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THEY WANT
TO LEGALIZE
HOMOSEXUALITY

Exclusive

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

FOR DETAILS, TURN PAGE 

Some of America's Top Lawyers Wrestled...

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

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

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

Even more surprising are the provisions of Section 207.5—on homosexuality, referred to as sodomy or deviate sexual intercourse. This is now severely punishable in every state, with up to 20 years imprisonment in New York, to 60 years in N. Carolina, and life at hard labor in Georgia. But Model Code Section 207.5 provides punishment for sodomy and related offenses only if they involve force, fraud, or partners who are minors, or soliciting in public. Homosexual relations between willing adult partners thus is to carry no punishment whatever.

Here are the Institute's reasons: "No harm to the secular interest of the com-

After "great doubt," veteran Judge Learned Hand urged that homosexuality be no crime under new Model Code.




...With Adultery, Homosexuality Questions

munity is involved in atypical sex practice in private between consenting adult partners. This area of private morals is the distinctive concern of spiritual authorities. It has been so recognized in a recent report by a group of Anglican clergy, with medical advisers. . . The distinction between civil and religious responsibilities in this area is reflected in the penal codes of such predominantly Catholic countries as France, Italy, Mexico, and Uruguay, none of which attempt to punish private misbehavior of this sort." (Among the Institute's comments, comprised of medical, legal, and sociological opinion, is this excerpt from the Kinsey report: "37% of the

total male population has at least some overt homosexual experience . . . this accounts for nearly 2 males out of every 5 that one may meet.")

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

But Learned Hand (retired Chief Judge of the U.S. Circuit Court of Appeals, )

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

How the New, Streamlined Model Code Will Affect Criminal Law in the U.S.

N.Y.) replied: "Criminal law which is not enforced practically is much worse than if it is not on the books at all." Members framing the Code's sex provisions voted 35 to 24 to strike sodomy from the punishable list.

How can such a code improve public morality? Here's a digest of opinion from leading lawyers questioned by PEOPLE TODAY: The law today should pertain only to acts that injure society. Anything a man does to himself, or to a willing adult partner, is strictly his own business. If some laws aren't enforced,

others are weakened also—thus reduction of dead letter laws (like adultery legislation) would improve all law enforcement. Removing homosexuality from the criminal list might reduce blackmail, encourage homosexuals to seek psychiatric help.

What practical effect will the Law Institute's Model Code have on the law Americans live with? Says Professor Louis B. Schwartz of Pennsylvania U.'s Law School, who supervised the writing of the sex provisions:

We would regard it as a stroke of luck if a state would enact all this soon. But it's really a long-range educational project, sure to affect both state and federal law. States keep overhauling their codes. Our Model Code and commentaries put the best research and opinions before the legislators.



Model Code expediter: Prof. Louis Schwartz, ex-chief of General Crimes Section, U.S. Dept. of Justice.