

RAMSEY COUNTY  
**History**  
A PUBLICATION OF THE RAMSEY COUNTY HISTORICAL SOCIETY

*A Doctor Ahead of His Time and the  
Trouble that Followed*

**The Sexual Life by Charles W. Malchow**

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*Interminable Township Turmoil*

## **White Bear Township and the Power of the Vote**

SARA MARKOE HANSON, PAGE 1

## By the Numbers . . .

The democratic vote is a powerful tool, a tool Ramsey County residents put to use many times to voice their opinions about remaining in White Bear Township, becoming part of the City of White Bear Lake, or incorporating new villages or cities. Sara Markoe Hanson's article "Interminable Township Turmoil: White Bear Township and the Power of the Vote" on page 1 focuses on this century-long fight. The story debuts in November, just after 2020 elections in the United States. With voting heavy on our minds, we've provided a few county statistics from general elections in 2012 and 2016.

Number of people who voted in Ramsey County:  
**280,010** and **274,780**

Voter turnout in White Bear Township:  
**86%** and **80%**

Voter turnout in White Bear Lake:  
**76%** and **72%**

Voter turnout in St. Paul:  
**66%** and **61%**

Percentage of people voting by absentee ballot:  
**8.7%** and **23.3%**

NOTE: As we go to press, we know, based on preliminary figures, that Ramsey County residents cast 297,236 ballots in the 2020 general election. That's an increase of more than 17,000 compared to 2012 and nearly 22,500 additional voters compared to 2016.

SOURCES: <https://www.ramseycounty.us/residents/elections-voting>.

### ON THE COVER

It was 1956—a presidential election year (*Dwight Eisenhower v. Adlai Stevenson*)—but residents in northern Ramsey County also were focused on another political battle—to remain independent as a township or to become part of an incorporated municipality. In the midst of the politics, Dayton's, a department store in downtown Minneapolis, got into the act with one of its creative window displays—encouraging visitors from Ramsey County and elsewhere to learn how to operate a newfangled voting machine prior to elections and then "vote as you please, but VOTE" on November 6. *Courtesy of Minnesota Historical Society.*



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## Message from the Editorial Board

Trivia is a popular game in these days of COVID-19. Our friends at Historic Saint Paul host trivia nights online right now, and Ramsey County Historical Society (RCHS) is joining in with a special trivia edition to honor our own publishing program this November, but you can learn interesting Ramsey County history trivia just by reading this magazine! For instance, which township is the only remaining one in Ramsey County, and how did it become the state's smallest and most densely populated? Or, which local doctor spent nearly a year in prison in 1906 for publishing a book on sexual response that foreshadowed the Kinsey Reports, which were released years later? Or, how about this? Which renowned Ukrainian-born sculptor lived and worked right here in the City of St. Paul, creating works for cemeteries and churches that are still admired today? Respectively, authors Sara Markoe Hanson, Ryan T. Hurt and Paul Nelson, and Janice Quick, give us answers to these questions. Read on to learn more.

In this issue we also honor Rick Heydinger, a kind man who contributed his time and talent through dedicated service on the RCHS board, along with many social justice causes in St. Paul. We will all miss Rick's thoughtfulness, good counsel, and unwavering commitment.

*Anne Cowie*  
Chair, Editorial Board

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*A Doctor Ahead of His Time and the Trouble that Followed*

## ***The Sexual Life* by Charles W. Malchow**

RYAN T. HURT AND PAUL NELSON

Inside front cover of the third edition of *The Sexual Life*, published in 1914. The medical book was written by Dr. Charles W. Malchow and first published by the Minneapolis-based Burton Company in 1904. In all, there were seven editions in just under thirty years. From the collection of Ryan T. Hurt.

**T**he jury found Charles Malchow guilty.<sup>1</sup> He had committed the acts charged in the indictment, true enough, but he had done them openly. When the authorities questioned him, he told the truth. They caught him, in fact, because he had advertised what he had done. Dr. Charles W. Malchow went to prison for writing, publishing, and trying to sell a book.

It was a sex book. *The Sexual Life* presented the then-most-current clinical observations of conventional human heterosexual arousal, satisfaction, and dysfunction in language accessible

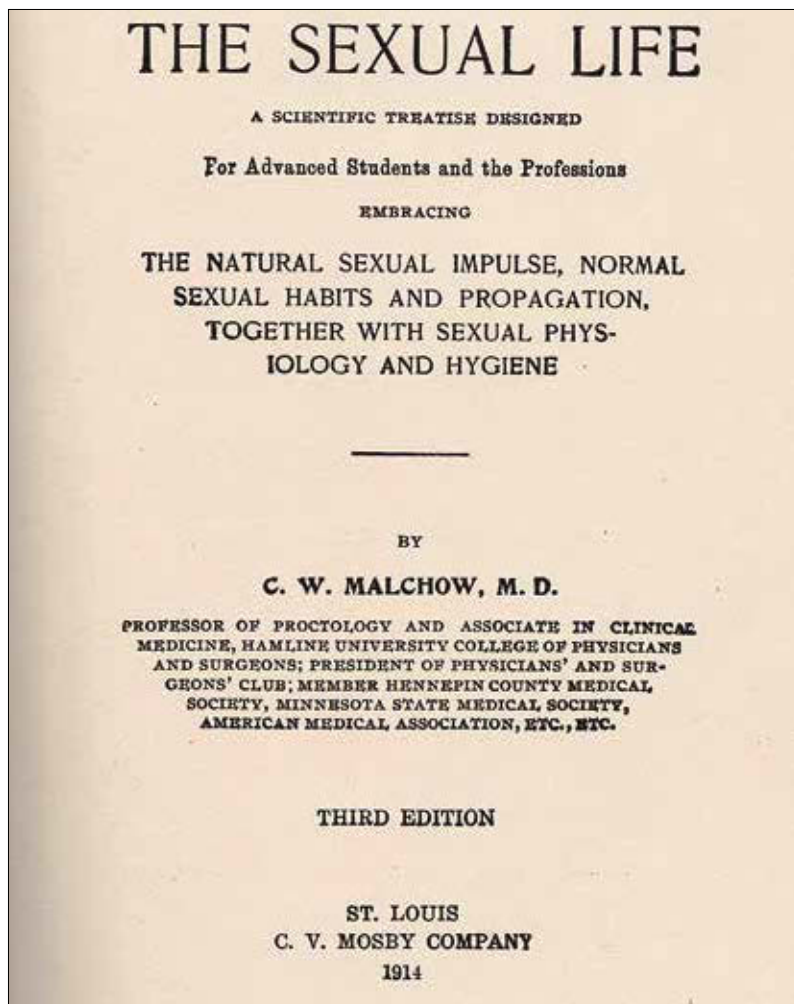
to educated people. Malchow intended the book to fill a painful silence in American public sex education, but his timing was bad. Fifty years later, he might have been applauded and invited to appear on television, or his portrait might have graced the cover of *Time* like Dr. Alfred Kinsey's did in 1953.<sup>2</sup> What Malchow got, instead, was a federal obscenity conviction in 1904 and a sentence of one year at the Minnesota State Prison at Stillwater.

### **Who Was Dr. Malchow?**

Charles Malchow was born October 9, 1864, in Minneapolis, the seventh of eight children of Johann and Marie Malchow, immigrants (in 1861) from Germany. He grew up in Northeast Minneapolis near Ninth and Marshall. His father died in 1876 at fifty-three. Three years later, young Malchow took a leave from his preparatory program at the University of Minnesota to work—first in a sawmill, then for a dozen years in the printing trades; he had a disabled mother to support.<sup>3</sup>

In 1891, at twenty-seven, Malchow enrolled in the Minneapolis College of Physicians and Surgeons (MCPS). The school was established in 1883 (five years before the University of Minnesota Medical School) for the purpose of elevating the standards of medical practice in Minnesota. MCPS faculty had been trained in some of the best medical schools in the world, including Harvard University, McGill University in Montreal, the University of Michigan, Northwestern University, and the University of Edinburgh in Scotland. The faculty were instrumental in the writing and passing of the Minnesota Medical Practice Act of 1887, which created the forerunner of the Minnesota Board of Medicine. The clinical education Malchow received at MCPS was advanced and progressive for its time.<sup>4</sup>

Malchow graduated in 1894, best in his class of twelve. He practiced general medicine in





Charles Malchow graduated from Minneapolis College of Physicians and Surgeons in 1894. The studio portrait was taken by Stafford Company around the time of graduation and is part of a collection of MCPS graduates. *From the collection of Ryan T. Hurt.*

Shakopee for a few years, but small-town medicine did not satisfy. He twice left Shakopee for advanced medical training—two years in all—in London, Vienna, and Berlin. In Malchow's time, European universities were recognized for exceptional faculty and offered greater clinical training opportunities compared to most of the United States. Around 1901, after his second European sojourn, Malchow moved back to Minneapolis and took an office in the Andrus Building at Fifth and Nicollet.<sup>5</sup>

Many ambitious young Americans have gone abroad and returned influenced by European ideas, and so it was with Charles Malchow. In his travels, he came across the writings of Havelock Ellis, the leading European writer on human sexuality. Ellis published the first of his six-volume *Studies in the Psychology of Sex* in 1897 and the second, which dealt with homosexuality, in 1900, just at the time Malchow studied in Europe. As we shall see, no American writer dared emulate Ellis, and until Malchow, none tried.<sup>6</sup>

There was, in the year 1901, no American Havelock Ellis; this may be where Malchow's ambition came into play. He observed that in the realm of marital intimacy—so central to the happiness (or misery) of many, especially



Rand House, at the corner of Sixth Avenue S and Seventh Street, housed the Minneapolis College of Physicians and Surgeons beginning in 1893 during Charles Malchow's last year. It served as the home of the second Hamline University Department of Medicine after MCPS merged with Hamline on December 16, 1895. The building was the former residence of Alonzo Cooper Rand, the eleventh mayor of Minneapolis. *From The Medical Dial 1, no. 9 (August 1899).*

women—silence and ignorance reigned. Women generally entered marriage knowing little of sex (knowledge could have tainted their purity), and then, after they had learned about sex by experience, made sure their daughters remained as uninformed as they had been. Malchow was a modern man, the beneficiary of an advanced medical education. He believed there was an emerging science of human sexuality—known to some physicians but kept from the public. If there was no American Havelock Ellis, there could be an American Charles Malchow.

Though Malchow lived most of his life in Minneapolis, St. Paul is key to the crucial events of his ultimate fate—publication and prosecution. In 1902, Malchow joined the faculty of Hamline University Medical School (HUMS), which had merged with the MCPS in 1895. Hamline's medical school had always been ahead of its time, at least by Minnesota standards, and so it may have fit Malchow's own progressive impulses. In September 1903, Hamline chose Malchow to make the inaugural speech for the new academic year. There, he emphasized the need for physicians to have a sound preliminary education, capacity for hard work, adaptability, and strong moral character. The *Medical Dial* published his speech, adding praise from its editors.<sup>7</sup>



## Hamline University Medical School: Its Brief Moment in History

Though Charles Malchow was Minneapolis born and bred, St. Paul's Hamline University provided the indispensable platform for his ambition to bring the subject of sexual health and pleasure more into the open in the United States. He could have written and published the book on his own, of course, but who was he? The name that graced the title page of *The Sexual Life*, "C. W. Malchow, Professor of Proctology and Associate in Clinical Medicine, Hamline University College of Physicians and Surgeons," gave him what he could not simply assert: credibility.<sup>a</sup>

Progressive Hamline was the right place for Malchow. It originally opened in Red Wing in 1854, founded by Methodist clergy. It was and remains Minnesota's oldest university or college. Its initial graduating class (1859), included Elizabeth and Emily Sorin, the first women to earn university degrees in the State of Minnesota.<sup>b</sup>

The Civil War devastated Hamline's enrollment, and, in Red Wing, the college never recovered; it closed operations there in 1869. An offer of land in St. Paul came in 1874, and Hamline's leadership began the long effort to restart the enterprise. At about the same time, Dr. Alexander Stone opened the St. Paul Medical College on Third Street (now Kellogg Boulevard) opposite of Franklin Street at roughly the location of the Science Museum of Minnesota today.<sup>c</sup>

As the new Hamline University began to take shape, Dr. Stone and Hamline merged their operations. When Hamline reopened at its current Snelling Avenue location in 1880, it included a formal course of physician preparation—another first for a Minnesota college or university. And just as two sisters had graced its first graduating class in Red Wing, two sisters, Annis and Lizzie Wass, joined Hamline's first medical class, although they both eventually graduated from the Women's Medical College in Chicago in 1882.<sup>d</sup>

Classes were held at the downtown location for the 1880-81 academic year in the same building that the Ramsey County Medical Society conducted meetings. Clinics were held in the free St. Paul Dispensary (outpatient clinic) as well as St. Joseph's and St. Luke's Hospitals and the United States Marine Hospital service, which saw patients at St. Joseph's.<sup>e</sup>

The first Hamline medical school lasted only a year. In this era before automobiles or interurban streetcars, the long daily travel for Minneapolis faculty to downtown St. Paul proved unsustainable. Dr. Stone opened the second St. Paul Medical College in 1885, first using the building on Third Street, then moving into a new building nearby; in 1888 this school merged with the University of Minnesota Medical School.<sup>f</sup>



This 1883 map, "St. Paul, Minnesota: state capital and county seat of Ramsey Co.," includes the multistory building on Third Street that likely housed St. Paul's and Minnesota's first medical school. *Courtesy of the Library of Congress.*

In 1895, Hamline took up teaching medicine for a second time, rescuing Dr. Malchow's medical alma mater, Minneapolis College of Physicians and Surgeons, from its chronic fiscal crisis. The new Hamline medical school undertook important improvements in medical education: requiring a high school diploma for admission (and claiming to be the first in the state to do so); and more than doubling the training time by increasing academic years from six months to eight and requiring four years of study instead of the three that were expected of Malchow. Though administrative control moved to Snelling Avenue, most of the teaching happened in Minneapolis. By 1897, clinical instruction took place in both St. Paul and Minneapolis hospitals.<sup>g</sup>

So it was at innovative Hamline that Dr. Charles Malchow brought his European training and experience to the field of medical education. And it was at Hamline that he began to make a name for himself as a teacher, a leader, and a public figure. Malchow had to know that publication of *The Sexual Life* carried risks for him, personally and professionally. It seems that something about Hamline University made him feel sufficiently secure, professionally and academically, to take that risk. So far as the limited records permit us to conclude, Hamline did not disavow Malchow in his time of trouble, but, of course, he could not continue as a professor of medicine from prison. Within three years after his release in 1908, Hamline discontinued its medical courses when it transferred the program to the University of Minnesota.<sup>h</sup>

## Putting the Book Together: Writing, Marketing, and Miscalculations

In 1903, Malchow published an article in the medical journal *Northwestern Lancet*, “Unequalized Sexual Sense and Development the Great Cause of Domestic Infelicity and Nervousness in Women.” This was his first professional publication, clearly a tryout for the coming book, and he identified himself as “C. W. Malchow, M.D., Clinical Instructor and Lecturer in Proctology, Hamline University.” It is about women losing interest in sex, but more than anything, it argues that for women, sexual pleasure is natural, healthful, God-given, and essential to happiness. It is also a lament that for the modern woman, “shame and modesty prevent her from discussing the matter . . . and thus she reaches a marriageable age wholly ignorant or with incorrect ideas upon this most important matter.”<sup>8</sup>

Malchow returned to this theme again and again in the follow-up book, *The Sexual Life*, where, on the title page, he identifies himself first as “Professor of Proctology and Associate in Clinical Medicine, Hamline University College of Physicians and Surgeons.”<sup>9</sup>

There was nothing original in the manuscript of *The Sexual Life*; Malchow was a compiler and synthesizer, not a researcher. It owed much to Havelock Ellis, but Malchow wrote better and more concisely than Ellis did,<sup>10</sup> and though Malchow called his book a “scientific treatise,” it is hardly that. As he wrote in his preface, he chose not scientific jargon but language “as plain as is consistent with elegance of expression.” He had a more general audience in mind.<sup>11</sup>

Once he had a book and a potential audience, how to put them together? This is where Olly Burton came in. Born in Indiana and raised on a farm near Hastings, Nebraska, Burton had attended Hastings College and worked in a local bookstore there. He operated Burton Book Store from 1891 to 1895 then worked as a salesman for numerous companies, including D. Appleton & Company of Boston, which published medical books. By early 1903, Burton had moved to Minneapolis to take over Appleton’s medical line in Minnesota. How and when he and Malchow met is unknown, but it is clear these were two ambitious young men ready to help educate Americans with the creation of the Burton Publishing

Company and the distribution of *The Sexual Life* by Dr. Charles W. Malchow.<sup>12</sup>

To today’s reader, the book’s language may seem oblique and stilted, but the content! Youthful experimentation, male desire, female desire, desire satisfied and desire frustrated, conception, contraception, abortion, and, to paraphrase—*Husbands, here is how you could and should better please your wives*. Chapter titles included, “Sexual Passion,” “Hygienic Sexual Relations,” and “Copulation and Propagation.” The language is antique but the attitude modern. Had people been allowed to read it, tens of thousands of sighs—*I’m normal after all!*—might have been released across the country. Malchow dedicated this bold book to his mother.<sup>13</sup>

Burton acquired lists of some 90,000 educated people—doctors, lawyers, ministers, bankers—and composed a twenty-page pamphlet that made the contents of the 300-page book completely clear. In April 1904, the first 25,000 pamphlets went out by US Mail. By mail—there lay the source of the ultimate disaster.<sup>14</sup>

## That Critical Decision

The First Amendment to the US Constitution provides that “Congress shall make no law . . . abridging the freedom of speech, or of the press. . . .” But in 1873, Congress did just that. The Comstock Act made it illegal to publish any “obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing or other representation, figure, or image.” It also forbade sending such material through the mail. Violators risked up to five years in prison and \$2,000 in fines.<sup>15</sup>

The partners knew the law threatened them, and they seemed to have a plan to test the waters. Malchow’s 1903 *Northwestern Lancet* article addressed sexuality explicitly, apparently without repercussions. In May 1904, coinciding with publication of the book, Malchow met with a group of pastors and read some of the work to them.<sup>16</sup> Evidently, their reaction did not discourage him.

That spring, Burton wrote to an assistant postmaster general in Washington, enclosing a copy of the advertising pamphlet and asking for a ruling “to avoid any future trouble with the



Postal Authorities.” If the answer was favorable, clear sailing. If not, the venture would hit a serious marketing snag. He got a response . . . but not an answer. Acting First Assistant Postmaster General J. J. Hurley wrote back merely to direct Burton’s attention to Section 497, Postal Laws and Regulations—that is, the Comstock Act.<sup>17</sup>

Burton and Malchow now faced a critical choice. They wanted to sell the book. The mails were key to sales. Take the risk, go forward—there lay possible gain, esteem, even fame—the American Havelock Ellis. Succumb to caution, and their prospects shrank. They moved forward.

In the preface to the first edition of *The Sexual Life*, Malchow wrote, “To seek out and present the most vital facts of life is fraught with many difficulties, and I can only hope that this work will not be greatly misunderstood.”<sup>18</sup> In this hope, he would be greatly disappointed.

### **Married, Published, and Reviewed!**

The book appeared in late spring of 1904, likely a happy time for Charles Malchow. On June 8, he married Lydia Gluek of the Gluek brewing family at her family home in Northeast Minneapolis, the neighborhood where both had grown up.<sup>19</sup> She was twenty-eight; the handsome physician married for the first time at thirty-nine.

Lydia Gluek Malchow (1876-1943). After her husband’s death, she remained in Los Angeles County and never remarried. She is buried beside her husband in Santa Monica. *Courtesy of Nancy Gluek.*



Medical journals around the country reviewed *The Sexual Life*. Editors with the *American Journal of Surgery and Gynecology*, published in St. Louis, called the tome “one of the great books of 1904,” stating:

a book which every gynecologist—and for that matter every doctor—should read and digest. . . . There is nothing in it to arouse the criticism of even the most modest; there is much to benefit even the most learned. It is to be hoped, therefore, that the work may have an immense sale.<sup>20</sup>

Journals in Kansas City, Oklahoma City, and Philadelphia published similar, though less enthusiastic, reviews.<sup>21</sup>

The most interesting dissent came from the *Saint Paul Medical Journal*. The lead editorial in the July 1906 issue called *The Sexual Life* “a bad book,” without disputing any of its content. The writer had a different point to make:

We believe that the youth of both sexes should receive more education than they do concerning sexual matters . . . but it cannot be safely given in books which approach the matter in the manner of the book referred to, which is largely devoted to a description of the pleasures of the sexual act, and how by various measures those pleasures may be enhanced. . . .

It’s doubtful that most readers today would agree that the book is “largely devoted to a description of the pleasures of the sexual act,”—it isn’t—but the journal reviewer was onto something: the book made clear that Dr. Malchow approved of sexual pleasure, for women and men alike. This was, perhaps, enough to make the book “bad.”<sup>22</sup>

Most reviews were published in 1905 and 1906. However they may have influenced sales (the book quickly sold 3,000 copies), they were not nearly as important as a private, unwritten review undertaken in the offices of the postal authorities. The US Mail constituted the national nervous system. Ideas flowed through it, and if some ideas or expressions were to be stopped, they had to be stopped there.<sup>23</sup>

## If Only They'd Done More Homework

In February 1896, Minnesota's US Attorney had prosecuted seventeen-year-old Edward Sambrasky for sending an obscene letter to a girl in Jackson, Minnesota. In 1897, publishers Rebecca Taylor and A. M. Lawton, both from White Bear Lake, were taken to trial for publishing affidavits from a lawsuit in their respective papers, *The Truth* and *The Breeze*. The affidavits were deemed obscene because they referred to extramarital sex. Lawton was convicted; Taylor was acquitted. Henry Vierling, a Shakopee barber, got off with a hefty fine of \$200 in January 1898 for a single obscene letter. In 1902, the Loffelmacher brothers, Albert, thirteen, and John, nineteen, from Nicollet County, were charged for sending an obscene letter and photo. In April 1904 in Minneapolis, a man named C. C. Holliday was convicted for "explaining too explicitly" how a certain medicine for women should be used. Holliday represented the Crown Chemical Company of Milwaukee, which advertised in the personal sections of the newspapers the sale of such items as Dr. Strickland's Regulator, a chemical abortifacient. Postal officials—low-level bureaucrats operating out of the public eye—monitored publications, fielded complaints, and referred cases for federal prosecution.<sup>24</sup>

The most troubling case for Malchow and Burton, had they known about it, was that of Leroy Berrier. Berrier was a Minneapolis tannery worker who became an officer of the People's Party, created organizations (possibly one-man organizations) such as the Institute of Human Culture, and wrote and published sex and contraception manuals. In 1896, he was convicted of obscenity and fined \$100. He did not learn his lesson. He was charged again in 1898 for two pamphlets, "Sexuality and Its Functions" and "Procreation and Love," published by his imprint, the Sexual Science and Purity Club. Upon conviction, US District Court Judge William Lochren sentenced him to two years in prison at Stillwater. Burton and Malchow probably did not know about this at that time: Burton had not yet moved to Minnesota, and Malchow may have been in Europe.<sup>25</sup>

Though these Minnesota cases may strike readers as extraordinary, they were few and mild compared with, say, those in New York City, where hundreds of writers and publishers were

hounded into court and prison by the men (chiefly Anthony Comstock) of the New York Society for the Prevention of Vice, acting as agents of the federal government.<sup>26</sup>

The only book review that ultimately mattered to Charles Malchow and Olly Burton was that of the postal authorities, who had been tipped off about *The Sexual Life* by Burton himself. This review was negative and, concurred in by US Attorney Charles C. Houpt, resulted in their felony indictment by a grand jury in August 1904.

Though originally from Fergus Falls, that year, Houpt lived in St. Paul (then, in the Merchants Hotel downtown and later, at 696 Summit Avenue). He had an office in room 301 in today's Landmark Center. Malchow and Burton's prosecution was thus decided, planned, and prepared in St. Paul. Justice moved swiftly in those days: trial took place before Judge Lochren and a jury in Minneapolis in early October.<sup>27</sup>

## Malchow and Burton Stand Trial

The Irish-born Lochren had been a successful lawyer in St. Anthony in the late 1850s and early 1860s. With the onset of the Civil War, he enlisted as a private in the First Minnesota and



William Lochren (1832-1912). Lochren served as a federal judge, US District Court for the District of Minnesota, from 1896-1908 and presided over the *Malchow and Burton* trial. Courtesy of Minnesota Historical Society.



made a heroic record as a soldier, fighting, as the First Minnesota did, in one major battle after another, culminating in its famous Union-saving charge at Gettysburg. Lochren survived that charge and later helped preserve its renown by writing the book, *Narrative of the First Regiment*. He left the army for medical reasons six months after Gettysburg and returned to the practice of law in Minneapolis. He became a Hennepin County district judge in 1881 and then, in 1893, United States Commissioner of Pensions. In 1896, President Grover Cleveland appointed him Minnesota's second federal district court judge, succeeding the retiring Rensselaer Nelson.<sup>28</sup>

The trial shaped up to be quick and, despite the lurid subject matter, dull. US Attorney Houpt called as witnesses only Assistant Minneapolis Postmaster Twyford Hughes and Postal Inspector Harry Tullis to certify that Burton and Malchow had used the mails and to introduce into evidence *The Sexual Life* and its advertising pamphlets. The book's obscenity needed no elaboration—it was there for the jury to read. But Judge Lochren was having none of that: he demanded that Houpt read the obscene portions aloud. A dull trial suddenly turned interesting.

Houpt read twelve selections into the record. Three of them were case studies of people who had engaged in one kind of excess or other but went on to lead healthy lives. Three consisted of advice, sometimes explicit, in how to perform intercourse better. There could have been some amusement in the courtroom when the US Attorney for Minnesota read lines such as “the friction occasioned by the undulations and the to-and-fro motion,” and this verse borrowed from the William Shakespeare poem “Venus and Adonis:”

*I'll be a park, and though shalt be my deer;  
Feed where thou wilt, on mountain or  
in dale,  
Graze on my lips; and if those hills be dry,  
Stray lower, where the pleasant  
fountains lie.*

The trial transcript, however, records no chuckles or sniggers from the spectators.<sup>29</sup>

Burton and Malchow were represented at trial by the same lawyer, V. F. Brown. Brown, of

whom nothing can be found today, attempted a straightforward defense with two elements. One, the book must be considered as a whole; isolating particular passages gives a false impression. Two, this was not a book for the general public but mostly for medical professionals.<sup>30</sup>

Judge Lochren blocked the first defense, ruling that if the jury found any substantial portion obscene, that was enough for conviction. The second defense had two flaws. First, it was evident that Malchow and Burton intended a much wider audience than doctors and clergymen. More important, the judge ruled that their intent was irrelevant; the language in the book spoke for itself. By his rulings, Lochren made clear that neither scientific accuracy nor educational intent constituted proper defenses. In all his rulings, he followed precedent.<sup>31</sup>

One exchange revealed Judge Lochren's personal view of the case. Lawyer Brown tried to get into evidence that public ignorance about sexual matters was “quite general.” With the jury present to hear, the judge interjected, “It is to be hoped that it is.”<sup>32</sup>

The Comstock Act did not define “obscene,” but, for the jury, Judge Lochren did: It meant “likely to raise in the young and immature, libidinous thoughts.” Placing the focus on immature minds—unable, perhaps, to appreciate context—put the defendants in a tighter spot. The judge continued:

[T]he word “obscene” . . . [has] reference to the sexual relations of persons, and not other kinds of filth. . . . [I]t is obvious that what is claimed to be obscene and lewd in this book does have relation to the sexual relations of persons.

In other words, writing about sexual relations between persons is, by nature, obscene. The jury did not take long to convict both men.<sup>33</sup>

### **Conviction, Appeal, Lockup**

While awaiting sentencing, the defendants had to be worried, especially if they knew about the *Berrier* case. Berrier was a crank with no apparent qualifications to write about sex. Burton and Malchow were much worse—respectable men who threatened to make writing and reading about sex respectable too. From that point

of view, they got off lightly. Lochren sentenced them to eighteen months in prison, later reduced to one year.<sup>34</sup> With repeated stays for appeal—Lochren was kind in this regard, though the stays required a hefty bond—Burton and Malchow stayed free for more than a year. The Eighth Circuit Court of Appeals affirmed both convictions on February 19, 1906.<sup>35</sup>

The *Saint Paul Medical Journal* waited until after the trial to publish its editorial comment (the one that called the book “bad”). It approved of the prosecution, conviction, and sentence. It also zeroed in on Burton and Malchow’s real offense: the intended audience. Though Malchow denied it, this book was aimed not just for the doctor’s office or the professor’s study but also for middle-class family homes. This comment hit the nail on the head:

If the book had been written for and its circulation confined to the medical profession . . . no criminal proceedings would have been taken against either author or publisher.<sup>36</sup>

If only they had avoided the US mail.

In this case, Malchow and Burton’s lawyer raised no First Amendment defense nor would there have been any point in doing so. In *Ex parte Jackson* (1878), the US Supreme Court said denying use of the mails for certain kinds of publications did not constitute a denial of freedom of the press. It gave the Comstock Act as an example. “All that Congress meant by this act,” Justice Stephen Field wrote, “was that the mail should not be used to transport such corrupting publications and articles, and that anyone who attempted to use it for that purpose should be punished.”<sup>37</sup>

No direct First Amendment challenge to the Comstock Act reached the US Supreme Court until 1957. Even then it failed. In *Roth v. United States*, Justice William Brennan<sup>38</sup> writing for a 7-2 majority, pointed out that the nation’s founders could not have meant the First Amendment to protect obscene expression, for at that time, laws in all thirteen states forbade it. The phrase “Congress shall make no law” may appear absolute to people today, but that is just appearance. It was not until 1966 in *Memoirs v. Massachusetts* (obscenity defined to require no

## THE ST. PAUL MEDICAL JOURNAL.

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### EDITORIAL.

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**SENDING OBSCENE MATTER THROUGH THE MAILS.**

We have refrained hitherto from commenting upon the recent trial and conviction of a well known physician of Minneapolis, a Professor in the Medical Department of Hamline University, for sending obscene matter through the mails, because we had no desire to prejudice his case in any way. Now that his trial is over and that President Roosevelt has refused, and we think rightly, to pardon him, we are at liberty to comment on the case.

**DR. MALCHOW** was arrested, tried and convicted for having written and advertised and sent through the mails, copies of and extracts from a book entitled “The Sexual Life”. The book was a bad book, although many worse ones have been written on the same subject. If the book had been written for and its circulation confined to the medical profession, it is probable that it would have had a very small sale and would soon have been forgotten. Certainly no criminal proceedings would have been taken against either author or publisher. The facts were, however, that either the author or the publisher, presumably both, desired to make money out of the book and believed that if prop-

“redeeming social value”) and 1973 in *Miller v. California* (“lacks serious literary, artistic, political, or scientific value,”) that the Supreme Court reduced obscenity law to its current irrelevance. Application of either twentieth-century standard would have saved the partners their liberty.<sup>39</sup>

Charles Malchow reported to prison on June 1, 1906. With *The Sexual Life*, he had intended to promote general happiness and good health. Instead, he had produced calamity for himself, his family, and his partner Olly Burton.

While he sat in prison, friends and family worked for a presidential pardon. They enlisted

The *St. Paul Medical Journal* editors, including University of Minnesota faculty member Dr. Burnside Foster, agreed with the conviction of Malchow and Burton. From the collection of Ryan T. Hurt.



Minnesota State Prison at Stillwater in 1907 as it appeared when Malchow and Burton were inmates. Courtesy of John Runk Collection, courtesy of Stillwater Public Library and Minnesota Historical Society.



Theodore Roosevelt sent a personal letter to Senator Knute Nelson reiterating his thoughts about Dr. Malchow's "obscene literature." He was not inclined to issue a pardon. Courtesy of the Library of Congress.

April 10, 1906.

Personal.

My dear Senator Nelson:

That amendment, which I return to you, is all right. Personally, I should strike out the last provision, which grants the court discretion in peculiar exigencies to give a temporary stay without notice, but I do not regard it as vital; and I suppose that neither you nor I are concerned with the exact phraseology. I think it would be a most admirable thing if Senator Allison would introduce this amendment, as you suggest.

I am sorry to have to say that in that case of the doctor who has been convicted for circulating obscene literature, the more I have looked into it the less I feel inclined to relieve the man in any way of the penalty of his crime. I very much doubt whether he ought not to serve out his full term in the penitentiary. Certainly I feel it would be establishing a most unfortunate precedent to interfere at present. It is a hideous and loathsome book. I would as soon see poison

circulated in the household as see that book put therein; and it is to me simply inconceivable that it should have been written save for debased purposes and by a man of debased mind. I have been over the matter very carefully with the Attorney General and the Postmaster General, as well as Secretary Teft who as judge had a good deal of experience with such cases. It is a matter of real regret to me that I cannot take the lenient view which you and Senator Clapp and President ~~Wood~~ and so many other good men urge me to take.

Faithfully yours,  
*Theodore Roosevelt*

Hon. Knute Nelson,  
 United States Senate.

Enclosure.

former Minneapolis Mayor William Henry Eustis; Minnesota US Senators Knute Nelson and Moses Clapp; Minneapolis Congressman Loren Fletcher; all Republicans; and Minnesota Governor John A. Johnson, a Democrat. Eustis met twice with President Theodore Roosevelt in the spring of 1906. It did not go well. Roosevelt later wrote to Senator Nelson that he found Malchow's book "hideous and loathsome," and that "I would as soon see poison circulated in the household" as that book. In this, Malchow had good company: Roosevelt once called Leo Tolstoy "a sexual and moral pervert."<sup>40</sup> Clemency denied.

### The Aftermath

As Malchow's release date (March 30, 1907) approached, a curious incident occurred. Federal prisoners then were allowed \$12 for clothes to wear upon release. Malchow requested two pairs of shoes instead of the customary one (he declined a suit), and the warden agreed. News of this came to the attention of Assistant Attorney General Milton D. Purdy in Washington, DC. Purdy had been a St. Paul lawyer, a Hennepin County prosecutor, United States Attorney for Minnesota, and one of Roosevelt's favorite trustbusters. Purdy was familiar with the Malchow case because he had been part of the pardon meetings a year earlier. He wrote to the prison warden to ask why Malchow had been permitted an extra pair of shoes and threatened to withhold reimbursement if he did not get a satisfactory answer.<sup>41</sup>

After his release, Dr. Malchow returned to medicine, first at his old office in the Andrus Building, later at his Lake of the Isles home. Around 1913, he and Lydia moved to Santa Monica, California. He did not practice medicine there. Malchow died in Los Angeles in 1917, at fifty-three—the same age as his father—from complications of diabetes. Lydia lived another twenty-six years. One of the many ironies of this case is that in *The Sexual Life*, Malchow had written that a life without children "can hardly be said to have been well spent," yet he and Lydia had no children.<sup>42</sup>

Burton was released about the same time as Malchow, returned to Kansas City, and resumed the book and publishing trade. Burton Publishing put out more than eighty titles over the next forty

**One of the Most Popular Books on Sex Published**

**Over 100,000 Copies Sold**

# **The Sexual Life**

**By C. W. MALCHOW, M.D.**

Formerly Professor of Proctology and Associate in Clinical Medicine, Hamline University College of Physicians and Surgeons; President of Physicians and Surgeons' Club; Member Hennepin County Medical Society, Minnesota State Medical Society, American Medical Association, etc.

**318 pages, octavo. Fourth Revised Edition**

**Price, silk cloth binding - - - \$3.00**

years and even operated a mobile bookstore—a station wagon—that it called a bookmobile. He died in 1957 at the age of eighty-eight.<sup>43</sup>

### Ironies and "If-Onlys"

When Malchow and Burton went to trial, a second edition of the book was already in the works. Burton claimed later that in that edition, they excised the offensive portions, those read at the trial, but this was not so. Of the twelve read at trial, only the three case studies were removed. The biggest change Malchow made was in his preface, where he justified his decisions:

[T]he physician will not have done his whole duty unless he gives such instruction and information as will be conducive to the [patient's] sexual health and happiness. . .

"The duty of reforming the morals of the community," he added, "is not within the province of the physician. . ."<sup>44</sup>

Interestingly, Malchow's apparent model, Havelock Ellis, declined to continue publishing in Britain after one hapless bookseller was prosecuted for selling Ellis's book about homosexuality. Instead, Ellis published in the United States, where, unlike Malchow, he suffered no trouble.<sup>45</sup>

Another irony is that the prosecution of Malchow and Burton did not suppress *The Sexual Life* entirely. The postal authorities never bothered it again, and over the next quarter of a century, the book sold at least 100,000 copies; Malchow seems to have taken no further part in its publication. It got around, though exactly through what channels is not clear.

This advertisement, which ran in the prestigious journal *Science*, appeared two years after Dr. Malchow's death in 1919 and illustrates the book's popularity. From the collection of Ryan T. Hurt.



Alfred Kinsey (1894-1956). Kinsey appeared on the cover of *Time* magazine on August 24, 1953, after the publication of his seminal work, *Sexual Behavior in the Human Female*, which catapulted him to fame. From the collection of Ryan T. Hurt.



And it got into at least one middle-class home. In her diary, Helen Jacobus Apte (1886-1946), a respectable woman from the Deep South, wrote of her intimate marital life, “I owe a great deal to Dr. Malchow, whose book has helped us to almost ideal conditions. I don’t know what I should have done without *The Book*.”<sup>46</sup>

In 1948, Dr. Alfred Kinsey—working in Bloomington, Indiana—published his groundbreaking and controversial *Sexual Behavior in the Human Male*. It is remarkable to peruse this book next to Malchow’s *The Sexual Life*. In the first page of his text, Kinsey wrote:

An increasing number of persons would like to bring educated intelligence into the consideration of such matters as sexual adjustment of youth, sex education, [and] sexual activities which are in conflict with the mores. . . . [H]uman sexual behavior represents one of the least explored segments of biology, psychology, and sociology.

These words could have been written by Charles Malchow forty-four years before; so little had changed in the meantime.<sup>47</sup>

Kinsey’s biographer, James Jones, wrote of him:

Better than most of his contemporaries, he understood that Americans were a people with secrets. . . . Perhaps his greatest contribution was to reveal the chasm between prescribed and actual behavior and to show the high price paid by individuals who internalized their culture’s prohibitions.<sup>48</sup>

He could have written the same about Malchow.

When Kinsey appeared, obscenity law had not changed since Malchow’s time. The Comstock Act remained on the books, its constitutionality unchallenged. But though Kinsey’s book and the follow-up—*Sexual Behavior in the Human Female* (1953), which cited *The Sexual Life* six times, were far more explicit than Malchow’s, Dr. Kinsey never faced the censor or the prosecutor. He enjoyed the protection of the University of Indiana, funding from the Rockefeller Foundation, and a time when curiosity outmaneuvered prudery.<sup>49</sup>

Writing before and after the turn of the twentieth century, Englishman Havelock Ellis had introduced the dispassionate examination of human sexuality to the English-speaking world. Half a century later, Kinsey brought it into the American mainstream. Twenty years after that, William Masters and Virginia E. Johnson lifted the veil of ignorance still further with their bestselling *Human Sexual Response*, published in 1966. We may draw a direct line from Ellis to Kinsey to Masters and Johnson. A forgotten figure, a “might-have-been” in that line, is Charles Malchow, professor of medicine at Hamline University. Though not a researcher like the others, he saw the same ignorance and suffering that they saw. “Perhaps the greatest source of sin and misery in domestic life,” he wrote, “is to be traced to unsatisfactory sexual conditions.”<sup>50</sup> He offered *The Sexual Life* as a remedy.

The jury that convicted Dr. Malchow and Olly Burton did not do wrong: by the norms of their time and this place, *The Sexual Life* violated both law and community standards. The book appeared fifty years too early. Being ahead of one’s time is sometimes rewarded; sometimes punished.

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**Paul Nelson** is an amateur historian living in St. Paul. Born and raised in Ohio's Connecticut

Western Reserve, he is the author of many publications of Minnesota history and a graduate of the University of Minnesota Law School.

Links to Malchow's article in *Northwestern Lancet*, his book *The Sexual Life*, and the trial record can be found at <https://publishing.rchs.com/publishing/ramsey-county-history-magazine/>.

## NOTES

1. Pronounced MAL (like gal)-chow.
2. Boris Artzybasheff, cover illustration of Dr. Alfred C. Kinsey, *Time*, August 24, 1953.
3. "Charles W. Malchow," 1880 United States Federal Census: Minneapolis, Hennepin, Minnesota, enumeration dist. 228, lines 4-6. Notations indicate Malchow is in school but also working in a sawmill; Charles W. Malchow, *The Sexual Life: A Scientific Treatise Designed for Advanced Students and the Professions Embracing the Natural Sexual Impulse, Normal Sexual Habits and Propagation Together with Sexual Physiology and Hygiene 1st ed.* (Minneapolis: Burton Company, 1904), 4. Marie Malchow is "permanently home" in the 900 block of NE Marshall. Malchow dedicated his book to his mother, ". . . whose physical deformity inspires gentleness;" Charles Malchow, letter to Warden Henry Wolfer, October 6, 1906, Convict Record of Charles W. Malchow, Minnesota State Prison at Stillwater, Minnesota Historical Society.
4. Warren Upham and Rose Dunlap, eds., *Minnesota Biographies, 1655-1912*, XIV (St. Paul, MN.: Minnesota Historical Society, 1912), 465, 521. John William McDonald was educated in Edinburgh, established a surgical practice in Minneapolis, and was president of MCPS when Malchow graduated. Jehiel Moore came from McGill University in Canada. He presented a resolution to the Minnesota Medical Society which eventually resulted in the establishment of the first medical board to control medical practice requirements in the state in 1887; Horace B. Hudson, ed., *A Half Century of Minneapolis* (Minneapolis: Hudson Publishing Co., 1908), 185, 194, 210. Other early notable faculty included gynecologist Edwin Phillips (Michigan); Leo Crafts, one of the state's first neurologists (Harvard); and internist Charles Williams (Northwestern); "Seventh Annual Announcement," *Minneapolis College of Physicians and Surgeons* (Minneapolis: Tribune Job Printing Co., 1889), 15; "Ninth Annual Announcement," *Minneapolis College of Physicians and Surgeons* (Minneapolis: Harrison & Smith, 1891), 4. MCPS was open to women. One of its first three graduates in 1886 was Catherine Burnes, who became the first physician in the City of Hopkins and later joined MCPS faculty.
5. "Healers of the Sick," *Minneapolis Tribune*, April 12, 1894, 5. Charles Malchow received the Gold Medal,

which was awarded to the student with the best overall score in all clinical areas; For his medical school information, see Trial Record, *United States of America v. Olly D. Burton and Charles W. Malchow*, Case No. 2181, United States Circuit Court of Appeals, Eighth Circuit, National Archives and Record Administration, Kansas City, MO, hereinafter referred to as Trial Record, 70; *Minneapolis City Directory* (Minneapolis: Minneapolis Directory Co., 1901), 889. Malchow is living at the family home at 917 Marshall with two sisters and a sister-in-law; Classified advertisement, *Scott County Argus*, April 30, 1896, 1. Malchow in practice there.

6. "Havelock Ellis," *New World Encyclopedia*, accessed October 5, 2020, [https://www.newworldencyclopedia.org/entry/Havelock\\_Ellis](https://www.newworldencyclopedia.org/entry/Havelock_Ellis).

7. Charles W. Malchow, "Opening Lecture of the Medical Department of Hamline University," *Medical Dial*, X, no. 10 (October 1, 1903): 180, 182-189. The editors of the *Medical Dial*, which was started in 1898, said of Malchow's address, "It will be evident to the reader that Dr. Malchow has profited by the course of study and discipline he has so thoroughly outlined for the medical student to insure success."

8. Charles Malchow, "Unequalized Sexual Sense and Development the Great Cause of Domestic Infelicity and Nervousness in Women," *Northwestern Lancet* XXIII, no. 4 (February 15, 1903): 63-68.

9. Malchow, *The Sexual Life*, title page.

10. A single volume of Ellis's six-volume *Studies in the Psychology of Sex* runs 750 pages.

11. At the time, Malchow published *The Sexual Life*, Ellis had written much more broadly, including three volumes of his *Studies in the Psychology of Sex*. It is evident that Ellis influenced Malchow greatly.

12. 1900 United States Federal Census: Kansas City, Jackson, Missouri Ward 10, enumeration dist.119, line 37; Malchow, "Unequalized Sexual Sense and Development," 55.

13. Malchow, *The Sexual Life*, 9-16.

14. Trial Record, 250-253, 286-287.

15. US Const. amend. 1; 17 Stat. 599 (1873); Anna Louise Bates, *Weeder in the Garden of the Lord, Anthony Comstock's Life and Career* (Lanham, MD: University Press of America, 1995) 85, 90-92; Brandon R. Burnette, "Comstock Act of 1873," *The First Amendment*



*Encyclopedia*, accessed October 22, 2020, <https://www.mtsu.edu/first-amendment/article/1038/comstock-act-of-1873>. The act was named for its chief author and promoter, anti-obscenity zealot Anthony Comstock, who was then just twenty-eight years old. The statute had a Minnesota connection: its Senate sponsor was William Windom of Minnesota. Congress also appointed Comstock a postal inspector for New York, a position he held for forty years until his death in 1913.

16. "Author Faces Judge Morris," *Minneapolis Journal*, October 7, 1904, 7.

17. Trial Record, 284-285.

18. Malchow, *The Sexual Life*, 8.

19. "In Social Circles," *Minneapolis Journal*, June 10, 1904, 16.

20. "A Good Book on the Sexual Life," *American Journal of Surgery and Gynecology* (January 1905): 116.

21. *Interstate Medical Journal* XII (January-December 1905): 382. Quoted as saying, "exempt from any suspicion;" *Medical Council* X, no. 4 (April 1905): 152. Quoted as saying, "We have difficulty in finding words sufficiently emphatic to express our admiration . . . ;" *Kansas City Index-Lancet* XXVI (January-December 1905): 66; *Oklahoma Medical News-Journal* XII, no. 1 (n.d.): 72.

22. "Sending Obscene Matter Through the Mails," *Saint Paul Medical Journal* VIII, no. 7 (July 1906): 490-491.

23. *Burton v. United States*, 142 F 57 (Eighth Circuit, 1906).

24. "A Jackson Tough," *Worthington Advance*, February 13, 1896, 1; "Miss Taylor on Trial," *Saint Paul Globe*, July 27, 1897, 8 and "Miss Taylor Not Guilty," *Saint Paul Globe*, July 29, 1897, 2 and "Found Lawton Guilty," *Saint Paul Globe*, July 31, 1897, 4; "United States Court," *Saint Paul Globe*, January 12, 1898, 8 and "In the Federal Courts," *Saint Paul Globe*, January 14, 1898, 8; "A Costly Letter," *Minneapolis Tribune*, January 15, 1898, 6; "Many Crimes Are Laid Against Him," *Saint Paul Globe*, November 12, 1902, 4 and "Eighteen Months," *New Ulm Review*, November 12, 1902, 1; "C. C. Holliday is Guilty," *Minneapolis Journal*, April 18, 1904, 6; Malchow, *The Sexual Life*, 168-169. Malchow dealt briefly with regulators in the chapter "Sexual Habits of the Married." He said, "These so-called monthly regulators contain drugs that have a purgative effect and act more or less violently on the pelvic viscera, causing miscarriage."

25. "Without a Name," *Saint Paul Globe*, November 21, 1894, 3; "Too Liberal In His Views," *Saint Paul Globe*, October 22, 1895, 3; "Several Prisoners Sentenced," *Saint Paul Globe*, April 1, 1896, 3; "Uncle Sam After Him," *Saint Paul Globe*, February 26, 1898, 7; "Berrier Is Guilty," *Saint Paul Globe*, March 20, 1898, 12; *Minneapolis City Directory* (Minneapolis: Minneapolis Directory Company, 1892), 205. Employed as a clerk by Twin City Hide and Tallow; Indictment, District Court of the United States for the District of Minnesota, March 1, 1898, National Archives and Records Administration, Kansas City, MO. The Library of Congress online catalog lists three other works by Berrier: *First Lessons in Sex-*

*ual Science* (1897) and two more published in Iowa after he got out of prison: *Cultivation of Personal Magnetism* (1899) and *New Life* (1902).

26. Bates, *Weeder in the Garden*, 90-92.

27. Judgment and Sentence, *United States v. Olly D. Burton and Charles W. Malchow*, Convict Record of Charles W. Malchow, Minnesota State Prison at Stillwater, Minnesota Historical Society; *St. Paul City Directory* (St. Paul, MN: R.L. Polk & Co., 1904), 826; 1910 United States Federal Census, St. Paul, Ramsey, Minnesota, enumeration dist. 94, sheet 6B.

28. "Judge William Lochren, Old Soldier, Pioneer Resident and Eminent Jurist, Dead," *Minneapolis Journal*, January 28, 1912, 1; William Lochren, "Narrative of the First Regiment." In *Minnesota in the Civil and Indian Wars, 1861-1865* 1 (St. Paul: Minnesota Historical Society Press, 2005), 1-78.

29. Trial Record, 66, 264-269. The Comstock Act specifically forbade publishing information about methods of contraception, though no federal law forbade contraception itself.

30. Brief of Plaintiffs in Error, Trial Record.

31. Malchow always denied that he intended a wide audience—below the title is written "A Scientific Treatise designed for Advanced Students and the Professions . . .," but it does not read like a treatise, and the mailing list suggests a wide audience; 16 Blatchford 338 (1879). Judge Lochren relied on *United States v. Bennett*, from federal court in New York City, involving an essay titled, "Cupid's Yokes: Or, The Binding Forces of Conjugal Life," a case initiated by Anthony Comstock himself.

32. Trial Record, 282.

33. Trial Record, 307-308; "Dr. Malchow Convicted," *Minneapolis Journal*, October 17, 1904, 6.

34. "Reduced Sentence," *Minneapolis Journal*, November 17, 1904, 2.

35. *Burton v. United States*, 142 F 57 (Eighth Circuit, 1906.) The court's opinion, which endorsed all of Judge Lochren's rulings, was written by Willis Van Devanter, who later served twenty-six years (1910-1937) as Associate Justice of the US Supreme Court.

36. "Sending Obscene Matter Through The Mails," 490-491.

37. *Ex parte Jackson*, 96 US 727 (1878). This case had nothing directly to do with obscenity. It was a lottery case. Justice Field's comment was just a comment but nevertheless strong evidence that the court saw no problem using the criminal law to stifle the distribution of obscene material, whatever "obscene" might mean.

38. Justice William Brennan wrote *Griswold v. Connecticut*, the decision that later formed the basis for *Roe v. Wade*.

39. *Roth v. United States*, 354 US 476 (1957); *Memoirs v. Massachusetts*, 383 US 413 (1966); *Miller v. California*, 413 US 15 (1973). The fact that Dr. Kinsey's *Sexual Behavior in the Human Male* (1948) and *Sexual Behavior in the Human Female* (1953) did not face criminal action illustrates that public attitudes had changed toward scientific studies of sexuality by then.

40. "Dr. Malchow's Friends Work For His Pardon,"

*Minneapolis Journal*, April 5, 1906, 6. Theodore Roosevelt, letter to Knute Nelson, April 10, 1906, Theodore Roosevelt Papers, Library of Congress. It appears that President Roosevelt scratched out a name in the letter and added President Northrup, likely referring to Cyrus Northrup, who served as president of the University of Minnesota from 1884-1911; Milton Rugoff, *Prudery and Passion: Sexuality in Victorian America* (New York: G. P. Putnam's Sons, 1971), 129; "Minneapolis Prisoner Released," *Saint Paul Globe*, March 12, 1899, 7. One press account reported that both Judge Lochren and prosecutor Houpt had endorsed the pardon request, although this seems unlikely. But pardon was not a wild idea: Leroy Berrier, sentenced to two years in prison, had served only one before being pardoned by William McKinley. Congressman Loren Fletcher worked on Berrier's pardon too; Edna O'Brien, "The Danger Zone," *The New Yorker*, May 2, 2002, accessed October 12, 2020, <https://www.newyorker.com/magazine/2002/06/03/the-danger-zone>.

41. Milton D. Purdy, letter to Warden Henry Wolfer, May 1, 1907; Wolfer, letter to Purdy, May 4, 1907. Wolfer answered that the custom at Stillwater had been to allow prisoners to choose how the \$12 was spent. The two pairs of shoes cost \$7.50. Convict Record of Charles W. Malchow, Minnesota State Prison at Stillwater, Minnesota Historical Society.

42. Charles William Malchow, State of California, Department of Health, Death Certificate, #17-013843; *Minneapolis City Directory* (Minneapolis: Minneapolis Directory Co., 1907, 1908, 1910, 1911), 1103, 1035, 1147, 1181; "Dr. Charles Malchow Dies in California," *Minneapolis Tribune*, April 14, 1917, 12; Malchow, *The Sexual Life*, 107.

43. "Olly D. Burton Dies," *Kansas City Times*, April 3, 1957, 16.

44. "Publisher Declares Books Are Edited," *Saint Paul Globe*, April 8, 1905, 3; Charles W. Malchow, *The Sexual Life*, 2nd ed. (Minneapolis: Burton Company, 1905), 9.

45. Phyllis Grosskurth, *Havelock Ellis: A Biography* (Washington Square, NY: New York University Press, 1985), 191-204.

46. "The Sexual Life," advertisement, in *Medical World* 35 (December 1918): xxvii; Helen Jacobus Apte, *The Heart of a Wife: The Diary of a Southern Jewish Woman* (Lanham, MD: Rowman and Littlefield Publishers, 1998), 13. She lived in Georgia and Florida.

47. Alfred C. Kinsey, Wardell R. Pomeroy, and Clyde E. Martin, *Sexual Behavior in the Human Male* (Philadelphia: W. A. Saunders Co., 1948), 3.

48. James H. Jones, *Alfred C. Kinsey* (New York: W. W. Norton & Co., 1997), xiii.

49. See Jones; *United States v. 31 Photographs, etc.*, 156 F. Supp. 350 (S.D.N.Y. 1957). The only serious legal impediment Alfred Kinsey faced was from the United States Customs Service, which tried to prevent importation from Europe of photographs and other research materials. This case was not resolved until 1957; Kinsey had

already died. Interestingly, the judge, Edmund Palmieri, much like Judge Lochren, expressed disgust at the material and support for anti-pornography laws. He cited the Malchow case in his opinion. but he ruled against the United States and in favor of Indiana University.

50. Malchow, *The Sexual Life*, 307.

#### Notes to Sidebar on p. 14

a. C. W. Malchow, *The Sexual Life: A Scientific Treatise Designed for Advanced Students and the Professions Embracing the Natural Sexual Impulse, Normal Sexual Habits and Propagation Together with Sexual Physiology and Hygiene* 1st ed. (Minneapolis: Burton Company, 1904), cover page; C. W. Malchow, *The Sexual Life: A Scientific Treatise Designed for Advanced Students and the Professions Embracing the Natural Sexual Impulse, Normal Sexual Habits and Propagation Together with Sexual Physiology and Hygiene* 7th ed. (St. Louis: C.V. Mosby Company, 1928). Even after the Hamline medical school closed, Malchow's professional title remained throughout all editions into the 1930s.

b. "Hamline History: The Foundation of Minnesota's First University," Hamline University, accessed October 20, 2020, <https://www.hamline.edu/about/history.html>.

c. "Hamline History;" Alexander J. Stone, "The St. Paul Medical College," *The Journal of the Minnesota State Medical Association*, XXIX, no. 2 (January 15, 1909): 42-43.

d. *Alumnae of the Women's Medical College of Chicago 1859-1896* (Chicago: H. G. Cutler, 1896), 104; Frederick A. Dunsmoor, "The Minnesota Hospital College," *The Journal of the Minnesota State Medical Association*, XXIX, no. 2 (January 15, 1909): 43-45.

e. "St. Paul Medical College (Medical Department of Hamline University of Minnesota)," *St. Paul City Directory* (St. Paul: R.L. Polk & Co., 1881-1882), 653; Robert Rosenthal, "Ramsey County Medical Society Survives 100 Years," *Ramsey County History*, 7, no. 2 (Fall 1970): 14-15; *Annual Announcement of the St. Paul Medical College, Medical Department of Hamline University* (St. Paul: Hamline University, 1881); Mark H. Dunnell, report to House of Representatives, "Marine Hospital at Saint Paul, Minnesota to accompany H.R. Bill 4346," First and Second Sessions of the Forty-Fifth Congress 1877-78 (Washington, DC: Government Printing Office, 1878), 7. The US Marines offered a "Marine Hospital service" at St. Joseph's, where doctors cared for an average of three patients a day.

f. Stone, 42-43; "St. Paul Medical College," *St. Paul City Directories* (St. Paul: R.L. Polk & Co., 1885-1889), 729, 844, 1051, 1157; Leonard Wilson, *Medical Revolution in Minnesota: A History of the University of Minnesota Medical School* (St. Paul: Midewiwin Press, 1989), 15-22.

g. *Catalogue of Hamline University for the Year 1907-8* (St. Paul: Hamline University, 1907), 12-13.

h. Wilson, 126-7.



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# RAMSEY COUNTY History

A PUBLICATION OF THE RAMSEY COUNTY HISTORICAL SOCIETY

Preserving our past, informing our present, inspiring our future.

The Ramsey County Historical Society's vision is to innovate, lead, and partner in preserving the knowledge of our community, delivering inspiring history programming, and incorporating local history in education. Our mission of *preserving our past, informing our present, inspiring our future* guides this vision.

The Society began in 1949 when a group of citizens preserved the Jane and Heman Gibbs Farm in Falcon Heights, which the family acquired in 1849. The original programs at Gibbs Farm (listed on the National Register of Historic Places in 1974) focused on telling the story of the Gibbs family. In 2000, with the assistance of a Dakota Advisory Council, the site also began interpreting Dakota culture and lifeways. RCHS built additional structures and dedicated outdoor spaces to tell the stories of the remarkable relationship between Jane Gibbs and the Dakota people of Heyate Otunwe (Cloud Man's Village).

In 1964, the Society began publishing its award-winning magazine, *Ramsey County History*. In 1978, the organization moved its library, archives, and administrative offices to St. Paul's Landmark Center, a restored Federal Courts building on the National Register of Historic Places. An expansion of the Research Center was completed in 2010 to allow greater access to the Society's collection of historical archives and artifacts. In 2016, the Research Center was rededicated as the Mary Livingston Griggs & Mary Griggs Burke Research Center.

RCHS offers a variety of public programming for youth and adults. Visit [www.rchs.com](http://www.rchs.com) for details of upcoming History Revealed programs, summer camps, courthouse and depot tours, and more. RCHS serves 15,000 students annually on field trips or through outreach programs in schools that introduce the Gibbs Family and the Dakota people of Heyate Otunwe. These programs are made possible by donors, members, corporations, and foundations, all of whom we appreciate deeply. If you are not yet a member of RCHS, please join today and help bring history to life for more than 50,000 people every year.

### Equity & Inclusion Statement

History informs us, inspires new choices, brings people together, and builds community. Likewise, it can be misused to inspire fear, create division, and perpetuate racism and other injustices. We resolve to present history in accordance with our values of Authenticity, Innovation, Inspiration, Integrity, and Respect. We believe that by doing so, our community will be more informed, more engaged, and will become stronger.

R.C.H.S.  
RAMSEY COUNTY HISTORICAL SOCIETY

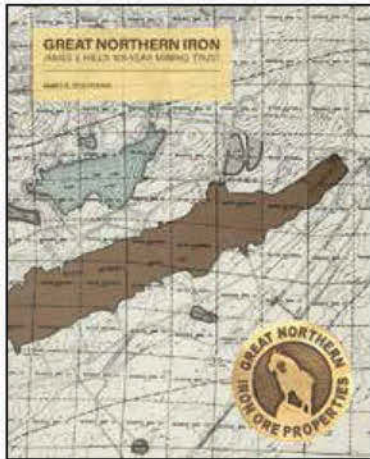


[www.rchs.com](http://www.rchs.com)

[info@rchs.com](mailto:info@rchs.com)

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**Great Northern Iron:  
James J. Hills's 109-Year Mining Trust**  
by James A. Stolpestad  
Published by RCHS



***Makes a great gift!***

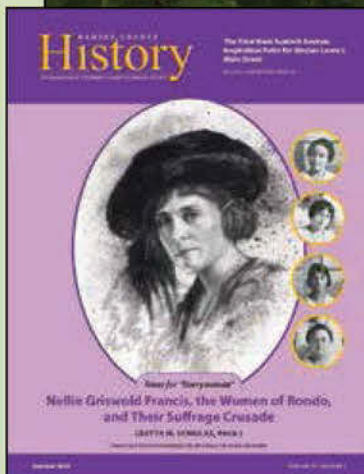
For more information and to order the book:  
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**Ramsey County Historical Society  
Congratulates the winners of the  
2020 Virginia B. Kunz Award  
for Best Articles  
in Ramsey County History Magazine  
in 2018-2019**

Teresa Swanson, Syd Beane, and William Beane for  
*Charles and Elaine Eastman:  
Their Years in St. Paul, 1893-1898*

Krista Finstad Hanson and Kitty Gogins for  
*One Hundred Years Serving New Americans:  
The Centennial of the  
International Institute of Minnesota*  
and  
*Growing Up in Ramsey County:  
With a Dash of Foreign Spice*

Jeremiah E. Ellis for  
*St. Paul's Distinct Leadership Tradition:  
A Century of the Sterling Club*



***Inspire the Future  
with a Gift this Year***

By preserving their past, Ramsey County Historical Society's founders have inspired over seven decades of innovative programming, preservation, and publishing.

*By making a gift today, you'll be helping us inspire decades more.*

**Thank you for preserving  
Ramsey County history!**

Please make a gift using the enclosed envelope.

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**R.C.H.S.**  
RAMSEY COUNTY HISTORICAL SOCIETY



ADDRESS SERVICE REQUESTED

*Born in Ukraine*

## Sculptor Antin Pavlos

JANICE QUICK, PAGE 26



Antin Pavlos was a Ukrainian-born sculptor who spent the last few years of his life living and working in St. Paul. His work "Harvest" (1953) depicts a barefoot peasant harvesting a crop by hand. The 11" x 15" x 7" painted-plaster sculpture was donated to the Ukrainian Institute of Modern Art by Stefania Pavlos in memory of her sculptor husband. *Collection of the Ukrainian Institute of Modern Art. Gift of Stefania Pavlos.*