

Let's Talk About Lex(icon)

A podcast created by students in the course "Language, Sex and Gender" at McMaster University in Hamilton, Ontario, Canada.

2023 Episode 4: Lexicon of the Law

References

- Alcoba, N. (2004) Gays vent anger over bathhouse inspection, *The Hamilton Spectator*
- Chambers, S. (2010). Pierre Elliott Trudeau and Bill C-150: A Rational Approach to Homosexual Acts, 1968-69. *Journal of Homosexuality*, 57(2), 249–266.
- Hier, S. P., & Greenberg, J. (2014). *Surveillance: Power, Problems, and Politics* (pp. xviii– xviii). UBC Press.
- Hooper, T. (2019). Queering '69: The Recriminalization of Homosexuality in Canada. *The Canadian Historical Review*, 100 (2), 257–273
- Levy, R. (2019). The 1969 Amendment and the (De)criminalization of Homosexuality. In *The Canadian Encyclopedia*. <https://www.thecanadianencyclopedia.ca/en/article/the-1969-amendment-and-the-de-criminalization-of-homosexuality>

Websites

Queer and other Histories

<https://opentextbc.ca/postconfederation/chapter/12-7-hidden-histories/>

<https://www.thecanadianencyclopedia.ca/en/article/toronto-feature-bathhouse-raids>

<https://www.splcenter.org/fighting-hate/extremist-files/ideology/anti-lgbtq>

<https://jamiebradburnwriting.wordpress.com/2021/02/04/racism-and-homophobia-in-the-pages-of-a-police-magazine/>

<https://exhibits.library.utoronto.ca/exhibits/show/bawdy/bathhouse-raids>

<https://www.bl.uk/lgbtq-histories/articles/the-men-killed-under-the-buggery-act>

<https://www.constancebackhouse.ca/fileadmin/website/offence.htm>

Audio Excerpts

Pierre Trudeau: <https://www.youtube.com/watch?v=6OoqgGgmVml>

Mark Saunders Apology: <https://www.youtube.com/watch?v=CY8MMoZmSWg>

Justin Trudeau: <https://www.youtube.com/watch?v=KYhdgi8J8bc>

Margaret Atwood: <https://www.youtube.com/watch?v=QxYfluJhSbA>

Barbara Frum interview with Eldon Woolliams: <https://www.cbc.ca/player/play/1811729973>

Law and Order sound effect : <https://www.youtube.com/watch?v=gP3MuUTmXNk>

Revolution 1 by the Analogues: <https://www.youtube.com/watch?v=WMGdxbBVcEw>

Dragnet Theme <https://www.televisiontunes.com/Dragnet.html>

The intro and outro music under CA's voice is "Robot Park" by Podington Bear

Battlefield sounds <https://www.soundfishing.eu/sound/battlefield>

Marche royale des régiments français, Victoire et Réjouissance à Québec by l'Ensemble Nouvelle-France

Thanks to Jane LeBlanc for reading the part of the female witness.

Transcript

Hi! I'm Catherine Anderson, and this podcast about Language, Sex and Gender is created by my students at McMaster University. Enough with the preamble. Let's talk about Lexicon!

[Audio: Dragnet Theme]

Narrator:

Welcome to this podcast about the lexicon of the law and how it relates to sexuality. My name is Mark Finkelstein, and I was a police officer for about 30 years in Toronto and in Hamilton, and so have a unique perspective on what I am going to talk to you about. I was there for some of the things that took place, witnessed most of the changes in the laws and knew some of the people involved.

Audio: Justin Trudeau

Mr. Speaker, The number one job of any government is to keep its citizens safe. And on this, we have failed LGBTQ2 communities and individuals, time and time again.

It is with shame and sorrow and deep regret for the things we have done that I stand here today and say we were wrong. We apologize. I am sorry. We are sorry for the repression of the lesbian, gay, bisexual, transgender queer and two spirit communities.

We apologize on behalf of the government, parliament and the people of Canada.

We were wrong. We are sorry and we will never let this happen again.

Narrator:

On the 26th of November 2017, Prime Minister Justin Trudeau addressed the House of Commons, apologizing for years of repression of the LGBTQ2S communities and of individuals within those communities.

However, the repression and persecution of gay men in Canada far pre-dates the Prime Minister's apology. Whether punishment was based on ecclesiastic laws, or criminal law, the penalties were severe.

But we observe that from the 17th century to the last half of the 20th century, the law as it related to sexual acts involving gay men evolved. Penalties were softened as were the wordings of the offences in the Criminal Code.

But even with changes to the criminal law in the last half of the 20th century that "decriminalized" sexual relations between men, the discrimination and persecution continued.

Part 1: A bit of history. Pre-confederation Canada

Let's turn our attention first to pre-confederation Canada, where punishment for sexual acts between gay men was the most severe.

[Audio: Marche royale des régiments]

The first recorded incident took place in Old Montréal (Ville-Marie) in 1648 when a young military drummer with the garrison was accused and convicted of "crimes of the worst kind" a euphemism for sex acts between men, by Sulpician monks. His sentence was death. Later the sentence was commuted by Jesuits in Quebec City. His punishment was that he was to become the city's executioner.

In 1838, George Markland, a member of the Family Compact of Upper Canada was accused of homosexual acts and appeared before an inquiry. One witness stated:

Audio: female voice

I heard voices inside. ... Mr. Markland was one of the persons speaking. They spoke so low that I could not distinguish a word. I could only hear the murmur of the voices. I then heard such movements as convinced me that there was a female in the room, with whom some person was in connection. I remained there seven or eight minutes. No doubt remains upon my mind as to the nature of the noise I heard, and I was sure a female was in the room.

Narrator:

The witness then stated it was a drummer and not a woman that passed her quickly in a hallway about 15 minutes later.

The attitude of Upper Canada's high-level governing officials at the time seemed to be that as long as gay men weren't doing it in the street and disturbing the horses then it could be tacitly ignored.

Markland was allowed to retire albeit in disgrace and not face criminal prosecution. Upper Canada's educated governing class was more tolerant of sex acts between gay men than the penal code which imposed the death penalty.

Not so in the military though...in 1842, two members of the 89th Regiment of Foot were charged and convicted of anal intercourse and sentenced to hang. The sentence was commuted to life in prison of which they served 10 years in Kingston Penitentiary.

In 1887, a RNWMP constable in Saskatchewan was charged with having performed oral sex on a saloon keeper. But because existing laws pertained only to anal intercourse he could not be prosecuted. But he was subjected to public humiliation and dismissed from the force.

In a paper published in 2023, Sarah Worthman of Memorial University in St. John's, Newfoundland documents the persecution of servicemen for gross indecency in Europe during the First World War.

What was clear from her study was that punishment was based on military law and as such was not administered equally but based on your rank. But it also depended on if you were a member of a marginalized group. Worthman points out that "Canada at this time was an incredibly racist and Anglocentric society."

Part 2 The Criminal Code

[Audio: Law & Order]

Since the first Criminal Code of Canada was introduced in 1892, there have a number of revisions. Early laws and subsequent revisions pertaining to sexual acts were directed solely at men.

The two main Criminal Code offences that we will talk about here are Gross Indecency and Buggery/ Bestiality. One thing that we can note about the laws is that with time and the revisions of the Code, both the language and the penalties softened. Some offences became legally acceptable when committed in private and between consenting adults. Some offences were finally removed from the Code.

[Audio: Law & Order]

There has never been a definition in the Criminal Code for *Acts of Gross Indecency*. But it was defined by case law. The indecency of an act depends on its context – time, place and circumstances. Certain acts are inherently indecent regardless of circumstances. That is to say they are *de facto* indecent. It is also defined in the case law as a marked departure from decent conduct expected of the average Canadian.

But what is decent conduct expected of the average Canadian?

Finally, there was no requirement for actual physical contact the act needed only be committed in the presence of the victim.

In the first three editions of the Criminal Code, 1892, 1902 and 1927, the offence was clearly directed at gay men. Only men could commit acts of gross indecency in public or private and only with other men. The penalty included up to 5 years in prison. In addition, the convicted man could be whipped. The judge determined how many times he could be whipped (1 to 3), the number of lashes to be administered and the instrument to be used to administer the whipping. BUT... The corporal punishment could not be administered within 10 days of release from prison.

The first real change in law did not come until the 1952-53 revision of the Code. While the charge primarily targeted men, the change indicated that everyone could be charged. The penalty remained the same, but whipping was removed from the penalty.

Further important changes to the Criminal Code would follow but not for another 17 years.

[Audio: Law & Order]

Buggery relies on a common-law understanding of the word... that is anal intercourse between men. In terms of etymology, the word *buggery* comes from the French *bougre* which until the 16th century meant heretic but later evolved into meaning homosexuality. In 19th Century British law, the courts referred to anal intercourse as an "unnatural crime" or a crime "too dreadful to reflect upon" or even "an offence not to be named among Christians". At the time it was considered such a serious crime that in England during the first half of the 19th century six men were hanged for it.

In the first Canadian Criminal Code in 1892 one of the things that immediately stands out is that it appears under the heading "Unnatural offence" that is defined as committing buggery either with a "*human being or with any other living thing*". The maximum penalty was life in prison. Or ten years for an attempt to commit.

It is important to note the dehumanizing aspect of the wording of the offence, a man having anal intercourse with a man was placed on the same level crime as having sex with an animal.

Historically, the way that this offence is set out can be traced back to 1533 when Henry VIII passed "*An acte for the punyshement of the vice of buggerye*" which describes it as "*the detestable and abominable vice of buggeri committed with mankind or beast*". This law took the offence out of the ecclesiastical courts and placed it under the jurisdiction of the civil courts.

This classification of offence changed in the 1906 and 1927 revisions of the Code to "Buggery" And like the previous version included the crime of anal intercourse committed with either a "*human being or with any other living creature*". The penalties did not change with the revisions.

We see the first change in the revised Criminal Code of 1953-54 where the sentence is reduced to 14 years and the wording of the offence changed. "Buggery" as used in this section assumes the act now includes anal intercourse with any other person. But "with any other living creature" is now referred to as bestiality. However, the two offences remain in the same section of the Code until 1987 when Parliament created two separate offences.

The use of the word, buggery, remained in the Criminal Code until 1987 when it was then referred to as *anal intercourse*. Anal intercourse was now separated from bestiality. Revisions to the Criminal Code in 1987 also changed some rather offensive and archaic wording in relation to the exceptions for sexual offences of the Code. "*[T]hat person is feeble-minded, insane, or an idiot or imbecile*" appeared in revisions between 1969 and 1985 but finally was changed to "*by reason of mental disability*".

[Audio: Law & Order]

The case of Everett George Klippert:

In 1960, Everett George Klippert was convicted in Calgary of numerous counts of Gross Indecency and was sentenced to 4 years in prison. When he was released, he moved to the Northwest Territories. He was being investigated for an unrelated offence when he admitted to committing four acts of Gross Indecency.

In 1965 he received a sentence of preventative detention as a dangerous sexual offender. The Criminal Code in 1960 defined a "dangerous sexual offender" as "a person who, by his conduct in any sexual matter, has shown a failure to control his sexual impulses, and who is likely to cause injury, pain or other evil to any person, through failure in the future to control his sexual impulses or is likely to commit a further sexual offence."

Gross Indecency was one of the offences for which a person could be classified as a dangerous sexual offender. So, in effect he was sentenced to life in prison without the chance of parole for being gay. He appealed his sentence to the Supreme Court of Canada, but the court upheld it in a 3 to 2 decision.

His unjust treatment by the police and the courts would be one of the driving forces behind Bill C-150. The omnibus bill included changes to the law concerning abortion, contraceptives, gambling, gun control, drunk driving and most importantly to the gay community, the decriminalization of gross indecency and buggery but as we will see with conditions.

In a brief interview with then Prime Minister Pierre Elliot Trudeau on December 27, 1967:

[Audio: Pierre Trudeau]

It's bringing, uh, the laws of the land up to, uh, contemporary society, I think. Take this thing on, uh, on, um, homosexuality. I think the, the view we take here is that, uh, there's no place for the state in the bedrooms of the nation. And I think that, uh, you know, what's done in private between adults, uh, doesn't concern the criminal code... when it becomes public, it's a different matter .

Narrator:

In 1968, the reply from the Conservative Justice Critic Eldon Woolliams supported the bill proposed by the Liberal Government but for very different and in hindsight, perverse reasoning... In a CBC interview with the late Barbara Frum:

[Audio: Barbara Frum and Eldon Woolliams]

Frum: Would you like to see some real changes in our attitudes as expressed in law toward homosexuals?

Woolliams: Yes, I would. I don't think that should be ever put into the criminal code. I think it should be taken out. It should be done and in a medical way so that these people could be sent to centers. If we feel as citizens who oppose the feeling of this illness and this homosexuality so they could be rehabilitated.

Frum: What would a really liberal homosexual bill say?

Woolliams: Well, of course, to draft legislation on on TV takes some doing. But I think, first of all, we should have an interview with a psychiatrist, psychologist and those professional people so that these people would have an equal opportunity in society where they have a right above all for rehabilitation. I don't want to encourage homosexuality. I abhor it. But the fact is where it exists and there's no rehabilitation and there may be some people you can't rehabilitate, but you come back to Kinsey's figures again that only 4% of the males remain homosexuals. It's merely a tendency by

environment so that you would give them the proper scientific training. You can relieve the pressure created by environment.

Narrator:

In Woolliams' defence however, the DSM (*The Diagnostic and Statistical Manual of Mental Disorders*) of the American Psychiatric Association in 1952 classified homosexuality as a "sociopathic personality disorder" and as such could be treated and cured. Homosexuality was lumped together with other sexual disorders like transvestism, pedophilia, fetishism and sexual sadism including rape, sexual assault and mutilation.

In revisions of the DSM in 1968, 1980 and 1987 the diagnosis of *homosexuality* was classified among "personality disorders and certain other non-psychotic mental disorders" as a sexual deviation. The 1987 revision now also included lesbianism, transvestism and trans-sexualism among sexual deviations and disorders.

Pressure from LGBT activists as well as more modern liberal minded psychiatrists brought about important changes to the DSM. While most of the sexual disorders from previous editions of the DSM remained, its 1994 revision removed the term, homosexuality from DSM IV and DSN IV- TR, and replaced it with the condition, *Gender Identity Disorder*. This is defined as the distress a person experiences with the mismatch between their gender identity and their sex assigned at birth. This diagnosis was in use until 2013. DSM V renamed this condition Gender Dysphoria for among other reasons, the stigma associated with the term, disorder.

Returning then to Bill C-150. It did pass in the House with Woolliams support but did not include his wish that gay men be sent to *centres* to be *rehabilitated*. What had been illegal was now legal between consenting adults in private. The important thing to note was that it had to be in private.

[Audio: Law & Order]

The Changes:

For Everett Klippert, the changes brought about his release from prison in 1971 and a posthumous pardon in 2016. In March 2018 the play, *Legislating Love: the Everett Klippert Story* was presented at the Sage theatre in Calgary. Written by Natalie Meisner, professor of English at Mount Royal University in Calgary.

But did things really change in relation to law enforcement and the LGBTQ2S communities?

While many saw the passage of Bill C150 as the decriminalization of queer sex in private between adults, others saw it as being obvious. How could the state police the bedrooms of the nation?

Nevertheless, the homophobic mentality within police services continued. Frustrated by changes in the law, the police could no longer target gays using the provisions of the older Criminal Codes, but they could adapt existing provisions in the then current law - Indecent Act, Bawdy house laws and Vagrancy.

In an article in March 1979, in the *News and Views*, the publication of the Metropolitan Toronto Police Association, S/Sgt. Tom Moclair wrote a lengthy and clearly homophobic opinion piece that started:

I was saddened and desolated that the Mayor of Toronto recently sanctioned acts of perversion which symptomize the decadence of our society in his liberal and flippant show of appreciation to a few hundred homosexuals who helped him get elected. These "weirdos" may need our tolerance and acceptance, but certainly not our approval to continue their psychological sickness in foisting their acts of depravity on the long-suffering public.

Segments of our society suffering from homosexuality which calls itself "homophile," "gays," "fags," and "fruits," etc., provide us with a vivid example of how far we in Canada have gone down the "road to debauchery." Just look at them; victims of emotional sickness, misfits of their environments, attempting to turn their aberration into a right, as well as a virtue.

Narrator:

The *News and Views* was a magazine read by 6000+ police officers and about 4000 civilian members.

His homophobic diatribe continued on for a page and a half attacking sex acts between men and government policy related to it. But much of what he wrote came close to plagiarizing an Op Ed in the Toronto Star written by Professor Daniel Cappon of York University in January 1973 entitled "The homosexual hoax: This Abberation is not a right".

Revolution?

In cities across Southern Ontario, there were mass arrests associated with public washrooms in parks, malls, and even an opera house in Orillia. Park patrols as well as video surveillance in washrooms were used to deal with acts of gross indecency not carried out in private. As reported in the Body Politic in March 1985, police arrested 183 men in Ontario between 1983 and March 1985.

In Hamilton, a multi-agency task force was formed to patrol the RBG and washrooms in Dundurn Park. It was an undercover sting operation designed to entrap gay men using the washrooms and the park late at night as a place to meet for sex. In the cases in Hamilton and Oakville, the Hamilton Spectator published names of those arrested. Careers came screeching to a halt and families were torn apart. An acquaintance of mine was caught in one of the sting operations in a washroom in the Oakville Mall. He was immediately suspended then fired from a vice principal teaching position with the Hamilton Separate School Board, kicked out of his house and divorced.

Between 1968 and 2004, police raided 38 bath houses across Canada. The majority took place in Toronto and Montreal, but police also carried out raids in Calgary, Edmonton and Hamilton using the Common Bawdy House provisions of the Criminal Code. Police charged about 1300 individuals with either being an owner, keeper or inmate of a common bawdy house. The

actual conviction rate was very low and was usually the result of accused men who lacked legal representation pleading guilty.

What is a common bawdy house?

Section 197.1 of the Criminal Code (R.S.C., 1985, C-46) defines a **common bawdy house** as a place that is kept or occupied or resorted to by one or more persons for the purpose of prostitution or the practice of acts of indecency. The definition was so vague that it allowed police to

Narrator:

The most notorious of these raids was Operation Soap in Toronto. On February 5, 1981, at 11 pm 200 police officers simultaneously raided four bath houses. I worked with one Morality Bureau officer in Toronto who had been sent in undercover to make observations and gather evidence on the activities in the bath houses, to obtain search warrants.

Police arrested 289 men as found-ins and arrested 20 more as keepers. The homophobic attitude of the police was reflected in the physical and verbal treatment of arrestees and by the damage, estimated to be about \$50,000 then or equivalent to about \$165,000 today caused to property in the four establishments.

Toronto Police arrested Duncan McClaren as a found-in a common bawdy house at the Barracks and he recalls some of the comments made by police after his arrest. Some of the men were forced to strip by police who then directed them to move into the shower room at the bath house and face the wall:

[Audio: McClaren]

Now, whether this was because they found me holding a joint when they broke into my room, I don't know, but they said, now you go stand over there, bend over, spread your cheeks. I thought, what on earth is this for? I mean, of course, they're looking for drugs, right? Or that's the sensible reason for it. I think it was just part of a humiliation process. But anyway, I did as I was told. And one of the cops said, when I hesitated, he said, oh, come on, come on. He said, don't tell us you haven't done that before. And I didn't say anything. I said very little, but I did try to remember what was observed, what was going on. And I thought, well, that's not quite right. And especially not in front of an audience.

Narrator:

A short time later a short conversation took place between two officers. McClaren recalls the comment made:

Audio: McClaren

[Audio: McClaren]

...one of the cops and I couldn't see because I was facing the wall. We couldn't look away from the wall. One of the cops said looking at all the showers and the pipes going into the shower room. He said, gee it's too bad we can't hook this up to gas. That was a very chilling moment. I'll tell you.

Narrator:

Stripped naked, shower room, gas!!! The image conjures up memories of concentration camps and the Holocaust!!

The reaction to the police raids was swift. The next night, on February 6, 1981, there was a march of about 3000 people on Yonge Street eventually stopping on Dundas St. West in front of 52 Division of the Metropolitan Toronto Police Force. There had been an anti-gay counter-protest that tried to stop the march, but it failed. A police line formed around the building. Officers were called in from all over the city. I was there in that police line.

[Audio: Crowd Chanting]

"Gay Rights now!!... Fuck you 52!!.... No more raids!!"

Narrator:

Angry protesters approached the building and our line. We were there to protect the building. There were skirmishes and arrests. There were well known members of Toronto City Council shouting along with the crowd, BUT as well, there were undercover police officers there in the crowd to identify the more radical or violent members.

However, if there was one positive thing that came out of the raids, it was the consolidation of the PRIDE movement in Toronto.

Raids continued however until 2004. Gay bath houses were not the only target of the raids. In Toronto, two undercover female officers entered and investigated the Pussy Palace, a lesbian bath house prior to their "2000 Pussies" event. On September 24, 2000, 5 plainclothes male police officers raided the Pussy Palace. There were about 350 women in the bath house at the time of the raid. Some were semi-clad, some completely naked. In all police laid only two charges contrary to the Liquor Licence Act and these were subsequently dismissed by the court citing the unreasonable manner in which police conducted the search.

The last raid took place in August 2004, and I mention it only because it took place in Hamilton at the Warehouse Spa. Police charged two men with committing an indecent act. These were the only two arrested and the only charges laid.

[Audio:Law & Order]

Hamilton Police had been monitoring the social media site, www.squirt.org for activity at the Warehouse. During the inquiry that followed Deputy Chief of Police Tom Marlcor made the rather unbelievable statement that he didn't know that it was a bathhouse and "We did not go (to the Warehouse) to charge men who were having sex, but when we found men who were having sex, we had to lay charges. This is a regrettable incident (that) we've upset the community, but I can't say it won't happen again (if charges must be laid)."

But there is nothing in the law that says charges **must** be laid.

Even more surprising was the response of the Detective Sergeant Dave Calvert (who I had worked with) in charge of the Vice and Drugs Unit. He stated that he was surprised by the outcry over the Warehouse arrests. Yet when asked if he understood the concerns being raised

by the LGBT community, he asked a reporter to enumerate them for him. He further commented, "Our job is to try to hit what we believe are problematic (establishments) based on complaints one of the agencies has received," adding that sometimes inspections are carried out based on information obtained by police.

Look closely at the reply of the Detective Sergeant... "Our job is to hit what we believe are problematic." Hit? Problematic to whom? Clearly that is what had taken place here.

With the passage of time, attitudes changed, and laws changed. What had been a societal taboo, hidden away for years, became very visible. Gay pride parades, very vocal LGBT activists brought the community out of the fringes and onto centre stage. In Hamilton, members of the LGBT community made educational presentations to all police officers in the police service.

The Ontario Human Rights Code:

While we have dealt mainly with criminal law here, LGBT activism and acknowledgement of the LGBT community also brought about changes to the Ontario Human Rights Code. The Code first came into being in 1962. It did not provide protection from discrimination based on sex, gender, sexual orientation or even things we now take for granted ... like age and disability. I remember hearing of police officers in Toronto being fired because they had become divorced. I also remember the case of a police cadet being fired because he was living in a heterosexual common-law relationship.

It took 22 years until in 1986 that sex (including pregnancy) and sexual orientation finally became protected from discriminatory practices. and it took another 26 years in 2012, for gender expression and gender identity along with breast feeding to become protected under the Ontario Human Rights Code.

Project Soap Apology

18 months before Prime Minister Justin Trudeau apologized to the LGBTQ2S community in the House of Commons, the Chief of the Toronto Police Service Mark Saunders made the following statement at Police Headquarters in Toronto on June 23, 2016:

[Audio: Mark Saunders]

The Toronto police service recognizes that February 5 of this year marked the 35th anniversary of one of the largest mass arrests in Canadian history, the Toronto police raids. Raids on Toronto bathhouses did not occur on just one evening, but the February 1981 event was the most dramatic of its destructiveness and in the number of men arrested, some 300. An extraordinary community response led to the eventual acquittal of almost everyone arrested that night. The 35th anniversary of the 1981 raids is a time when the Toronto police service expresses its regrets for those very actions. It is also an occasion to acknowledge the lessons learned about the risks of treating any part of Toronto's many communities as not fully a part of society.

Narrator:

BUT ...from a linguist's point of view, do the words: *expresses its regrets for those very actions* semantically equal a sincere apology?

Conclusion:

Several things are apparent when looking at the evolution of the language of the law as it relates to sexuality. In an article published in 2019, Penelope Eckert concluded that language does not sit still. Even the lexicon of the law which at times can be complex and ambiguous does not sit still. There was clearly an evolution in the language of the law from an unspeakable crime to stigmatising title to the crime to something less pejorative until the offence finally is removed from the law. She also observed that "social meaning is built into linguistic practice at every level of the linguistic system". Again clearly, societal attitudes related to sexuality have also changed with time and this is reflected in changes in the lexicon of the law. Pierre Trudeau demonstrated how social meaning is built into linguistic practice when he stated that Bill C-150 was bringing the laws of the land up to contemporary society.

Returning to the topic of criminal law and sexuality, finally, now in the 21st century there have been changes in the criminal law that reflect changes in the attitudes of society. In 2016, anal intercourse and gross indecency were removed from the Criminal Code. In 2019, all offences related to common bawdy houses and vagrancy were also repealed. In March 2023 a bill was tabled in the House of Commons that would allow, on application, for convictions related to the offences of buggery, anal intercourse, gross indecency and bawdy houses to be expunged from a person's criminal record.

But beware... While things may have changed in law and in societal attitudes for the better, could Canadian society in time revert to one that is once again hostile and repressive to the LGBTQ2S+ communities?

We only have to look south to see how a positive change can be quickly reversed as demonstrated by the over-turning of the *Roe v. Wade* decision by the US Supreme Court 50-years after that same judicial body upheld a woman's rights to abortion.

Even worse... We only have to look south to see violent homicidal attacks on the LGBTQ2s+ communities there. As of 2021, the Southern Poverty Law Centre identified 65 organizations that they classified as anti-gay hate groups. In 2020 violence against transgender or gender non-conforming persons resulted in 56 people murdered. In Texas, the Attorney General stated that gender affirming care for trans and non-binary youth was CHILD ABUSE. Efforts are underway to ban books on LGBTQ from schools and libraries. Recently, in the news, the state of Tennessee attempted to pass a law banning drag performances which was fortunately overruled by the US District Court.

Sadly, what happens in the United States sometimes has a way of filtering its way across the border and into Canada.

So... I think I'll let author Margaret Atwood have the final word here:

[Audio: Margaret Atwood]

Hitler put gays in the camps. So just always remember that. Any of those tendencies immediately conjure up to me when people start bathhouse raids, kind of kicking down

doors and what with the lockers and smashing it immediately says fascism to me, that's what it says. So gays and lesbians both in the camps. And that is why in The Handmaid's Tale. I have gender treachery as a sin against the regime. In The Handmaid's Tale, and I've got some hanging on the wall. That's why I did it, because fascist regimes do that and it is our duty, I assume, to keep that from ever happening here.

Outro:

You've been listening to Let's Talk about Lexicon. This podcast was created by students at McMaster University where I, Catherine Anderson, am a prof in the Gender & Social Justice program and the Department of Linguistics and Languages. Thanks for listening, and remember that the Lexicon has power, so use it wisely!

Find more episodes of Let's Talk About Lex(icon) at Dr. Anderson's site:

<https://hmcwordpress.humanities.mcmaster.ca/humpages/canders/podcasts/>