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Sex and the Single G-Man (II)

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In a generally unpublicized brief urging the Court of Appeals for the District of Columbia to sustain the FBI's dismissal of Joseph Henry Carter, the U. S. Attorney's office solemnly embraced the proposition that Carter's vindication could render all G-men strategically impotent in their approaches to timid women possessing vital information. It voiced concern over the anxieties of "the little old lady from Dubuque" for whom, as Harold Ross once observed, he did not edit the New Yorker.

"The FBI must aim at achieving cooperation from every possible member of the population," U. S. Attorney David Bress and his colleagues grimly declared, adding: "It cannot be satisfied with a majority, even of landslide proportions. It cannot allow the little old lady from Dubuque . . . to withhold information from the FBI because she will not trust an organization whose agents and employes are allowed to 'sleep with young girls and carry on!' "

During one of the peripheral lower-court proceedings, this view was succinctly sustained by Judge Burnita Sheldon Matthews. Rejecting the plea of Carter's attorneys for citation of any explicit FBI edict that made Carter's brief, inconclusive rendezvous ground for ouster, she said, "It should be a matter of common knowledge that a government department wouldn't want FBI agents sleeping with young women."

Mr. Carter, it should be recalled, was not an FBI "agent" but a clerk in the Identification Division; there was no allegation of promiscuity; in his minor role he could hardly have been subjected to blackmail. Nor was there any evidence offered that his two nights of circumspect, unconsummated animation stirred any community furor beyond a single anonymous letter.

In its amicus brief, the American Civil Liberties Union noted that there had been no rebuttal to the claim (based on Kinsey and other research) that Mr. Carter's "heterosexual petting activity" was a highly commonplace exercise. But the U. S. Attorney gravely declared: "Greater rights than those of sexual license are waived by accepting government employment."

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"This is not mere blue-stockingness," the government brief argued. It is consistent with the lofty standards set by the FBI's Handbook, which "surely allows a discharge for sexual activity as 'personal misbehavior of Bureau employes reflecting unfavorably upon them or the Bureau.' "

But since the government, as reported here yesterday, never contested Carter's claim that his bedroom deportment was judiciously minimal, what margin for male maneuver—except marriage—remains?

The questions multiply. Must a bachelor FBI agent forego all contact with women—or should it be conducted behind open doors? Is the FBI a monastic order? Or, since homosexual activity is deemed ground for dismissal, should marriage be a requirement for FBI service? How can the last point be reconciled with the bachelorhood of Mr. Hoover, whose name has become synonymous with the letters FBI?

It becomes increasingly difficult to see how any unmarried young man, subjected to the usual torments of the flesh, can conscientiously enlist in the agency under these conditions.

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The more one examines the record, the more baffling becomes

the FBI's resolve to contest Carter's appeal. Perhaps the government's embarrassment may explain why an unusual and futile effort was made to prevent the ACLU's intervention as amicus. So far the courts have sustained Mr. Hoover's unwillingness even to answer interrogatories. But can he remain aloof from the impending Appeals Court preceedings—especially since it was he who signed the dismissal order?

A certain frivolity may be discerned in some of these remarks; admittedly an analysis of the heavy-handed government dissertations on the special moral requirements of FBI service cannot be mirthlessly performed. But clearly there are large, authentic issues of government policy at stake in this case. What rights, if any, do FBI employes actually possess? How often are anonymous letters the basis for dismissal? Are the rules governing employe conduct explicit and remotely rational —or are they vague pieties that can justify capricious exile any hour of any day?

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Few men in Congress ask such questions aloud; the FBI retains its exemption from most employment safeguards affecting government departments. But Joseph Carter's refusal to accept banishment without protest, and the tenacious endeavors of his attorneys, Richard Millman and Mary Burnett—as well as ACLU Washington counsel Ralph Temple and Lawrence Speiser —may confound the FBI cult.

After all, no one has suggested that Mr. Carter is guilty of subversion or dereliction of duty; at worst his crime was a limited indulgence in ancient male rites. What took place in his apartment on those two nights can hardly have damaged the FBI as much as the hot pursuit to which he was subsequently subjected by Mr. Hoover's vice squad.

The virtual press blackout that has enveloped the Carter case since its early phase is unlikely to prevail when it reaches the Court of Appeals next month.

It has long been assumed that the FBI is untouchable by mortal political men. But the issue now drawn of whether FBI bachelors must remain untouched by females may finally bring the agency into the realm of highly human debate.