executive director of the U.S. Civil Service Commission at age 35, Macy had served under President Kennedy as Chairman of the Commission on Equal Opportunity in Hiring. When Johnson became President, he appointed Macy to chairman of the U.S. Civil Service Commission and dubbed him "my talent scout."

Elsewhere in Washington, Frank Kameny had been fired by the U.S. Army Map Service in 1957 when he was discovered to be gay. Incensed and with nothing to lose, he could work out of his house, free to challenge Macy with letters and actions about his and others' dismissals.

Macy's "revulsion" letter to The Mattachine Society of Washington, D.C., is steeped in a special animus toward gays as a class (while denying they are one). For years, it stood as the formal, written policy basis for all federal employment discrimination against gays and lesbians, declaring homosexuals "unsuitable" for federal employment. The letter had been carefully crafted by Macy in close collaboration with his commission counsel, Lou Pellerzi. "I have reviewed with thoughtful care the proposed response to the Mattachine Society, wrote Macy to Pellerzi in 1966. "I believe it is most effectively done and sets forth a humane, public interest position." Later, in a congratulatory New Year's letter to Pellerzi that managed to survive among Macy's personal papers, he praises Pellerzi's "thinking and action in many critical areas" including "the landmark policy statement on homosexuals." (Personal papers of John W. Macy, Jr., LBJ Library, Austin.)

But for all the emotional appeal to employee "revulsion" and lavatory fixtures, the substance of the letter is about the Constitutional question of status that Macy and his counsel were determined to settle once and for all. Are gay and lesbian Americans an identifiable group of individuals who enjoy Constitutional protection? Macy and Pellerzi opined: "We do not subscribe to the view, which indeed is the rock upon which The Mattachine Society is founded, that 'homosexual' is a proper metonym for an individual. Rather we consider the term 'homosexual' to be properly used as an adjective to describe the nature of overt sexual relations or conduct." Is the term an adjective or noun, in short? And if the latter, if such a person exists, does it constitute a "class"? The authors go on: "We see no third sex, no oppressed minority or secret society, but only individuals." The Mattachine Society was certainly no "secret society," however much Macy and Pellerzi want to imply that its members saw themselves as such. This was Kameny's whole point when he founded the Washington Mattachine, which was the first gay civil rights organization in the city.

About a year before the Mattachine was picketing the White House for the first time (April 1965), President Johnson's most important aide and lifelong advisor, his special assistant and chief of staff, Walter Jenkins, had been arrested in the men's restroom of the local YMCA on morals charges. Bill Moyers, who replaced Jenkins, wrote: "If Lyndon Johnson owed everything to one human being other than Lady Bird, he owed it to Walter Jenkins." To give some idea of the importance of Jenkins to LBJ, today there are ten feet of Jenkins' papers on a shelf in the LBJ Library in Austin, catalogued as "Walter Jenkins, Special Assistant, Chief of Staff, domestic affairs, personnel and budget issues, Congressional liaison, 1957-1964." Johnson was stunned to lose Jenkins but characteristically went into full attack mode, working with FBI Director J. Edgar Hoover to investigate others suspected of homosexuality in his administration. Hoover was a "bachelor" who, we now know, was a gay man in a committed relationship with FBI Assistant Director Clyde Tolson, who accepted the flag that draped Hoover's coffin, and who's buried alongside him in Congressional Cemetery.

Eager to defend himself on charges that he may have known about Jenkins, who had been investigated by Hoover himself on charges of homosexuality as far back to 1959, LBJ gave Hoover

the go-ahead to renew FBI investigations on executive branch appointees for suspected homosexuality. Hollywood lobbyist Jack Valenti was among those investigated. It was an election year, and LBJ thought he had to respond to political attacks from the opposing party. For example, Republican Party Chairman Carl Shipley snarled: "How many more perverts are there in the White House? They are like snakes! Where there is one, there is a nest of them!" Frank Kameny responded to Shipley's comments in a letter:

Your characterization of Mr. Jenkins as a pervert is malicious. Your characterizations of homosexuals as 'nests of perverts' are gratuitous insults to the many tens of thousands of respectable, responsible, reputable, loyal, moral homosexual citizens of the United States. ... Whichever party wins this election, it, and its men in office are going to have to face squarely the problems raised by the existence of homosexual American citizens; we intend to see to that!! We are not going to disappear from the scene, and we are not going, any longer, to be content with second-class status.

Johnson engaged in a curious exchange with Hoover after Jenkins was arrested. Johnson: "I swear I can't recognize them. I don't know anything about them." Hoover: "It's a thing that you just can't tell sometimes. Just like in the case of the poor fellow Jenkins. ... There are some people who walk kind of funny. That you might think a little bit off or queer. But there was no indication of that in the Jenkins case."

Kameny then contacted Vice President Humphrey, who coordinated all federal civil rights activities, writing:

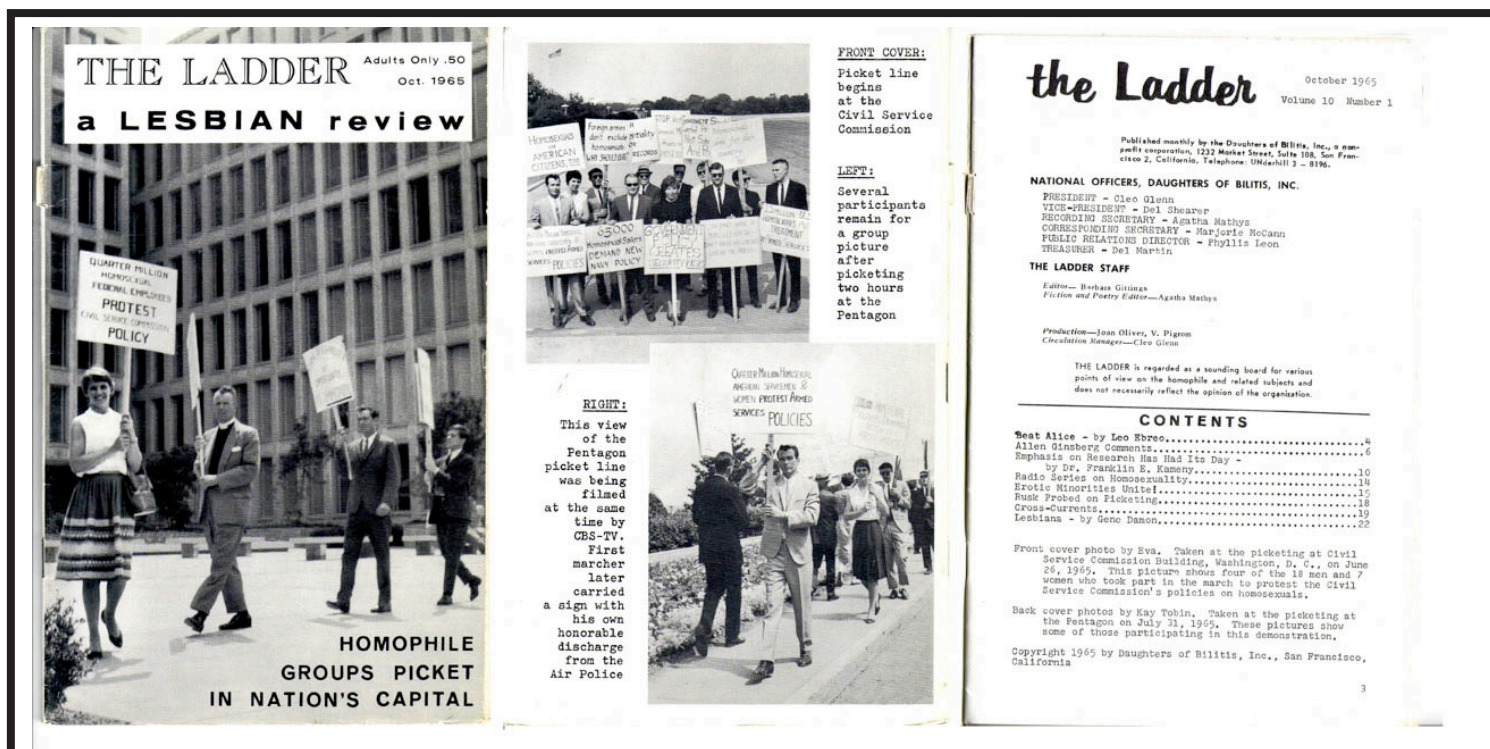
We have written, in vain, to many Federal officials, asking, as citizens, to meet with them to discuss our problems and

to seek redress for our grievances. We have been refused. In many instances, we have not even received the common courtesy of a reply. ... We realize that this is a difficult and awkward problem. Nevertheless, it can be ignored no more than can the problem of discrimination against the Negro.

At least Kameny got a reply. Vice President Humphrey wrote: "Neither the Federal Executive Orders on fair employment nor the Civil Rights Act which constitute the authority for this program of non-discrimination are relevant to the problems of homosexuals. Best wishes. Sincerely, Hubert H. Humphrey." (Letter to Kameny, June 9, 1965, Library of Congress.)

The Washington Mattachine began its historic picketing of the White House in April 1965. In an internal White House Memorandum to LBJ, White House chief of staff Marvin Watson sounded the alarm: "On October 23 the Mattachine and Janus Societies which are made up of male and female homosexuals respectively will demonstrate in front of The White House. The purpose of the demonstration is to protest the Federal Government's policy of discrimination and hostility against the 15 million American homosexuals." In a Letter to President Johnson signed by Franklin E. Kameny and the Mattachine Societies of Florida, Chicago, New York, Washington, and Philadelphia, they cited two broad areas of concern: exclusion from federal employment and "discriminatory, exclusionary, and harshly punitive treatment by the Armed Services."

A group of gay and lesbian Americans picketed with dignity in front of cameras and a taunting public, just as they had picketed the Civil Service Commission some months before. The Mattachine Society cited in their "News Release" the Commission's "un-American refusal ... to meet with spokesmen for the homosexual community ... to discuss policies and procedures in regard to



homosexuals, a meeting with their public officials which citizens in a democracy should be able to expect as a matter of right. This demonstration is staged as a last resort, after the Commission has refused repeated requests over many months and years.”

The Mattachine Society specifically called out Chairman Macy: “On June 21, 48 hours in advance of its mailing to anyone else—Mr. Macy was sent a copy of our news release announcing picketing. He was informed that we were more than willing to call off the demonstration, right up to its start, if only he would grant us the meeting to which we are entitled. The request was not granted.” (“Why Are Homosexuals Picketing the U.S. Civil Service Commission?,” Mattachine Society statement, June 26, 1965).

Years later, Macy went on to become the first president of the Corporation for Public Broadcasting and felt the need to write a high-minded book, Public Service, *The Human Side of Government* (1971), in which he portrayed himself as a progressive. “The Civil Service,” he wrote, “should be (and is) recruiting and upgrading more blacks, women, physically handicapped and mentally retarded persons than in the private sector.” The decade-long battle with Kameny and the Mattachine Society is not mentioned once, nor is there any reference to his infamous letter to the president. Five years after Macy’s “humane” policy solution was contrived, he pretended it had never happened. But the policies he had initiated were still in force and remained that way until 1975, and were not fully repudiated until 2009. The question of “status” versus “behavior” remains with us to this day. Recently, Justice Ruth Ginsburg made headlines in a gay-related decision writing for the majority (in *Christian Legal Society vs. Martinez*): “Our decisions have declined to distinguish between status and conduct in this context.”

And the meeting that Kameny had fought for? In September 1965, after the months of picketing and years of letter writing, the Civil Service Commission invited the Mattachine Society of Washington in for a meeting, and asked them to submit a formal presentation on the ban. The response was swift: they produced Macy’s “Revulsion Letter” and sent it verbatim.

Postscript: In 2009, John Berry, Director of the United States Office of Personnel Management presented Kameny with a formal letter recognizing the government’s “shameful action” and including a “repudiation of the reasoning of the 1957 finding ... to dismiss you.” He offered an “apology for the consequences of the previous policy of the United States Government, and please accept the gratitude and appreciation of the United States Office of Personnel Management for the work you have done to fight discrimination and protect the merit-based civil service system.” (June 24, 2009). Kameny replied, now 52 years later: “Apology accepted!”

Charles Francis is the founder of the Kameny Papers Project in Washington, D.C.

Appendix 1: Memorandum for Pellerzi/LBJ Library

February 14, 1966

Memorandum for Mr. L. M. Pellerzi

Subject: Proposed response to the Mattachine Society

I have reviewed with thoughtful care the proposed response to the Mattachine Society. I believe it is most effectively done and sets forth a humane, public interest position. I would appreciate it if you would review this with the other Commissioners and the Executive Director and return it to me for signature.

JWM

attachment

(Papers of John W. Macy, LBJ Library)

Appendix 2: "Landmark Policy Statement on Homosexuals"

January 10, 1967

Mr. L. M. Pellerzi
106 Indian Spring Road
Silver Spring, Maryland 20901

Dear Lou:

The Civil Service Commission has been a wiser and livelier institution since your arrival in the ranks of its leaders. From my forward perch in the organization I am deeply conscious of and greatly appreciative for your contributions in solving new and old problems relating to the Government's personnel program.

In reviewing 1966 I can identify the impact of your thinking and action in many critical areas - the successful implementation of the Commission's responsibilities in the voter rights field, the innovative concepts injected in the appeals study, the landmark policy statement on homosexuals, the penetrating consideration of employee rights, a fresh look at investigative and adjudicative processes, and many others.

With both force and understanding you have shaken the institution sufficiently to stimulate a basic examination of traditional concepts and to point toward new goals of policy and procedure. Both officially and personally I am grateful to you for the broad and demanding role you have played so well.

The coming year can only bring a faster pace of action. We must move toward a career system for attorneys. We must improve our appellant and adjudicative processes. We must contribute constructively to the examination of the Government's policy on political activity. We must discover the balance point between employee obligations and employee rights and between employee protection and public interest. This is a weighty agenda but I face it with excitement and optimism in the knowledge that a strong General Counsel will be on hand to provide the major assistance.

With cordial best regards and hearty good wishes for a healthy and happy new year,

Sincerely yours,

John W. Macy, Jr.
Chairman

(Papers of John W. Macy, LBJ Library)

Appendix 3: Macy Letter to Mattachine

-COPY- UNITED STATES CIVIL SERVICE COMMISSION
Washington, D.C. 20415
February 25, 1966

The Mattachine Society of Washington
Post Office Box 1032
Washington, D.C. 20013

Gentlemen:

Pursuant to your request of August 15, 1965, Commission representatives met with representatives of the Society on September 8, 1965, to enable the Society to present its views regarding the Government policy on the suitability for Federal employment, of persons who are shown to have engaged in homosexual acts.

The Society was extended 30 days to submit a written memorandum in support of the positions set forth at these discussions to ensure that full consideration could be given to its contentions and supporting data by the Commissioners. On December 13, 1965, the Society filed five documents,* which, along with the substance of the September discussions, have been considered by the Commissioners.

The core of the Society's position and its recommendations is that private, consensual, out-of-working hours homosexual conduct on the part of adults, cease to be a bar to Federal employment. In the alternative it is asked that the Commission activate continuing discussions with representatives of the Society to take a "progressive, idealistic, humane, forward-looking, courageous role" to elicit the holding of objective hearings leading to the adoption of the Society's recommendation.

The Commission's policy for determining suitability is stated as follows:

"Persons about whom there is evidence that they have engaged in or solicited others to engage in homosexual or sexually perverted acts with them, without evidence of rehabilitation, are not suitable for Federal employment. In acting on such cases the Commission will consider arrest records, court records, or records of conviction for some form of homosexual conduct or sexual perversion; or medical evidence, admissions, or other credible information that the individual has engaged in or solicited others to engage in such acts with him. Evidence showing that a person has homosexual tendencies, standing alone, is insufficient to support a rating of unsuitability on the ground of immoral conduct."

We have carefully weighed the contentions and recommendations of the Society, and perceive a fundamental misconception by the Society of our policy stemming from a basic cleavage in the perspective by which this subject is viewed. We do not subscribe to the view, which indeed is the rock upon which the Mattachine Society is founded, that "homosexual" is a proper metonym for an individual. Rather we consider the term "homosexual" to be properly used as an adjective to describe the nature of overt sexual relations or conduct. Consistent with this usage pertinent

* "DISCRIMINATION AGAINST THE EMPLOYMENT OF HOMOSEXUALS", dated February 28, 1963, by the Society, "RESOLUTION OF NATIONAL CAPITOL AREA CIVIL LIBERTIES UNION ON FEDERAL EMPLOYMENT OF HOMOSEXUALS", dated August 7, 1964, "A BRIEF OF INJUSTICES" by the Council on Religion and the Homosexual, Inc., San Francisco, California, June 1965, "WHY ARE HOMOSEXUALS PICKETING THE U.S. CIVIL SERVICE COMMISSION", June 26, 1965, by the Society, and "FEDERAL EMPLOYMENT OF HOMOSEXUAL AMERICAN CITIZENS", November 15, 1965, by the Society.

(Kameny Papers, Library of Congress)