

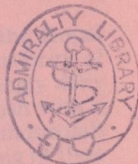
IN CONFIDENCE

DCI (RN)

IC 2

1969

# DEFENCE COUNCIL INSTRUCTIONS



**(ROYAL NAVY)**

**Discipline—Unnatural Offences**

*By Command of the  
Defence Council,*

*J. T. Dunnett.*

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MINISTRY OF DEFENCE

16th May 1969

IN CONFIDENCE

### IC 2.—Discipline—Unnatural Offences

(N/NL 1648/67—16 May 69)

This Instruction is in three parts: Part I—General; Part II—Legal; and Part III—Medical. Part III covers cases in which incriminating information is disclosed voluntarily in the course of medical practice.

The general principles of this guidance apply equally when acts of indecency are alleged against or involve officers. The importance of early and thorough investigation into *all* incidents in which indecency is a factor cannot be overstressed.

#### PART I—GENERAL

1. The number of instances of homosexual practice that come to light in the Royal Navy is a cause of concern. The most disturbing feature is that the great majority of cases involve men who are not inherently homosexual and who would strongly deny being so. Their acts, often committed with little or no sense of guilt, flourish with a permissiveness which is much too widespread. The haunts of civilian homosexuals ashore are well known and too large a proportion of ratings regard the seeking of their company as quite normal, when they are short of money, for the free drinks they may provide. Homosexual acts on board are less common but do include relations between men who are not true homosexuals. In the great majority of cases the disinhibiting effect of alcohol is an important factor. Too often this type of behaviour is accepted by the generality of ratings who would not themselves be willing to act in this way. Investigations reveal frequent examples of men witnessing homosexual acts or themselves being approached without reporting the incident or lodging a complaint or even considering it to be their duty to do so.

2. It should be the concern of Commanding Officers to see that a healthy public opinion is fostered among the men and that senior ratings and leading hands should not only set an example by their own conduct but should not in any way condone any homosexuality which may come to their notice. They should instead be encouraged to bring home to the men in their charge the disgraceful and corrupting nature of unnatural practices in a disciplined fighting Service, particularly the effect on the young ratings who may be led astray in this way. It is essential that the Service should not neglect its responsibility towards them. Senior ratings should be reminded that low moral standards undermine their leadership and authority.

3. Lectures on homosexuality are given in certain new entry establishments but education should not stop there. The nature and effects of unnatural vice should be emphasized in explicit and plain terms to senior ratings and leading hands of messes and, on suitable occasions, to ships' companies. The nature of catamites, for example, should be brought to the attention of men arriving at Singapore. Captains should remind their men (junior and senior ratings separately) that even those acts between consenting adults in private which, since 1967 are no longer offences in civil courts, remain offences under the Naval Discipline Act. It should be made very clear that it is the legal and moral duty of every rating to help in stamping it out. All, and particularly the younger members of the ship's company, should be advised to report advances made to them and to make such complaints at the earliest possible moment.

4. Divisional Officers should be instructed to be alert, particularly with regard to those men who are known to have unstable backgrounds, such as those who habitually spend their leaves at clubs. Such men are often the easy prey of the pervert.

5. *Security.*—There is also a direct connection between homosexuality and security. Although public opinion is undoubtedly now more tolerant than formerly towards homosexuality, it is still abhorrent to the great majority of people and threat of exposure can still be used to bring pressure on a person who has taken part in unnatural practices. In Confidence DCIs (RN) on the Security of Personnel should be studied in this connection, but reports of actual or suspected offences made under this Instruction should also be copied to the Director of Naval Security.

*Investigation*

6. It is in the interests of the man as well as of the Service that all incidents in which indecency is a factor should be investigated. Discretion is essential but a man suspected of homosexual acts should always be informed of the allegations against him. If there is any evidence which would afford reasonable grounds for suspecting that a man has committed a homosexual offence, a caution must first be administered (QR (RN), Article 1904.6.6). In the early stages of an investigation the man should not normally be placed under arrest though circumstances may make this necessary, *eg*, to prevent collusion when a number of men are involved. No man held in custody should be questioned or invited to make a statement until he has been warned in accordance with the Judges' Rules (QR (RN), Articles 1904 and 1904A). Searching of kit is not to be regarded as routine but is permissible where other evidence is available (beyond the bare word of a confessed or convicted homosexual) and confirmation of this is required. Letters from men in the Service which indicate that they are homosexuals, found in the possession of other Servicemen, may form the basis of further investigation.

7. In an investigation all details of time, place and conditions are important and careful notes should be made of all circumstances, especially those which might afford corroboration of a complaint. The investigation should be carried out by an experienced officer and, in larger ships, it should normally be conducted by an officer of the rank of Lieutenant-Commander. A medical examination should be ordered whenever there is any possibility of it being useful. Normally, a full examination should be ordered but if the investigating officer is satisfied that no benefit is to be gained by submitting a man to such a searching examination he should inform the Medical Officer of what is alleged in sufficient detail for the exercise of his discretion.

8. The nature and circumstances attending these offences often makes proof difficult and there are undoubtedly occasions when unfounded accusations are brought, but whenever there appears to be a *prima facie* case those concerned should be brought to trial for a court-martial to decide on the basis of sworn evidence. In exceptional cases and provided that the issue appears straightforward, a case may be heard summarily. Particulars of any such cases which do not result in sentences of dismissal should be forwarded to the Admiralty Board for consideration of administrative action and for examination of the security implications.

9. The legal considerations are discussed in Part II.

*Administrative Action*

10. Although as a rule the matter should be tried by court-martial if a *prima facie* case exists, the source and nature of the evidence may give rise to other considerations. For example, the use for disciplinary purposes of information voluntarily disclosed to a medical officer by a man who has reported sick in the ordinary course may tend to undermine the confidence which forms the basis of the normal relationship between doctor and patient. The Admiralty Board attach much importance to the preservation of this relationship. Where such a disclosure is an essential element of the case or is the only indication that an offence may have occurred, Commanding Officers should carefully consider whether disciplinary action should be taken or whether some other course, such as making application for the discharge of the man concerned, would be more suitable.

11. In considering how to proceed in such cases Commanding Officers should be guided by the following principles:—

- a. Where confession and medical evidence are not solely concerned with a particular and recent act but with a history of misconduct and it is clear that a person's homosexuality can be regarded as inherent and virtually incurable, application should be made for discharge SNLR. Such men will normally receive benefits as for discharge Unsuitable. There will be rare cases of men homosexually inclined who, finding it increasingly difficult to control their tendencies, confess to them. If, in such a case, there is no evidence of misconduct, the Admiralty Board may consider that discharge SHORE with normal terminal benefits is appropriate.

- b. When there is substantial evidence of guilt but some technicality or special circumstance (eg, the need to avoid having to compel a medical officer to give evidence of confessions made to him in confidence) makes a trial undesirable, application for discharge SNLR is appropriate.
- c. In all other cases the man's name and the circumstances should be reported for the consideration of the Admiralty Board who will decide whether to deal with the case by:—
- (1) noting the man's name on a list held by the Admiralty Board, so that if he should *again* come to notice in this connection, discharge SNLR could be considered; *or*
  - (2) in addition to taking action as in (1) above, warning the man that his actions have given rise to suspicion and that it is his responsibility to see that his future conduct is not such as to lay him open to further suspicion, either on account of his own actions or on account of his associations with suspected persons. The man's next Commanding Officer would be informed that such a warning had been given, but not a subsequent Commanding Officer unless the man was drafted within twelve months.

Naval authorities should, of course, say in reporting the circumstances whether they recommend course (1) or course (2). They should not, however, pass information on to other commands except as the Admiralty Board may direct under (2). If there is no evidence against a man beyond the word of a known homosexual concerning an act or acts not so recent as to justify immediate medical examination, no action should be taken without first asking whether his name appears on the Admiralty Board's list. If it does, this will normally be sufficient justification for further investigation.

12. In any case, when a report is being made to the Admiralty Board recommending administrative action or requesting direction as to the course to be followed, no action should be taken which could be interpreted as prejudging or anticipating the Board's decision. Reports should be confined to the normal administrative channels in submitting to the Admiralty Board and should not be passed locally to the Commodore, Naval Drafting (or other drafting authority) for information (copies should be sent to DNSY—paragraph 5 above). The men involved should not be removed from the ship or establishment pending a decision. This can only be justified if there is a real danger, in spite of proper precautions, that further offences might occur, that witnesses might be interfered with or that a man's retention would clearly be detrimental to discipline. Similarly, local action should not be taken to institute investigations in other commands; this action will be taken by the Admiralty Board where it appears advisable.

## PART II—LEGAL

### OFFENCES OF IMMORALITY AND THEIR INVESTIGATION

1. The offences of sexual immorality between males which naval officers may be called upon to investigate are:—

- a.\* Buggery.
- b. Assault with intent to commit buggery.
- c. Indecent assault.
- d.\* Act of gross indency with a male person.
- e. Procuring the commission of a. or d. above, with a third man.
- f.\* Aiding, abetting, counselling, commanding or inciting the commission of any of the above.
- g.\* Attempting to commit the above (less b., c., and f.).
- h. Offences against the Naval Discipline Act:—
  - S 36 (Scandalous conduct by officers).
  - S 37 (Disgraceful conduct of an indecent kind).
  - S 39 (Conduct prejudicial to good order and naval discipline).
  - S 40 (Attempts at the above).
  - S 41 (Aiding, abetting, etc the above).

\* See paragraph 4 below.

*Sexual Offences Act 1967*

2. The Sexual Offences Act 1967 laid down in S 1 (1) that a homosexual act between consenting adult males committed in private was no longer to be an offence under English law but, by S 1 (5), expressly excluded the application of this to the Armed Forces when such an act offended against any provision of the Service Discipline Acts. It further excluded acts committed between consenting adult males:—

- a. when more than two persons take part or are present;
- b. when the act takes place in a public lavatory.

3. Apart from declaring not unlawful those acts for which prosecutions have been very rare in civil life, this sub-section of the Act has its primary effect on the Navy in the framing of charges for homosexual acts between consenting adult males committed in private which, by S 1 (5), remain offences against the Naval Discipline Act. Instructions for framing charges given in BR 11 should be carefully studied before charges alleging indecency are preferred. It should be noted that by S 7 of the Sexual Offences Act 1967, no proceedings for an offence of buggery or gross indecency against S 13 or S 32 of the Sexual Offences Act 1956 may be commenced after the expiration of twelve months from the date on which the offence was committed.

4. By S 8 of the Sexual Offences Act 1967, proceedings may not be instituted for the acts of indecency asterisked (\*) in paragraph 1 above (except "incitement") without the consent of the Director of Public Prosecutions when one of the participants is under 21. This applies to both naval courts-martial and summary proceedings. The full investigation of all alleged offences is not, of course, affected, but such consent must be sought when deciding to apply for a court-martial or when the Commanding Officer considers a summary trial justified, before asking the accused to plead to the charge.

The procedure for obtaining the consent of the Director of Public Prosecutions is as follows:—

- a. Two copies of the Circumstantial Letter and enclosures, plus copies of helpful exhibits, *eg*, plans, drawings, photographs, etc, are to be sent to Head of Naval Law. A short covering note should be added, detailing any particular features of the case to be stressed from the disciplinary point of view and stating any factors, for example, forthcoming movements of ships, indicating a degree of urgency.
- b. One copy of the above additionally is to be sent to the CNJA.
- c. Where summary proceedings are contemplated, a narrative of events in lieu of a Circumstantial Letter, with a brief summary of evidence, Charge Sheet, etc should be forwarded as in *a.* and *b.* above.
- d. Head of Naval Law will process the paper with the Director of Public Prosecutions whose decision can reasonably be expected in four working days from receipt.
- e. Head of Naval Law will notify the ship by the quickest means of DPP's decision and will forward a certificate that DPP's consent has been obtained (when this is the case) to be used as evidence at the trial.

5. It will be seen that there are considerable difficulties arising from the Sexual Offences Act 1967, not least of which is the case where a person subject to the Naval Discipline Act may commit a homosexual act with a civilian when under the civil law there is no offence. In such a case the uniformed offender is liable to trial under the Naval Discipline Act while the other has committed no offence. No firm guidance can be given in such an event, but all the circumstances of the case would necessarily have to be most carefully considered. Administrative action (*see* Part I, paragraph 10) may be the proper course where disciplinary action is thought to be undesirable.

*Proceedings under the Naval Discipline Act*

6. The question may be asked whether "disgraceful" or "scandalous" can be used to describe an act which is itself no longer an offence against the ordinary law. To this the answer is that what constitutes disgraceful or scandalous conduct depends upon the standing and obligations of the individual concerned and Sections 36 and 37 of the Naval Discipline Act are intended to cover actions which cannot be tolerated in the naval service as was acknowledged by Parliament when the Sexual Offences Act 1967 was passed. On the assumption that age and consent are comparatively simple to establish in most cases, the problem in deciding whether to charge under Section 42 as a civil offence or as a naval offence under one of the other sections lies in the interpretation of "in private".

*Definition of "In Private"*

7. The Act does not attempt to define "in private" except that it lays down that it does not include acts committed when more than two persons take part or are present. It also states that acts committed in public lavatories do not come under the category of "in private". Apart from these special exceptions, the interpretation of "privacy" is left for Courts to decide in individual cases and it is not something for which the Services can lay down rules.

8. Perhaps as good a definition as any of "in private" at this stage would be that, in all the circumstances of the incident, was it reasonable for the men concerned, who were alone when the incident commenced, to think they could not be seen or disturbed by others? There is no doubt that a single cabin or any cabin of which the sole normal occupants are the two participants in the offence, would be classed as "in private" in any but the most abnormal circumstances. Cabins in Sailors' Homes would be the same in spite of rules entitling an attendant to enter for investigation. An act between two men starting when alone on a mess-deck or in a closed compartment could be held to be "in private" if the reasonable probability in all the circumstances was that they would be alone during the course of the incident. Until the Courts have built up some precedents which might give further guidance, it will be unwise to charge two consenting men over 21 under Section 42 in any case where they start committing an indecent act alone, unless there are exceptional circumstances to change this situation. Acts committed on mess-decks where there are other occupants would clearly not be "in private".

9. The exception in the Sexual Offences Act 1967 of "a public lavatory" mentioned in paragraph 2 above does not apply to ships', dockyard, etc heads. Offences of buggery and gross indecency which occur in cubicles of ships', etc heads should be dealt with as if they occur in other naval spaces under the general direction given in paragraph 8 above.

*Offences Against the Naval Discipline Act*

10. Offences under 1 h. above must follow the wording of the Naval Discipline Act and cover, apart from buggery and acts of gross indecency between consenting males in private (*see* paragraph 2 above), any immoral and dirty act contrary to nature, but should not be used to cover acts which can properly be charged as specific offences under the ordinary law (*eg*, 1 a. to g. above). Self-abuse might, for instance, come under Section 37 but, if committed privately, it should not normally be charged as an offence, either against this section or at all; if committed publicly so as to involve wilful indecent exposure to more than one other person there might possibly be ground for a charge of indecent public exposure of the naked person; but such a case or a case involving indecent exposure in the presence of one person might justify a charge under Section 37 according to the particular circumstance. When a person is found to be suffering from primary syphilis in ano and the circumstances do not afford sufficient grounds for bringing the case to trial by court-martial, the Admiralty Board are prepared to consider an application for the discharge of the infected person "services no longer required", as they consider it most undesirable that anyone so infected should remain in the Service unless there is clear proof that the disease was not due to unnatural vice.

11. The following notes may prove useful:—

- a. *Consent.*—This is a defence to a charge of indecent assault or assault with intent to commit buggery, unless the person assaulted is under 16. In cases where it is not clear whether consent was given or not, a charge of indecent assault should be added as an alternative to a charge of gross indecency.
- b. *Attempts.*—A person charged with buggery or gross indecency (or procuring, aiding, abetting, etc these offences) may, if proof of the full offence fails at the trial, be convicted of the attempt to commit it. Similarly, a person charged with an attempt may be found guilty of the attempt notwithstanding proof of the actual commission of the offence.
- c. *Corroboration.*—As a matter of pure law, corroboration is not required in any of these cases. But it is now established practice to look for corroboration of the evidence of an accomplice by independent evidence in some material particular going to the offence itself and implicating the accused. The same principle applies with regard to the evidence of the other party in any sexual offence.

In the absence of corroboration it is the practice of the Court of Appeal not to uphold a conviction in any sexual case unless, as an absolute minimum, the Jury has had a serious and strong warning of the very grave danger of convicting without corroboration. It therefore follows that the Admiralty Board might feel it impossible to uphold a conviction unless they were fully satisfied that the Court had clearly appreciated how strong an action it is to convict in such a case without some corroboration. It is important that it should be recorded that this fact was brought to the notice of the Court as, unless the Court is clearly aware of this and unless the evidence is strong, a conviction might have to be quashed. The Court should realize that a conviction for any of these offences may wreck a man's career and reputation, both inside and outside the Service, as well as expose him to punishment and should therefore act only with the greatest care. If, with its eyes open to these considerations, the Court is fully satisfied that the case is proved, it has the power to convict of these offences and it would be a proper course to do so.

Corroboration has been said to be evidence confirmatory of at least some of the leading circumstances of the witness's story indicating that an offence has taken place and that the accused was involved in it from which the Court may be able to infer that he has told the truth as to the rest. From this it will be seen that it is not necessary to have confirmatory evidence of the actual commission of the offence. It might be sufficient, for instance, if, on a charge of buggery supported by the evidence of the patient, evidence was given that the two persons were seen together at or about the time in question in some secluded part of the ship. Of course, it would be much stronger, though not necessary for the proof of the offence, if they were seen in a compromising position or if, after the alleged commission of the offence, one or both of them was seen buttoning up his trousers. A statement by, or the actions of, the accused himself may afford corroboration.

- d. *Medical Examination.*—In all cases where an offence of this nature is alleged to have been committed and is reported as having occurred within a short time, the Medical Officer should be directed to examine certainly the patient and possibly, also, the actor. Corroborative evidence may often thus be obtained that an offence has been committed, but the Court must be advised that such evidence found on the examination of one party is not necessarily indicative that the offence has been committed by the other. In civilian cases it is not permissible to examine a man unless he consents and evidence obtained from an examination carried out without consent may not be admissible in court. The position in naval cases is different. The naval service is a disciplined service in which men have to obey lawful orders given to them by their superiors and to comply with regulations issued for the proper governance of the service (including Defence Council Instructions). This Defence Council Instruction, having been issued for the maintenance of the physical health, moral well-being and morale of a disciplined service, is one that must be obeyed like other orders and regulations. Evidence obtained from such examinations is therefore admissible in court and there is no need to ask the man whether he consents or not. If the man refuses to be examined, force should not be used but a direct order should be given and, if he still refuses, an appropriate charge should be made. The fact that he has disobeyed this order and any reasons given for this disobedience are factors which may be considered by the Court with regard to the charge of a sexual offence. The Medical Officer should report the result of his examination and this should always be disclosed to the accused's friend if anyone is charged in connection with the incident. The prosecutor and the accused's friend must consider, each from his own standpoint, the admissibility of any answer to a question or confession or other statement made by the accused. Such admissibility is governed by the normal rules, but it should be borne in mind that as the examination takes place and questions are answered, under the compulsion of discipline, there is a presumption that any answers, or even extrinsic statements, are inadmissible against the accused. The presumption may be rebutted by evidence which establishes that the answer or statement was completely voluntary, but such evidence in the case of a direct answer to a question would have to be very strong indeed.

- e. *Care in Investigation.*—There are no charges—as is often said—more easily made or more difficult to refute than charges of sexual misconduct. Because there are seldom witnesses to all that occurs, such charges are not infrequently made by blackmailers and by persons who wish to be revenged on those at whose hands they have suffered real or imaginary wrongs. On the other hand, the conditions of life in a disciplined force are such that frequently the older and more experienced men have means by which they can bring pressure on their inferiors to submit themselves to their desires. The greatest care, therefore, is required in the investigation of such charges.
- f. *Recent Complaint.*—A very important point to consider in the first place is the conduct of the person said to have been assaulted, immediately after the alleged offence. Did he complain? If not, or even if he did, did he continue to associate with the accused or treat him in a manner different from that in which he treated him before? If he complained at the first reasonable opportunity after the alleged offence it is competent for the Court to receive evidence not merely of the fact of the complaint but also of its terms, not as evidence of the fact stated or as corroboration, but to show the consistency of the complainant's conduct and to negative the fact that he was a willing accomplice.
- g. *Weight of Evidence* (see also BR 11, Chapter 5, Part 5).—A charge made long after the occurrence should always be regarded with great suspicion. Whether a charge is made soon or long after the occurrence, care should be taken to note at once the exact story of the complainant, the exact details of time and place and of the occurrence itself. Probably from a natural disgust these details are not always obtained and, though it may seem unnecessary to insist strongly on this last point, experience shows the necessity of pressing for the exact details at the earliest possible moment so as to get seized of all the facts. Slight deviations at later stages from the language used in the first instance may well occur. No one, probably, could twice recount the most ordinary occurrence in the same language unless he had learnt his story by heart; indeed, it may be said that the exact verbal repetition of a story is very often strong evidence of its falsity. But differences of importance, such as any relating to what actually happened or the place or date on which the offence is said to have been committed, should give rise to suspicion. Differences of time are often insisted on by those who defend, but they are not important, as a rule, if the witness can fix the time as having some relation to a well-known event, such as the day of a boat race or leaving a certain place or evening quarters on a particular day.
- h. Sometimes the Court will be asked to disbelieve a witness because he computed the duration of certain acts as having lasted five minutes or more or less when it is evident that they cannot have occupied many moments. Such criticism may be completely misleading. Time may seem to pass very slowly in some new and perhaps horrifying experience or in similar circumstances events which took time may appear to pass very rapidly; and many people find it extremely difficult to estimate either time or distance accurately, even when not under stress. A Court must judge for itself what the witness means by a long or a short time, as the case may be, without reference necessarily to the hands of the clock.
- i. But, above all, the demeanour of the witness should be most carefully observed; his manner of giving evidence, even the way he stands and his movements, will often afford some indication whether he is a credible witness or not. But even here a word of caution is required, for sometimes a witness giving evidence produces an impression unfavourable to himself, though his story is perfectly true, owing to his finding himself in an unusual position or to his shyness in giving unpleasant details in public. A sympathetic examination will often elicit the truth better than questions asked in a hostile manner and every allowance must be made for the difficulty of the witness's position, especially if he is giving evidence against a superior, before a Court forms an opinion adverse to him.
- j. Upon the Court alone rests the responsibility of deciding whether a witness is telling the truth. Statements which appear distinct in the shorthand notes may have been made by the witness in such a way as to produce exactly the opposite effect to that which is produced by the written language. Those who have seen and heard the witnesses can best form a reliable opinion of the effect of any individual statement. But the general rule is that it is not safe to convict in those cases where the only evidence as to the actual offence is that of one witness who affirms and the accused who denies, both on oath, the facts necessary to support the charge.



## PART III—MEDICAL

## INSTRUCTIONS FOR THE GUIDANCE OF MEDICAL OFFICERS IN DEALING WITH SUSPECTED OR SELF-CONFESSED CASES OF UNNATURAL VICE

1. a. The attention of medical officers is called to the necessity for the most thorough investigation when suspected cases of unnatural offences are brought to notice. The medical examination should be carried out by two medical officers or by one medical officer in the presence of a senior sick-berth rating if a second medical officer is unobtainable, in order that corroboration of facts may be available, and should be conducted so that a clear and definite opinion can be reached if possible. With this object all symptoms and signs, whether direct or indirect, should be investigated from the angle of both active and passive participation and the findings, both positive and negative, recorded in writing *at the time*. Where two persons are suspected of guilty relationship, each is to be separately examined from both the active and the passive angle. They are to be kept well apart from each other in the sick-bay and given no opportunity to communicate with each other.
  - b. Since unnatural practices may lead to the spread of venereal disease, the history and examination of the man should be directed not only to those physical signs and symptoms related to unnatural practices but also to the possibility of venereal disease.
  - c. The examination should be conducted at the earliest possible occasion after the suggestion of unnatural practice has been made. After all examinations have been completed a full descriptive account, based on the notes *taken at the time*, should be made in writing and, further, not only positive signs present should be recorded, but also the absence of signs which might be expected to be present should also be included in the report. It may be necessary for the Medical Officer to ask questions of the man in order properly to conduct his examination: on the other hand it is most undesirable that a man, who is in fact compelled by discipline to submit himself to a medical examination, should be led to make statements which may incriminate him. It is, therefore, essential that the questions should be as few as possible and restricted to those necessary for the medical examination: care should be taken to avoid questions likely to produce a confession (eg, "What happened?" or "Did you achieve penetration?" or "Were you the active or the passive partner?"). If in the course of the examination the man starts to say things (whether in addition to the answer to a question or otherwise) which will incriminate him, the Medical Officer should warn him not to do so. Any statements that the man may make, whether in answer to a question or not, should be included, as nearly verbatim as can be recollected, in the Medical Officer's report. The Medical Officer, if he is called upon to give evidence, should be guided by the prosecutor as to which of these statements he may disclose in evidence in chief (*see also* Part II of this Instruction, paragraph 11 d.).
  - d. The examination, in cases where unnatural practices have been alleged, should be planned to discover all possible physical signs which may tend to show:—
    - (1) whether any indecent or unnatural act has taken place and, if so, when;
 

(Note.—If the Medical Officer has been informed what act is alleged to have taken place, he should check particularly for evidence bearing on that alleged act: but as the information given to him may be inaccurate, he should always examine for any signs of any indecent or unnatural act.)
    - (2) whether any indecent or unnatural act, which may have been committed by or upon the person examined, has occurred on one occasion only or on several occasions.
2. The examination should, for the reasons given above, cover the possibility that the man has played either the active or the passive role or both and should include the following points:—
    - a. For evidence whether the man may have played the passive role:—
      - (1) Note the general appearance. Look for feminine gestures, nature of clothing and use of cosmetics, etc.

- (2) Visual external examination of the anus for:—  
 Appearance of bruising or inflammation.  
 Whether redundancy or thickening of the skin is present.  
 Evidence of irritation, inflammation or presence of thread worms.  
 Recent tears, lacerations, fissures and piles, old scars due to previous ulceration or any other physical sign that might be present and might cause dilation or relaxation of the anal sphincter.
- (Note.—It cannot be too much stressed that the “classical” appearances described in many books are most uncommon. The “conical” anus occurs only in the confirmed practitioner.)
- (3) Examine the anus for size and elasticity (it is useful to measure the size of the opening by some standard measure such as the number of fingers) and note any discomfort or otherwise during the examination. A speculum may be used.
- (4) A swab must be taken from inside the anus with the aid of a proctoscope or speculum for demonstration of spermatozoa and another from surrounding parts for identification of lubricant and spermatozoa.
- (5) The man should be examined most carefully for the presence of VD. The presence of any discharge from either the anus or urethra should be noted and slides and swabs taken for the identification of gonococci. It should, however, be remembered that the GC cannot be identified for certain except by culture. The presence of a suspected chancre and its position should be noted and samples of serum exudate from the sore should be collected in capillary glass tubes for the identification of *treponema pallidum*. These samples should, if possible, be examined immediately after being collected, but further samples should also be sent for examination by a specialist in pathology. When possible all cases in whom VD is suspected should be sent to a venereologist for examination at the earliest opportunity; this especially applies in those cases where GC infection is suspected, since the organism in this case can only be identified with certainty after culture.
- (6) If it is alleged that the practice has been carried out recently, the under-pants and shirt should be examined for the presence of stains which may still be damp. Any suspected stained articles should be wrapped in cellophane or brown paper and sealed for transmission to a laboratory. If it is possible to collect a specimen of liquid semen from an article of clothing, it is desirable to send this in a suitable container. In some cases the blood group of the donor can be determined.
- (7) Other suspicious objects, such as tins of lubricants, should be sent to a laboratory for examination for the presence of spermatozoa or pubic hair. NB.—All specimens should, when possible, be collected in duplicate and sent to a laboratory for examination as soon as possible. They should be labelled in the case of glass with a glass-marking pencil and also have a tie-on label. They must be sealed in a container.
- b. For evidence whether the man may have played the active role:—  
 The examination should be planned to establish whether the penis has, in fact, been subjected to friction and is contaminated with faeces. It is obvious that the presence of a mixture of faeces, lubricant and spermatozoa will constitute strong evidence. The examination should be conducted as follows:—
- (1) *Examination of the penis* for evidence of friction, for the tearing of phrenum and presence of faeces especially beneath the prepuce if uncircumcised. Also for the presence of lubricant which should be collected on a swab as well as any suspicious material and treated in the same way as other samples. Examination of the base of the penis should be made for contamination with faeces and spermatozoa.
- (2) *Examination of the clothing*, in this case the front of the pants, trousers and shirt, for fresh stains and again for a mixture of semen and faeces, the clothing being treated as mentioned previously.

- (3) *Examination of objects* in the possession of the suspected person such as handkerchiefs, rags, etc and also of tins of lubricant, in a similar manner to that already described.

It should be kept in mind that the suspected person may act both as the active and passive agent. Evidence as to whether he has been drinking may also be very relevant. At the end of the examination a report should be framed following the line of the examination and containing the appropriate conclusions, bearing in mind the fact that the only certain medical evidence of the commission of the offence of buggery is the presence of semen in the anal canal. Opinion should always be guarded as to the case of any dilation of the anus. It should be remembered that dilation of the anus by itself is not a specific sign of the homosexual and that this sign can be due to other causes, *eg*, old standing piles, or it may follow operations on the rectum or it may be due to some disease of the nervous system, etc. The report should include a list of the material collected and the name of the person to whom it was sent. It is important that the report should indicate if there is any physical or mental disease present that would contribute to the man's behaviour.

3. The examination of self-confessed homosexuals should be carried out on the general lines already indicated as far as this is appropriate, but should be modified to exclude those procedures applicable only to a recent act. The examining medical officers should consist of a venereologist and a psychiatrist. Negative as well as positive findings are to be recorded in the medical report and supporting reasons are to be given for any conclusions reached at any stage in the examination. The psychiatrist should state in his report that he considers that the man is telling the truth or that the man is lying or that he cannot give an opinion on this point. Medical evidence may be completely negative even in a well-established case; and as the rating who voluntarily confesses may not be a confirmed addict, abnormal physical signs are unlikely to be met.

4. If in the course of a normal consultation or an examination submitted to voluntarily a man who has not previously been suspected of unnatural practices discloses in confidence information likely to incriminate him, the Medical Officer should be guided by the principle behind paragraph 1 c., *ie* that no one should be encouraged to incriminate himself; on the other hand it is important that a medical officer should obtain any information relevant to the man's own health and condition or that of the ship's company. Any information received in these circumstances should be passed to the Captain if in the opinion of the medical officer that would be for the benefit of the ship's company or of the Service. It is for the Captain to decide what use, if any, should be made of such information, bearing in mind the importance of safeguarding the doctor-patient relationship between the Medical Officer and those who consult him.

(QR (RN))

(BR 11—Admiralty Court Martial Manual)

(DCI (RN) IC 6/67 is cancelled)