

cumulatively across personal experiences and interpretations as we set about scheme-making? The data presented by the authors is so rich (on federal systems, interest-groups, neighborhoods, forms of city and metropolitan governments, selection and training of civil servants, "conflicts of interest," racial and cultural relations, and all the ecology of a public function) that the step to a greatly needed part-universal may be the first step toward a universal. "Leg after leg the old dog got to Dover," Elihu Root used to say when the situation seemed dark and difficult. And it is from studies such as this that a richer and more useful body of data, use of terms, and interpretation of experience will be available to future students, and more widely relevant generalizations will be created.

JOHN M. GAUS*

* Professor of Government, Harvard University.

The Three Trials of Oscar Wilde. Edited by H. Montgomery Hyde. New York: University Books, 1956. Pp. 384. \$5.00.

Some years ago the play, *Oscar Wilde*,¹ with an extraordinarily fine performance by Robert Morley in the lead, was on the boards in New York. Essentially the play was built around the trials in which Wilde was involved—first, his libel action² against the Marquis of Queensbury for the latter's card handed Wilde accusing him of "posing as somdomite" (sic) and, second, the subsequent criminal prosecutions for "acts of gross indecency" with male persons. The trial scenes were handsomely portrayed. The authors had contrived appropriate dialogue:

"Cross-examination continued—Do you know Walter Grainger?—Yes.

"How old is he?—He was about sixteen when I knew him. He was a servant at a certain house in High Street, Oxford, where Lord Alfred Douglas had rooms. I have stayed there several times. Grainger waited at table. I never dined with him. If it is one's duty to serve, it is one's duty to serve; and if it is one's pleasure to dine, it is one's pleasure to dine.

"Did you ever kiss him?—Oh, dear no. He was a peculiarly plain boy. He was, unfortunately, extremely ugly. I pitied him for it.

"Was that the reason why you did not kiss him?—Oh, Mr. Carson, you are pertinently insolent.

"Did you say that in support of your statement that you never kissed him?—No. It is a childish question.

"Did you ever put that forward as a reason why you never kissed the boy?—Not at all.

"Why, sir, did you mention that this boy was extremely ugly?—For this reason. If I were asked why I did not kiss a door-mat, I should say because I do not like to kiss door-mats. I do not know why I mentioned that he was ugly, except that I was

¹ Leslie and Sewell Stokes, *Oscar Wilde* (1938).

² The action was for criminal libel.

stung by the insolent question you put to me and the way you have insulted me throughout this hearing. Am I to be cross-examined because I do not like it?

"Why did you mention his ugliness?—It is ridiculous to imagine that any such thing could have occurred under any circumstances.

"Then why did you mention his ugliness, I ask you?—Perhaps you insulted me by an insulting question.

"Was that a reason why you should say the boy was ugly?—(Here the witness began several answers almost inarticulately, and none of them he finished. His efforts to collect his ideas were not aided by Mr. Carson's sharp staccato repetition: 'Why? Why? Why did you add that?' At last the witness answered): You sting me and insult me and try to unnerve me; and at times one says things flippantly when one ought to speak more seriously. I admit it.

"Then you said it flippantly?—Oh, yes, it was a flippant answer."³

Or again:

"The first was 'In Praise of Shame' concluding with the words, 'Of all sweet passions Shame is loveliest'?—May I—

"No! Kindly answer my questions?—Certainly.

"By Mr. Justice Charles—If you have any explanation to add to your answer, you may do so.—I will merely say this, my lord. It is not for me to explain the work of anybody else. It does not belong to me. But the word 'shame' now in that poem is a word used in the sense of 'modesty.' I mean that I was anxious to point out that 'Shame that turns cool lips'—I forget the line exactly—'to fire' is a quickened sense of modesty.

"Cross-examination continued—Your view, Mr. Wilde, is that the 'shame' mentioned here is that shame which is a sense of modesty?—That was the explanation given to me by the person who wrote it. The sonnet seemed to me obscure.

"During 1893 and 1894 you were a good deal in the company of Lord Alfred Douglas?—Oh, yes.

"Did he read that poem to you?—Yes.

"You can, perhaps, understand that such verses as these would not be acceptable to the reader with an ordinarily balanced mind?—I am not prepared to say. It appears to me to be a question of taste, temperament and individuality. I should say that one man's poetry is another man's poison! (Laughter.)

"I daresay! The next poem is one described as 'Two Loves.' It contains these lines:—

"Sweet youth,
Tell me why, sad and sighing, dost thou rove
These pleasant realms? I pray thee tell me sooth,
What is thy name?" He said, "My name is Love,"
Then straight the first did turn himself to me,
And cried, "He lieth, for his name is Shame.
But I am Love, and I was wont to be
Alone in this fair garden, till he came
Unasked by night; I am true Love, I fill
The hearts of boy and girl with mutual flame."
Then sighing said the other, "Have thy will,
I am the Love that dare not speak its name."³

³ P. 150.

"Was that poem explained to you?—I think that is clear.

"There is no question as to what it means?—Most certainly not.

"Is it not clear that the love described relates to natural love and unnatural love?—No.

"What is the 'Love that dare not speak its name'?—'The Love that dare not speak its name' in this century is such a great affection of an elder for a younger man as there was between David and Jonathan, such as Plato made the very basis of his philosophy, and such as you find in the sonnets of Michelangelo and Shakespeare. It is that deep, spiritual affection that is as pure as it is perfect. It dictates and pervades great works of art like those of Shakespeare and Michelangelo, and those two letters of mine, such as they are. It is in this century misunderstood, so much misunderstood that it may be described as the 'Love that dare not speak its name,' and on account of it I am placed where I am now. It is beautiful, it is fine, it is the noblest form of affection. There is nothing unnatural about it. It is intellectual, and it repeatedly exists between an elder and a younger man, when the elder man has intellect, and the younger man has all the joy, hope and glamour of life before him. That it should be so the world does not understand. The world mocks at it and sometimes puts one in the pillory for it. (Loud applause, mingled with some hisses.)"⁴

To my astonishment this dialogue was not written by skilled playwrights, but comes directly from the record of the trials. Not that there is not also a great deal that is unpleasant in the trials—blackmail, homosexual pimps, evidence as to the condition of bed clothes, and, worst of all, the sense of embarrassment at the inquiry into the private details of Wilde's sexual life.

That Wilde was guilty of homosexual offenses is indisputable from the evidence.⁵ The trials were fair, although unquestionably the judge, Mr. Justice Charles, who presided over the first criminal trial, was more favorable in his charge to the jury than Mr. Justice Wills, who conducted the second. The latter made the following remarks at the time of sentence:

"(To the prisoners)—Oscar Wilde and Alfred Taylor, the crime of which you have been convicted is so bad that one has to put stern restraint upon one's self to prevent one's self from describing, in language which I would rather not use, the sentiments which must rise to the breast of every man of honour who has heard the details of these two terrible trials. That the jury have arrived at a correct verdict in this case I cannot persuade myself to entertain the shadow of a doubt; and I hope, at all events, that those who sometimes imagine that a judge is half-hearted in the cause of decency and morality because he takes care no prejudice shall enter into the case, may see

⁴ Pp. 235-36.

⁵ In the first criminal trial, Wilde was charged with commission of acts of gross indecency as follows: Four separate acts with Charles Parker, one act with Alfred Wood, two acts with unknown male person, and one act with Edward Shelley. He was charged in various counts with conspiring with Alfred Taylor, his co-defendant, to procure these and other acts. He was found not guilty as to certain counts and the jury was unable to agree as to the substantive counts enumerated above.

In the second trial he was retried on three substantive counts and found guilty as to all except the one relating to Edward Shelley.

that that is consistent at least with the utmost sense of indignation at the horrible charges brought home to both of you.

"It is no use for me to address you. People who can do these things must be dead to all sense of shame, and one cannot hope to produce any effect upon them. It is the worst case I have ever tried. That you, Taylor, kept a kind of male brothel it is impossible to doubt. And that you, Wilde, have been the centre of a circle of extensive corruption of the most hideous kind among young men, it is equally impossible to doubt.

"I shall, under such circumstances, be expected to pass the severest sentence that the law allows. In my judgment it is totally inadequate for such a case as this. The sentence of the Court is that each of you be imprisoned and kept to hard labour for two years.

"(Some cries of 'Oh! Oh!' and 'Shame' were heard in Court.)

"OSCAR WILDE—And I? May I say nothing, my lord?

"(His Lordship made no reply beyond a wave of the hand to the warders, who hurried the prisoners out of sight.)

"THE JURY were discharged.

"The Court adjourned."⁶

And it is also true that this was not a case of an unusual discriminatory prosecution by the State. If Wilde had not instituted the action against Queensbury, he probably could have continued satisfying his sexual appetite howsoever and with whomsoever he pleased. But once the action against Queensbury had failed and with Wilde's admission that Queensbury was justified in his term "posing" as a sodomite and all the evidence of the intimate associations with young men having been presented, there was little that the English Government could do but try Wilde for offenses under its laws.⁷ He had neither a legal nor a moral right to be exempted from the operation of such laws merely because he was a man of unusual gifts.

Many of us think that such statutes are wrong; that as long as a person, male or female, married or unmarried, conducts his sexual life privately and in such a manner as not physically to injure others or mentally to harm persons of tender age—though what that age may be, as well as the extent of the harm, is certainly much disputed⁸—his activities are no concern of government. But to judge from the laws on the books⁹ we are certainly in the minority. Even though Kinsey is doubtless correct that our sexual behavior does not conform to our laws,¹⁰ there are many other instances in our society of such lack of conformity, and it is also true that a person's behavior does not necessarily reflect his moral views or his opinions as to what should be legally prohibited. The husband and wife who practice oral or anal contacts may feel such practices should neverthe-

⁶ P. 339.

⁷ See pp. 58, 78-79.

⁸ See Kinsey, *Sexual Behavior in the Human Female* 121 (1953).

⁹ *Ibid.*, at 169, 261-63, 324-26, 366-70, 428-30, 483-86; Kinsey, *Sexual Behavior in the Human Male* 263-65 (1948).

¹⁰ See the two volumes of Kinsey (*passim*).

less be legally prohibited because the enforcement of such prohibitions will not touch married persons but will deter others from experimenting. The man who once had a homosexual experience as an adolescent may look back on it with disgust and be fully convinced that homosexuals are a public danger.

Fortunately, we are generally protected in our sexual habits. The authorities are not permitted to listen in on our bedroom conversations,¹¹ and if we do not take unusual risks—if we conduct our sexual lives not in public parks, hotel rooms, or the like—the probabilities are that we can continue doing much as we please. It is only unfortunate that for many the sex need is so urgent that they cannot await the appropriate time and place. And opportunity, at least for certain homosexuals, usually presents itself in public facilities.

Wilde did not take reasonable precautions. At well-known London hotels and restaurants he openly consorted with young men of obviously inferior social station. Indeed, it appears that he wished to flaunt his homosexual proclivities,¹² though this is by no means unusual since the homosexual must make known to others his tastes in order to enjoy them.¹³ But in Wilde such flaunting went beyond the usual limits. He made a personal and literary cult of his homosexuality.¹⁴

The volume of which Mr. Hyde is editor presents more vividly than any biography¹⁵ the tragedy in which Wilde was involved. It is a colorful story, with a cast of characters that includes mad men like The Marquis of Queensbury, exquisite poetasters such as Lord Alfred Douglas,¹⁶ famous authors, including Andre Gide, artists, of whom Aubrey Beardsley and Toulouse-Lautrec were two, well-known British solicitors, including Sir Edward Clarke, Q.C., former Solicitor-General who defended Wilde, and some incredibly kind and faithful persons, particularly "The Sphinx."¹⁷

Mr. Hyde, using the basic material of the trials,¹⁸ has prepared a thoroughly workmanlike and engaging book. There is a foreword by The Rt. Hon. Sir Travers Humphreys, P.C., who had a complimentary brief in the case as junior to Sir Edward Clarke, Q.C. There is a lengthy, accurate, scholarly and detailed

¹¹ See *Irvine v. California*, 347 U.S. 128 (1953).

¹² P. 370.

¹³ See, e.g., 2 Proust, *Remembrance of Things Past* 3–26 (Random House ed., 1934).

¹⁴ P. 370.

¹⁵ The authoritative biography is Pearson, *The Life of Oscar Wilde* (1946).

¹⁶ See p. 81.

¹⁷ "The Sphinx" was Wilde's nickname for Ada Leverson. Mr. Hyde omits her name.

¹⁸ The trials were, of course, public. But not until 1912 were the transcripts published (*Oscar Wilde: Three Times Tried* [London, 1912]), the official court reporters having refused to do so on the ground that the records were "unfit for publication." See pp. 13–14. This volume is now out of print, and the transcripts were unobtainable until the book here reviewed was published in 1948 in the series of "Notable British Trials" in England. It is now published separately in the United States.

introduction by the editor, a chronological table, transcripts of the three trials with the indictments, appendices, including a verbatim copy of the plea of justification filed by Queensbury in the libel action against him, a review of Lord Alfred Douglas' criticism of Sir Edward Clarke's conduct as counsel for Wilde and his defense trial strategy, a transcript of the bankruptcy proceedings into which Wilde during his imprisonment was petitioned, a review of Douglas' behavior after the Wilde trials and his various contradictory statements and attitudes, a study of Wilde as a pathological case history, and finally an attempted study on male homosexuality in England since Norman times. Except for musings from a psychoanalyst's couch, the editor has provided all the elements for an understanding of the case.

Lawyers can derive satisfaction from the Wilde case because he was tried fairly and impartially, and although the punishment was severe, it was not the punishment that caused Wilde's deterioration. Indeed, from Wilde's jail sentence came two of the eloquent documents in the English language, *De Profundis* and *The Ballad of Reading Gaol*, and Wilde came out of prison in relatively good spirits though, of course, unreformed. What caused Wilde's final destruction¹⁹ was not the lawyers, but the social reformers who had enacted the section of the Criminal Law Amendment Act in 1885 covering indecent practices between males, whether committed in public or in private,²⁰ the mob,²¹ and his faithless friends.²²

RICHARD F. WOLFSON*

¹⁹ See Pearson, *op. cit. supra* note 15 at 236-77.

²⁰ See p. 357.

²¹ See p. 92; Pearson, *op. cit. supra* note 15 at 299-300.

²² E.g., Aubrey Beardsley.

* Member of the Florida and New York Bars.