

TOWARD A DECONSTRUCTION OF
HOMOSEXUALITY AS DEVIANT CONDUCT:
A CASE STUDY OF HOMOSEXUAL LOBBY GROUPS IN MANITOBA

BY



KENNETH AGYEMANG ATTAFAUAH

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KENNETH AGYEMANG ATTAFUAH

A thesis submitted to the Faculty of Graduate Studies of
the University of Manitoba in partial fulfillment of the requirements
of the degree of

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ABSTRACT

This is a study of the deconstruction of a stigmatized identity and the attainment of legal protection by members of a minority group in a pluralistic society. Between 1972 and 1987 two homosexual lobby groups in Manitoba challenged the taken-for-granted notions of appropriate and inappropriate sexual orientations and behaviors. Their efforts culminated in the passage of Bill 47 which provides legal protection for homosexuals against discriminatory treatment in employment, housing and social services. Using these groups as a case study, this thesis aimed at determining the crucial factors which make for the success or failure of minority groups to achieve goals which may involve the deconstruction of significant items of reality.

Organizational strength, leadership and strategies were found to be positively correlated with interest group success. Congruence between the demands of the lobby groups and the ideological position of the targets was also crucial to the success of the lobby groups. In responding to interest group demands, targets took into consideration their perception of the state of public opinion on the specific demands.

At any one time, each society has, as it were, a legalized definition of reality--it has judicial statements about which particular bundle of possible human behaviors will be given official approval, and which will be stamped on by officials. But what makes this at-any-one-time reality difficult to transpose into an at-any-time reality is the plasticity of human nature and the continuous struggle of men to break out of other-men-made worlds (Steven Box, 1971:49).

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University of Manitoba
Winnipeg, Manitoba
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CHAPTER ONE

INTRODUCTION: A BRIEF OVERVIEW

This thesis is a study in the dynamic processes involved in the deconstruction (i.e., the rejection of a previous identity and its replacement with a more valued one) of a stigmatized identity and the enactment of protective legislation for a sexual minority - homosexuals in Manitoba.

Congregated at the bottom of nearly every social order is an aggregation of demeaned and stigmatized individuals who tend to be viewed and discussed primarily in terms of the characterological problems they are thought to have, the problems they are thought to pose for the larger community, or the problems associated with their material survival (Snow & Anderson, 1987, p. 1337). In general, the attempts of such stigmatized groups of people to deconstruct their negative identity and to generate and maintain a sense of self-worth and dignity has rarely been studied. Thus, homosexuality has been variously seen as a source of crime, contamination, demoralization and threat to public welfare. Yet, although homosexuals across Canada have been organizing themselves to deconstruct their stigmatized identities and to gain protective legislation to cover their members since 1965, these efforts have not been studied, either as a test case in minority political lobbying activity or as an example par excellence of the broader issue of the social construction and deconstruction of reality.

The objectives of this thesis are to study the attempts of homosexual groups in Manitoba to change the conception of homosexuality as a deviant behavior and to analyze the responses of the ruling elite to these efforts. That is, this thesis documents these efforts, ascertains the relative impact of the homosexual lobby groups on their targets, and determines the factor(s) making for their success.

THEORETICAL ISSUES

In this thesis, I work in the context of the analytical conflict perspective but the particular theoretical model is the elite theory of interest group activity. I begin with a brief discussion of two dominant perspectives in the discipline of sociology, namely functionalism and conflict theory. The objective is to explore the possible utility of these theoretical orientations to this research. Since this thesis seeks to examine the role of interest group activity in changing the deviant status of homosexuality in the consciousness of the public and in pressing for the extension of legal and human rights provisions to cover homosexuals, it is necessary to discuss interest group theories. The major theoretical models, pluralist, elitist and class hegemonist, which have been used to study the exercise of power by interest groups are examined and one is selected for this thesis. A justification for adopting the elite paradigm is then provided. This is followed by a brief discussion of the role of

interest group activity in Canadian social policy formulation and implementation from the perspective of elite theory. The determinants of interest group success as well as the role of power in the deconstruction of deviant homosexual identity are discussed. This is then followed by the research propositions. Two homosexual interest groups - Gays for Equality¹ and The Sexual Orientation Lobby - are used as case studies in an attempt to determine how demands for the inclusion of sexual orientation in the Human Rights Code as a prohibited ground of discrimination have been presented and responded to by the governing elites.

Finally, a methodological design for conducting this research is provided, and issues concerning reliability and validity of the data are raised and discussed. The findings are presented and analysed in terms of the analytical conflict perspective, focusing specifically on elite theory of interest group activity.

Conclusions are drawn from these discussions.

CONTRIBUTION TO KNOWLEDGE

The emergence and development of social policies and laws have been well documented. There is a plethora of literature on the political processes, moral entrepreneuring and interest group lobbying that gave birth to the formation of certain laws and social policies. For example, social welfare programmes, anti-abortion laws, pension policies, laws against drunk-driving, laws on pornography and prostitution, the criminalization of

cocaine and marijuana use, anti-homosexuality laws and prohibition are a few of the issues on which interest groups and moral crusaders have acted. In studies of some of these processes, the economics and politics of policy formation are seen to saturate not only public and official conceptions of deviance, but also the nature of deviation itself: rule-making, the public imagery of deviance, and the deviant's symbolic re-ordering of his universe coalesce (Pearson, 1975, p. 57). However, there has been virtually no study of the deconstruction of deviant identities by interest groups whose members are stigmatized and discriminated against by the dominant segment of society. It is therefore hoped that this thesis will contribute to the body of data available on the societal treatment of minority groups in politically and ethnically pluralistic societies. Difference is perennially problematic.

The rationale for using homosexuality as a case study is that homosexual lobby groups are the most vocal, dissident groups advocating a definition of reality that challenges the dominant taken-for-granted heterosexual tradition in Manitoba. Rapists, transvestites, child-abusers and prostitutes may uphold different definitions of reality; however, none of these are engaged in an open, organized campaign to alter society's definitions of reality and to secure protective legislation for their members. In other words, these are people who cannot be regarded as champions or

definers of alternative symbolic universes; they do not seek to re-define their identity and challenge the existing social order and the dominant conceptions of reality regarding sexuality.

Homosexual lobby groups are unique in this regard.

Studies on homosexuality and the history of homosexual rights campaigns also abound. However, usually these are either etiological accounts of homosexuality from divergent perspectives, arguments about homosexuality as a life style, or a chronological account of the struggles of homosexuals against discriminatory treatment and the pains and agonies of 'coming out' or 'staying in the closet'. This thesis departs from these traditional approaches to homosexuality. The interest is not in the moral or historical dimensions of homosexuality as such, but rather in the political processes involved in the attempts of homosexual lobby groups to deconstruct and redefine their identity and thereby to obtain legislation to protect their members against discriminatory treatment.

Homosexuality has been demedicalized and decriminalized but continues to be regarded as deviant. Historical and current discourses on homosexuality are generally imbued with a great deal of politics and passion. The emergence and development of the Gay Liberation Movement in the 1960s and early 1970s catapulted the issue of homosexuality into political limelight. Today, homosexuality continues to generate interest due largely to the

pervasive fear of AIDS. The acceptance of homosexuality and the episodic eruption of homophobic violence represent extreme poles of the treatment of homosexuality and homosexuals in Canadian society. The subject continues to evoke deep sentiments. Unlike other forms of sexual expression generally stigmatized by this culture, homosexuality has gained relative acceptance as a lifestyle. This was facilitated by a formidable political movement which it produced, drawing considerable inspiration from the civil rights and feminist movements, and the anti-Vietnam war protests which characterized the political atmosphere in the U.S. during the 1960's.

But homosexuals are still looked down upon in society. Their sexual orientation is considered deviant by many people in society. Some homosexuals allege they are victims of discrimination based purely on their sexual orientation. In Manitoba, two homosexual groups attempted and succeeded in lobbying the provincial government to enact protective legislation to cover their members and to prohibit discrimination based on sexual orientation. In other words, they engaged in a political struggle to deconstruct the deviant identity assigned to them by the dominant segment of society; they wanted to obtain legitimacy and status for their sexual orientation within the existing political and legal system. These efforts are the subject of this thesis.

CHAPTER TWO

AN HISTORICAL PERSPECTIVE

This chapter serves to illustrate this society's conceptions of sexual deviance through an historical overview of past and present attitudes. The objective is to show the dynamic role played by various power groups in defining and changing conceptions of deviant sexual behavior especially homosexuality. It will be shown that these conceptions in turn have influenced the formulation of laws and policies concerning sexual deviance. This historical overview of the relationship between the definition of sexual deviance by power groups and the formulation of laws pertaining to sexual deviance is deemed crucial to any analysis of the political processes involved in the deconstruction of such definitions and laws. As Chambliss and Seidman (1982, p. 13) point out, the study of law must not only recognize the uniqueness of law and order in a particular historical period, it must also take account of the historical context and development of these social phenomena in order to comprehend the potential for, as well as the limits of change. In other words, to understand the deconstruction of any item of reality it is essential first to understand the social construction of that reality, the historical context within which that construction took place as well as the forces instrumental in the construction process.

INTERESTS, POWER AND DEVIANCE DEFINITIONS

The promotion or maintenance of interests constitute the seed-bed of deviance definitions. There is a fundamental economic dimension to definitions of certain forms of sexual activities as deviant. Kasinsky (1978) points out that the socio-economic institutions of society largely determine the cultural definitions of sexuality.

Sexual norms are intimately related to social power. Human societies are so labile and diverse that virtually every form of sexual behavior, even those that are generally assumed to be socially disruptive, including homosexuality and prostitution, has at sometime been regarded as either normal, or under special circumstances, permissible. Human nature, (including sexuality) is a very plastic social construction. Nevertheless, the normality or permissibility of any sexual form in society is determined by those members of society who are powerful enough to define and interpret social reality in terms of their interests. In some societies, prostitution enjoys the tacit support of the political and economic elite who seem to encourage the proliferation of brothels as a means of quietening the peasantry and urban proleteriat with cheap sex and entertainment.

Where it serves the interests of the champions of the church and state as a provider of revenue for their lavish lifestyles and/or domination of the laity, prostitution may be permitted and

legitimated in religious pursuits. Where it helps advance the economic or capital accumulation of the political elites, rape may be defined as a property transgression rather than a personal sexual violation. The point here is the use value of women in the structure of social relationships, and the provision of "easy sex" as an opium of the people--a psychological diversion of the energies of the poor in society into physical gratifications and pseudo-contentment--are all part of domination-subordination devices.

Human sexual energy could be directed toward many animate and some inanimate objects, yet in many societies, and especially in Euro-American ones, people are encouraged to confine their sexual outlets to one legally recognized heterosexual partner. Such institutional arrangements have been initially justified in terms of their benefits to individuals and their functionality to the social order, but ultimately they have been legitimated as the manifestation of Divine Will or the Natural Order of Things (Box, 1981, p. 122).

The emphasis on only one socially recognized heterosexual outlet also serves some politico-economic functions; the nuclear family today functions to provide both a consumption unit for a corporately organized society, as well as a "garage" for workers.

Smith (1974) has poignantly pointed out that:

...The home is a place, where people are stored when they are

not at work, where they are maintained and serviced, fed and cleaned, where they are psychologically repaired and the injuries of the daily routine and tensions generated on the job made good, and where the next generation of employees is produced and trained for their future occupational roles.

The popular antipathy toward homosexuality has economic basis. Apart from the fear of the possible extinction of humanity consequent to the societal acceptance of homosexuality, some fear that homosexuality would adversely affect family life and consequently distort the nature of the economic system. To maintain the dominance of heterosexuality, appeals to religion and law are made.

Religious codes have served as the basis of many laws in many cultures. Many Americans and Canadian laws have their basis in the Christian religion. Both the state and religion buttressed each other in legitimating the existing social order.

MEDICINE

The definition and conception of sexual deviance has not been the exclusive prerogative of religious leaders. By the turn of the 18th century medicine had begun to be part of the social construction of sexual deviance. Although the medical influence was largely an augmentation of the religious positions on sexuality, medicine began to "discover" and create "new" forms of sexual offenses and to isolate the clergy from the "scientific

treatment" of such "sexual perverts" as homosexuals, sexual psychopaths and masturbators.

Bullough (1976, 1979), Katz (1983), and Conrad and Schneider (1980, p. 172-93) have documented the accumulation of medical opinion which first identified masturbation as a source of mental and physical degeneration and later assimilated homosexuality into the masturbation paradigm. By the late 1800s, a cascade of medical writings had produced a veritable antimasturbation hysteria and a technology of sexual repression (Bullough, 1976, p. 542). The work of Mohr (1978) also demonstrates the increasing role of physicians in the anti-abortion crusade. Over a period of two centuries medicine succeeded in gaining a hegemony over the definition of appropriate sexuality and in becoming the dominant profession in recent history. Not only did medicine wed itself to science and thereby become "scientific", but also it became the great incorporator of knowledge (Zola, 1977, p. 48), garnering to its bosom any form of knowledge that might be relevant to its ends. Today, medicine encompasses virtually every aspect of human life, and its control of human sexuality is particularly complex and total. Medicine has now become a dominant system of social control.

While no facet of human life has been left outside the controlling province of medico-psychiatry, sexuality has been a favored specialty.

THE ROLE OF MEDICO-PSYCHIATRY IN THE SOCIAL
CONSTRUCTION OF HOMOSEXUALITY AS DEVIANT CONDUCT

The work of the English physician Bekkers published in 1710 and entitled Onania or the Heinous Sin of Self-Pollution, and all its Frightful Consequences in Both Sexes Considered with Spiritual and Physical Advice condemned and produced a full-fledged campaign against masturbation in the eighteenth and nineteenth centuries (Guindon, 1976, p. 258). Bekkers' work was expanded and translated by a number of physicians throughout those centuries, setting the pace for a major transition in the conception of sexual deviance.

Sexual counselling literature has been haunted by many misconceptions about reproduction, inheritance and sexual matters in general to the present day:

Homosexuals, whom some consider so by inheritance, are not sick but vicious--the lash and the dungeon are the treatment they require. Many symptoms and signs accompany excessive venery--hunchback, red nose, baldness, elephantiasis, piles, frequent emissions, constipation, gout. Posture in coition other than the 'Missionary position' are harmful (they must be, because they diminish the likelihood of conception and are accordingly sins of luxury), but they are described in practical detail. Impotence arises from defects of the system, the seed or the penis--or of course, from being

bewitched or wanting the desired object too much" (Comfort, 1968, p. 29-30).

By the beginning of the nineteenth century medical ideas in sexual matters were present. Printing was cheap, and literacy was growing, enabling those who could read to avail themselves of a variety of literature including that on sexuality. Also evident was a trend toward personal hygiene and physical health, much of which was based on fear of contagious diseases. Whereas previously diseases were deemed to be visitations from God, people now began to accept increased personal responsibility for their own health. Religious rituals began to be considered empty superstitions unworthy of Christians and rational men, although new rituals appeared in washing, bathing, eating, defecating and worshipping. An age of "reason" had begun which set the pace for new developments (Comfort, 1968, p. 44).

Three writers emerged from the medical profession in the late nineteenth and early twentieth centuries to have a major impact on the development of a "scientific" approach to the study of human sexuality and on the establishment of the boundaries for appropriate sexual behaviors. These writers were Richard von Krafft-Ebing, Sigmund Freud, and H. Havelock Ellis. No attempt

will be made to provide a comprehensive outline of the varying ways in which these medical scholars approached sexuality. However, some underlying themes will be considered to provide insight into the source of many of the conceptions of sexual deviance.

Krafft-Ebing played a major role in defining the quality of the scientific environment which proved conducive to, and receptive to Freudian theories of the nature of sexuality. In this sense, Krafft-Ebing was the forerunner of Freud (Petras, 1973, p. 24). His most noted work, Psychopatia Sexualis (1886) retains as an unquestionable fact the view that masturbation is the essential cause of most of the sexual deviations plaguing humanity (Guindon, 1976, p. 259).

In addition, Krafft-Ebing was one of the first medical writers to sensationalize sexuality in the context of crime. As Petras (1973) notes, he fostered the idea that "horrible crimes were made more horrible if the sexual element was included as part of the motivation" (p. 25). This can be seen not only in the case of simple assault as opposed to rape, but also the view, still popular today, that sexually stimulating phenomena can act upon an individual in such a way as to cause the commission of crimes that otherwise would not be committed.¹

Krafft-Ebing also had the idea that coitus in marriage was the only normal and therefore acceptable form of sexual activity.

Any deviation from this norm even within marriage was considered a perversion. This conception of which behaviors constitute sexual perversion has influenced attitudes and laws to the present.

Freud was primarily concerned with discovering the "universal underlying drives" and the individual characteristics that motivated men and women to engage in sexual "expression" of diverse forms, including repression. He linked human sexuality with developmental stages based on physical and psychological growth. To the outrage of Victorian morality, Freud argued that sexual life begins at birth not at puberty, and described the infant as a polymorphous pervert (Wright, 1977, p. 240).

Most significant in terms of conceptions of sexual deviance was the connection he saw between early childhood experiences and sexual expressions and perversions in adulthood. Freud's clinical writings reinforced the common belief that masturbation was a common cause of neurotic disorders.

The writings of Havelock Ellis expressed a different perspective on sexual behavior from those of Krafft-Ebing and Freud. Unlike Freud, who saw sexuality as an intrinsic part of every single human action, Ellis emphasized sexual behavior as only one variant of social behavior. Sexual behavior and sexual attitudes were acquired through socialization, and therefore they could be modified. He did not place any emphasis on linkages between biographic experiences buried in the subconscious of the

individual and overt sexual expressions in adult life, as was Freud's orientation. As Petras (1973, p. 24) points out, Ellis believed that the labelling of a particular form of behavior as "normal" or "perverse" was a reflection of social definitions.

The major underlying theme of these medical writers and their followers was that all sexual activity other than coitus in marriage was perverse and a basis for neurotic disorder. The approach to sexual deviance was transformed into a medical evaluation and treatment of symptoms of underlying drives. The idea of "original sin" as the cause of sexual deviance was replaced with the concept of "neurotic disorder".

The dominance of the discipline of medicine in defining appropriate sexual behavior was reinforced by the writings of Alfred Kinsey beginning in the late 1940s. Kinsey and his colleagues documented the similarities and differences between male and female sexual needs and actual sexual behavior. The extent of pre-marital and extra-marital sex, masturbation and homosexuality, bestiality and group sex were some of the issues dealt with in the over 18,000 interviews conducted among a cross-section of the American populace.

In Kinsey's view, the work of people like Havelock Ellis, Freud and Krafft-Ebing was not scientific (Wright, 1977, p. 247). In contrast to the writings of the psychoanalysts, Kinsey's work was couched in the language of the common person and thus made

public consumption more feasible. Kinsey's findings also reflected a change in society's ideas on appropriate and inappropriate sexual behavior:

Cultural values had changed to the extent of creating a gap between available information and desired information, and that this information gap provided the conditions for the acceptance of Kinsey. In a sense, then, American society had created a need for Kinsey in order to provide an interpretation of the behavior and attitudes that already had changed (Petras, 1973, p. 45).

More recently, the work of Masters and Johnson in the 1960s reflect the persistent hold of the medical profession on the determination of appropriate and inappropriate human sexual functioning. Their work, which focused on the physiological aspects of sexual intercourse, inter alia, highlighted the impact of human feelings on the adequacy of sexual relations. The most significant dimension of their work was the treatment programme they proposed for sexual problems. One of the revealing results of their research was that inhibitive attitudes and ignorance are the causes of most sexual problems. Certainly, this contrasted very sharply with psychoanalytic views which associated problems with neurotic or mental and/or physical illnesses. This new premise on sexuality proved prophetic of changes in the conception of sexual deviance.

This overview of the influences from the past has served to illustrate changing conceptions of sexual deviance. It has also shown the role of the dominant segments of society in constructing and defining sexual deviance.

The trend towards dealing with sexual deviance as a violation of higher spiritual and moral values reflected the predominant influence of religious scholars. The emergence of psychoanalytic writings brought the definitions of appropriate and inappropriate sexual behavior within the domains of medicine. Since then, the association of sexual deviance with neurotic disorders has prevailed, and many sexual acts have been medicalized, and their perpetrators paternalistically forced through "rehabilitative" programmes with significant costs (financial, emotional and otherwise) to society and themselves.

It must be emphasized, however, that the struggle to establish given definitions of reality with respect to appropriate or inappropriate conduct in society is neither simple nor easy. Rarely has one group or its representatives completely succeeded in annihilating previous definitions of reality and putting a new set in their place. On the contrary, competing perspectives often result in compromises and varying degrees of "balanced coalitions", such as the marriage between medicine and religion, often with a great deal of complementarity.

LAW AND SEXUAL DEVIANCE

As indicated throughout the preceding historical overview, social definitions of sexual deviance and societal responses to such definitions are determined by the power groups prevailing at any given time. Laws have already been enacted (or social norms established) throughout history and across cultures to sanction sexual conduct. As the influence of particular power/interest groups have waned, so have laws governing appropriate and inappropriate sexual behavior changed.

Foucault (1978) sees the notion of sexuality as itself an ideological construct, a product of particular historical circumstances. According to him, sexuality is employed by the powerful segment of society in its goal of social control. In any given society, the powerful sector of the population organizes sex in its grip on bodies and their forces, energies, sensations, and pleasures (Foucault, 1978, p. 155). The point here is not how a given power group such as the clergy or merchants in a capitalist society oppress sexuality but rather how various social definitions of sexuality emerge and the social conditions which facilitate their existence. In keeping with this mode of thinking, Gagnon and Simon (1973) and Foucault (1978) recognize that a major way in which sexuality is regulated is through the process of categorization and the imposition definitions upon the various possibilities of the body and the various forms of

expression that "sex" can taken (Gay Left Collective, 1980, p. 14). This role of organization, regulation, and categorization is performed by various institutions: psychiatry, medicine, the law, modern forms of family. In spite of their relative autonomy within the capitalist system and from the ruling class, all of these institutions can be seen as products of the capitalist organization of society.

CHANGING CONCEPTIONS OF SEXUAL DEVIANCE: THE GAY/LESBIAN
LIBERATION MOVEMENT AND THE DECRIMINALIZATION OF HOMOSEXUALITY

Although specific criticisms of medical definitions of deviance (e.g., "mental illness", "addiction", "alcoholism") abound, it appears that only in the case of homosexuality is there a clear and compelling challenge to basic assumptions of the medical model itself (Conrad and Schneider, 1980, p. 193). The decriminalization of homosexuality represents the most concerted action by a hitherto stigmatized group of people to forge a common identity, develop a common consciousness and power, and utilize this power to extricate themselves from the dominant conception of their sexual orientation. It provides an example par excellence of a challenge to medicalization of sexual orientation, and therefore serves as a useful point of reference in the analysis of the role of power groups in the formulation of conceptions of sexual behavior.

Paradoxically, it was medicine itself that originated this

challenge when, at the turn of the 20th century, a small number of respected physicians, lobbied for a slight variation in the medical conception of homosexuality. They declared that although homosexual preference was probably congenital, it was not pathological. The demedicalization of homosexuality reflected a conceptual shift from sin to sickness to lifestyle. Eventually, in April 1974, homosexuality was removed from the Diagnostic and Scientific Manual III, the official list of diseases as defined by the American Psychiatric Association. However, the period between the articulation of this view and the eventual demedicalization of homosexuality and its consequent decriminalization throughout the U.S. and Canada was filled with intense politicking by a number of gay/lesbian lobby groups. The most notable groups in the campaign to achieve this goal were the New York Gay Liberation Front, the New York Mattachine Society, the Panthers, and the Berkeley Gay Liberation Front.

It is not within the scope of this thesis to trace the detailed history and development of this movement, a task which has been adequately accomplished by Katz (1976), Bullough (1976) and Kinsman (1987). Suffice it to say that it has become common to date the gay liberation movement from June 27, 1969, when the Stonewall Inn, a popular gay men's bar in the Greenwich Village section of New York city was raided by police (Bullough, 1979, p. 63). This resulted in a series of riots by gay people. By the

fall of 1970, a politically active gay community emerged across the United States, and spread its liberationist message through protests, marches and independent newspapers (D'emilio, 1983, p. 233).

"Coming out of the closet" was a difficult experience for some individual homosexuals whose sexual orientation was greatly stigmatized by the "straight" society. The Gay Liberation Movement drew considerable inspiration and encouragement from the black power protests, the civil rights movement, the Feminist movement and the anti-Vietnam War protests which characterized the 1960s. The movement also transformed the concept of "coming out"--recognizing one's homosexual desires, subsequently attempting to act upon them and acknowledging one's sexual preferences (D'emilio, 1983, p. 20) into doctrine of collective assertiveness. These groups openly challenged psychiatric diagnosis of homosexuality and the treatments prescribed such as aversion therapy and psychotherapy at conferences of the American Psychiatric Association. Thus, by April 1974 when Judd Marmor, a proponent of the lifestyle view of homosexuality, was elected president of the American Psychiatric Association, an atmosphere conducive to the exclusion of homosexuality from the APA's nomenclature of diseases had been created (Conrad & Schneider, 1980, p. 208-9).

Also contributing to the strength of the Gay Liberation

Movement's campaign was the Kinsey report which rejected the mysterious psychic processes and sexual "identities" that were the stock-in trade of psychiatry on homosexuality (Conrad & Schneider, 1980, p. 198). Kinsey and his colleagues defined homosexual conduct as any physical sexual contact that involves people of the same sex (Kinsey et al., 1948, p. 615-617). Their conclusion that some 37% of the adult male population of the U.S. had "some overt homosexual experience to the point of orgasm between adolescence and old age" (Kinsey et al., 1948, p. 623) also helped to shatter some of the myths regarding homosexuality. Contrary to established medico-religious viewpoints, the evidence from the Kinsey study pointed to homosexuality as a relatively common phenomenon.

The gay liberation groups took advantage of the political radicalism and black activism of the 1960s, the conclusions of the Kinsey study of 1948, the ethos of the sexual revolution of the 1960s, and the popular revulsion against police raids on gay bars. From this conglomeration of forces emerged a vibrant, politically cohesive homosexual community which succeeded in lobbying and challenging medical practitioners and politicians to demedicalize and decriminalize homosexuality.

CHAPTER THREE

THE RESEARCH PROBLEM

Homosexuality has been decriminalized in Canada since 1967. However, the demedicalization and decriminalization of homosexuality did not imply a deconstruction of the deviant identity attached to it. The Gay Liberation Movement across Canada is therefore engaged in a new phase of its struggle--to deconstruct homosexuality as deviant conduct and to demand equality and protective legislation to cover homosexuals. In other words, the struggle to deconstruct homosexual identity as deviant is also a struggle for human rights. 'Gay rights' are part and parcel of human rights, and 'gay rights' arise only when the status or treatment of an individual or organization is dependent on his/her (or its) sexual orientation.

Using two homosexual interest groups in Manitoba as a case study, this thesis explores the dynamics of the demand for the inclusion of sexual orientation in the Manitoba Human Rights Code as a prohibited ground of discrimination, and examines the factors that made for the success of this campaign.

POWER AND THE DECONSTRUCTION OF HOMOSEXUAL IDENTITY AS DEVIANT

Deviance and the profession of deviant identities and orientations are integral to pluralistic societies. This is because a pluralistic society has a taken-for-granted core universe within which different partial universes co-exist in a

state of mutual accommodation (Berger and Luckman, 1981, p. 142). Such a society encourages both scepticism and innovation which are inherently subversive to the status quo. This situation permits the emergence of alternative, dissenting definitions of reality. Thus, with regard to sexual norms for instance, a "deviant" subculture such as homosexuality exists alongside the dominant, taken-for-granted heterosexual culture. The confrontation of alternative definitions of reality implies a problem of power - which of the conflicting definitions will be "made to stick" in the society. Indeed, the success of particular definitions of reality is related to the power possessed by those who try to establish them. Conflicting definitions of reality are thus decided in the sphere of opposing social interests whose rivalry is in turn "translated" into theoretical and legal terms (Berger & Luckman, 1981, p. 138).

In pluralistic societies, the ruling class puts forward an ideology which seeks to represent its own position as legitimate and to suppress or negate all other definitions of reality that may be offered by dissident groups or individuals. Departure from such standard, "legitimate" positions constitutes deviance. But deviance is always a product of enterprise (Becker, 1963, p. 162). An individual or group may champion a cause to have a given behavior defined as deviant (Blumer, 1971). Deviance designations then emerge and are legitimated through a political process

involving conflict about power relations. As Conrad and Schneider (1980, p. 23) note, moral entrepreneurs and other champions of deviance definitions can operate in any social system that has the power and authority to impose definitions of deviance on the behaviors and activities of its members. In other words, deviance is socially constructed, and definitions are always embodied, that is, concrete individuals and groups of individuals serve as definers of reality (Berger and Luckman, 1981, p. 123).

Alternative definitions of reality threaten the status quo.

The appearance of an alternative definition of reality poses a threat because its very existence demonstrates empirically that the existing, dominant universe subscribed to by the ruling elite is less than inevitable. Berger and Luckman (1981) note that, on a more fundamental level, the deviant's conduct challenges the societal reality as such, putting in question its taken-for-granted cognitive and normative operating procedures. Decisions are made by the ruling elite to deal with the deviant or inappropriate conduct, and such decisions are essentially political. In the words of Goffman (1968):

since inappropriate behavior is typically behavior that some one does not like and finds extremely troublesome, decisions concerning it tend to be political, in the sense of expressing the special interest that can be said to be above the concerns of any particular grouping (1968, p. 317).

In other words, those whose interests are served by the existing symbolic universe make political attempts to control the "deviant" definitions of reality or the "inappropriate" conduct. This may be done through therapy. Thus, homosexuals have been subjected to therapeutic control; they have been exorcised, psycho-analyzed and medically treated as sick people who must be compassionately helped to return to a state of "normalcy", i.e. heterosexuality. The conceptualization of homosexuality in medical terms as a sickness, the result of bad genes or defective mothering, implies compassion. However, as Pearson (1975, p. 25) points out, compassion involves invalidation, a denial of authenticity, desirability and appropriateness to a given act or phenomenon. This is the essence of therapy: it entails the social control of "deviants" to ensure that they stay within the institutionalized definitions of reality.

There has been a shift in the conception of homosexuality from "demonic possession" (badness) to mental disorder (sickness) to lifestyle (Conrad and Schneider, 1980). Although homosexuality has been demedicalized and decriminalized, it is still considered deviant, an aberration.

In pluralistic societies, with the passage of time, contradictions may develop between the prevailing system of social relations (via identities) and the content of the formal rules that purport to govern it. One early task of a dissident group

such as a homosexual lobby group is to explore the limits of the dominant legal ideology in order to see how much can be accomplished within those limits. However, those who occupy the decisive power positions are ready to use their power to impose the traditional definitions of reality on the population under their authority. Potentially competitive conceptualizations of the universe are liquidated as soon as they appear - either physically destroyed or integrated within the tradition itself (Berger and Luckmann, 1981, p. 139). In modern day pluralistic societies the existence of opposition to the physical destruction of the advocates and practitioners of deviant conceptions of reality means that integration in the dominant group's terms becomes the usual course.

It is not only the construction of deviance that is a product of enterprise; so also is its deconstruction. Deviant identities do not always persist over time. Sooner or later, those whose alternative definitions of reality and conduct have been considered deviant and stigmatized may organize themselves in an effort to deconstruct their assigned identity and the concomitant negative entitlements. Thus, homosexual lobby groups have developed in many Euro-American societies to counter the definition of their sexual orientation as deviant. Through the mobilization or organization of their members, sexual orientation has been raised as a civil rights issue - a public issue of

discrimination arising because of existing laws. These lobby groups are engaged in an effort to acquire legitimacy and status for their sexual orientation in the established order. In other words, they seek to challenge the established definitions of reality and the prevailing system of social relations. They are engaged in a political conflict over the re-definition of reality. In order to deconstruct the deviant identity assigned to them, homosexuals must organize to challenge the legitimations of that identity, paradoxically, within the existing legal rules. Even dissident groups must mobilize themselves within the framework of the established political system. This is the paradox of dissident lobby groups: in part, lobby groups are political movements which accept the dominant assumptions of the governing class and seek to use them to their own advantage.

To make sense of homosexual lobbying or interest group action one must consider that social relations are expressed in formal legal rules and systems of law established by the powerful for their own advantage. Homosexual lobby groups must challenge the established system of law as a precondition to re-defining their stigmatized identity. This necessarily means that the deconstruction and redefinition of homosexual identity is essentially a political process which cannot be divorced from the politics of social policy formation and the enactment of laws.

This study falls within the framework of the sociology of

law. Gurvith describes the sociology of law as:

that part of the sociology of the human spirit which studies the full social reality of law, beginning with its tangible and externally observable expressions, in effective collective behaviors and in the material basis (1973, p. 48).

In other words, it is the study of law and society that takes into account aspects of human behavior. According to Schur (1968) the study of law entails the:

analysis and understanding of the legal system as such, rather than the mere recognition of legal aspects in related areas of social life (p. 4).

The rationale for the study of law and society is to "learn from one unique situation something useful for solving another problem in another place, involving different people ... (and) using empirical investigations of social science that ineluctably deal with past events in order to understand and guide problem-solving in the future" (Chambliss & Siedman, 1982, p. 12).

THEORETICAL FRAMEWORK

The presence of some kind of legal system is essential to the maintenance of social order, especially in modern, complex societies. However, the legal system is not static. As new situations arise and established traditions crumble in the face of social pressures instigated by modernization and human creativity, societies effect changes in their substantive and procedural laws

in order to ensure an integrated social system.

The study of the causes, processes, and patterns of changes in law and society has traditionally been undertaken within the framework of structural-functionalism and modern conflict theories. Both theoretical traditions attempt to make sense of the existing social reality and the changes to which the social system must constantly respond. These theoretical perspectives are the subject of the next section.

THE FUNCTIONALIST PERSPECTIVE

Functionalism is a theoretical perspective that sees each structure in society as serving a certain purpose. It adopts an organismic view of society. Functionalism conceives of society a social system consisting of different but interrelated parts, all of which contribute to the overall integration of the system and thus ensure the stability of the social order.

Functionalism equates social structures with the organs of the human body, implying that each part serves a positive function without which the social system cannot survive (Traub & Little, 1980; Chambliss & Seidman, 1982; Horton, 1966). A fundamental concept in functionalism is the notion of consensus. It is assumed that people in society are united by commonly shared values or generally accepted standards of conduct (Wallace & Wolf, 1980; Horton, 1966). This consensus generates and sustains a stable social order. Moreover, social institutions are presumed

to be neutral entities operating with a value-neutral framework. All functional units in the system are also presumed to work toward the attainment of an equilibrium in the society. Society is conceived as a system composed of a number of sub-systems which interact with each other (Parsons & Smelser, 1961). Through a series of adaptations in the form of cooperation, competition, conflict and accommodation society maintains an equilibrium which helps sustain a relatively unified social system.

One strain of the functionalist model worthy of note here is the general systems approach. It places its emphasis on the study of organizations and interrelationships rather than on the sub-systems as associated with Parsonian functionalism (Easton, 1965). The systems model conceives of social systems as constantly adapting to their environment and internal organization (Theordorson & Theordorson, 1969). It emphasizes an "open" system characterised by information exchange or "feedback" which activates a continuous adaptation in society. According to this model, it is more useful to view society in its entirety than in terms of its parts. A holistic view of society facilitates a clearer appreciation of the causes, consequences, mutual interactions and the "total emergent processes" as products of choices made available from positive or negative "feedbacks" of individuals or groups involved (Buckley, 1967, p. 80).

In this vein, Easton (1965) has pointed out that the

political system functions on the basis of "inputs" and "outputs". Inputs refer to the demands and support of the members of the society going to the decision-makers. Outputs emanate from the leaders and decision-makers in the society in the form of responses and actions to specified demands. The choices made by authorities or "policy-makers" (Lindblom, 1973) reflect an accommodation to a variety of interests. The advantages of functionalism in social policy analysis inhere in the nature of the questions the perspective examines, the structures and the latent and manifest functions involved (Yelaja, 1978, p. 15).

Functionalism has several limitations. It has been criticized for being an inherently conservative paradigm due to its emphasis on consensus, neutrality and equilibrium. Blau, for instance, has noted that, in functionalism:

there is much concern with social order and norms, little with social discord and power, opposition and oppression. The functional orientation introduces a conservative bias into sociological analysis ... in the specific sense that it directs attention to system maintenance and stability and diverts attention from conflict and change (1972).

In the same vein, Horowitz points out that structural-functionalism "tends to become a metaphysical representation of the dominant ideological matrix" (1962, p. 270). It emphasizes universal values over individual interests,

consensus over conflict and order over disorder. It takes a macroscopic view of the law and its role in the maintenance of social stability. Thus, law is held to be not only a reflection of the opinions and commitments of the members of society (Greenaway & Brickey, 1978; Chambliss & Mankoff, 1976) but also as a neutral entity transcending any diversities in society (Greenaway & Brickey, 1978; Chambliss and Siedman, 1982). The function of the legal system in this view is the promotion of the common good of society by the impartial enforcement of rules and arbitration of disputes. The state is also said to be a neutral agency whose role is the creation of legislation that reflects the value consensus of all groups in the society. This functionalist conception of the nature of society and the function of the state is not in accord with reality. It is basically a conservative conception which helps to perpetuate or entrench the existing social system.

With regards to the emergence and development of social policies, functionalists posit that a system of inputs and outputs facilitates the attainment of consensus and hence equilibrium in society. Adaptations are achieved between conflicting interests and resultant equilibrium is functional to the overall integration of the social system. The political process is seen as a never-ending system of inputs and outputs and feedback from the populace and programs, policies and actions/responses from the

authorities to which further feedback is provided. According to Begin (1979), Canadian policy decisions are based on this dynamic premise.

Although functionalism suggests that government intervention through social policy enhances the opportunities and welfare of the members of society, it does not indicate how conflicting interests are resolved and priorities determined. To this extent, it is of limited utility for this thesis. It is imperative therefore that another theoretical perspective--the conflict perspective--be explored.

THE CONFLICT PERSPECTIVE

Conflict theory is a modality for analysing social structures and social dynamics in terms of diversity, inequality, coercion and change in society. As far back as the seventeenth century, the notion that society is based on inequality and conflict was emphasised by Francis Bacon who wrote, with particular reference to the English legal system, that "the laws are like cobwebs, where the small flies are caught and the great break through". Similarly, the differential treatment of individuals by the law based on their relationship to power and other socially valued resources was captured by Machiavelli in the following lines: "he who steals a handkerchief goes to jail, who steals a country becomes a duke" (Inverarity, et al., 1983, p. 9). However, it was mainly the works of Marx and that provided the basis for the

emergence and development of conflict theory (Turner, 1982; Wallace & Wolf, 1980; Craib, 1984).

Marx argued that the existence of different social classes resulting from the competitive nature of the capitalistic mode of production produces conflict between the "haves" and "have-nots"--those who possess power and prestige and those who lack them. According to him, the dominant class in society exercised power to entrench its advantaged position. Weber, like Marx, asserted that certain social positions wielded considerably more power than others and that ideas were important in legitimating these social differences (Wallace & Wolf, 1980). It was the common ground established by these two thinkers that formed the basis for the subsequent development of conflict theory.

According to Marx, human relations changed fundamentally as a consequence of the replacement of the primitive communal stage of society with the division of labor and the subsequent emergence of antagonistic groups or classes (Coser, 1971). Since then, the history of all existing societies has been characterized by class struggle generated by economic forces. Marx conceptualized classes as aggregates of individuals performing similar or comparable functions in the social organization of production and differentiated by ownership of the means of production, access to relatively scarce resources and power, and class interests (Coser,

1971). The consequences of this situation are the existence of social stratification and conflict. Stratification and conflict constitute the essential elements of the conflict perspective.

The conflict approach has certain specific implications for the sociology of law. Sellin (1938) presents a view of conflict in society based on the existence of different cultural groups. He contends that laws in pluralistic societies represent the norms and values of the dominant cultural group. From this viewpoint, conflict results from the failure of the dominant cultural group to enact the conduct norms of other cultural groups into law. That is, laws do not represent a consensus on values but instead they reflect the conduct norms of the dominant cultural group in society. In the words of Berger and Luckmann, "he who has a bigger stick has the better chance of imposing his definitions of reality" (1981, p. 127).

Although the works within the perspective share core concepts and theoretical statements, conflict theory is not a homogeneous and unified perspective. There are key differences over such issues as the definition of class, and the ultimate cause of inequality which divide the perspective into two distinctive traditions: the critical (or Marxian) and the analytical schools of thought (Wallace et al., 1980, p. 77).

THE CRITICAL CONFLICT THEORY

This perspective is also called radical theory. Among others, modern Marxist theorists, the Frankfurt school theorists and C. Wright Mills can be said to subscribe to this perspective.

In general, this orientation views society as highly stratified or segmented along a single dimension of class relations. Adherents of this theory posit that the ultimate cause of conflict and inequality is to be found in the economic structure of society. According to this view, differences in the amount of power possessed by groups in society are largely determined by the nature of economic activity and the positions of groups relative to the means of production. Through the private ownership and control of the means of economic activity, capitalism erects a hierarchical class structure characterized by social and economic inequality and class conflict. Capitalist society comprises two essential classes with opposing interests and differences in power. Those who have ownership and control of the means of production--the capitalist class--are guaranteed economic and political power which enables them to exercise dominance over those who lack these resources--the working class (Brickey & Comack, 1986). An integral part of class conflict is the endless struggle by groups to gain control of the state which has the ability to enact and enforce law (Chambliss & Seidman, 1982).

THE ANALYTICAL CONFLICT THEORY

Adherents of this strain of conflict theory see the creation of law as:

a process aimed at the resolution of contradictions, conflicts and dilemmas which are inherent in the structure of a particular historical period (Chambliss, 1976, p. 30).

Contradictions are inevitable as they inhere in the fundamental logic of the social structure. From the social structure emerge contradictory interests which, when pursued, produce conflict in society. Attempts are made by both capital and the state to deal with the conflict in a manner which does not jeopardize the social structure, thereby leaving the basic structural contradictions intact. In this way, the capitalist system is maintained and law becomes a mere "symptom-solving mechanism" (Brickey & Comack, 1986, p. 107). Although the capitalists are better able to translate their interests and conduct norms into law than are the working classes, the scope and content of the law is not simply a mirror-image of the short-run interests and ideologies of the ruling class but a reflection of the struggle by these groups to have their views represented in the law (Chambliss, 1976, p. 49).

Proponents of this strain (variously called analytical theorists, dialectical theorists and conflict pluralists) argue that conflict and inequality derive from the heterogeneity of society. Contemporary Western society comprises diverse groups

distinguished by such social factors as race, sex, education or income (Brickey & Comack, 1986); values (Cunningham, 1976); vested interests (Chambliss & Seidman, 1982; Milibani, 1983); and political power (Alford, 1975; Friedman, 1977). With the exception of race and sex, the other factors are considerably influenced by the availability of resources and the degree of social organization. Intra-group conflict inexorably results from the diversity in values and vested interests (Alford, 1975). Groups attempt to influence the conduct of the state in its law making and enforcement roles in order to advance or protect their interests. Those groups with the greatest political power are likely to be more successful than others.

Power can be defined as the ability of an actor to determine the conduct of other(s). Quinney points out that:

power and the allocation of values are basic in forming public policy. Groups with special interests become so well organized that they are able to influence the policies that are to affect all persons (1970, p. 12).

The extent to which each interest group is influential is largely dependent on its access to power in the existing political structure. Different groups are therefore in a constant state of conflict in attempting to gain access and to control the decision-making apparatus. Inevitably, there exists a social environment characterized by continuous conflict between existing

and new interest groups striving to establish their ideals as the prevailing standards for society. The following extensive quotation from Vold (1958, p. 77-78) elaborates on these dynamics:

This continuity of group interaction, the endless series of moves and countermoves, of checks and cross-checks, is the essential element in the concept of social process. It is this continuous ongoing of interchanging influence, in an immediate and dynamically maintained equilibrium, that gives special significance to the designation 'collective behavior' as opposed to the idea of simultaneously behaving individuals. It is this fluid flow of collective action that provides opportunity for a continuous possibility of shifting positions, of gaining or losing status, with the consequent need to maintain an alert defence of one's position, and also always with the ever-present and appealing chance of improving on one's status relationship. The end result is a more or less continuous struggle to maintain, or to defend, the place of one's own group in the interaction of groups, always with due attention to the possibility of improving its relative status position. Conflict is viewed, therefore, as one of the principal and essential social processes upon which the continuing ongoing of society depends (Emphasis added).

As groups strive to influence public policy and the

decision-making process, they seek the assistance of the state to help them defend their rights and to realize their interests. Thus, the ideas and standards perpetuated by interest groups become formalized through laws. In this way, the lives of others are influenced and controlled by the interest group which has become the prevailing power group.

This position in the political structure of the society makes it possible for the prevailing groups to define criminal and non-criminal behavior. Quinney argues that:

no behavior is criminal until it has been so defined through recognized procedures of the state. In this sense, 'criminal behavior' differs from 'non-criminal behavior' only according to the definition that has been created by others. It is not the quality of the behavior that gives it the character of criminality (1970, p. 207).

What is regarded as criminal behavior is determined by those segments of society which have the power to shape public policy.

The point here is that crime is a definition of human conduct that is created by authorized agents in a politically organized society (Quinney, 1971, p. 15). In other words, analytical conflict theory views criminal law as a reflection of the interest of particular powerful groups in any given society (Box, 1981, p. 47).

Analytical conflict theorists do not restrict their views to

a narrow economic determinism. Instead, they see the legal system as an arena in which various kinds of groups compete with one another (Gusfield, 1963; Quinney, 1979; Chambliss & Seidman, 1982). Indeed, prohibition, abortion, gay rights, and school prayer are a small sample of the many issues over which interest groups have fought, but these issues were not defined primarily by their relationship to the economic system. Thus, although the economic elite often try to influence legislation it does not always predominate over other interest groups (Berk, Brackman & Lesser, 1977; Hagan, 1980; Conklin, 1987).

Lewis (1985) suggests that conflict theory can be valuable in the analysis of social policy because it highlights the potential conflict between competing groups within society seeking to secure their particular aims.

SUMMARY

Functionalism and conflict theory are in direct opposition in their analysis of society, generally, and, the social dynamics of legal norms, in particular. Whereas functionalists have characteristically interpreted the law as reflecting societal consensus (Evan, 1980, p. 60-90), conflict theorists view the law as the product of one group's victory over other groups in a contest to define what behavior is acceptable.

This writer suggests that although both perspectives illuminate the origins of social policies and laws, conflict

theory is of much greater utility for this research than functionalism. Yet, not even analytical conflict perspective which recognizes the role of conflict, power and coercion (from a multiplicity of sources, unlike the position of the radical strain) focuses enough attention on the emergence, struggles, dynamics and determinants of the successes and failures of interest group activity. Attention must therefore be turned to interest group theories.

INTEREST GROUP THEORIES

From the perspective of the analytical conflict theory, it can be said that in any given society, at any given time, it is unlikely that all individuals or groups will approve of the prevailing social order and its systems of legitimation. This is particularly true of developed capitalist societies in which dissent often finds expression in formal organizations, interest groups and political parties. Certain individuals or groups such as socio-political movements strive to introduce or maintain subcultural norms or orientations that are bound to conflict with others. In the final analysis, social reality including social policy reflects the inevitable struggle of various interest groups which attempt to establish or protect their conduct norms as standards for the entire society. The formulation of criminal law, for instance, is a political act, and public policy is established by the powerful for governing the lives and affairs of

all members of a society. Law-making then is the translation of specific group interests into public policy.

The point here is that social differentiation and stratification in society imply social conflict which serves as the pivot for interest group activities. The diversity of groups protecting and/or promoting their interests in society (Colgrove, 1978, p. 155) and the complexity of motives which inform social action and choices over socio-cultural orientations have been extensively documented by Turner (1981), Cohen (1982) and Alberoni (1984).

Interest groups function as units of organization and formal articulation of the concepts and demands of their members in the political process. They may be protective, such as trade unions and professional associations which defend the interest of their members, or promotional groups which seek to advance or promote a cause such as the Conservation Society (Blondel, 1963). While the former represent the interests of specific groups in society, the latter tend to be cross-sectional. Promotional groups are often unrepresentative of any formal, identifiable group. The strategies adopted by interest groups in pursuit of their goals vary in accordance with their perception of the nature of their target group, the extent of sympathies they enjoy in the existing social system, and the resources at their disposal.

There are three paradigms or models of interest group

activity. These are the pluralistic, elitist, and class paradigms or model (Alford, 1975; Marger, 1981).

THE PLURALIST PARADIGM

In this paradigm, public authority is predicated on coexisting groups which reach an accommodation of their conflicting interests (Lewis, 1985, p. 29). It is the responsibility of the government to maintain the equilibrium which emerges as a result of accommodation between the conflicting groups. From this perspective, the government is not the instigator of social policy but simply an agency for facilitating agreement (Kariel, 1968).

The pluralists assume that diverse groups and interests intermittently present conflicting demands to political parties and other elite coalitions that in turn aggregate and represent those demands to leaders and officials (Alford, 1975, p. 146). The state is visualized as a mosaic of agencies and organizations, each of which is an institutionalized response to an historic sequence of demands and responses to those demands. As a means of defining the essential commitments and objectives of the state, these demands are filtered or screened via a complicated process of political, social, and economic competition. This process is facilitated by high level political leaders and statesmen who mediate and compromise those demands that come to their attention. According to Alford (1975) the issues that eventually reach the

political arena are relatively limited in number, scope and intensity since they occur within the narrow boundaries of a fundamental consensus on basic values and the institutions embodying them.

The pluralist perspective conceptualizes the state as a multiplicity of overlapping jurisdictions competing with each other for scarce resources such as manpower, functions and money. Each jurisdiction is linked to a public and seeks to expand its constituency or support-base to the maximum degree possible, while at the same time retaining maximum autonomy from the others.

Pluralism assumes that individuals belong to multiple groups with diverse goals and varying points of view. This situation is believed to encourage a tempering of claims by individuals and to facilitate compromise, thereby maintaining stability in inter-group relations (Lewis, 1985, p. 29). Presthus (1973) and Eckstein (1960) also contend that multiple group membership along diversified lines generates and enhances interest in politics. The diversity of ideas competing for attention in the political arena engenders a broadening of knowledge among policy makers who are thereby more likely to make intelligent government decisions.

Moreover, pluralism maintains that the existing social order and its political apparatus are legitimated by interest group activities, even those which challenge certain aspects of the social system, as long as activities occur within the socially

approved channels for the articulation of demands. As Van Loon and Whittington note, by forwarding inputs through legitimate media, interest groups provide, "at least implicitly, supportive inputs for that system" (1971, p. 298).

According to Alford (1975), the pluralist paradigm has an utopian image of democracy, in which the core function of the state is the achievement of consensus for the maintenance of social order through continuous exchanges of demands and responses by social groups and government. Group formation is free and voluntary within the larger society and access to authoritative bodies for the expression of interests and values and the attainment of unbiased hearing is guaranteed. A shifting equilibrium of demands and responses constitutes the essential character of the political process, and no single group enjoys a predominant position over others.

The pluralist paradigm has its limitations. For one, it fails to explain adequately how conflicting groups succeed in achieving the consensus to which governments presumably respond. It also assumes a state of equilibrium which is difficult to find in society. As Miliband (1983) puts it:

What is wrong with pluralist-democratic theory is not its insistence on the fact of competition but its claim (very often its implicit assumption) that the major organized "interests" in these societies, and notably capital and

labour, compete on more or less equal terms, and that none of them is therefore able to achieve a decisive and permanent advantage in the process of competition. This is where ideology enters, and turns observation into myth (p. 131).

Studies by Thompson and Stanbury (1975) indicate that groups with superior organizational and/or economic resources are able to exert greater pressure on policy makers and to attain their desired objectives than are groups possessing fewer of these resources. Thus, the pluralist theory cannot be sustained within the framework of contemporary society (Lewis, 1985, p. 30).

It neglects the fact that groups in society may lose their capacity to act as intermediaries between their constituents and other groups, to soften members' demands and to negotiate reasonable bargains with other competing groups. This state of affairs describes what Alford (1975) calls a mass society. It is a situation which invariably permits certain groups to make unrestrained demands as the mediating and negotiating capabilities of societal elites become considerably weakened. As a model essentially concerned with the "normal" processes of group formation and representation, the pluralist paradigm is incapable of dealing with such developments, except to criticise them from a normative, value-laden perspective (Alford, 1975, p. 149).

The paradigm of pluralist democracy has also been criticized for ignoring the way that different elites interlock to form a

single ruling class (Somhoff, 1978a, 1978b). When pluralists study power in local communities, they usually tend to overlook matters such as the impact of a national ruling class on the definition of problems or issues deserving of attention, how those issues are dealt with, and what decisions are eventually reached. Dahl (1982), a leading pluralist acknowledges such inherent flaws of democratic pluralism as its failure to pay attention to the way that organized interest groups can reinforce social inequality and promote their own narrow interests. This weakness of pluralism is one of the strengths of the elite paradigm.

THE ELITE PARADIGM

Elite theory posits that power is wielded by a system of interconnected elites who share an identical world-view, dominate most policy-making, and "limit policy to marginal changes that do not upset the status quo" (Adie & Thomas, 1982, p. 94). Elitists assume that all societies, simple or complex, require authorities to maintain social order. Pareto and Michels were among the first social theorists to propose that every organization is inevitably controlled by a small group of talented, expert, or ambitious leaders (Conklin, 1987, p. 452), a phenomenon which Michels (1962) calls the "iron law of oligarchy". In every sector of society and social life, a minority of people emerge to become leaders and determine the policy decisions. Once it has attained power, this elite seeks to preserve its control and the advantages associated

with it, and to pass these on to its hand-picked successors (Conklin, 1987, p. 452-3).

Elites in different sectors of society are said to possess characteristics that differentiate them from other elites. Elites are united by certain basic interests, although some elites are more powerful than others (Keller, 1968, p. 26) due to the greater social significance of their activities. As Alford (1975, p. 147) puts it, "power is held by those who hold dominant positions within the organizations that control key resources". In order to have any impact on policy formulation, elites and their interest groups must reach some threshold of size, homogeneity, and organizational capability (Alford, 1975, p. 147). This view is sustained by Thompson and Stanbury (1975) whose studies reveal that groups with superior organizational and/or economic resources are better able to influence policy makers to implement policies crucial to the welfare of their members.

According to this perspective, elites of bureaucratic organizations are imbued with considerable power and are hardly restrained by pluralistic debate and competition. This power is a function of a combination of expertise, hierarchical control, and the capacity to allocate human, technological and material resources.

Elitists contend that although power is concentrated in a few specialized groups, the groups govern for the "collective good of

society". Although elites compete, they also cooperate with each other in ensuring that the social order remains basically unchanged. In the elitist paradigm, politics is essentially the co-operation of a relatively few elite groups who determine major government policies in their mutual interest (Garson, 1977). It becomes the responsibility of elites to emphasize common goals rather than divisive sentiments in order to coordinate the activities of interest groups.

Elite theory has been criticised on several grounds. Critics allege that while the existence of people who hold great power is indisputable, those powerful individuals do not necessarily constitute an elite--a "cohesive, self-sustaining, and self-serving" group (Marger, 1981, p. 81). According to Conklin (1987, p. 453-4) critics also allege that elite theory pays too little attention to the lack of coordination among people who hold power and ignore the often bitter disagreements among those people about what is the best policy. Furthermore, elite theory is criticised for slighting the power wielded by the electorate and for giving inadequate attention to the contributions of intermediate organized groups to the decision-making process (Dahl, 1961; Rose, 1967).

THE CLASS PARADIGM

The class paradigm views organizational elites as operating within a framework of economic appropriation and cultural hegemony

that rarely challenges the principles defining the basic structure of the society (Alford, 1975, p. 148). The social product of the society is disproportionately allocated, with a very large portion of it going to a relatively small portion of the society that constitute the "ruling class". This mode of unequal distribution is sustained and guaranteed by the very principles which define the social structure. Power is held by those classes which receive maximum benefits from the existing social structure in any given historical period (Alford, 1975, p. 148). Class theorists argue that power results from control of the economic system. In societies such as the United States and Canada that are characterized by industrial capitalism, power is the product of the control of corporate wealth. The state is regarded as a tool that capitalists use to protect their interests and maintain their dominant social position (Miliband, 1969, 1977; Syzmanski, 1978).

While the class paradigm recognizes the reality of a diversity of social groups representing a wide variety of interests and values, it regards the idea of "consensus" as merely a manifestation of the cultural domination of intellectual and political life by ideas and attitudes which serve to maintain the class system. To the extent that the issues and demands arising from pluralistic diversity do not challenge the basic institutional framework, they are relatively unimportant.

This paradigm regards bureaucratization as an indispensable technological apparatus essential for the management of a class society. It also holds that elites operating bureaucracies seldom, if ever, challenge the premises of the institutional allocation of the social product (Alford, 1975, p. 148). From the perspective of the class paradigm therefore, neither the pluralist nor the elitist paradigms effectively elucidate state-society relations and the role of interest groups.

The class paradigm pays a great deal of attention to economic factors. One of the strongest criticisms of this paradigm is that it ignores non-economic variables. Although class is certainly an important dimension of politics, other factors such as religious beliefs and moral values are also crucial. In the context of the U.S., Conklin (1987, p. 455) points out that conflict over school prayer, and abortion, issues hotly debated in the political arena in recent years, cannot easily be accounted for strictly in terms of class. Abortion and sex education in Canada have also been contentious political issues, with the participants on both sides of the issue drawn from the various levels of the class structure.

THE UTILITY OF THE PARADIGMS

In searching for the most appropriate theoretical model for the research at hand, the following question is posed: Which of these theories come close to providing a satisfactory explanation of why certain interest groups are more successful than others?

In other words, which of the three paradigms has the greatest explanatory power on interest group activities and their relative successes or failures vis-a-vis others?

The pluralist paradigm recognizes that society is characterized by diversity rather than consensus. However, it presumes the socialization of individuals to a set of core values, beliefs and traditions which constitute the reigning world-view. In western democracies, this implies the absence of any predominant interest groups or classes (Miliband, 1983). On the contrary, society is composed of "competing blocks of interest", various groups informed by different ideologies and characterized by different values and interests which generate conflict among these groups (Chambliss & Seidman, 1982; Cunningham, 1976; Miliband, 1983).

Furthermore, by emphasizing consensus, equilibrium and equality, pluralism can be subsumed under functionalism. This notion is buttressed by pluralism's conception of the state as a neutral mediator accommodating and reconciling intergroup differences. This is an essentially organismic view of society in which the role of the state is to maintain an equilibrium within the social system.

Pluralism is able to explain neither power differentials among interest groups nor the relative inattention paid to certain groups by the state. It merely assumes that the state will

promote the interest of all groups fairly and responsibly in order to avoid the withdrawal of support by groups which might feel cheated or slighted (Alford, 1975; Miliband, 1983) and that whatever power differentials there are will be neutralized by the state which fears the potential loss of its mandate.

Pluralist claims concerning the role of the state, the nature of power and its use in state-society and intra-group relations cannot be sustained in contemporary Western societies. That some interest groups are better able to exert power on governments than others is an indisputable fact. That governments sometimes (if not often) reflect the views of the dominant sectors of society is an empirically valid statement. That the dominant sectors of society usually comprise those individuals or groups possessing greater amounts of valued resources or attributes (be they economic, intellectual, religious, etc.) is also an empirically valid statement (Berger & Luckmann, 1966). Power and its holders constitute the key to organizational success.

It is essentially the notion of the diversity of sources of power and influence that exposes the limitations of the class paradigm. Its basically monocausal conception of power does not conform to the concrete situation in developed Euro-American societies. Economic variables are not everything. The success of the civil rights movement in the U.S. was not simply a function of economic power possessed by blacks per se. It was a combination

of boycotts (which posed real and potential dangers to the welfare of white, corporate America), organizational competence, numbers and campaign strategies and ideology which made for its success. Additionally, the issues that give birth to interest groups are not always economic, even if some of them have and/or develop some remote economic dimensions. Thus, when confronted with non-economic issues in state-society and intra-group relations, the class paradigm becomes an inadequate theoretical model.

It is the elite paradigm that offers a better explanation of the relative success of certain interest groups as against others. This is because it alone recognizes the crucial role of power not narrowly conceived in economic terms but in the broader sense of the capacity of actors to influence the conduct of others. In this sense, sources of power may be as numerous as the resources valued by society. Furthermore the elite paradigm pays attention to the dynamics and determinants of organizational success beyond the issue of power.

INTEREST GROUPS AND SOCIAL POLICY FORMULATION

According to Presthus (1973), the vital role of interest groups in Canadian governmental processes and the formation of social policy can best be understood in terms of his theory of "accommodation of elites" which regards the political culture as fragmented along ethnic, regional and party lines. Presthus holds that a dominant, economically-oriented brokerage system

characterizes politics in Canada and that this serves to insure a prominent role for interest groups. Presthus contends that in most Canadian policy making a process of ad hoc bargaining and compromise between competing groups is the major means of resolving conflicting interests and the activating force in the behavior of governmental elites. Interest group influence is thus strengthened for those who are strategically located, either as confidantes of the governing elite or as sources of economic and political support for those in power (Lewis, 1985, p. 32).

Although opinions differ on the strength of interest group influence in Canadian policy formation, in general, it is believed that leaders of important interest groups play direct, continuous and active roles in the Canadian political apparatus (Presthus, 1973, p. 8). Van Loon and Whittington (1971), Presthus (1973) and Thompson and Stanbury (1979) note that powerful interest groups associated with the business community have always been very influential in the formation of social policies in Canada. Thompson and Stanbury (1979) suggest that policy outcomes tend to promote the interests of the economic elite, and more generally, the preservation of the status quo.

In order to have any impact on the formation of social policy, interest groups must reach some threshold of size, homogeneity, and organizational capability (Alford, 1975). Eckstein (1960), Thompson and Stanbury (1979) and Van Loon

Whittington (1971) agree that the most influential interest groups are those possessing physical resources and organizational cohesion.

The point here is that actors in the political arena take into consideration their perception and interpretation of the power of other actors before embarking on certain major or significant actions. Power encompasses economic and other human resources, as well as the organizational strength of interest groups.

It must be pointed out that wealth may provide interest groups access to influential political leaders or bodies, directly or indirectly through the media. Furthermore, group cohesiveness strengthens the bargaining power of the group which is thereby better able to present a unified, carefully articulated position as well as to deflect the arguments of other opposing groups.

Congruence between the demands of interest groups and the ideological position of the target group or governing elite is also crucial to the success of interest group activities. As Lewis (1985, p. 17) points out, a nation's social policies are generally assumed to be developed as solutions to social problems based upon perceived need, but the recognition of and solution for "need" is vitally affected by the ideology of the prevailing political stance. Sexual norms and values are affected by the prevailing political ideology of a society. Thus, Leman (1977)

and Bryden (1974) suggest that Canadian social policies (of which policies on sexuality are a part) are influenced by the political ideology of the party in power. However, pressures from certain segments of the public can sometimes precipitate action on particular issues. The development of sexual norms must therefore be seen not only as a function of the political and cultural atmosphere which facilitate their emergence but also as a product of moral entrepreneurship or lobbying by certain interest groups. In the context of Canada, lobbying by interest groups is so important that Lewis (1977, p. 40b) suggests that "lobbying is the fourth--occasionally the senior--arm of government". Lobbying refers to the tactic of pressuring lawmakers and agency officials in order to influence policy (Conklin, 1987, p. 450). This includes letter-writing, petitioning, advertising, demonstrating in public, and raising campaign funds in order to influence policy makers and enforcers.

DETERMINANTS OF INTEREST GROUP SUCCESS

As emphasized in the preceding section, there are a number of internal and external factors that affect the extent to which organizations can achieve their goals in the political arena. A discussion of these factors follows.

A. INTERNAL FACTORS

1. WEALTH OR PROPERTY

The possession of wealth, property or physical resources gives access to the most commonplace exercise of power which is the bending of one person or group of persons to another by straightforward purchase (Galbraith, 1984, p. 47) The association between property and compensatory as well as condign power is very pervasive, although contemporary society tends to repudiate its most obvious manifestations. Power is said to be condign if it wins submission via its ability to impose a sufficiently unpleasant or painful alternative to the preferences of the individual or group so that these preferences are abandoned. It inflicts or threatens adverse consequence as a means of winning the submission of its target. In contrast, power is compensatory if it "wins submission by the offer of affirmative reward - by the giving of something of value to the individual so submitting" (Galbraith, 1984, p. 4-5). Personal or public rebuke and praise are forms of condign and compensatory powers respectively. The access of property to the instruments of power has been diminishing, just as in political life, the direct purchase of submission is declining. Nonetheless, the importance of the role of property in public affairs, including political struggles over deviant definitions and the deconstruction of deviant identities, derives from the access pecuniary resources give to persuasion--to

conditioned power. As Galbraith (1984) puts it, "the modern man of wealth no longer uses his money to purchase votes; he contributes it to the purchase of television commercials and by this means hopes to win conditioned submission to his political will" (p. 49).

The possession of wealth then has the potential to accord interest groups a measure of access to conditioned belief; it also grants them the facility to "recruit" other groups or individuals to support their cause, as well as the outright purchase of support on occasion. In other words, wealth or property in the hands of an organizationally competent interest group can be transformed into an effective instrument of power, enabling the establishment or hiring of public relations machinery for the dissemination of information to target groups and the public generally. Access to the media, requires money; the education of the public, and the presentation of the "self" of an organization and its goals, all require money.

Thus, although property is not an all-important source of power today as it used to be in the era of slavery, it is not unimportant either. Through compensatory power it wins the daily submission of the work lives of millions, and it helps win the effort, as well as the belief, of those who guide the great economic enterprises (Galbraith, 1984, p. 53).

2. ORGANIZATIONAL STRENGTH

In the modern state, the power derived from wealth or property has become subservient to that derived from organization. Organization has now replaced property as the ultimate locus of power in the modern large business enterprise (Galbraith, 1984, p. 52). Lindholm (1977, p. 26) holds that the ultimate source of all power is organization. Although this position seems overstretched, it suggests the growing importance of organization over other sources of power. Galbraith (1984) captures the total, enduring power of organization when he writes:

Organization can have access to condign power; in its normal association with property it has access to compensatory power; overwhelmingly, and especially in its modern form, organization has access to conditioned power. In fact, it is for the exercise of conditioned power that most organizations is brought into existence (p. 56).

According to Galbraith (1984) organizational competence depends on three critical variables. First, an organization wins submission to its purposes externally only as it wins submission within. That is, the strength and reliability of its external power depend on the depth and certainty of the internal submission it commands.

Second, the power of an organization depends on its association with other sources of power (including other

influential bodies) and on its access to the instruments of enforcement. Third, organizational strength, with the notable exception of the state, depends on the number and diversity of the purposes for which submission is sought: the greater and more diverse the purposes on which an organization seeks to enforce its power, the weaker it will be in gaining submission to any one of them (Galbraith, 1984, p. 57).

These points need further clarification and illustration.

a) INTERNAL COHESION/HOMOGENIETY

To be effective, an organization or lobby group must possess the ability to mobilize its members to submit themselves to its leadership, directions and strategies. Homogeneity or internal cohesion and discipline are a sine qua non to organizational competence. The presentation of the organizational "self" to the public is also made much easier and much more readily comprehensible to others when there is internal unity and consensus on which versions of "self" would be presented to the public. A high degree of factionalism within movements and groups, coupled with a great variation in individual commitment, can be seriously dysfunctional to organizational competence. The existence of many gay groups in America with considerable variations in social composition and degrees of militancy perpetually blocked the consolidation and unified direction of the gay movement at the national level and largely accounts for the

rather limited successes chalked by homosexual organizations prior to the 1970s (Humphrey, 1970, p. 109; Schur, 1980, p. 220).

b. ASSOCIATION WITH OTHER GROUPS

Association with other organizations or bodies perceived by target groups as powerful or influential can be a source of considerable strength to a lobby group in the political system. This association can enhance the perceived credibility and acceptability of a lobby group and hence bolster its power of persuasion.

c) DIVERSITY OF GOALS

The number and diversity of an organization's purpose are also very crucial to its strength and effectiveness. As Galbraith (1984) succinctly points out, if the purposes of an organization are many and varied, both the sources and instruments of enforcement will have to be greater for a given effect than if the purposes are few and specific. Many political parties tend to be weak and lacking in solidarity and cohesiveness if there is a plethora of issues with which they are concerned and on which it is difficult to obtain internal agreement. In contrast single-issue interest groups tend to be much stronger mainly because of the narrow focus of issues around which they are organized, as well as their ability to maintain internal cohesion and a united public front. Organizations focusing exclusively on abortion, women's rights, gun control, a religious exercise in

schools tends to be effective because their members can unite on the single issue as they could not on more numerous matters (Galbraith, 1984, p. 69). As already noted, internal submission aids external power. However, this does not mean that single-issue party is uniquely powerful, since the ability of such organizations to expand or enlarge their constituencies is limited. Indeed, even the narrowness of the issues around which they are organized makes possible and effective, a countering condition and belief (Galbraith, 1984, p. 69). Nonetheless single-issue lobby groups tend to be powerful largely because they are often clearly united on definite issues or goals which allow for effective organization.

3. LEADERSHIP

Leadership is also a key component of the power of organizations. An informed, committed and purposeful leadership has a greater chance of obtaining its goals and objectives than one possessing fewer of these attributes. For example, the rise to power and dominance of Benito Musolini and Adolph Hitler had as much to do with leadership as with the other sources and instruments of power.

4. STRATEGIES

The instruments or strategies of persuasion employed by interest groups to advance their goals also affect the rate and extent of their success. Petitions and picketings, demonstrations

and rallies, and hunger strikes, (among others), are likely to evoke different responses from targets. It is likely that less dramatic or more conventional tactics like picketings and petitions will have a greater chance of being favourably responded to than more episodic or "grandstand" measures.

5. SIZE OF MEMBERSHIP

Numbers are also important in determining the effectiveness of organizations involved in political struggles. Large constituencies tend to be more politically effective. Many politicians are fearful of losing their seats or political clout especially in situations where a simple-majority determines the winner. Numbers also have the advantage of granting to an organization an appreciable pool of financial, personnel and other resources to utilize. Picketing, rallies and demonstrations by lobby groups depend in part on numbers for their success or failure.

B. EXTERNAL FACTORS

1. PERCEPTIONS AND ATTITUDES

The ability of lobby groups to attain their goals is influenced by the nature of public perceptions operative in the political environment. Perceptions of means as well as ends, and of justifications as well as ramifications strongly influence peoples' ordering of priorities and decisions regarding support (Schur, 1980, p. 212).

In other words, the reigning attitudinal context within which organizations struggle to obtain their goals is important in determining their success or failure since politicians and other target groups tend to be sensitive to the perceptions of the public. Politically weak and insecure governments and politicians or target groups tend to be especially sensitive to this factor in deciding whether or not to support the demands of lobby groups. In this regard, lobby groups must actively seek to influence conceptions regarding the nature of the "problem", the justness of their cause, the necessity of their tactics and the consistency of their own priorities. In the words of Schur (1980) "activists must advance claims about the very process of claims-pressing itself" (p. 212).

2. IDEOLOGY

Another important external factor is the ideology of the target group. Congruence between the ideological position or commitment of the target group and the demands of an interest group may be an important measure of the chances of the latter in obtaining its goals.

PROPOSITIONS

From the perspective of the elitist theory on interest group activity, the following propositions were deduced for testing:

1. The success or failure of an interest group in securing laws beneficial to its members will depend on the amount of valued

resources and organizational strength it possesses.

2. The demands of an interest group will be favourably responded to if they are in accord with the dominant ideology of the ruling elites.

3. The ruling elites will take into account its perception of the position of the public on specific interest group demands.

CHAPTER FOUR

METHODOLOGY

In this chapter, the methodology employed for testing the research propositions outlined in Chapter three is discussed.

THE RESEARCH SITE

This thesis focuses on the actions of homosexual interest groups in the city of Winnipeg. There are two groups in Manitoba championing the cause of gay/lesbian rights, and both were located in Winnipeg. These organizations are: Gays for Equality (GFE) and The Sexual Orientation Lobby (SOL). Although these groups have worked co-operatively on a number of projects and programs, because they have different histories, membership and objectives, for the purpose of this study they are treated as separate lobby groups.

DATA PRODUCTION

SAMPLING

All submissions presented by the two homosexual lobby groups to the Attorney-General of Manitoba, the Manitoba Human Rights Commission (MHRC) and the current leaders of the three provincial political parties (the New Democratic Party [NDP], the Progressive Conservative Party [PCP] and the Liberal Party [LP]) were included in the sample. The official responses of these five target groups were also included in the sample. The opposition parties were included for two interrelated reasons. First, in a broad sense,

they are considered part of the ruling elites, and their policies and actions in the political sphere impinge on the behavior of the government party and the public. Second, they were actively lobbied by the homosexual lobby groups. Indeed, the PCP was in power in Manitoba from 1977 to 1981, and during this period, they were the key target of homosexual lobbying. In considering government responses to lobbying in pluralist democracies it is imperative that attention is paid to the position and behavior of opposition parties with regard to the issue on which action is required. Politics in pluralist democracies is an interactive enterprise involving the government party and the opposition (who jointly form the "head" of the ruling elites), and the public who are governed.

SOURCES

1. Archival Records

Archival records of the two interest groups--GFE and SOL were examined. When I decided in February 1987 to study the politics of homosexual rights legislation as a deconstructive process, my initial concern was how I would secure access to any homosexual lobby groups and obtain their co-operation. Like most people in the "straight" world, I had a great deal of misconceptions about homosexuality and homosexuals. I combed through the Manitoba Telephone Directory and found the phone number of Gay Community Services on Broadway Avenue. I left a message on the answering

machine to the effect that I would be interested in meeting with the leadership of any homosexual lobby groups for the purpose of interviewing them for my Master's thesis in Sociology at this University. Chris Vogel, spokesperson of GFE returned my call the same evening and we scheduled an appointment for a pilot interview the next day, February 3, 1987. This was to enable me to gauge the amount of co-operation I could expect.

My meeting with Mr. Vogel and Richard North, his partner, was very useful. His willing co-operation and openness encouraged me to ask for access to GFE's files and other judicial records. I also asked if I could have copies of North's open letters to the Attorney-General during his (North's) hunger strike in the Spring of 1985. Mr. Vogel invited me to GFE's library the next day where I could take a look at their files and borrow some books if I so desired. They agreed to give me copies of North's open letters. During my visit to the library, I obtained the files/records and the letters which are used in this thesis. Vogel also gave me the names, addresses and phone numbers of Margaret Coghill and Darryl Kippen, two leaders of the SOL. I contacted them the following day and they agreed to meet and talk with me at Coghill's residence. They gave me permission to review their files and provided me with copies of their lobbying literature and postcards. Coghill also agreed to grant me an interview.

The use of archival records of various sorts in sociological

research is quite popular (Smith, 1981). According to Webb and his associates (1966) there are two types of archival records--public and private. Among the four types of public records (viz: actuarial records, governmental records and documents, political and judicial records, and mass-media productions) political and judicial records have been extensively utilized for sociological purposes (Smith, 1981, p. 144).

(a) Political and Judicial Records

The political records and files of the two interest groups noted above were examined. In a study of interest group activities it is crucial to consider the impact of lobbying on target groups. Indeed, this was a major objective of this thesis: to ascertain the relative impact of the homosexual lobby groups on their targets, and to determine the factor(s) making for their success. Therefore, it was essential to do a content analysis of the archival records of the Manitoba Human Rights Commission, the Attorney-General's Department and the leaders of the three political parties in Manitoba pertaining to the lobbying activities of these interest groups. The objective here was to determine the responses of these target bodies to the socio-political movements advocating reform in the perception and treatment of homosexuals in Manitoba.

(b) Letters

Private archival records were also employed in this research. Personal documents in the form of open-letters to the Attorney General of Manitoba and the Chairperson of the current provincial government caucus were examined. These letters were written by Richard North during his hunger strike to protest the failure of the government of Manitoba to include sexual orientation in the Manitoba Human Rights Act (MHRA). Mr. North commenced his hunger strike on March 8, 1985, the same day that the thirty-second provincial legislature reconvened for the fourth session. The hunger strike lasted a total of fifty-four consecutive days during which Mr. North wrote forty open-letters (one per each working day) backing his protest and calling for protective legislation to cover homosexuals in Manitoba.

The North letters constitute an invaluable source of information on homosexuality and the dilemmas and challenges of homosexuals in Manitoba. The letters also chronicle the attempts of homosexual groups to instigate amendments to the Manitoba Human Rights Act and the official (governmental) responses to these demands.

Letters have been extensively used by historians although less frequently by social scientists (Nachmias & Nachmias, 1981, p. 256). Thomas and Znaniecki (1927) utilized letters in their classic study of the immigration of Polish peasants to America

(Smith, 1981, p. 146; Nachmais & Nachmias, 1981, p. 256). An assessment of the impact of propaganda on German troops was undertaken by Janowitz (1958) using letters and diaries captured from German soldiers in World War II (Smith, 1981, p. 146). In a recent study, Dexter (1964) also employed this technique to examine public opinion reflected in letters to the U.S. Congress (Nachmias & Nachmias, 1981, p. 256).

INTERVIEWS

Interviews were used to explore undocumented dimensions of the lobbying activities of the two interest groups. The executive members or spokespersons of GFE and SOL were interviewed. The leading targets of these two groups, namely the Attorney-General of Manitoba, the immediate past Chairperson of the Manitoba Human Rights Commission (MHRC) and the leaders of the two opposition political parties in Manitoba, - the PCP and the LP - were also interviewed. Due to time constraints, the leader of the NDP of Manitoba was not available to be interviewed. Instead, the chairperson of the party's caucus in 1985 who was also the Speaker of the legislature during the debate, was interviewed. The current chairperson of the MHRC was unavailable to be interviewed because of her rather busy schedule.

With the consent of the interviewers, I tape-recorded all the interviews while jotting down notes. There was a very good response rate. Of the nine people contacted (the two leaders of

the lobby groups and representatives of the seven target groups) only two people, the leader of the NDP who is also Premier of Manitoba, and the current chairperson of the MHRC, were unavailable to be interviewed.¹

The interviews took place in the offices of the respondents during August and September, 1987. A relatively unstructured interview format was used, in order to explore the respondents' frames of reference and opinion structure (Smith, 1981, p. 156) concerning the subject matter. A copy of the questions designed as a guide for the interview is provided in Appendix A. I developed an effective rapport with the respondents and the interviews were relaxed, comfortable, lively and business-like. My experience with a previous research in which I interviewed prostitutes for my Bachelor's thesis in 1982 proved beneficial to me. I provided non-directive feedback to the interviewees which encouraged them to divulge more information. Except for one respondent who was obviously uncomfortable with the subject matter of homosexuality and reminded me how lucky I was to gain an interview with him, the respondents were friendly. The interviews lasted for an average of forty minutes.

VALIDITY AND RELIABILITY OF THE DATA

The archival and judicial records and letters used in this thesis were obtained exclusively from the homosexual lobby groups. None of the target groups were able to furnish me with the

documents I requested. Most said they needed to examine their archives/files and that would take a lot of time. Others said their documents on this issue were unorganized and therefore could not be given out.

RELIABILITY

The problem of lack of reliability was resolved by the use of tape-recorded interviews in addition to note-taking. By replaying the tapes and comparing the information with the notes, I could confirm or guarantee the accuracy of the quotations. Another reliability check employed was requesting a second person to listen to tapes to ensure that the transcribed information was accurate.

VALIDITY OF INTERVIEW DATA

In terms of the validity of the information received from the interviewees, I paid attention to internal inconsistencies in their responses and tried to ensure, as far as possible, that they were valid. The interviews provided an opportunity for me to probe the issues further by rephrasing questions as a means of checking the accuracy of the information obtained.

I had no reason to question the authenticity of the documents obtained from the lobby groups. Specific claims by the lobby groups pertaining to opinion polls of public support for homosexual rights legislation were cross-checked for validity with the results originally reported in the media. Similarly, the

lobby groups' representation of the relative positions of the target groups on this issue was verified with the statements made by the targets in their letters, brochures, campaign leaflets, and responses during the interview.

ANALYSIS

Data from these sources were submitted to a qualitative content analysis and interpreted in light of elite theory of interest group activity within the analytical conflict perspective. Content analysis refers to 'means of summarizing, standardizing and comparing, or otherwise systematically transforming, already existing records' (Smith, 1981, p. 147).

This technique allows the content of letters, diaries, newspaper articles, logs, minutes of meetings, memoranda and other archival documents to be systematically analyzed. Content analysis is both a method of observation and a method of analysis. When it functions as the latter, it allows the researcher to take the communications produced by people and to ask questions about the communications. It is a device which can be effectively combined with an interview schedule.

Zito (1975) defines content analysis as:

a methodology by which the researcher seeks to determine the manifest content of written, spoken, or published communication by systematic, objective and quantitative analysis (p. 27).

This conceptualization of content analysis restricts it to the quantifiable manifest content of any piece of communication. From the perspective of Budd, Thorp and Donohew (1976), the broader question of the relationship between the manifest content and other variables are ignored by this usage. It is important therefore to adopt a definition of content analysis which encompasses the importance of latent content of archival documents, and which also facilitates the detection of patterns and regularities (Holsti, 1969). In this regard, Carney (1979) defines content analysis as:

any technique for making inferences by objectively and systematically identifying specified characteristics of messages (p. 25).

The advantage of this formulation is that it provides for a more flexible application of the method while at the same time expanding its utility beyond an analysis of the content of archival documents and other sources of information such as the mass media.

With regard to the activities of the two interest groups, attention was focused on the issues facilitating their emergence, the nature of their activities, their objectives and strategies, their organizational strength and the resources they possess, and how these factors have been instrumental in their attempts to attain their goals. Their attempts to refute arguments against

homosexual rights in order to justify their demands for the extension of Human Rights protection to cover homosexuals in Manitoba were also examined. In examining the responses of the target groups, the objective was to determine:

(a) Their perception of the homosexual lobby groups in terms of the power the latter possess via organizational strength/competence, resources and formidability. That is, do the target groups perceive the lobby groups as powerful enough to jeopardise their (the targets) political position should they ignore the demands of the lobby groups?

(b) The arguments, if any, against the inclusion of sexual orientation as a prohibited ground of discrimination in the MHRA.

(c) The formal position of the targets on homosexuality and homosexual rights in general as contained in their manifestos, official pronouncements, briefs, rulings, throne speeches and letters.

SUMMARY

The methodology for this research involves analysis of data derived from archival records and interviews. With regard to the former, political and judicial records of the lobby groups and their targets are examined, along with the Richard North letters written between March and April 1985. The official representatives or spokespersons of the two lobby groups as well as the five target groups in this research were interviewed. Data from these

sources were subjected to a content analysis and interpreted in light of elite theory of interest group activity within the analytical conflict perspective.

CHAPTER FIVE

HOMOSEXUAL LOBBYING IN CONTEXT

This chapter situates the lobbying activities of the two homosexual interest groups within the context of campaigning for human rights legislation. Attention is focused on the lobby groups in terms of the issues facilitating their emergence; the nature of their activities; their objectives and strategies and their substantive arguments for the amendment of the MHRA. The target groups' perception of the power of the lobby groups; their arguments against the amendment, and their formal positions on this subject are also examined.

THE MANITOBA HUMAN RIGHTS ACT

The MHRA enacted in 1970 amended several times since, forbids unfair discrimination in such areas as employment, rental housing, purchase of property and public contracts. Other areas include public places (services, facilities, accommodations), employment advertising and notices, signs, and symbols. It provides legal recourse, adjudication procedures, penalties and compensation provided that the discriminatory act is based on race, color, national or ethnic origin, age, sex, religion, political beliefs or source of income. Other grounds of prohibition include family status, marital status, physical handicap and mental handicap.

A HISTORY OF BILL 47

Demand for the inclusion of sexual orientation in the MHRA begun in 1972 when GFE presented a brief to the NDP government requesting an amendment of the Act to provide legal protection for homosexuals. In 1974, in conjunction with the Council on Homosexuality and Religion, GFE presented a brief to the MHRC on this matter. The SOL joined the campaign for amendment of the Act in January 1986.

In most jurisdictions, a "fair discrimination" exemption allows for discrimination on some grounds: for example, in special employment programs, by charitable and religious institutions, private clubs, and in jobs requiring agility. The GFE and SOL sought to add "sexual orientation" or "affectional preference" to this list of prohibited grounds for discrimination. They maintained, however, that none of the jurisdictions (e.g. Quebec) which protected homosexual persons from discrimination in employment permitted any exceptions, even for such occupations as teaching and child care.

In the same vein, positive discrimination, manifest in "quota hiring" for example, is allowed in some statutes, so that members of one or more groups are treated favourably at the expense of others. GFE contended that positive discriminatory provisions have never applied, and can never apply, to homosexuals. Such provisions, it noted, were "inappropriate and impossible in the

case of sexual orientation discrimination...as homosexuals are already distributed through all vocations and workplaces in the same proportion as they occur in the population" (Digest On Gay Rights, 1983, p. 3).

One objective of including "sexual orientation or affectional preference" in the HRA of Manitoba was to ensure that an employer could not fire or refuse to hire an individual simply because of that individual's sexual orientation. GFE and SOL added that the same protection from unfair discrimination would apply also in the areas of purchase or rental of housing or property, public services and other areas covered by the legislation. In other words, gay rights in the HRA, in and of itself, would neither be a legally acceptable criterion for employment, promotion tenancy, or service, as is the case with race, creed, national origin, or sex, nor a legally permissible ground for discrimination. It would not endow homosexuals with any special privileges, but rather it would protect them from discriminatory treatment.

The amendment was recommended by the MHRC in 1983 as part of a package aimed at strengthening the Act and providing legal protection for various minority and socially disadvantaged groups. The Attorney-General introduced it in the NDP caucus in December 1986. It was proposed as the 47th bill of the legislative session, and it was debated and passed by the provincial legislature on July 17, 1987. On December 10, 1987, the Act was

proclaimed by the government as part of activities commemorating the 1987 Human Rights Day.

THE MANITOBA HUMAN RIGHTS COMMISSION

In 1982, the MHRC announced that it was undertaking a comprehensive review of the Manitoba Human Rights Act. The Commission held public hearings in January 1983 in Winnipeg and other centers in Manitoba to collect suggestions for improving the Act. Subsequently, the chairman of the Commission, Prof. Dale Gibson of the University of Manitoba Faculty of Law, announced that there had been a great deal of support, and almost no opposition, for the addition of "sexual orientation" as a prohibited ground of discrimination (Digest on "Gay Rights", 1983, p. 9).

The Commission submitted its report to the NDP government in 1983. The report included a recommendation for the inclusion of "sexual orientation" in the Act.

HOMOSEXUAL LOBBY GROUPS IN MANITOBA

Although there are ten homosexual organizations in Manitoba, only two of them - Gays For Equality and The Sexual Orientation Lobby - can be regarded as lobby groups in the proper sense of the word. The other eight homosexual groups in the province are support/friendship groups providing counselling, education, information (phone-line) and other social services.¹

GAYS FOR EQUALITY (GFE)

This organization began in 1972 by a group of students on the University of Manitoba campus as a community service center for homosexuals. Its constitution, adopted in 1975, states the objective of the organization as "homosexual liberation". In The Manitoba Gay Directory, 1977, GFE explained that the group:

Seeks to bring about the necessary changes in society such that homosexuality is recognized as a form of love and sexual expression in every way as valid as heterosexuality (p.8).

In accordance with this objective, GFE has advocated reform of the Criminal Code to eliminate distinctions between the various forms of heterosexual and homosexual acts and to require the same age of consent for all. Furthermore, since its inception, it has been demanding amendments to the Civil Service Act, the Landlord and Tenant Act, Personal Investigations Act, and the legislation governing hate-mail, where human rights protection does not as yet apply to homosexuals.

GFE has also been lobbying provincial governments since 1972 to include the term "sexual orientation" in the Manitoba Human Rights Act in order to make discrimination against homosexuals illegal. This has been the major preoccupation of GFE, especially since October, 1973, when it hosted a national conference during the Gay Pride Week, with the theme centered on the inclusion of sexual orientation in provincial human rights codes.

THE SEXUAL ORIENTATION LOBBY

The Sexual Orientation Lobby (SOL) was formed in 1986. Its spokesperson explained the organization's objective this way:

Our main objective is to lobby the provincial and federal governments to amend the Canadian Human Rights Act to include 'sexual orientation' so that it protects us in jobs, housing and services. If we encounter prejudice or discrimination in any of these spheres we have no recourse for legal redress at the moment. So someone may treat us badly or abuse the power of their position because they know that we are lesbians and there's nothing we can do about it.

Although SOL was a single-issue interest group with a recent history, most of its members had been involved in lobbying with GFE during the previous fifteen years.

The objectives of these lobby groups are deconstructive. In particular, GFE's goal of gaining recognition for homosexuality as "a form of love and sexual expression in every way as valid as heterosexuality" amounts to an attempt to redefine the taken-for-granted reality of human sexuality which many ordinary members of society understand to involve only a male and a female bonding principle. It amounts to an ambitious attempt to render homosexuality as an alternative lifestyle equivalent to heterosexuality. Such an undertaking would require or entail the total deconstruction of orthodox conceptions of homosexuality as

deviant behavior, and its construction as essentially harmless, non-deviant, and potentially beneficial behavior. The other objective shared by both lobby groups, that of securing the inclusion of "sexual orientation" in the HRA, was equally ambitious considering the extent to which preference for heterosexuality and repudiation of homosexuality are successfully and tenaciously ingrained in the consciousness of the average person.

These lobby groups held that gay liberation would be achieved when a person's sexual orientation no longer matters in peoples' evaluation and treatment of him or her. They maintained that their motivation for lobbying derived from the fact that because of their sexual preference, homosexually-oriented people are denied many of the basic rights which most members of society take for granted. The attainment of these objectives required considerable political action and involved a significant challenge to conventional morality. Public education and lobbying were key aspects of this endeavour.

STRATEGIES

The two homosexual lobby groups undertook public education through television programmes and publication of pamphlets and brochures. GFE also organized conferences such as the second national gay conference in Winnipeg in 1974. One member of GFE undertook a hunger strike to back the demand for the inclusion of

sexual orientation in the MHRA. They marched, picketed, demonstrated and petitioned a number of target groups. They presented briefs and memoranda to the MHRC, the Attorney-General, the government, MLAs, and the political parties. They kept an active flow of correspondence with federal and provincial politicians and with respected professional and scientific bodies. Above all, they worked hard to woo and maintain as much public support as possible while avoiding the mass media, which they distrusted. The spokesperson of SOL outlined their strategies fully:

Our main strategy has been to lobby the MLAs first. We asked individuals to write three different letters to their MLAs. We sent out information leaflets or brochures saying 'this is what you can do, here's a sample letter you can send'. We also put out a four-page pamphlet about the issue and the supporters we had in government and other various places, as well as copies of the latest gallup [sic] polls showing support for gay protection....

SOL organized post-card campaigns at both the federal and provincial levels. Supporters, members and sympathizers were requested to send a post-card to their MP or MLA, stamp. The post-card indicated the sender's support for gay rights and requested the addressee to support the demand for the amendment. About 2,000 cards were sent.

SOL also met individually with the NDP members of the legislature and discussed the gay rights issue with them. The spokesperson said:

Some of them refused to meet with us. But the ones that would meet with us, we spoke to, discussed the issues and answered their questions. We tried to do as much educating as possible and got them comfortable even with just talking about it.

Another strategy employed by SOL was the organization of open-houses during which its members succeeded in convincing some of the NDP MLAs who were wavering on the issue as well as those who were opposed to it.

ARGUING FOR HOMOSEXUAL RIGHTS LEGISLATION

Gays For Equality presented a brief entitled Manitoba Homosexuals: A Minority without Rights to the MHRC during the first public hearing on amending the Act in 1983. Copies of this brief were forwarded to the government, and all three provincial political parties. This brief sought to show that:

- I. homosexual and bisexual persons were denied the dignity and equal rights declared by the Manitoba Human Rights Act;
- II. anti-homosexual discrimination differed in important ways from discrimination with regard to race, creed, colour, etc. but is no less unjust;
- III. the arguments commonly offered against amending the

Manitoba Human Rights Act were invalid and failed to consider the purpose and function of such legislation.

In its preamble to the brief, GFE said it was speaking for the tens of thousands of Manitoba homosexuals who suffered discrimination because of their sexual orientation. It identified itself as a group formed to bring before the Manitoba public the truth about homosexuality, with the belief that once the stereotypic conceptions of homosexuality were broken down and the destructive effects of discrimination were known, swift action to end such discrimination would ensue.

I. THE HOMOSEXUAL COMMUNITY AS A MINORITY

The brief noted that the homosexual population encompasses all ethnic, social, economic and educational groups. It quoted a study by Nagler (1971) as stating that no significant differences were observable between homosexuals and the 1971 census figures, adding that homosexuals exist in all walks of life, in all jobs and professions, in all creeds and colours, as single, married or divorced people.

The brief estimated that there were about 35,000 homosexuals in Manitoba². This, it said, is not an insignificant minority.

II. DIGNITY AND EQUAL RIGHTS

The brief noted that while homosexuals form a large minority scattered through all areas of society, certain social forces continue to repress them. In federal legislation, laws against

"non-procreative" sexuality made homosexuals criminals. Even with recent amendments to the Criminal Code, there remained an age differential for homosexual and heterosexual acts, discriminating against the former. Moreover, selective application of these laws effectively discriminated against the homosexual minority.

Federal law provided privileges to heterosexual couples, while disenfranchising gay unions. The federal government's Report on Security (1969) recommended that homosexuals be denied employment in the higher levels of the Civil Service.

It said provincial legislation was of special concern to gay people. Provincial statutes could insure legal recourse for victimized citizens and also deter those inclined to unfair practices. They could also act as guidelines which people would consider in formulating their own views and practices. However, the brief noted that the Manitoba Human Rights Act, failed to provide to homosexual persons the protection it gave to individuals victimized for other reasons. It added that gay people had no security in their employment or rented accommodations and they were often hindered from obtaining life insurance, credit and personal loans if their sexual orientation was known.

Furthermore, the brief noted that there was a conspiracy of silence in Manitoba which resulted in the suppression of information relating to homosexuality. In the mass media

homosexuals were rarely mentioned, and when reference occurred, it was in an isolated and "special" context. Even worse, print and broadcast media preferred to restrict their coverage on this issue to sensational and discreditable events, such as political defeats and mass murders, while ignoring more positive events, such as political successes and daily-life accounts, on the grounds that "this is a family newspaper" and "our listeners/viewers might object".

Similarly, the brief noted homosexuality was either ignored or distorted in discussions of sexuality in the classroom. The failure of guidance counsellors to present an accurate, non-biased analysis of homosexuality when the subject arises left young people seriously misinformed and young gay people completely isolated. Compounding the loneliness, anxiety, and guilt feelings of young homosexual persons was the "queer baiting" which operates on the peer group level. These two factors, causally related, made the lives of homosexually inclined adolescents a living hell, the brief noted.

It added further that symptomatic of the school's refusal to treat homosexuality with sensitivity was the tendency of teachers to conceal the sexual orientation of many famous persons. Although of secondary concern in itself, this fact did reflect heterosexual society's willingness to benefit from gay culture while continuing to pontificate upon the "immorality" or

"sickness" of homosexual persons.

The ignorance of homosexuality and the resultant creation of iniquitous stereotypes was more profoundly felt when it led, as it often did, to homosexuals' inability to benefit from many of society's supportive institutions. Social service and legal facilities were often denied them. Similarly, it was impossible for them to function within some churches since these institutions generally condemned them outright.

Anti-homosexual prejudice also made it extremely difficult for them to run for public office for fear of unscrupulous smear tactics by their opponents. Thus, gay people had no political representation and were forced to acquiesce to being denounced by some politicians. Few political figures object to such denunciations for fear that they themselves would be labelled as homosexual.

III. DISCRIMINATION AND CONCEALMENT

The brief noted that the most costly effect of anti-homosexual prejudice and discrimination was the development of various forms of self-hatred in many homosexuals and undesirable tension in the society at large. That many homosexuals choose to "pass" as heterosexual was not difficult to understand, it said. The rejection and stigmatization of homosexuals over the years had forced many people to lead hidden lives in fear of exposure, exploitation, persecution and possible

prosecution. Homosexual men and women found concealment easy in part because society so readily co-operates with them. Parents, friends, landlords and employers would often rather not know. A great many homosexual relationships were thus surreptitious.

In conclusion, it said there was widespread ignorance about homosexuals, not only in their sexual activity, but also in their lifestyle, their social contributions and their very presence in society. It suggested that the reform of The Manitoba Human Rights Act would encourage more widespread education of the public resulting in a more reasonable understanding of the subject. The tension and anxiety experienced by many people who are concerned about their sexual identity and orientation, in the face of social repression, would be relieved by more intelligently conceived legislation. Homosexual individuals especially would benefit, since the adverse social attitudes affect them the most deeply.

THE RICHARD NORTH LETTERS AND HUNGER STRIKE

BACKGROUND

On August 13, 1984, North, an avowed homosexual and member of GFE sent a two-page, hand-written letter to the Attorney-General of Manitoba. The letter indicated North's intention to embark on a hunger strike on the first day of the next legislative session unless the government promised to include "sexual orientation" in the HRA. This action would also be accompanied with daily visitations by North to enquire from the Attorney-General the

basis of his government's refusal to protect the rights of homosexuals in the province. North would also deliver an open-letter to the Attorney-General, the NDP Caucus Chairperson and the media on each working day.

The letter did not only spell out the strategy North intended to employ in backing this demand but also highlighted some of the salient arguments for the amendment. These were contained in a series of letters he wrote during the hunger strike the following year.

On March 7, 1985, GFE issued a press statement endorsing the actions of one of its members, Mr. North, in undertaking a hunger strike to persuade the Manitoba government to add "sexual orientation" to the prohibited grounds of discrimination in the MHRA.

This lobby group contended that the addition of sexual orientation to the Act would be the only legally-established mechanism for protecting men and women who are homosexual and bisexual from unfair discrimination in the areas covered by the Act (employment, housing, business services and advertising).

The release said the GFE and the Manitoba gay community were grieved by the fact that disappointment at the ineffectiveness of rational argument should compel one of their community into a symbolic act intended to demonstrate that for them the issue was one of life and death. It said, what was popularly referred to as

"living in the closet" was a form of death, in the form of slow strangulation of one's self respect, one's ability to love and be loved, of the plain comfort and happiness of ordinary daily life. It was from this death, that the gay liberation movement had been trying to rescue millions of individuals around the world, and thousands in the province of Manitoba. "To cut short that rescue operation is to bring our community back into the shadow of death. The hunger strike being undertaken by Rick North represents in the body of one individual the slow death threatening the life of every man and woman who is homosexual", the release said. It concluded that GFE regretted that the situation had called forth so painful a response and pledged its continuing support in the endeavour to obtain justice for homosexual and bisexual people.

This letter from North and the news release from GFE provide a background to the developments leading up to the hunger strike. From the perspective of these actors, they had collectively explored and exhausted all avenues open to them to seek redress for their grievances and to acquire protective legislation for themselves. The frustrations experienced in a decade of unsuccessful lobbying and public education and the need for protection against discrimination had created a situation in which a symbolic act of self-destruction had been deemed by North as the only means of continuing the struggle of gays for equality.

OBJECTIVES OF THE LETTERS

Five distinct but interrelated objectives can be identified in these letters. These are: (1) to educate the ruling elites about homosexuality and homosexuals; (2) to demonstrate that homosexuals are victims of discrimination; (3) to argue for protective legislation prohibiting discrimination against homosexuals; (4) to refute the counter-arguments presented against such legislation; (5) to challenge the government to demonstrate its commitment to the defence of the human rights of minorities. All this was a reaffirmation of the demand for the amendment.

1. Education

Combating ignorance is a critical aspect of persuasion, especially in situations where people lack adequate knowledge of the issues involved. Education, making people informed about an issue, is a way of preparing people for roles and actions which they may otherwise not undertake. The North letters aimed at informing the targets that: (1) homosexuality is fairly common, and homosexuals are ordinary, normal beings; (2) homosexuals, being ordinary members of society, have made important contributions to human civilization, and (3) the majority of people support the provision of basic human rights for homosexuals.

2. Exposition

To secure protective legislation for categories of people in the population, it is imperative that its necessity and urgency be demonstrated not only through graphic portrayals of discrimination but also the ineffectiveness of existing legal provisions to serve the function expected of the legislation being demanded. North provided a number of media reports and individual accounts of discrimination against homosexuals. He also provided political and judicial records, findings of Commissions, Boards of adjudication and court rulings, which showed that the existing Human Rights Act did not cover nor was it intended to cover homosexuals.

3. Arguments

Based on the ordinariness of homosexuality and the discrimination faced by homosexuals, as well as the pervasive support among the public for the legal protection of homosexuals, North argued that the government should amend the MHRA to include a prohibition of discrimination based on 'sexual orientation'.

4. Counter-Arguments

Using statistical evidence from media reports, the opinions of prominent professional and religious organizations and deductive reasoning, North sought to refute the common arguments raised against the amendment sought.

5. Challenge

On the basis of the foregoing he challenged the ruling elites to reconcile their ideological commitments and campaign promises with their human rights issue performances.

CHANGES IN THE POSITION OF THE TARGET GROUPS

This section deals with the history of gay rights legislation in Manitoba in relation to the three political parties who were the key targets lobbied by GFE and SOL. The objective is to illustrate and analyse the changing position of these groups on the demand for the inclusion of sexual orientation in the HRA. It also examines the impact of the lobbying activities of these groups on their targets. Considerable attention is focused on the NDP governments in Manitoba since 1972. From the period 1972 to 1987, the NDP held power in Manitoba except for a brief term of Conservative rule from 1977 to 1981. The LP had not been in government in Manitoba since 1972. Owing to this, although the PCP and the LP were lobbied, the main interest here is in the NDP and its various governments.

THE NEW DEMOCRATIC PARTY

Since 1972, NDP governments in Manitoba have adopted five different positions on the subject of homosexual rights. These positions were contained in public statements by key government officials and in judicial documents and letters.

The first four positions have served to relieve the

government of responsibility for introducing homosexual rights legislation through the trivialization of homosexuality, while the last one recognized the need for such a legislation. These positions were stated in 1972, 1974, 1977, 1984, and 1986.

POSITION 1: Homosexuals do not deserve the same rights as others.

In 1972, Attorney-General Mackling stated:

There still is great concern on the part of the majority of society that we do not somehow characterize homosexuality as a normal thing, as something that is attractive, that is something that should be encouraged and blessed by the state (Winnipeg Free Press, December 6, 1972).

He observed that he was not sure society was willing to grant to groups that were "different" the same legal rights enjoyed by groups that meet "normal standards".

RESPONSE/COUNTER ARGUMENT

The thrust of this argument was that legislative reform in this matter would encourage an undesirable pattern of behavior. GFE responded in its brief to the MHRC that it was an arbitrary decision on the part of the government or the adherents of certain religions that homosexuality was morally wrong. It was not incongruous to believe that homosexuality was a moral perversion and yet to be committed to guaranteeing the civil rights of homosexuals. Public opinion polls showed that many people who do not approve of homosexuality nonetheless support civil rights

protection for homosexuals. Most major religious denominations supported civil rights protection for homosexuals because they recognized the distinction between the private moral issue (sexual expression) and the public ethical issue (civil rights).

GFE added that recent research by Szasz (1970) had established beyond doubt that the supposed association popularly between certain socially undesirable phenomena such as sexual molestation of children and homosexuality was unfounded. It pointed out that no distinction could be made between the psychology of homosexuals and heterosexuals. It said further that, it was not the function of legislation to enforce the unrealistic views of particular churches. Finally, it stressed that the legislation being sought would not affect the process of sexual orientation but rather simply protect citizens in the ordinary passage of their lives.

In Digest on 'Gay Rights' 1: Human/Civil Rights (1983), GFE argued that protection on the basis of sexual orientation would no more encourage homosexuality than protection on the basis of religion, race and physical handicap has encouraged Catholicism, black skin or deafness. "There is no evidence to show that homosexuality is/was any more prevalent in those cultures which have not discriminated against homosexuals than it has always been in Manitoba" it said. Homosexual behavior would conceivably increase only to the extent that those who are homosexuals would

cease to pretend that they are heterosexuals and enter into homosexual relationships. It noted that, the point of this legislation was to ensure that prevalent prejudice does not harm the lives of innocent individuals.

POSITION 2: There is insufficient support for homosexual rights legislation.

On October 4, 1974, three representatives of GFE met with the Attorney-General, Howard Pawley, to demand that "sexual orientation" be included in the MHRA. The Attorney-General replied that neither the public nor legislators would stand for it, as there was a pervasive dislike of homosexuality. He noted that, "in matters of morality, changes in law must follow public opinion not lead it" (Winnipeg Free Press, October 5, 1974).

In November 1976, Moats, the Executive Director of the MHRC reiterated the governments' 1974 position on this legislation, saying that he had not had any indication from Mr. Pawley that there had been any change in government policy concerning homosexuals in the interval (Winnipeg Free Press, November 20, 1976).

RESPONSE/COUNTER ARGUMENT

The Committee produced evidence to show that the Government's arguments were in conflict with reality. Public opinion polls showed that the majority of Canadians and Manitobans supported human rights protection for homosexuals. A survey conducted by

the Canadian Institute of Public Opinion in May 1977 showed that 52% of Canadians approved of gay rights protection in law, while "opposition to this protection is expressed by 30 per cent of Canadian adults, and 18 per cent cannot say" (Winnipeg Free Press, June 29, 1977; Winnipeg Tribune, September 28, 1979).

The Committee noted that during the 1977 provincial election, while Premier Schreyer refused to acknowledge that gay people were an oppressed group, the Manitoba Liberals included human rights protection for gay people in their party platform. The Committee also furnished the Government and the MHRC with a long list of organizations and religious denominations which supported civil rights protection for gay people (see Appendix C). It also provided them with statements of support from religious leaders and organizations as well as evidence of support from professional and scientific organizations, and a memorandum from the NDP provincial executive reminding members of caucus that the party was on record as supporting the legislation.

The Committee also provided other indicators of growing public support for gay rights. It said the Province of Quebec had already enacted such a legislation in December 1977. Toronto, Ottawa, Windsor, Kitchener, and Vancouver had all adopted gay rights ordinances and human rights protection for homosexuals was being supported by Canadian federal and provincial Human Rights Commissions. Commissions in British Columbia, Alberta,

Saskatchewan, Manitoba and Ontario had recommended such legislation in their respective provincial human rights codes.

Furthermore, it noted that the absence of organized opposition to gay rights in Manitoba was indicative of the high level of public tolerance on this issue. The Committee had been able to collect over two thousand names in two days on a petition urging the enactment of this legislation.

POSITION 3: The legislation is unnecessary because homosexuals are not an oppressed group.

In October 1977, Premier Schreyer, said: "I bear no animosity to those who may be in that condition". He said the matter was not one on which one should make any adverse comments, adding that he was not of the opinion that homosexuals were an oppressed group (Winnipeg Free Press, October 6, 1977).

The reference to homosexuality as a "condition" has strong medical undertones and is suggestive of some mental or physiological illness, although the notion that homosexuality was a function of mental abnormality or neurotic disorder had been rejected by the American Psychiatric Association since 1973. Whether or not this reflected a rejection (or lack of knowledge) of current scientific opinion by a member of the power elite in society, it amounted to a strategy of evasion, of avoiding "unnecessary" public controversy.

RESPONSE/COUNTER ARGUMENT

In its brief, GFE explained that there were several reasons why the number of documented cases of discrimination against homosexuals was not large. It said, there had been no in-depth studies into the extent of discrimination against homosexuals. It added further that most cases of discrimination never come to light as many homosexuals are so frightened of further social censure that they do not seek redress, fully realizing that under the present legal system, it would be impossible to obtain.

Furthermore, discrimination against homosexuals was also unique when compared to the more obvious forms of discrimination such as racism, for homosexuals have the option of hiding their sexual orientation. It agreed that the majority of homosexuals were indistinguishable from heterosexuals and could "conveniently pass" without detection. However, it noted, concealment was obtained at a terrible cost. The person must constantly be on guard that a chance remark or slip of the tongue would reveal his/her homosexuality. The homosexual is permanently apprehensive and must live a schizophrenic life in which he/she hides his/her sexual relationships from even close friends and relatives, it said. It cited two studies (Hoffman, 1969; West, 1960) which had concluded that mental illness among homosexuals is not related to homosexuality itself but is caused by this oppression. Despite

these pressures, it said, a study by Hooker (1947) among others, had shown that homosexuals are on the average no more neurotic than heterosexuals.

The brief said not only is concealment of one's sexual orientation oppressive and harmful to the individual, but it is also wrong in principle to deny protection to a minority on the ground that they can conceal themselves. Such a situation would imply that the HRA should not protect against discrimination on the basis of religion since any person could probably avoid discrimination through the concealment of his/her religious beliefs and practices.

It added that with the emergence of gay rights organizations across Canada, more and more cases of discrimination have occurred. It cited several examples of discrimination against homosexuals in Manitoba over the years. One of the most obvious examples concerned the denial of a private club charter to non-profit gay social organization by the Attorney-General of Manitoba (Winnipeg Free Press, December 6, 1972).

During the interview with the leadership of GFE, its spokesperson provided the following illustration that highlights the difficulties faced by the homosexual community in its day-to-day activities, as well as the psychology of gay political activism.

Two gay social clubs were established in 1972. In order that

the organizations could establish their premises, they needed to incorporate and to obtain a liquor licence. They attempted to do that in 1972. At that time, the government of the province was NDP which might have been expected to be relatively tolerant even though attitudes toward homosexuality at that time were still fairly negative. The government refused to allow the organization to incorporate, let alone to obtain a liquor licence. The Attorney-General at the time said that although he thought homosexuals ought not to be "hounded and pilloried" they ought not have the same legal rights as the people. In the words of the then Attorney-General, Mackling:

Our concern is that such groups ought not to be clothed with the same rights and respectability as other groups (Winnipeg Free Press, December 6, 1972).

He added that he was not sure society was willing to grant rights under the law to groups that were "different" such as the rights that are enjoyed by groups that meet "normal standards".

The club, seeking to maintain a safe social environment, sought unobtrusive legal remedies to this. GFE took up the issue. The 1973 Provincial elections were in progress and the organization confronted the NDP candidates everywhere in the city of Winnipeg and some other constituencies with questions about the Attorney-General's resistance. They succeeded in finding that many of them, including the President of the Party (who happened

to run in a constituency with some open homosexuals) disagreed with the Attorney-General. The Attorney-General subsequently was obliged to withdraw his objections and to allow that social organization to be incorporated and to get liquor licence.

GFE said further that in the area of housing, and employment, a Winnipeg lesbian couple were continually harassed at their residence because they were lesbians, and one of them, a teacher in a local school, had her contract revoked because of her sexual orientation. In the area of services offered to the public, a local loan company issued a directive that loans be refused to homosexuals. The Big Brothers organization also refused to allow qualified men to become Big Brothers when they were known to be homosexual, thereby perpetuating the myth that homosexuals were child molesters (Winnipeg Free Press, October 26, 1983, p. 10).

Other instances of discrimination cited by GFE included the following:

Derksen Printers Ltd. of Steinbach, Manitoba refused to print the Manitoba Gay Directory (Toronto Globe and Mail, July 4, 1974); both the Winnipeg Tribune and the Winnipeg Free Press refused paid advertisements from GFE announcing counselling and educational services; the Manitoba Telephone System refused to list GFE's telephone number in the directory; CBC rejected public service announcements from gay organizations (The Uniter, October 6, 1976, p. 8; Manitoban, January 20, 1977, p. 1); members of GFE had been

fired from their jobs and had had landlords refuse to rent to them only because of their sexual orientation. It noted that had the grounds of discrimination in any of these instances been race, sex, religion, ethnic origin or political beliefs, the victims would have had recourse to law and possible reparation would be achieved.

GFE focused some attention on the philosophical justifications for the existence of the MHRC itself, pointing out that its very existence was indicative of the necessity of public guidance and legal protection in the face of prevalent social prejudice. It said the ideas of dignity and equal rights implicit in the MHRA, must be constantly upheld. It intimated that enlightened public opinion would support the inclusion of such legal protection, citing the majority of psychiatrists, psychologists, sociologists and theologians of all faiths as a segment of the educated public which would urge such protection.

Finally, it dealt with the possible benefits of having such a legislation. It suggested that this amendment would benefit the whole of society as talented homosexuals could develop their potentials more fully. A qualified homosexual who now dares not run for public office or apply for a promotion or a high security job could then do so. The general public would be reassured that its fears of homosexuals are not well-founded, and the vicious anti-homosexual prejudice would recede and pave the way for a

greater sense of tolerance of diversity. This, it said, would move the province one step closer to the "mosaic" ideal of society. It ended this counter-argument with a statement from Dr. Lars Ullerstrom:

Many of the norms that are used for discrimination against (these) minorities are indefensible from a utilitarian, legal or humanitarian point of view. They stand in opposition to all our basic values and to the spirit expressed in the United Nations Declaration of Human Rights.

On the basis of these arguments, the Committee said it was appealing to the strength of the moral leadership of the Attorney-General and the MHRC in all areas of human rights in Manitoba to establish a study group within the Commission to research existing forms of discrimination against homosexuals in Manitoba, and to produce and make public educational material on the issues raised in the brief. It also appealed to them to recommend to the Government the amendment of the MHRA so that sexual orientation could no longer be a legal basis for discrimination. The brief concluded with the following statement:

The issue at stake is not whether homosexuality should be 'approved' or 'promoted' any more than protection of freedom of speech is an approval of unpopular views, or freedom of religion, the promotion of extreme religious beliefs.

Instead, the issue is whether a minority group which does no

harm to any person should be allowed to live normal and open lives, or whether it will continue to be forced to conceal its closest interpersonal relationships and to publicly deny a fundamental part of itself. In 1982, it takes little courage to condemn racial or religious discrimination. We submit, however, that discrimination on the basis of sexual orientation is morally indistinguishable from racial or religious discrimination. We hope that persons today will go beyond the advocacy of what is universally popular and will support the changes which we have proposed.

This statement is grounded in three important premises which may be summarized as follows: first, homosexuality is normal; second, homosexuals do not harm others in society; third, discrimination against homosexuals is morally indistinguishable from racial or religious discrimination.

POSITION 4: "Gay rights" legislation if unnecessary because the Act already covers it.

In a letter dated June 12, 1984, addressed to a constituent, Mr. Roland Penner, the Attorney-General and MLA for Fort Rouge stated:

It is my view and the view of others that as the Act is presently worded it does in fact provide protection against discrimination based on sexual orientation. The difficulty is that this has never been tested.

However, the letter reiterated the government's continuing opposition to discrimination in any form. This was the first indication that the government was moving closer to introducing the amendment requested by the homosexual lobby groups. If it could be established that the Act did not provide the protection being sought, then presumably the government could be persuaded to introduce it.

In 1983, the MHRC recommended the inclusion of "sexual orientation" in the Act; this was part of a package of recommendations forwarded to the government. The government's emphasis here had clearly shifted from the moral/religious stance that regarded homosexuality as unacceptable to a human rights perspective.

While the government's position had clearly changed, there had been no changes in the Act itself. The government's contention was that the existing provision prohibiting discrimination based on "sex" covered "sexual orientation".

RESPONSE/COUNTER ARGUMENT

On July 3, 1974, White, Manitoba's Chief Human Rights officer said with reference to the refusal of a Steinbach printing company to print a federally-financed booklet entitled,

'Understanding Homosexuality':

Unfortunately there is nothing in the Act that covers the people in that movement. As a group, they have no

protection.

He said he was sometimes able to "do something for individual cases" but there was nothing that provided homosexuals legal protection from discrimination. He added: "They're going to have to push for it" (Toronto Globe and Mail, July 4, 1974).

In a legal precedent in 1974, the Saskatchewan Court of Queen's Bench ruled that denying employment on the basis of homosexuality or sexual orientation could not be interpreted as sex discrimination under the province's Fair Employment Practices. The court held that "the provision of the Act prohibiting employment discrimination on the basis of sex would generally be considered to be about whether the person in question was a man or a woman, not on the basis of sexual orientation, sexual proclivity or sexual activity" (Winnipeg Tribune, February 7, 1976).

Moats, Executive Director of MHRC said the Human Rights Act said that the Commission had no power to prohibit discrimination against homosexuals. He quoted the Saskatchewan court ruling cited above, noting that in terms of human rights, present enforcement of laws against discrimination on grounds of sex applied only to males or females and not homosexuals (Winnipeg Free Press, November 20, 1976).

These statements were crucial in that they clearly challenge and contradict the government's contention that the provision against sex discrimination in the Act also covered sexual

orientation. In a letter dated August 17, 1977, Monk, the Human Rights Development Counsellor, indicated that a man's complaint presented to the MHRC alleging that the Salvation Army in Winnipeg had dismissed him from employment because of his sexual orientation, could not be processed by the Commission. He explained that sexual orientation had not yet been included among the prohibited grounds for discrimination contained in Section 6(1) which deals with employment practices.

The real test of the government position came when on June 25, 1983, Vogel who had been formally married to his lover, Richard North by the Unitarian Universalist Church in 1974, brought a complaint to the MHRC. The gravamen of his complaint was that he had been discriminated against on the basis of sex, marital status and sexual orientation by his employer (the Government) who had refused to provide his partner with spousal benefits under the employee dental plan. In Vogel vs. Government of Manitoba, the board of adjudication ruled that because "sex discrimination" refers to the "sex" of the employee and marital status can only be considered in relationships between members of the opposite sex, Vogel was not being discriminated against. The ruling, delivered on August 23, 1983 said the denial of dental benefits was because of Vogel's sexual preference not his gender (Winnipeg Free Press, August 25, 1983). It concluded that "sexual orientation" was not covered under Section 6 of the Act (MHRC

1983 Annual Report, p. 22-23).

This ruling proved that the HRA did not protect homosexuals despite assurances to the contrary from the Attorney-General. Similarly, in October 1983, the MHRC told a former volunteer Big Brother that a recent ruling (Vogel vs. Government of Manitoba) confirmed that "sexual orientation" was not a prohibited ground of discrimination (Winnipeg Free Press, October 26, 1983).

The Committee for the Inclusion of Sexual Orientation in the HRA, in a 1984 pamphlet submitted to the MHRC and the government, argued that since "sex" and "physical handicap" had been added to the Act when it was deemed necessary to provide protection against discrimination on these grounds, "sexual orientation" also should be added to the Act if the government believed in the need to protect homosexuals against discrimination based on this factor.

For ten years, the MHRC and the government maintained that the Act did not cover homosexuals. The Commission repeatedly declined to act on complaints involving sexual orientation because the Act did not give it jurisdiction in this area. It would seem also that the Attorney-General's position, while acknowledging the necessity for guaranteeing homosexual rights protection in law, was an attempt to relieve the government of responsibility for introducing "gay rights" legislation which the government believed to be unpopular.

POSITION 5: There is a need to include sexual orientation in the HRA to provide legal protection for homosexuals against discrimination based on this ground.

In December, 1986, the Attorney-General introduced an amendment in the NDP caucus and proceeded to introduce Bill 47 in the provincial legislature on May 29, 1987. The objective of this Bill was to include "sexual orientation" in the HRA. Bill 47 was passed by the legislature in July 1987 after a lengthy and difficult debate.

From the perspective of the NDP governments over the years, it can be said that the first four positions represent the main arguments against the inclusion of the amendment in the Act. The views of the leader of the PCP who was opposed to the Bill tallied with the first four positions of the NDP government. The fact that the government shifted its position on the issue reflect the impact of the lobbying activities of the homosexual advocacy which was initiated and championed by GFE and SOL, with cooperation from the MHRC.

II. THE PROGRESSIVE CONSERVATIVE PARTY (PCP)

The PCP's position on protecting the rights of homosexuals remained constant throughout the period 1972-1987. Its leader said:

There was no change in my party's position on this matter at all. When we were in government in the late 1970s we just

didn't feel that it was appropriate to put this into Human Rights legislation and we continued to be opposed to it. Both as Government and Opposition, the PC maintained its perception of the demand as an attempt on the part of the lobby groups to secure the legalization and acceptance of homosexuality as a lifestyle equivalent to heterosexuality. This perception was actually consonant with GFE's main objective as noted earlier. The PCP leader said he did not believe that the majority of Manitobans wanted to see the enjoyment of a homosexual lifestyle as equivalent to a heterosexual one. Yet evidence from public opinion polls suggested that contrary to the PCP's position most Manitobans and Canadians in general were supportive of the demand even if they personally found homosexuality morally unacceptable. The PCP's position was grounded in religious conservatism which defined homosexuality as a sin.

THE LIBERAL PARTY

There was a change in the position of the LP on the question of homosexual rights. The LP leader explained this change in terms of an attitude change within the rank and file of the party:

Our position changed over the years. Like the majority of people in our society, Liberals were intolerant about homosexuality in the 1930s and 40s, and certainly in the last century....While those in their 60s and even those in their

50s have some serious problems about homosexuality, teenagers today, kids in their 20s and adults in their 30s have in fact decided that this is a non-issue; this is not something that is probably going to affect them and therefore it is not their right to discriminate against homosexuals.

This reflects on the age composition of the LP. A good number of Liberals today experienced the sexual revolution of the 1960s and appreciated its impact on society. The young members of the Manitoba LP supported homosexual rights legislation and the LP adopted a resolution calling for the inclusion of sexual orientation in the Canadian Human Rights Act during a national party convention in 1980. Prior to that time, the LP had been opposed to this demand. After this convention, it grew more and more supportive of it and its leader personally lobbied some members of the PC and the NDP in 1985-87 when she became a member of the legislature.

TARGET GROUPS' PERCEPTION OF NORTH'S ACTIONS

Two aspects of the North episode are considered in this section. First, what were the targets' perceptions of his tactic of hunger strike as an instrument of persuasion? Second, how did they judge or evaluate the content of his open-letters? In other words, what was the effect of both the hunger strike and the letters? The responses obtained from the interviews are presented and analysed in this order, beginning with the three political

parties and then the MHRC.

1. THE HUNGER STRIKE

THE NEW DEMOCRATIC PARTY GOVERNMENT

Both the Attorney-General and the chairperson of the NDP government caucus perceived the hunger strike as a negative action with detrimental consequences for the process of effecting the amendment. The Attorney-General said the hunger strike:

Had a rather negative influence because even those in the caucus who felt that at the right time we should do this felt that it would be a terrible error to be seen to be doing it because of the actions of an individual. This would leave us hostage to any individual who on an issue decides to have a hunger strike, and we couldn't order our legislative programme on the basis of doing that. So that in fact, even if there was a notion to go ahead with it then, I think the majority of the caucus said 'Oh oh, no, no!' (Emphasis added)

THE PROGRESSIVE CONSERVATIVE PARTY

The notion that hunger strikes and other extra-parliamentary tactics are reprehensible was shared by the leader of the PCP. He noted:

We were not in any way shape or form influenced by the lobbying activities of the homosexual advocacy groups, including the hunger strike and open-letters of Mr. Rick North. We saw his actions as bordering on blackmail, and we

would not be pressured by such tactics into either introducing or supporting any kind of legislation. (Emphasis added).

THE LIBERAL PARTY

Commenting on this issue, the leader of the LP said:

I think that an awful lot of people regarded Rick North as a grandstander, and felt that that was not the way to go about it; that quiet diplomacy was far more effective.

THE MANITOBA HUMAN RIGHTS COMMISSION

The past chairperson of this body said the hunger strike had no impact on the Commission. He added that "in general it helped keep the matter more public in the forefront".

The concern of the NDP caucus was clearly that by going forward with the amendment at that material time it would seem as though the government was yielding to the tactic of an individual and thereby indirectly encouraging people to resort to hunger strike or other such extreme measures as kidnapping, hostage-taking or even terrorism in pursuit of their goals. In essence, these are coercive instruments of power which compel compliance because they endanger the lives of either the actor or the victim. They are a form of political blackmail. They feed on the potential sympathies of the victim's associates, or the political exigencies which often compel politicians to show compassion, even if only for political reasons, either toward the

actor or the victim. This is often a big challenge for politicians. The hunger strike served to alienate "even those in the caucus who felt that "at the right time" the amendment should be pushed forward. The notion of timing here is an important indication that some in the governing elite were supportive of the amendment but were reluctant to advance it for political considerations. They seemed to be waiting for the "right" political atmosphere for fear that they might alienate sections of the public and thus jeopardize their future electoral chances. Since the NDP had just come out of an election with a reduced majority in the legislature, it is plausible that some within the caucus felt the political climate was not conducive for such an action. This is a further indication that political actors, especially the governing elites, take into account, the political environment external to the substance of the demands of lobby groups in reaching decisions on such demands.

The chairperson of the NDP caucus amplified the role of such "external" variables in the decision-making process:

The political process is slow and it's really difficult and there are always high profile issues and a dozen of other minor issues on the list in caucus and you just have to await your turn. (Emphasis added).

Caucuses draw up their agendas with certain issues given "high profile" status. The determination of what constitutes a "high

profile" issue and what does not rests with a particular caucus. In this prioritization process, the perceptions and interests of politicians influence where in the agenda particular issues are placed, or whether or not they are included in the agenda at all.

Although the protection of homosexual rights issue was an NDP policy from the 1970s onward and was an element in electoral platforms, its inclusion in the NDP government caucus agenda did not come until the end of 1986. The party adopted a resolution supporting this amendment. The Attorney-General said:

The party position has been for some considerable period of time, that there should be specific protection against discrimination for homosexuals. There was no formal position of our caucus until I brought the legislation forward in this session. So that you're dealing in terms of the official position that began to be formulated in December of 1986 when I introduced the legislation into our caucus.

The NDP government's delay in putting homosexual rights on the agenda reflect its fear of the reaction of segments of the populace other than the homosexual community. If the lobbying and educational efforts continued, and the public opinion polls continued to reflect increasing popular support for the amendment, then the government might do so. Such a situation prevailed in 1985 when a Gallup poll indicated that over 70% of Canadians were supportive of the amendment. The "right time" had finally come

for the government to go ahead with the amendment.

In civil democracies, the capacity of lobby groups to be patient and allow the government bureaucracy and quasi-bureaucratic machinery to sort out the issues is a veritable virtue. The use of "extra-parliamentary" methods (i.e. unconventional tactics) by lobby groups to speed up the political process is seen by targets to be undemocratic and irresponsible. The 1985 NDP caucus chairperson articulated this point:

Richard North's hunger strike did not have any impact on me personally at all because I was already on side. I don't approve of extra-parliamentary things like hunger strikes at all. In fact, my big concern in achieving that goal - which is obviously a shared goal - is that that particular tactic might be detrimental; it might make it harder for those of us in caucus at the time who were supportive of the demand to get support from other neutral, wavering and undecided people. It might antagonize them and swing them the other way. I feared it might be counter-productive.

The NDP caucus viewed the hunger strike as a negative development with detrimental consequences for the political process of securing the amendment. This perception was shared by the PCP, the LP and the MHRC.

The denunciation of the hunger strike as blackmail had a political objective. It was a signal to those who might

find similar tactics appealing that the ruling elites would not tolerate such actions. What is peculiar about hunger strikes, from the standpoint of criminal law and political expediency, is that the actor can neither be forced to eat, nor prosecuted for embarking on such an action. This places responsibility on the shoulders of those for whom it is targeted to acquiesce to the demands of the strike. The ability to reject such a responsibility is itself evidence of tremendous political will-power. This is because it has the potential for representing the target as callous and insensitive to the plight of the striker while at the same time, acquiescence could be seen as evidence of a lack of political tenacity.

But the spokesperson of SOL provided a different perspective on the ineffectiveness of North's hunger strike when she said:

So here's Rick, embarking on a hunger strike, and the government is nearing the end of the session, and having to go to the polls, and determined to stay away from everything that was controversial. They think this issue is as controversial as the French language issue; they think they can go down on this issue; they think they can lose in the legislature. You see, the NDP has only a majority of two votes over the Opposition, and they've got one member...who may cross the floor at any time and who's terrible on this issue. That leaves them with one vote over the Opposition. According to this perspective, the real issue here was not that

the hunger strike constituted blackmail but rather the overriding need of the NDP to avoid controversy in order not to damage its chances for re-election.

In the opinion of North and GFE every possible civil route in their bid to secure their goal had been exhausted. For North personally, the hunger strike was an untried course open to him to demonstrate his frustrations at the government's failure to act on the demand, and to back the demand itself. At any rate, the target groups perceived North's hunger strike as a negative development which did not influence their judgement.

The one benefit which accrued from the hunger strike was that it served to dramatize the demands of the homosexual lobby groups and thereby succeeded in keeping the issue very much alive. The speaker of the legislature and 1985 NDP caucus chairperson amplified this point:

I think people can make requests of governments for years and years but until somebody actually does something by proposing an action whether its a programme or legislation so that there's something concrete for people to react to, it just ends up as talk. Sometimes there's a need for the dramatization of demands. Thus, Rick North's hunger strike and hearings of the Commission both were a catalyst making it a public issue. (Emphasis added).

In other words, the hunger strike was not totally without impact.

It kept the issue in focus and contributed to the eventual passage of the legislation in the long run.

THE NORTH LETTERS

The letters had the objective of informing and educating the targets about homosexuality, the problems of homosexuals, and the need to provide protective legislation in the Human Rights Act for homosexuals. All target groups interviewed for this thesis indicated knowledge of the letters and their contents.

THE NEW DEMOCRATIC PARTY

The Attorney-General expressed the view that the letters had no direct influence on the process of securing the amendment. He said:

The contents of his letters and the insights he sought to share with us were of no direct benefit. No, not directly, and that's not to put down the letters' contents or Mr. North. You see, eh, I was personally of the belief long ago, that we ought to do this in our Human Rights legislation, so that I didn't need to be persuaded.

The Attorney-General added that, "in terms of subsequent events" the letters were of some benefit. He continued:

The support in the caucus grew steadily throughout the discussion in caucus itself, and from the time that we introduced the legislation for debate in the house - through all of that - and particularly in the very last stages of the

debate, the position of the caucus strengthened. Many who were going along with it but were still not very sure became more certain in their mind that we were doing the right thing.

According to the Attorney-General the letters were part and parcel of a large body of information which the government needed to prepare for the debate, to frame the legislation, and to consider all the details involved in enacting such a legislation. He indicated that the letters, together with information from other sources helped them to understand "in a much more complete sense than might otherwise have been the case", the etiology of homosexuality, and to formulate counter-arguments to objections to the entrenchment of homosexual rights in legislation. It can be inferred from the above information, that the letters had a limited, indirect impact on the eventual adoption of the amendment to the MHRA.

THE PROGRESSIVE CONSERVATIVE PARTY AND THE LIBERAL PARTY

The leaders of these parties said the North letters had no impact on their organizations. The LP leader said:

The content of the open letters of Mr. North had no effect any more than I think the lobbying campaign of the Gays For Equality had during the build-up to this legislation. I don't think it changed a single vote. I think we all went in there absolutely determined we were going to do what we

thought was right. I think it was, really, for many people, a very personal choice.

THE MANITOBA HUMAN RIGHTS COMMISSION

The response from the past chair was that the letters had no impact on the Commission. He indicated, however, that they "might have been educational on the government's part".

SUMMARY

The homosexual lobby groups presented their demand for the amendment of the MHRA within the context of a human rights campaign. In their lobbying activities they chronicled the difficulties of a sexual minority which had been denied the basic dignity and equal rights enjoyed by other members of society. They portrayed the pains of concealing their homosexuality due to the fear of discrimination.

The North letters represented homosexuality and homosexuals as normal and argued for the extension of protective legislation for homosexuals. It also exposed and refuted the counter-arguments against the amendment. The letters had an educational impact on most of the targets.

Most of the targets perceived North's hunger strike as a development which had negative consequences on the process toward the passage of Bill 47. Most believed his action was tantamount to blackmail, and therefore they condemned it. One informant indicated the hunger strike was functional in that it helped keep

the issue more public.

From the period in 1972 to 1987 most of the key target groups adopted a number of different positions on the subject of homosexual rights. The NDP adopted five positions which ranged from denial and trivialization to the acknowledgement of the existence of homosexuals as a minority faced with problems of discrimination and concealment. The PCP remained unchanged in its opposition to gay rights legislation. The LP changed its position from one of opposition to support.

Overall, the activities of the homosexual lobby groups produced significant changes in the perceptions of most of the targets on the subject of homosexual rights legislation.

CHAPTER SIX

TESTING THE PROPOSITIONS

The objective of this chapter is to test the three propositions outlined in chapter three of this thesis.

PROPOSITION ONE

The first proposition stated that the success or failure of an interest group in securing laws beneficial to its members will depend on the amount of valued resources and organizational strength it possesses. Data from the research confirm this proposition.

ATTRIBUTES OF POWER

A. ORGANIZATIONAL COMPETENCE

This competence was operationalized in terms of an ability to present a unified voice, to enlist the support and sympathies of powerful and/or respected bodies, as well as to counter opposing viewpoints successfully. In terms of these criteria the two homosexual lobby groups studied in this thesis were found to be competently organized.

1. COHESIVENESS

A unitary voice in lobbying is possible when internal dissent on major issues is either absent or so minimal that factional opposition to the official position of the group does not emerge. This enhances the public's perception of the group as a cohesive, disciplined body. From the period 1972 to 1987, the official

position of the Gays For Equality on issues as articulated by its elected representatives or spokespersons was never found to have been publicly challenged either by members of the group or individuals within the homosexual community. After a careful review of all the political and judicial records and media clippings of GFE, found no public dissent with the official positions. A search of the print media in Winnipeg, including university newspapers (The Manitoban and The Uniter) revealed no such dissent. The spokespersons of GFE and SOL both indicated the absence of dissent from inside their organizations. Yet, there were a number of potentially controversial issues on which dissent could reasonably have been expected. Thus, even though gay political activism was not free of discord,¹ internal discipline, cohesiveness, and singleness of purpose have characterized the demand by the gay movement in Manitoba for the extension of human rights provision to cover its members.

2. WEALTH/RESOURCES

Both organizations tended to rely almost exclusively on dues and voluntary contributions from members. These groups periodically organized social activities at the premises of Giovanni's Room, a coffee house and restaurant operated by GFE. Neither of these groups owned shares, stocks or bonds in any financial institution, and whatever savings they had were not significant.²

Indeed, on the whole question of whether or not these lobby groups were economically powerful, the evidence from the interviews suggest that they were not. The spokesperson of GFE had this to say about the movement:

To the extent that it draws on its own resources, the movement is economically limited as its members are generally youthful and are lacking in economic resources, experience and political accomplishments.

THE PERCEPTIONS OF TARGET GROUPS

Addressing the issue of economic power of lobby groups, the immediate past chair of the MHRC said:

The Commission did not perceive the gay advocacy groups as powerful...certainly, the people who were talking to the caucus and appearing before our Commission were not highly influential or wealthy people.

The same sentiment was echoed by the Attorney-General when he said:

It is a mistake to think of this legislation as something that the homosexual community brought about by its own lobbying and its advocacy; it was by no means influential and powerful enough to do that.

3. NUMERICAL STRENGTH

Concerning the perceptions of the target groups on the numerical strength of the lobby groups, the findings were not so

clear-cut. However, the statements made by the interviewees on this subject indicate that numbers were important, even if only to a limited extent.

The Leader of the LP had this to say about the numerical strength of the lobby groups:

They were very unpowerful, because first of all since they only represent 10% of the population, they can't affect a particular constituency - there are not enough of them.

Lack of numerical strength, in a general sense, may make a minority group vulnerable and defenceless. The Attorney-General perceived the homosexual community as a vulnerable minority:

I came to feel very strongly that this was a group that really did need the protection, that they were very vulnerable and very defenceless. It was their very lack of power that made me argue for the legislation.

The Attorney-General suggested that the government did not consider the lobby groups themselves as powerful. However, he noted that in terms of the party:

In a very narrow, political partisan way, they were more influential in basically two constituencies, although not influential at all in many others. There is a very considerable number of homosexuals who live downtown. My own constituency, Fort Rouge, has undoubtedly the highest concentration of homosexuals in the province, and so too in

Wolsley constituency represented by Myrna Phillips.

At least in the context of these two constituencies, the homosexuals were perceived as numerically powerful to the extent that it would be politically unwise to alienate them. The speaker of the Manitoba Legislature and chairperson of the NDP caucus in 1985 addressed this issue extensively:

We perceived them as a group that we would rather not alienate. The homosexual group in Manitoba would be just about 10% of the population. But you wouldn't get all the homosexuals feeling absolutely grateful and running out to vote NDP the next time round - that's ridiculous; they don't do that any more than all women vote Liberal because the Liberals gave them the vote; it just doesn't work that way.

In support of this position, this informant contended that it was the government's commitment to the principles of equality and justice and devotion to human rights that served as the main impetus to the introduction of the law. She explained:

Homosexuals are our neighbours and friends, especially in the two constituencies of Fort Rouge and Wolsley where Roland Penner and I are the MLAs respectively, and where a lot of homosexuals feel quite comfortable partly because of the diversity of people and lifestyles here....Most of the people in those lobbies are neighbours and friends of mine. If I want to get re-elected in Wolsley, I would be really stupid

to alienate them; I mean, if I was just being crass - if they weren't truly friends of mine as well as my constituents. But what advantage or difference does it make to somebody like John Plohman in Swan River? In fact, he would probably get a bigger majority if he wasn't in favour of the Bill, but he was in this Party. So it wasn't a homogeneous kind of thing; each MLA had to look at their own circumstances. I would suggest that some of the Tory members in Winnipeg - Charlie Birt in Fort Garry for instance - would have voted for the Bill. On the other hand, I can see Jim Downey in Arthur and others who wouldn't even say that word out there.

Given the large number of homosexuals in the Fort Rouge and Wolsley constituencies, the MLAs for these ridings could safely go along with the recommendation. This is particularly important since the Attorney-General whose responsibility it was to initiate and implement this legislation was the MLA of Fort Rouge, and a key target of the homosexual lobby groups.

In this regard, the following statement from the immediate past chairman of the MHRC suggests the latent numerical power of the homosexual advocacy groups who seemed to enjoy the support of the entire homosexual community:

The Government might have felt they were a power group - a kind of a hidden power group since no one really knows how many they are in the community.

This view is further augmented by the Attorney-General when he said:

The other impetus [for introducing the legislation on sexual orientation] undoubtedly, is that those in the homosexual community itself became more, I think, than just an issue of discrimination. Certainly, that was the bottom-line issue. But it became a question of their acceptance in society. I think many people in that community felt that as long as a very significant group in society - as much as or as high as 10% are of that sexual orientation rather than heterosexual - aren't specifically granted this protection, then social attitudes would continue to be those of exclusion, those of discrimination and those of the put-down.

Altogether then, the governing elites considered the size of the homosexual lobby groups as unimportant except in the two constituencies of Fort Rouge and Wolsley.

LEADERSHIP, ORGANIZATION, LOBBYING AND EDUCATION

Turning to other ingredients of power such as organizational capabilities and effective educational efforts, there was evidence to suggest that the homosexual lobby groups were indeed powerful. The leader of the PC made the point very succinctly:

The major factor that made for the success of this legislation was that the homosexuals were so well organized.
They really did go out throughout the community and

identified and convinced other groups to support them.

(Emphasis added).

This view was shared by the past chairman of the MHRC who said that:

The homosexual advocacy groups, with Chris Vogel on the male side and Margaret Coghill on the female side, did an absolutely amazing job of lobbying; they turned the cabinet around their organizational activities and educational platforms. (Emphasis added).

The Leader of the LP also confirmed this perception of the homosexual lobby groups as organizationally competent in the art of persuasion:

The issue on which they lobbied was an unpopular one, in terms of what you had to raise. I think what they did effectively was to appeal to the basic decency of Canadians, in this sense, Manitobans, and they said, 'We are being discriminated against'.

This comment about the effectiveness of the lobby groups contradict this informant's earlier assertions that the efforts of the groups had no impact. This informant said that she personally did not need to be convinced since she was already sympathetic, having personal knowledge of homosexual individuals who were being discriminated against. However, their efforts, she noted, did raise her consciousness on the issue. She marvelled at their

persuasive skills:

What they had to do was to convince the political party that was afraid of taking up unpopular issues [referring to the NDP]; that this was an unpopular issue that they should take. That, I think, was their biggest difficulty - persuading Roland Penner [the Attorney-General] to put it on the agenda of the House, and I don't know how they did that, but perhaps that was the best job they ever did. (Emphasis added).

Commenting on the educational component of this persuasion, the past chairman of the MHRC said:

There was a huge amount of opposition to gay rights in the government caucus. But the gay advocacy groups organized a number of social events to which they invited members of the caucus and the Opposition, and they would discuss with them on a one-to-one basis what the problems were. And they managed to turn the caucus around. They were the key groups in the eventual successful passage of the Bill. (Emphasis added).

The lobby groups overcame their "biggest difficulty" which was motivating the Attorney-General to introduce the bill and also managed to convince other MLAs to support them. The spokesperson of SOL provided the following graphic illustration of the dynamics and success of one such effort:

We were getting a lot of flap from two NDP Ministers - Vic

Schroeder and Larry Desjardin. These two were making a lot of negative action. But we were able to talk to Larry at the Christmas Open House, and he seemed to come around a bit as he listened to us; but Vic was angry and yelled at us. We went after Conrad Santos - a visible minority who was initially against it and wouldn't even talk to us. A year later, he sent a letter saying he would be supportive of whatever his caucus decided and he believed everyone should have basic human rights. I talked to him for a long time, and we got a positive feedback from him eventually.

This face-to-face lobbying technique paid off in the final analysis, also reflected the effectiveness of the message SOL was sending.

On the MHRC's perception of the educational resources and capabilities of the lobby groups, the past chairperson remarked:

We were considering this legislation before we talked with the homosexual groups. However, we saw them as people who could explain the problems of the gay and lesbian community and who could make very useful suggestions.

This informant noted that the Commission sought and obtained from the lobby groups advice as to the form in which the law or statute should be expressed. For example, the Commission wanted to know whether "sexual orientation" or "sexual preference" would be a better way of expressing the law, or whether it would be a

good idea to omit any express reference to sexual orientation. In the end, the lobby groups favoured specific wording and this was deemed very helpful.

Also attesting to the capabilities of the lobby groups is the following statement from the same respondent:

They did an absolutely superb job of lobbying; they worked very very hard and carefully; they worked on individuals, and they chose very reasonable, strong and low key people as their leaders or spokespersons. (Emphasis added).

This is not only a commentary on the leadership of the two homosexual lobby groups but also a testimony to their skills in lobbying. However, there was at least one instance when the leadership of the GFE came close to alienating one crucial source of support for the legislation. The Leader of the LP was very critical of the GFE leadership when she expressed her indignation this way:

In fact, if any one hurt this whole debate about the legislation, it was Chris Vogel who wrote a ridiculous letter, quite frankly, and made some ridiculous statements during the debate, to the effect that this was going to change marriage laws, and he was going to be able to get his partner on the dental plan, and that type of thing.³

She said, this was capitalized on by the Leader of the Opposition who used these statements over and over again in the legislature.

She continued:

At one point, I would have liked to get hold of Chris Vogel and shake him to understand that this was not the way to pass this Bill and that by making these statements, all he was doing was creating and sustaining the very fears that people thought existed - that if you did this, if you open the door, all these things were going to follow. Well, they are not going to follow. And so the kinds of things Mr. Vogel talked about threw a red herring into the air, making the whole passage of the legislation much more difficult, and made the whole issue less rational to those who were in fact trying to debate it on the basis of discrimination or non-discrimination.

This informant felt strongly that the best way to carry the legislation forward was to concentrate on the broad issues of opposition to discrimination and support for human rights which enjoyed considerable public sympathies rather than to spell out all the detailed aspects of the demands and aspirations of the lobby groups which may have seemed morally reprehensible to some people. In other words, even among persons who supported Bill 47, there was opposition to certain issues and strategies employed by the homosexual lobby groups.

The LP's opposition to the statements from the GFE leadership which were deemed to possess the potential for harmful

consequences must be seen in the context of the party's mainstream ideological position. Its leader said:

The Liberal Party tends to be in the norm of society, sometimes a little avant-garde, but frequently we are with the society at any one given time.

Thus, not all of the demands were favourably perceived by the target groups - even those who supported the essential principles underlying the demand. Similarly, the leadership and its lobbying efforts was not universally perceived as helpful by the target groups. Nevertheless, overall both the leadership and tactics were considered effective by the targets. The leader of the PC said:

The issue became topical at the time it did primarily as a result of the constant lobbying of those groups in support of homosexual lifestyle and freedoms to practise homosexual lifestyles. Their lobbying efforts finally came to a point where they convinced the government to put it in. I know that they've certainly lobbied actively for as long as I have been in government, which is ten years now or close to it.

Commenting on the time span between the commencement of the lobbying and the passage of the legislation, the Speaker of the Manitoba Legislature noted that:

So...really in political terms, for a government to do something like that early in the session of their second term

or their second mandate is not all that really long. I mean, you know women have been persons since the 20s but we still have sexism, and slavery has been abolished but we still have racism. So indeed, to achieve a goal like that in a decade is actually miraculous.

It is also important to note that the ability of the homosexual lobby groups to attract the support of other respected, organized bodies to their cause was critical. The Attorney-General's comments below illustrate the impact of this support, and the importance of its timing:

Depending on other variables though, if the homosexual advocacy groups had obtained the support and sympathies of these influential groups behind them earlier, this legislation could presumably have been passed earlier.

Other comments from the Attorney-General on the leadership and educative efforts of the lobby groups were more indirect, yet they point to the educational prowess of the lobby groups:

When we came to the point where the legislation was going to be introduced, we wanted to be in a position to defend it. Clearly, we were helped by a lot of information that we received from many sources as to the causes of homosexuality and all the issues that might be raised. We also were helped by being informed in a much more complete sense than might otherwise have been the case as to what in fact were the

positions taken by religious groups, and the information of that kind were supplied, whether from Mr. North or from any of the advocacy groups or from whatever source.... All this was very valuable to us in planning how we would bring in the legislation, how we would debate it, how we would meet some of the objections, how we would frame the legislation, etc.... In terms of subsequent events, they were part and parcel of a large body of information that we had and needed to carry the matter forward.

CREATING A HOMOSEXUAL ADVOCACY

ASSOCIATION WITH OTHER GROUPS

Part of the pressure that helped the governing elites to "carry the matter forward" was in the ability of the lobby groups to win and retain the support of respected groups. In the opinion of all the informants, association with other groups was one of the major factors which helped propel the demand for the inclusion of sexual orientation in the Human Rights Act to success. For instance, the leader of the PCP recognized the impact of the support which the homosexual lobby groups obtained from other organizations:

I must say that the major factor that made for the success of this legislation was that the homosexuals were so well organized. They really did go out throughout the community and identified and convinced other groups to support them.

And that, I suppose, brought enough pressure to bear on the government, and to which the government eventually succumbed.

(Emphasis added).

By procuring support from other organizations, the homosexual lobby groups succeeded in creating an effective homosexual advocacy which in turn became a dynamic pressure group - a coalition of organizations sufficiently concerned and effectively mobilized to advance the campaign for the entrenchment of homosexual rights in legislation. The creation of this effective homosexual advocacy and its role in the passage of Bill 47 was important. The Attorney-General amplified this point:

The homosexual advocacy, in fact, was so much broader than the homosexual community, so that it is a mistake to think of this legislation as something that the homosexual community brought about by its lobbying and its advocacy; it was by no means influential and powerful enough to do that.

The homosexual community, in and of itself, lacked sufficient influence and power. The leader of the LP, as already noted, explained this lack (of influence and power) in terms of their limited numbers and the unpopularity of the very issue around which they were organized. Thus, the creation of a homosexual advocacy lent to the homosexual lobby groups the crucial force which pressured the government to push for the legislation.

Influence and power were gained through association with others.

Without the creation of this alliance, it is probable that Bill 47 would not have materialized. The Attorney-General expanded on this point:

But when you have the Manitoba Teachers' Society, the Manitoba Federation of Labour, the Winnipeg Labour Council, the principal church groups, the University of Manitoba Faculty Association, the University of Manitoba Students' Association, the University of Winnipeg Students' Association, and a whole number of women's groups, to mention only half a dozen or so of many, many groups, one has to see that as the political context and not just the particular lobby groups.

SOL's spokesperson, Margaret Coghill also appreciated the support of other groups in achieving the passage of this legislation:

Other groups sent supportive letters to the government and the MHRC - churches and other social service groups - organizations that are seen in society to possess credibility and power base. They lent their credibility and influence to our cause and they helped the government know that its not just gays and lesbians who think that they should have human rights but that there is support for it in society.

(Emphasis added).

(For detailed list of organizations or bodies which supported this legislation see Appendix C).

In terms of enhancing the power, credibility and influence of the homosexual lobby groups, the Attorney-General stated that these several groups:

Sent either memos, statements and/or briefs to the government's Human Rights Commission indicating support for the inclusion 'sexual orientation' in the Human Rights Code. Many of these groups subsequently appeared at the Committee to make presentations to the Legislative Committee in support of the legislation.

In a memorandum sent to the MHRC in 1983, the University of Manitoba Faculty Association expressed:

Support for the inclusion of 'sexual orientation' as prohibited grounds for discrimination in the Manitoba Human Rights Act. The Association itself negotiated such a protective clause into our Collective Agreement several years ago.

The University is not only seen as a seat of learning but also as an institution composed of highly resourceful people. According to the Attorney-General, the NDP government respected the opinions of the University Faculty Association. The support of such an association is therefore likely to be influential, especially when it had itself negotiated such a clause in its own employment agreement. The University of Winnipeg Faculty Association and the students' unions of both Winnipeg universities also indicated

support for the proposed amendment.

In 1985, the United Church of Canada, in a supportive brief noted that:

To leave one group of citizens beyond the pale is a dangerous precedent. In a democracy, it is equally dangerous to leave the decision about inclusion or exclusion of any particular group from human rights safeguards to the will of the public at any moment in history.

Similarly, in 1978, the House of Bishops of the Anglican Church of Canada, indicated its support for the protection of homosexual rights in law.

In a supportive letter to GFE copied to the NDP government and the MHRC in 1985, the Manitoba Teachers' Society made the following statement:

It is our belief that a person's fundamental human rights must not be abrogated by a personal, private decision regarding their sexual preference.

Considering the high esteem in which the government apparently held the Teachers' Society as the Attorney-General emphasized, this statement of support must have had a great deal of impact.

The impact of support from other organizations becomes even more evident in this statement from the same Attorney-General:

I'm sure that some of the attributes of power which the homosexual [lobby] groups possessed such as association

with other respectable and influential bodies influenced our decision on this legislation. I'm sure that they did. But had the Manitoba Teachers' Society and the Manitoba Federation of Labour - two groups to which I think we are quite responsive said 'Don't do this' - and one is often more influenced by people who say 'Don't!' - that one would have been very influential. How influential we could only speculate. Yes, some [lobby] groups have more influence with the governing group than others depending on who the governing group is.

The reasons for the influential status of the Manitoba Teachers' Society were explored as a means of ascertaining the critical attributes which affected the government's perception of the advocacy groups in general. The Attorney-General noted that:

One tends to be influenced more by some bodies than by others, depending on one's position in the political spectrum, and one's own ideological make-up.... The Manitoba Teachers' Society represents a large group: it is a very influential group because of its contact with the community - the children and parents; it is a group that doesn't have power because of wealth or any of that kind of professional stature in the sense that we could call doctors and lawyers; it is articulate, and the fact that it is articulate, I think, is what in many ways, makes a big difference between

professional and quasi-professional groups, and they are more influential than poverty organizations who don't have the means, quite often, to articulate and to advocate, as do the better-positions groups.

Articulation can enhance credibility which in turn may generate confidence in an organization and hence render it influential. The homosexual lobby groups succeeded in identifying and lobbying those bodies in the society respected by the governing elites for being broad-based, articulate and credible. The result of this was the emergence of a homosexual advocacy public - an alliance of groups that transcended the homosexual lobby groups, and that pressured the governing elites into introducing and passing Bill 47.

PROPOSITION TWO

The second proposition to be tested stated that if the demand of an interest group accords with the ideological position of the ruling elites, it will receive a favorable response. In testing this proposition, it must be determined whether the demand for the inclusion of sexual orientation was in consonance with the dominant ideology of the ruling elites. Furthermore, the question must be answered as to whether or not the passage of Bill 47 had anything to do with the ideologies of the target groups.

THE ROLE OF IDEOLOGICAL FACTORS IN THE PASSAGE OF BILL 47

It has been noted that congruence between the ideology of a target group and the demands of a lobby group is crucial in determining the latter's potential for attaining the entrenchment of such demands in legislation. Ideology here is used to refer to the statement of aspirations, goals and values of a social group via a system of rules of law and the philosophical orientations from which it is derived. Thus, ideology is a system of beliefs and ideas that orients the patterns of thought and the actions of human beings. It is a particular definition of reality which comes to be attached to a concrete power interest in society. It refers to the doctrines, opinions, or body of ideas on which a particular political, economic, or social system is based.

It appeared that there were no significant differences between the ideologies of the three political parties in Manitoba with regards to human rights and minority issues in general. The parties' position papers, letters and statements from their leaders were examined in an attempt to ascertain their ideological positions regarding minority rights issues.

The majority of the target groups covered in this study found the demands of the homosexual lobby groups to be in accord with their general ideological positions on human rights. All three political parties were committed to the Western, libertarian

ideology of fundamental human rights, justice, equality as enshrined in the Canadian Charter of Rights. The Human Rights Commission (HRC) was evidently supportive of the demands of the lobby group from an ideological standpoint. The target groups supported minority rights even if some did not approve of the demands of the homosexual lobby groups per se, and even if such support did not advance the legitimated interests of the target groups. As Berger and Luckmann (1981) note, there may be large elements in an ideology that bear no particular relationship to legitimated interests but that are vigorously affirmed by the "carrier" group (which upholds it) simply because it has committed itself to that ideology.

Informants were questioned as to why they thought the Manitoba government introduced Bill 47. Opinions tended to crystallize around the perception that the government was convinced about the necessity of providing protective legislation to cover homosexuals in Manitoba. With the sole exception of the leader of the PC, all the informants attributed the government's action to a fundamental conviction on the necessity of such an action, as well as its appropriateness from a human rights perspective.

1. THE NEW DEMOCRATIC PARTY

The affirmation of homosexuality as a legitimate lifestyle and support for the inclusion of sexual orientation in the Human

Rights Act as a prohibited ground of discrimination was not found to be part of the "legitimated interests" of the NDP. However, homosexual rights issues, under the general rubric of minority rights issues, constituted an integral component of the socialist ideology of the NDP (which provides enough room for commitment to the welfare of various kinds of minorities).

Addressing the issue of why the government introduced Bill 47, the Attorney-General of Manitoba and members of the NDP caucus said:

The fundamental issue was the issue of discrimination.... Basically, human rights legislation starts with the premise that a democracy cannot really be a democracy without equality of opportunity. We recognize that people aren't equal in the sense of being the same but they ought to have, nevertheless, the same equality of opportunity, taking into account special circumstances and special needs; that what provincial administrations can and ought to advance the cause of equal opportunity and hence to strengthen democracy is to prohibit discrimination in areas of provincial jurisdiction particularly in employment accommodation and public services. Starting with that premise, there seemed to be no ground whatever for refusing to specify that one of the prohibited grounds was sexual orientation.

It is evident from the above comment that commitment to the

democratic ideal, to the essential principles of justice and equality formed the basis of the NDP's support for Bill 47. This informant further explained:

There were others who tried to asses it [the Bill] on purely political grounds and felt that because we were a party identified with human rights issues, it would be inconsistent and a political error for us not to do it; they tried to bring more of a political evaluation - a philosophical or conceptual evaluation to the debate.

He noted however that there were some who had very intense personal feelings probably rooted in religious beliefs and who rejected the ideological - philosophical justification for the legislation. He continued:

Eventually, all of them, as we debated it, came to see that it really was an issue of discrimination, and that the real moral issue involved was whether you were going to condone discrimination.

In response to the same question, the Speaker of the MLA and chairperson of the NDP caucus in 1985 attributed the government's action to the inadequacy of the human rights legislation, the demands of the homosexual advocacy groups and the NDP's commitment to them:

I presume that it would have been because since we passed the Human Rights Legislation in 1974, over the years, homosexual

individuals have found that it doesn't cover them - the legislation wasn't adequate and that there were situations that arose in enough numbers to show that they needed amendments to cover their particular situations. Thus, the NDP felt that there was a need to make the amendment to include sexual orientation in the Human Rights Code. In many Party conventions, not only was a resolution for this amendment passed but also reiterated at subsequent conventions.

Here again, a fundamental commitment to human rights and a genuine conviction about the necessity of entrenching homosexual rights in law were emphasized. Indeed, the two central notions of commitment to human rights and conviction about the necessity for Bill 47 were found to be shared by the federal NDP.

In a letter to Mr. North of GFE dated February 14, 1985, Ed Broadbent, Leader of the federal NDP noted that prohibiting sexual orientation discrimination was a question of human rights worthy of support regardless of anyone's personal attitude towards the protected category. He said:

The issue...relates directly to the Charter of Rights. The NDP has long upheld the need to provide Canadians with entrenched protection for the fundamental freedoms of thought, belief, expression, peaceful assembly and associations as well as provisions against discrimination on

the basis of race, ethnic origin...age or mental or physical disability.... The NDP views this question as a matter of human rights and not as an endorsement of a particular lifestyle.⁴

The foregoing illustrate the fact that there was a basic congruence between the demands of the lobby group and the commitment of the NDP to the broad issue of human rights. The NDP saw the issue of sexual minority rights as an integral part of human rights.

2. THE LIBERAL PARTY

Concerning the position of the LP, its provincial Leader said:

The official position of the Liberal Party was an affirmation of the Bill in its entirety. The sexual orientation section of the bill was also supported without any reservations simply because at two previous policy conferences we had supported such a legislation.... The Party passed it for the first time in 1983 and we reaffirmed it in a policy convention in 1985.... In other words, we were convinced about the normality of homosexuality. Furthermore, I think that society is judged by its tolerance, not by its intolerance, and if we really believe in democracy and the rights of individuals provided that what they do does not infringe upon others, then we have to support this kind of

resolution and this kind of debate and law-making. (Emphasis added).

Again, commitment to the principles of equality, justice, human rights and tolerance of others were espoused as the basis for the LP's support for Bill 47. These sentiments were in accord with the ethos of a democratic society. For the LP, it would seem a contradiction in terms to support basic human rights and democratic ideals and yet reject the human rights component of Bill 47.

Explaining the basis of her own personal support, the Leader of the LP said this derived from:

having taught many youngsters (...mainly in a boys' school) and being aware of the incredible difficulties faced by young men as they emerged and discovered that they were homosexuals; not that they wanted to be. This is why I am firmly convinced that homosexuality is not a choice; I'm convinced that it is something with which we are born, or our environmental experiences lead us to be that, or some combination of both. But it is not something that we wake up in the morning and say 'I am a homosexual', or 'I am a heterosexual'. (Emphasis added).

The position of the Manitoba Liberal Party was consistent with the Federal Party's position. In 1985, the Leader of the LP, John Turner, stated:

We believe that the Canadian Human Rights Act ought to be amended to extend the list of prohibited discrimination to include sexual orientation, political beliefs, criminal conviction or criminal charges.

Like the NDP, the federal and provincial leadership of the LP were both supportive of the demand to include sexual orientation in the Human Rights Act, and saw the issue as being congruent with their party's ideology.

THE PROGRESSIVE CONSERVATIVE PARTY

It can be inferred from the foregoing that lack of support for Bill 47 stems from a perception that it is not a human rights issue was not involved. The PCP was the only target group in this study which saw the issue not in human rights terms but as a moral question. The PC leader explained their opposition this way:

We were opposed to the inclusion of sexual orientation in the Human Rights Act essentially because we saw it as a matter of moral standards. We did not believe that the mass majority of Manitobans accepted homosexuality as being equivalent acceptable lifestyle. And that, in fact, puts into legislation the enjoyment of a lifestyle as opposed to the other kinds of protections of our basic freedoms, whether they're freedoms of speech, religion, association or any of those things.... In a word, we saw it as an attempt to justify an unacceptable lifestyle, and also there was the

moral issue of essentially changing moral standards and changing the traditional family values and lifestyle that our society is built upon.

The PCP represents a class of citizens whose legitimated interests in society are grounded in traditionalism, and hence opposition to alternative definitions of reality. For the PCP to support Bill 47 out of a conviction that it was a human rights question would be a tacit recognition of homosexuality as an alternative lifestyle and hence an endorsement of an alternative definition of reality. Such a stance would not appropriately mirror the traditional conservatism for which the PCP stands. This is not to say that the PCP regards the extension of rights to minorities as incongruous to its legitimated interests. Indeed, as the Leader said of the party and its membership, they:

Support protection from discrimination on the basis of any matters that would be visibly discernible difference amongst people - race, color, religion, gender and any of those physical characteristics and physical handicap.

To the PCP, none of these criteria applied to homosexuality, and hence its opposition to Bill 47.

3. THE MANITOBA HUMAN RIGHTS COMMISSION

The MHRC, which recommended the bill to the government in 1983, supported it fully and saw it as fundamentally harmonious with its ideological commitment to the human rights of all

residents of Manitoba. The preamble to the MHRC's 1972 report on its progress said:

The real measure of a society's concern with the rights of its citizens goes beyond the broad questions of citizenship, suffrage and equality before the law and seeks to establish recourse from the subtle injustices of discrimination for its citizens. It is this far more subtle yardstick that led to the creation of the Manitoba Human Rights Commission and its ongoing job of providing recourse for all Manitobans in their efforts to achieve real human dignity and economic opportunity. (Emphasis added).

This statement constituted the cornerstone of the Commission's commitment to the fundamental rights of all Manitobans.

The past chairman of the MHRC said, in 1985, that the general guarantee of equality contained in Section 15 of the Human Rights Charter was applicable to every minority. During an interview, he explained the commitment of the Commission this way:

The Commission felt very strongly that the inclusion of sexual orientation in the Human Rights Code was very necessary. The Commission was receiving complaints about discrimination and our hands were tied.... We felt that we were not getting all the complaints we should have been getting because the gay and lesbian communities did not realize that they were effectively protected. The Act just

said 'sex discrimination' and they often would not bring a complaint to us because they just didn't think they were protected so we knew that it was necessary to secure their protection in law.

The above quotation demonstrated that the Commission's support for the demand was born out of a realization that homosexuals were an unprotected minority. The previous Act which specified a prohibition against "sex discrimination" did not offer any protection to homosexuals. In fact, it was not intended to do so and only a misreading or misinterpretation of that provision could produce the perception that "sexual orientation" rather than gender was intended. The Attorney-General, speaking to this specific issue during the interview, explained it this way:

One has to take into account the history of our legislation. Had our legislation started out with the general statement with respect to, and not named the grounds, then arguably, you might have been able to in the courts have the courts to agree that any non-justifiable discrimination including discrimination on account of sexual orientation would be prohibited. But since we had already named certain specific grounds, the courts took the narrow or literal grounds and said 'Well, if you as a Government hadn't named it in your legislation then you wouldn't intend it'. So then the

argument was 'Well, it's included in the general rubric of 'sex discrimination' which is prohibited'. And the courts and adjudicators came back and said 'No, we don't think that it was intended that the general notion of prohibition of discrimination on account of sex is the same as prohibition on account of sexual orientation'.

The ruling elites eventually realized that homosexuals were not protected from discrimination under the law. This realization came about as a result of at least two legal battles in which homosexual employees took their employers to the MHRC alleging discrimination based on their sexual orientation. The MHRC determined that sexual orientation was neither included nor intended in the Human Rights Act, and sex discrimination referred to gender not sexual or affectional preference. Thus it was made clear the lack of legal protection for homosexuals in Manitoba. The dynamics of the shift in the Government's position was amplified by the past chairman of the MHRC this way:

The Government did not originally want to include sexual orientation in the Human Rights Act. They included it because the Human Rights Commission asked for it to be included. The Commission gave the Minister [i.e. the Attorney-General] a proposal for a new human rights code and the intention was that it would improve on the old legislation which had become outdated in several ways. One

of the things that the Commission wanted to include in the new Act was a section prohibiting discrimination based on sexual orientation or affectional preference. Under the previous legislation, there was a point of view, an interpretation to the effect that discrimination based on sex which was prohibited would include sexual orientation. But the courts ruled that that was wrong, and so the Commission found itself unable to deal with discrimination against gays and lesbians, unless there was a specific change in the legislation prohibiting discrimination on the grounds of sexual orientation. Thus, the pressure came first and foremost from the Human Rights Commission.

The Attorney-General was reluctant at first because it was his opinion that the existing legislation already covered the change being sought, and he felt that the Commission should have taken an appeal from the case that said sexual orientation was not covered. The Commission was of the opinion that it would probably have lost the appeal anyway and so it was much better to have the change explicitly placed in the Act. The Commission was not at all sure that the Government would accept that, and we knew all along as the new draft was being discussed over a period of several years that the Government was very reluctant because they did not want to get into an unnecessary public controversy if the

existing law would do it. That is not to say that they approved of discrimination against homosexuals, although that was one of the factors. But they were eventually persuaded that the change was very necessary and so they did.

This lengthy quote highlighted a number of important factual undercurrents involved in the process of legislating a prohibition against the discrimination of homosexuals in Manitoba. First, it pointed to the MHRC as the primary official source of the pressure and the recommendation for Bill 47 which was contained in the 1983 draft legislation. Second, it reflected the internal and external political difficulties which the government had with introducing the legislation. Third, and most immediately relevant, this piece also indicated the Commission's conviction that the demand for Bill 47 constituted a human rights question which was ideologically compatible with its objectives.

Two conclusions can be drawn from the foregoing analysis. First, the demand of the homosexual lobby groups was congruent with the ideologies of a majority of the target groups. Second, ideological considerations, frequently referred to by the targets as "party policy" were important and influenced the passage of Bill 47. These conclusions confirmed the proposition which links interest group success to target groups' ideological positions.

PROPOSITION THREE

This proposition stated that in responding to specific interest group demands, the ruling elites take into account their perception of public opinion. In other words, if targets perceive public opinion to be supportive of a given interest group demand then they are more likely to give it a favorable response. Conversely, if targets perceive public opinion to be against a given interest group demand, they are less likely to accede to it. This proposition links the ruling elites' perception of public opinion to their treatment of interest group demands.

Data from the research confirmed this proposition. There was evidence that all the targets, in assuming their various positions, were responsive to what they perceived to be the state of public opinion on the demand for the provision of legal protection for the human rights of homosexuals.

THE NDP

Public opinion, as perceived by this target group, influenced its stance regarding the amendment. In 1972, the then Attorney-General, Mackling, stated that the NDP government would not amend the MHRA to provide legal protection for homosexuals because the majority of society was against such a move (Winnipeg Free Press, December 6, 1972). In 1974, Howard Pawley, who was the Attorney-General, said there was insufficient support for homosexual rights legislation and therefore the government was not

inclined to go along with the amendment (Winnipeg Tribune, October 5, 1974).

These instances showed the significance which the NDP government attached to their perception of public opinion on this subject. During the interviews, the Attorney-General and the Speaker of the legislature both indicated the important role of public opinion in the passage of Bill 47. The Attorney-General noted that several credible bodies and individuals sent letters, memos, briefs and statements indicating support for the amendment, and that this influenced their position. The Attorney-General said the homosexual lobby groups were not influential, but the advocacy group they created was an important development in the passage of Bill 47. He emphasized that "when you have ... a whole number of many, many groups" declaring support for the amendment, "you've got to see that as the political context for the action". This was in accord with this interviewee's characterization of the NDP government as a body which is influenced by its:

natural ties with more populist organizations or more broadly-based organizations, whether it is the Union movement or others. We are more influenced by the church groups in many ways than by the Chamber of Commerce.

Many of the groups which declared support for the amendment fell into the "broadly-based" category. The important point here is that the NDP perceived the support of such organizations as a

reflection of public opinion on the subject. Indeed, the Attorney-General surmised that, had the homosexual interest groups obtained the "support and sympathies of these groups earlier", the amendment would have been passed earlier than July 1987.

It must be noted that public opinion is not exclusively measured through public opinion polls. Although polls may be the most reliable index of public opinion, it is possible to estimate the opinion of the public on any issue through the behavior of the public. In the absence of objectively conducted opinion polls, demonstrations, picketing, protest marches, rallies; letters, memos and briefs to governments, commissions, and the print and broadcast media; editorial comments and even gossip and rumors may reflect the state of public opinion to varying degrees of accuracy and reliability. Thus, although there were no specific public opinion polls on support for homosexual rights in Manitoba, the NDP relied on other criteria to gauge public opinion.

The point here is that the support from several groups within the homosexual advocacy acted as a surrogate kind of public opinion poll. These groups were seen by the NDP as representing the opinion of a broad constituency on the amendment.

Speaking to the issue of the role of public opinion, the Speaker of the legislature said:

Other letters from the coalition had information that those who cared to read found very useful. They were statistical

kinds of things. You talk of public opinion for instance, almost every poll that had been done showed that a large percentage - somewhere in the 70s and 80s, I can't remember clearly - approved of this kind of arrangement or agreed that a person should not be evicted or fired or rejected from a restaurant because they were gays. So those kinds of things, I think, were really helpful.

The reference to "the coalition" is to the homosexual advocacy groups - the several bodies and individuals supportive of the amendment. The public opinion data mentioned above were national, rather than provincial. It is clear that the NDP took into account its perception of public opinion on the amendment from 1972 to 1987. By 1986 when the NDP introduced the amendment into its caucus, it was convinced that there was overwhelming support for it among the public.

THE PCP

This target also took its perception of public opinion on the amendment into consideration. The Leader of the PCP said he and his party "did not believe that the mass majority of Manitobans accepted homosexuality and heterosexuality as being equivalent acceptable lifestyles". He expressed disappointment at the passage of Bill 47, which he said was against their opposition and "the opposition of literally hundreds of people". There was ample indication here that the PCP's position was partly grounded in

what is perceived to be the state of public opinion on homosexual rights legislation.

THE LP

The leader of this target saw Liberal opposition to homosexuality as the norm in the early part of this century. The change officially came about when the party adopted a resolution supporting the amendment at its July 1980 convention in Winnipeg. She said their opposition to the issue was reflective of the general societal intolerance of homosexuality, and their support for it marked a change in the attitude of the public on homosexuality. She noted that the LP frequently tends to be in tune with society, so its positions often vary in accordance with changes in public opinion at any given time. She emphasized that the party supported the amendment when they became convinced, inter alia, that the broad majority of people supported it. This indicated that the LP considered the state of public opinion as an important factor in determining its position on Bill 47.

THE MHRC

This target group recommended the amendment to the government not only because it was convinced of the necessity of providing legal protection for homosexuals but also because it believed the public was supportive of it. During the public hearings on the amendment of the MHRA in 1982, there were over 60 submissions from various bodies and organizations supporting the amendment

while there were only two submissions from individuals opposed to it. The Commission took this as an indication of public support for the amendment.

All the above indicate that the target groups took into consideration, their perception of public opinion on the amendment in determining their various positions toward Bill 47. Thus the third proposition is also confirmed by the data.

In sum, all three propositions as outlined at the end of Chapter Three were confirmed by the data produced from this research.

CHAPTER SEVEN

OTHER FACTORS AFFECTING BILL 47

There were a number of other factors which influenced the lobbying process, the course and duration of the debate and the eventual enactment of Bill 47. Some of these were centrifugal - they either directed attention away from the central issue of human rights protection for a minority or they slowed down the process. There were other factors which were centripetal, in that they continually directed attention to the central issue of human rights, or maintained pressure on the ruling elite, and thus facilitated the passage of the Bill. This chapter explores these factors.

A. THE CENTRIFUGAL FACTORS

As noted, the NDP government avoided the issue of homosexual rights until 1983 when the MHRC recommended amending the HRA. Three more years elapsed before the government introduced Bill 47 in the legislature. The centrifugal forces involved in this process were: (1) fear of controversy on the part of the government; (2) the lessons from the French language issue; (3) the mass media; and (4) the impact of deflative strength from the official opposition, the PCP. The first three factors were closely interrelated and complimentary.

1. FEAR

It has been noted that the NDP government sought to avoid the issue of homosexual rights because it did not want to engage itself in an issue that it believed to be unpopular. Introducing controversial legislation could be potentially costly to the government's popularity.

The explanation for the government's slowness to act on the amendment must lie in the fact that it was afraid of losing some of its rather fragile support. Its small majority in the legislature was considerably weakened after the 1985 provincial election. Some of its party caucus and key cabinet members were opposed to the legislation.

2. THE FRENCH LANGUAGE ISSUE

Another important factor underlying the fear of the NDP government was its bitter experience with the French language issue during the previous session of the legislature. The past chair of the MHRC expressed the government's difficulty this way:

The government was reluctant to pass the legislation not so much as a result of their opposition to gay rights (although that was one of the factors), but because they had just come through a difficult debate over the French language Bill, and they were afraid that any kind of rights legislation might get them into the same kind of debate.

Exploring the politics of this process in 1984, the spokesperson

of SOL said:

The government's refusal to act on this matter as quickly as one would have expected, had nothing to do with any personal things. It was a whole political thing: they were coming near to election, and they had just been burned by the French language issue. You see, a government's number one priority - and this seems to be universally true - is to get re-elected, come hell or high water, regardless. That's their number one priority, no matter which government, no matter where they are. An election was coming up, and they didn't want to do anything controversial. So they said, 'You know, there'll be a better time'.

She said, the French language issue decimated the government. She added:

Not that it should have, but they weren't prepared for the backlash; they weren't prepared for the kind of thing that was going to come out of it - the racism against French people.... The Conservative party played really dirty politics in terms of encouraging that - really fueling that, getting everybody out of their closets and just hating, you know. And it didn't take much to fan it, and they fanned it.

The NDP government had painfully learned the lesson that in matters of minority rights, forging a consensus can be a politically dangerous undertaking. It was therefore afraid to

embark on a course that held the potential for controversy, and dissent, especially when elections were just around the corner.

In other words, despite its commitment to the rights of minorities, the government's own self-interest - the avoidance of any actions that would jeopardize its chances of winning the up-coming elections - was paramount in its priorities.

3. THE MASS MEDIA

The Winnipeg mass media did not aid the cause of the lobby groups. As already noted the Winnipeg Free Press refused paid advertisements from GFE. In January 1977, the CBC adopted a policy of refusing to air public service announcements from gay organizations in Canada because "homosexuality is controversial" (Winnipeg Tribune, February 21, 1977, p. 4; The Uniter, March 9, 1977, p. 5). The media also gave them negative publicity.

Margaret Coghill, the SOL spokesperson amplified this point:

It was risky to go public with the media because the media don't understand the issues and is [sic] just as prejudiced and discriminatory as anybody else; the way they report it does us more harm than good, and all your widows start coming out of the woodwork and you get all kinds of negative press. The print media are in business to make money, and part of this money-making venture is to attract readership.

However, it must be noted that even negative media coverage on minorities has a potential for a "boomerang" effect. The

spokesperson of GFE made this point succinctly:

We have found that attacks upon us succeed in promoting positive public attitudes toward us. Publicized instances of discrimination, no matter how ominous or dirty the coverage, can be used to present our case - we could identify and isolate the essential issue of discrimination and employ it to our advantage.

Such publicized instances of discrimination have been exploited by many ethnic and religious minorities in persuading their audience that they are an oppressed group.

4. THE PROGRESSIVE CONSERVATIVE PARTY'S OPPOSITION

The official Opposition in the legislature, the PCP was vehemently opposed to Bill 47: every Conservative MLA voted against the Bill. The Leader of the LP expressed surprise at this development:

I was shocked that all the Conservatives voted against it. I was surprised at somebody like Gary Hammond who has been active as a women's rights advocate. I was shocked by Mitchelson, and I don't know whether they were affected by the Party's cause or solidarity or what. I was terribly shocked when Don Scott indicated to me that he was concerned about this legislation.

Even those in the PCP who were sympathetic to minority rights issue voted against it, presumably in accord with their Party's

official position. The past chair of the MHRC described the PCP's formidable opposition to Bill 47 as "deflective strength of opposition" by which he meant the power to militate against the passage of the bill. Explaining his view of the characteristics of those who opposed it, he said they were:

... people with conservative social views. I got a few crank letters which tended to come from people with extreme religious views - people of extreme conservative, Protestant sects as a rule. But these were probably extremists within the community and so it is probably hard to characterize them.

The same informant identified the official Opposition as the main group which opposed the bill. He suggested that:

It seemed the Conservatives felt they could hurt the government by creating a controversy around the issue.... Some opposed it for reasons of gaining political advantage: some members of the Opposition felt this was an issue upon which they could embarrass or possibly defeat the government. Others opposed it because they feared it would firstly legitimize and secondly encourage an immoral activity, and thirdly create the possibility of encouraging the employment of homosexuals in sensitive jobs such as teaching.

Except for the presumed ulterior motive of hurting the government for political advantage, the Leader of the PCP agreed

with these assertions regarding his party's opposition to the proposal. Party loyalty was high, and most PCP members were also convinced such an amendment would not only amount to an endorsement of immorality but would be also inimical to public good. The leader added:

Because it was a moral issue, in my view, I allowed it to be a free vote in the legislature. As it happened, none of our members voted in favour of it.

This opposition was well known to the government, and given the near-balance of their respective MLA's in the legislature, the government was insecure about introducing the bill.

B. THE CENTRIPETAL FACTORS

There were a number of other factors which aided the process of securing the inclusion of "sexual orientation" in the Act.

These were:

(1) the MHRC's commitment to the amendment after recommending it to the government in 1983; (2) the experience of Quebec and Ontario with similar bills; (3) the support of the Liberal Party of Manitoba; (4) the wording of the bill itself; (5) the political climate in Manitoba after 1985, and (6) political courage on the part of the NDP government.

1. THE COMMITMENT OF THE MANITOBA HUMAN RIGHTS COMMISSION

After recommending the amendment to the Government, the MHRC stood by its commitment by defending and supporting it throughout

the period leading to the debate. Indeed, such was the Commission's commitment that it felt frustrated at the government's reluctance to act on it. The past chair of the MHRC expressed it this way:

We on the Commission were pretty disappointed because we were entrusted with the responsibility of creating a new legislation, and yet when we proposed it, they sat on it for quite a while and said: 'Not just yet'.

The Commission's Legislation Committee continued to work alongside the Government's drafting staff until the Government agreed to introduce the bill in the legislature. It is evident that the Commission's commitment was a major contributory factor in the eventual passage of Bill 47.

2. THE QUEBEC AND ONTARIO PRECEDENTS

The experiences of Quebec and Ontario positively affected the passage of Bill 47. Quebec included sexual orientation in its Human Rights Act in 1977. This action created no significant problems in that province, and there was no major debate on it before it was passed. The Quebec Human Rights Commission was also able to administer it without any problems. According to the past chairman of the MHRC, these positive developments in Quebec were brought to bear on the debate in Manitoba. He also noted, however, that:

The key external factor was the Ontario legislature passing

such legislation the previous year. When even a traditionally conservative province like Ontario which had rejected this bill previously passed this legislation it became easier to persuade the Manitoba Government that this was something they could do without getting into too much difficulty.

The Attorney-General agreed that the Government benefited from information it received from the Province of Quebec. These joint precedents were also cited in the campaign literature of the two homosexual lobby groups.

3. THE LIBERAL PARTY'S SUPPORT

In 1983, the LP of Manitoba passed a resolution supporting the inclusion of sexual orientation in the Human Rights Act. This was reaffirmed in its 1985 policy convention. Until 1985, the LP had no representation in the provincial legislature, and the proposed amendment had been contentious between the NDP and the PCP. By the time the amendment was introduced in the legislature in December, 1985, Sharon Carstairs, the leader of the LP, had been elected as the only Liberal member of the House. She threw her support and that of her party behind the amendment and voted for it during the debate. She also canvassed support for it privately among both the NDP and the PCP. She described the impact of her support this way:

Another factor that helped them (the NDP and the government)

was that this time, in the legislature, it was not a French language issue; it was not the Conservatives versus the NDP.... All of a sudden they (the NDP) had this other voice of an opposition party which was prepared to say 'I also support this legislation'. And I think that that also helped them. Unlike the Conservative Party who saw the issue as a moral one, we saw it as a human rights issue, and this was a very telling difference between the two opposition parties. (Emphasis added).

This support was significant for two reasons. First having the support of an opposition party enhances confidence and morale in a government which rarely succeeds in wooing the support of its official opposition on major issues of debate. In effect, the LP was saying the NDP government were on course.

Second, it was an assurance of one more critical vote in support of the amendment during the voting in the House. Besides Mrs. Carstairs, there were 30 NDP and 26 PCP members of the legislature. Although the Speaker, who was known to be supportive of the proposed amendment could vote in the event of a tie, it was especially important to be sure of an extra vote from another party since there was a remote possibility some NDP MLAs could break ranks and vote against the bill. As it turned out, Mrs. Carstairs and all the NDP members voted in favour of it, while all the PCPs voted against it.

4. THE WORDING OF BILL 47

One of the factors which initially militated against the passage of this bill was the discomfort which some of its potential supporters had with its wording. The homosexual lobby, through its Committee for the Inclusion of Sexual Orientation in the Human Rights Act, working alongside the MHRC's legislation Committee and the Government drafting staff eventually succeeded in fine-tuning the proposal in a way that many NDP MLAs found acceptable. Both the Attorney-General and the past chairperson of the MHRC noted that the wording of the bill was vitally important in winning support for it, and they were helped in this regard by the homosexual lobby groups and information from Quebec, Ontario and elsewhere.

5. THE POLITICAL CLIMATE IN MANITOBA

By May 1987, the political climate in the province was amenable to the introduction of Bill 47. The NDP had just received a new mandate for another term and so an election was three or four years away. The government could conveniently risk "controversial" legislation and hope that any political wounds it might sustain in the process would heal before the next election. Furthermore the number of organizations supporting the legislation had grown considerably. This was the conducive political context in which the legislation was passed.

CHAPTER EIGHT

SUMMARY, DISCUSSION AND CONCLUSION

It is essential at this point to recapitulate the propositions spelled out in Chapter Three. These were:

- (1) An interest group's success in securing laws beneficial to its constituency will depend on the amount of valued resources and organization strength it possess;
- (2) An interest group's demands will be favourably responded to if they accord with the ideology of the ruling elites;
- (3) In responding to specific interest group demands, the ruling elites take into account their perception of the position of the public on those demands.

Data from the research pertaining to these propositions as discussed in Chapter Five are summarized below.

(1) Resources and Organizational Strength

1. The homosexual rights lobby groups possessed effective leadership and internal cohesiveness.
2. They lacked numerical strength but this weakness was compensated for by their alliance with other groups.
3. They identified the appropriate target groups and directed their efforts at them.
4. They successfully educated their targets and the general public on homosexuality and the need for homosexual

rights legislation.

5. They persisted in their efforts which focused on one main demand.

The target groups' perception of the homosexual lobby groups also corroborated these findings:

1. The targets perceived the lobby groups as organizationally resourceful and competent.
2. They indicated that association with other groups - the creation and expansion of the homosexual advocacy - helped the lobby groups achieve their goals.

From the above, it can be inferred that the homosexual lobby groups were organizationally competent and possessed adequate human and material resources necessary for the attainment of their objectives. On this basis of this inference, it can be concluded that the first proposition was confirmed.

(2) Ideological Congruity

Those targets with ideological frames of reference compatible with the demands of the lobby groups were supportive of the demands.

Although the ideological position of the key target group - the NDP government - was in accord with the demand, this target adopted a number of positions intended to enable it to avoid action because it was fearful of antagonizing or displeasing certain segments of the population. The second proposition was

confirmed by the findings of this research.

(3) Target's Perception of Public Opinion

The ruling elites took into consideration their perceptions of the state of public opinion on the issue of homosexual rights legislation. Sometimes these perceptions did not reflect reality as demonstrated in public opinion polls. This confirmed the third proposition.

SUMMARY

It is clear from the foregoing analysis that among the various ingredients of power identified in the theoretical section of this thesis, organizational strength (cohesiveness, narrow focus of demands, association with other groups), leadership and strategies were positively correlated with the success of the homosexual lobby groups in attaining their demands. As the quotations from the targets in this study illustrate, the lobby groups did an impressive job of presenting convincing arguments, an attribute which is both a measure and a mark of organizational competence and effective leadership.

None of the main target groups lobbied by the interest groups indicated a concern with the political power of the latter as material to the positions they took in the debate. In other words, targets claimed that in determining and assuming positions in the debate no attention was paid to the political power wielded by the lobby groups. What seemed to matter was the substance and

credibility of the arguments - that is, how convincing they were - rather than fear of the power of the lobby groups. However, the data showed that associative power or the credibility and strength acquired through association with other respected and powerful groups helped the lobby groups to achieve their goal.

As this thesis has shown, the homosexual lobby groups in Manitoba have engaged in a relentless educational campaign since 1972, aimed at deconstructing the deviant status of homosexuality. This effort generated a conflict situation involving political and moral rather than economic issues. The principal actors in this conflict were the homosexual lobby groups (GFE and SOL), the NDP and the PCP. For the homosexual lobby groups, it was a political and moral (human rights) issue. The NDP opposed the demand for Bill 47 for a political reason: it was afraid of losing its future electoral chances and hence its political power. The PCP opposed the amendment because it saw it as a conflict involving morality (standards and values), a conflict over the social construction of reality. The non-economic nature of the conflict justified the analysis of the situation within the analytical conflict perspective.

While the general public was the overall target, much attention was paid to the political leadership in the province, since this segment of the population would eventually have to effect changes in the MHRA. This campaign succeeded in persuading

most of their targets of the idea of the intrinsic harmlessness of homosexuality, in sensitizing them to the second-class status of homosexuals due to discriminatory treatment, and in exposing the apparent contradictions between the NDP government's ideological commitment to the protection of minority rights and their prolonged refusal to entrench homosexual rights provisions in the MHRA.

The plethora of literature made available to these target groups succeeded in convincing all of them except the PCP of the supportive state of public opinion on homosexual rights, and thereby assuring them of the unlikelihood of any significant vote loss in future provincial elections.

The point is that the homosexual lobby groups were organizationally competent in identifying the appropriate target groups and the issues of controversy; in assembling information relevant to, and supportive of their arguments; in lobbying, professional and religious bodies and individuals to support their cause, and in persisting in their efforts while constantly reviewing their strategies. In the end, they succeeded in educating the governing elites about homosexuality, the oppression of homosexuals, and the necessity for the inclusion of sexual orientation in the MHRA. Their lobbying efforts amounted to a deconstruction of homosexuality as deviant and its construction as

a lifestyle. Success was attained when Bill 47 was passed on July 17, 1987. The Act was proclaimed on December 10, 1987.

THEORETICAL IMPLICATIONS

This thesis has five implications for theory which can be summarized as follows:

- (1) Alternative definitions of reality professed by subordinates in pluralistic societies emerge and are legitimated by dominants depending on the ability of the former to persuade the latter of the validity of their claims to existence, and the necessity for its legal protection or defence. Persuasion entails education which in turn requires organizational competence and the mobilization of resources.
- (2) A given definition of reality can emerge and prevail provided that it can be encompassed within the existing symbolic universe. Thus, as this thesis shows, not only have the ruling elites in Manitoba given official recognition to the existence of homosexuality as an alternative lifestyle (even if they personally disapprove of it) by guaranteeing its protection in law but they have also integrated homosexual rights within one of the existing provinces of meaning - the advancement of basic human rights for all persons. This is compatible with the provision of equal

rights, which is a cardinal principle in Western pluralistic societies.

(3) The conceptualization of power in the analysis of interest group politics must encompass the critical ingredients of power such as organizational strength, size, and leadership which must be treated as mutually exclusive but interrelated units of analysis.

(4) The study of interest group politics must take account of social-psychological variables pertaining to the struggle. It must include but transcend perceptions of power. The cognitive preparedness or the amount of knowledge and the of fear of generating adverse public reaction on the part of target groups as they relate to the substance of the demand as well as the maintenance of self-interest must be given attention and integrated within the theoretical framework.

(5) The political context within which lobbying takes place must be included in the analysis of the process and its outcome. That is, attention must be paid to the nature of public opinion, the vicissitude of power of the targets, and the dominant ideology on the substance of the demand.

SUGGESTION FOR FURTHER RESEARCH

It would be interesting to compare the findings of this study with results of a study of the women's liberation movement, or an ethnic or religious minority lobbying. This would

presumably enhance understanding of the external validity or generalizability of the findings contained in this thesis.

ENDNOTES

Chapter One

¹The term 'gay' and 'homosexual' are used interchangeable in this thesis. There is however, a fine distinction between them. Whereas the former refers to every person who experiences sexual attraction to people of the same sex, the latter refers to one who positively avows such an identity openly. Thus, 'gay' is a sub-set of 'homosexual'. The word 'homosexual' was coined by Ben Kurte, a Hungarian psychologist in the 19th century. It was rejected by the homosexual movement in preference for the word 'gay' as its official designation because it is non-clinical, shorter and easier to use. In this thesis 'gay' has been used as a noun rather than an adjective. The word 'gay' was originally applied to well-off, unattached young men in 18th century France who were easy going, preoccupied with dressing and the pursuit of fun. It was also loosely applied to prostitutes who tend to share some of these attributes.

Chapter Two

¹The strident campaign mounted by the anti-pornography crusade in the United States led by the Reverend Jerry Falwell's "Moral Majority" and the U.S. Supreme Court's ruling banning the sale of Playboy and Penthouse magazines from 7-Eleven (Southland Corporation) stores is a recent case in point.

Chapter Four

¹The thesis would have benefitted from the responses of the current chairperson of the MHRC during whose tenure of office Bill 47 was debated and passed into law. The fact that the leader of the NDP was not interviewed did not affect the quality of the data as the Attorney-General and the caucus chairperson of the government, both of whom could be expected to be fairly conversant with the party's position on the issue were interviewed.

Chapter Five

¹The Manitoba Gay Directory, 1977 lists the following as the other homosexual organizations in Manitoba:

1. Council on Homosexuality and Religion. This is a grouping of clergy and lay people formed in the Fall of 1976 to offer educational and counselling programs in the religious community;
2. Dignity, an organization of gay Catholic men and women devoted to the reconciliation of Catholicism and homosexuality;
3. Gay Friends of Brandon established in the Spring of 1976;
4. Thomson Gay group formed in July, 1976;
5. Gay Men's Discussion Groups, a system of organized discussion groups for homosexual-oriented men in Winnipeg;
6. Mutual Friendship Society, a co-operative organization in Winnipeg serving the social needs of the gay community;
7. Winnipeg Gay Youth, a grouping of gay young people

(between the ages of 16 and 21 years) providing a forum for the discussion of problems of mutual concern to them;

8. Winnipeg Lesbian Society, formed in the Fall of 1975 to serve the social and educational needs of the Winnipeg lesbian community.

There is also a Winnipeg-based journal of gay liberation, After Stonewall, founded in January 1977, devoted to demonstrating gay self-esteem and "challenging and breaching the walls of alienation".

²In the absence of any complete census of the population by sexual orientation, GFE relied on the Kinsey reports of 1948 and 1953 which it deemed the most authoritative. These reports gave the following figures:

13% of the males were predominantly homosexual; 4% of the males were exclusively homosexual; 9% of the females were predominantly homosexual; 3% of the females were exclusively homosexual.

Based on these estimates, the brief provided the following statistics:

If the male population of Manitoba is 500,000, 13% of this figure is 65,000 and 4% is 20,000. If the female population is 500,000, 9% is 45,000 and 3% is 15,000. Taking even the smallest percentage it would appear that there are over 35,000 homosexual men and women in Manitoba.

³Although some, but not all, Manitoba newspapers accepted advertisements and announcements from gay organizations, this was only a recent and conditional tolerance. The Canadian Broadcasting Corporation operated under a policy which specifically forbids the broadcast of any public service announcement originating from any gay organization. The effect of such censorship was to deny a complete picture of homosexual life to the public.

Chapter Six

¹Internal differences were not uncommon in the early 1970s. There was considerable controversy over such issues as the place of feminism in gay liberation. There was also ample debate on whether or not the family unit was exploitative and whether Quebec should be granted separate status in the federal constitution. Gays and lesbians of color have been discriminated against and ghettoized by white middle-class male homosexuals (Kinsman, 1987, p. 186). Some of these discords surfaced at the National Gay Conference in Winnipeg in 1974.

²This is not to say that the movement is financially weak. Homosexuals have not suffered economically, unlike Blacks or Native Indians for instance. Thus, they could afford to finance, even personally, a movement because they have access to jobs, housing and other services, as long as their homosexuality remained secret. Discrimination does not occur until after the

homosexual has become publicly known, in most instances. Thus, many older gay people are still in the closet, married heterosexually and keeping their careers built upon the premise of their public heterosexuality. Such people tend to lend substantial monetary support to the movement provided they believe in its political cause(s). Nevertheless, membership dues and contributions are the chief sources of financing for these groups. They are not entitled to funding and subsidies from government or the agencies which partly cater to the financial needs of ethnocultural communities. The people who form gay communities are by and large, young people; the movement and the people in it are roughly the same age. To some extent, this imposes economic limits on the movement. To the extent that it draws on its own resources, from people whose average ages are 20-25, and whose economic resources and levels of experience and political accomplishments are scanty and limited. *I am indebted to Chris Vogel for these insights.

³The kind of statements being referred to here reflect the total deconstructive intents of the homosexual lobby groups. Part of their future political plans consisted of getting equal treatment in the area of pension and dental plans, discounted airline and railway tickets for couples, and legal homosexual marriages.

⁴This reaffirmation reflected a seven-point resolution passed

by the Party in its Plenary session on July 2, 1977. During Parliamentary Committee hearings on the constitutional resolution, the NDP introduced an amendment to include sexual orientation within the Canadian Charter of Rights. The amendment was not accepted.

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APPENDIX A

QUESTIONNAIRE GUIDE

- a) Why do you think the government wanted to include sexual orientation in the Human Rights Act? (i.e. why did they introduce Bill 47?)
- b) What was the official position of (Name of Organization) on Bill 47?
- c) Would you tell me the reasons why the (Name of Organization) took that position?
- d) Has the position of (Name of Organization) on the inclusion of sexual orientation in the Human Rights Act always been the same?
- e) Please explain. (If answer to (d) is "No").
- f) From your point of view, who were the strongest supporters of Bill 47?
- g) Why did they take that position?
- h) From your point of view, who were the strongest opponents of Bill 47?
- i) Why did they take that position?
- j) Are there any other comments you would like to make about the issue of legally protecting the rights of homosexuals?



APPENDIX B

THE UNIVERSITY OF MANITOBA

DEPARTMENT OF SOCIOLOGY

Winnipeg, Manitoba
Canada R3T 2N2

July 13, 1987

To Whom It May Concern:

This letter is to introduce Kenneth Attafuah, candidate for a Master's degree in the Sociology Department at the University of Manitoba. In his thesis, Mr. Attafuah will be studying the debate over amending the Manitoba Human Rights Act to prohibit discrimination on the basis of sexual orientation.

One aspect of Mr. Attafuah's research involves interviewing members of organizations which have had a role in this debate. Any assistance which you can provide to him in this regard will be gratefully appreciated.

As the supervisor of Mr. Attafuah's thesis, I will be glad to answer any questions which you might have about his research. Please feel free to contact me at either 474-8150 (office) or 237-4624 (residence). If you prefer, you can direct your questions to Professor Edward Boldt, Head of the Sociology Department, at 474-9260.

Sincerely yours,

A handwritten signature in cursive script, appearing to read 'Jay Goldstein', with a long horizontal flourish extending to the right.

Jay Goldstein
Associate Professor

ORGANIZATIONS IN CANADA THAT SUPPORT PROTECTION FROM DISCRIMINATION FOR ALL INDIVIDUALS REGARDLESS OF THEIR SEXUAL ORIENTATION

- Acadia University (Nova Scotia)
Air Canada
Atomic Energy of Canada Ltd.
Bank of America
Bank of Montreal
Bank of Nova Scotia
Bell Canada Ltd.
Between The Lines Pub. Co. (Ontario)
Bishop's University (Quebec)
Boeing Company
Brandon University (Manitoba)
Brandon General Hospital
Bristol Aerospace Ltd.
Canadian Broadcasting Corporation/
Radio Canada
Canadian Imperial Bank of Canada
Carleton University (Ontario)
Catalyst Press (Toronto)
Children's Aid Society of Metro Toronto
City of Kitchener (Ontario)
City of Ottawa (Ontario)
City of Toronto (Ontario)
City of Windsor (Ontario)
CKMS-FM Radio Windsor
Dalhousie University (Nova Scotia)
The T. Eaton Co. Ltd.
Eaton Corporation
Globe and Mail (Toronto)
Great-West Life Assurance Co.
Health Sciences Centre (Manitoba)
Hudson's Bay Company
Manitoba Hydro
Mohawk College (Ontario)
New Democratic Party of Manitoba
Ontario Institute for Studies in Higher
Education
Oxfam Canada
Post Office Department (Canada)
Progressive Conservative Association Manitoba
Rice Sportswear Ltd.
Simon Fraser University (B.C.)
Toronto Public Library Board
United Church of Canada, Toronto Conference.
Personnel Committee
University of British Columbia
University of Manitoba
University of Ottawa
University of Regina
University of Toronto
University of Waterloo
University of Windsor
Université de Moncton (N.B.)
Université de Montréal
Université de Québec à Rimouski
Women's Press (Ontario)
York University (Ontario)
Campus Ministries Foundation, University
of Toronto
Canadian Council of Christians and Jews
Canadian Council of Churches
Council on Homosexuality and Religion
(Canada)
Student Christian Movement
Anglican Church of Canada, House of Bishops
- Canadian Churchman**
Ontario House of Anglican Bishops
Ontario Provincial Council of the Anglican
Church of Canada
Episcopal Commission for Social Affairs of the
Canadian Conference of Catholic Bishops
Canadian Unitarian Council
United Church of Canada
- Manitoba & Northwestern Ontario Conference
- General Council
- Calgary Presbytery
- Emmanuel College Student Society (Ontario)
- **United Church Observer**
- Department of Church in Society
Advisory Council on the Status of Women
(Canada)
Alberta Human Rights Commission.
Annual Report
Association of Professional Student Services
Personnel (Ontario)
Association of Women Electors of Metro Toronto
Canadian Association of Social Workers.
Board of Directors
Canadian Association of University Teachers
Canadian Bar Association
Canadian Civil Liberties Association
Canadian Federation of Civil Liberties &
Human Rights Associations
Canadian Human Rights Commission
Canadian Labour Congress
Canadian Psychiatric Association
Canadian Psychological Association
Canadian Sociology & Anthropology Association
Canadian Union of Postal Workers
Canadian Union of Public Employees, Locals
43, 79, 82, 1230, 1250, 1281, 1582, 1996,
2001, 2189, 2316; Ontario Div.; Sask. Div.
Coalition of Provincial Organizations of
the Handicapped
Committee on Human Rights of Sudbury
& Region
Communication Workers of Canada
Communist Party of Canada
Le Droit (Ottawa)
Edmonton Journal (Alberta)
Elizabeth Fry Society of Ottawa
Family Services Associations of Metro Toronto
FEQ - Quebec Federation of Teachers
Hamilton Public Library Employees Association
Institute of Professional Librarians (Ontario)
Kitchener-Waterloo Human Rights Caucus
Law Union of Ontario
Letter Carriers Union of Canada
Liberal Party of Manitoba
Liberal Party of Ontario
Liberal Party of Canada
Manitoba Association for Rights & Liberties
Manitoba Association of Registered Nurses
Manitoba Library Association
Manitoba Teachers Society
Montreal **Gazette** (Quebec)
The Montreal Star (Quebec)
National Association of Women & the Law
New Democratic Party of Canada
- New Democratic Party of Manitoba
New Democratic Party of Ontario
New Democratic Party of Saskatchewan
Ontario Conference of University Faculty
Associations
Ontario Federation of Labour
Ontario Federation of Students
Ontario Human Rights Commission, Task
Force & Special Report
Ontario Libertarian Party
Ontario Psychiatric Association
Ontario Public Interest Research Group
Ontario Public Service Employees Union,
Locals 578, 531, 548, 556
Ontario Secondary School Teachers Federation
Ontario Status of Women Council
Oshawa & District Labour Council
Ottawa-Carleton Women's Centre
Parkdale Community Legal Services (Toronto)
Planned Parenthood Federation of Canada
Planned Parenthood (Toronto)
Planned Parenthood (Manitoba)
Quebec Human Rights Commission
Quebec National Assembly
Registered Nurses Association of B.C.,
Board of Directors
Saskatchewan Association on Human Rights
Saskatchewan Federation of Labour
Saskatchewan Human Rights Commission
Sex Education & Information Council of
Canada
Sex Education Centre, University of Toronto
SFPQ - Quebec Union of Provincial Civil
Servants
Southern Ontario Newspaper Guild
Thunder Bay & District Labour Council
Toronto Boards of Education
Toronto **Globe and Mail**
The Toronto Star
Toronto Teachers Federation
Windsor & District Labour Council
Women's Counselling, Referral & Education
Centre (Toronto)
Women's Resource Centre, Y.W.C.A. (Toronto)
College of Family Physicians of Canada,
Manitoba Chapter
Manitoba Action Committee on the Status of
Women
Central Mortgage & Housing Co. Canada

APPENDIX D

THE RICHARD NORTH LETTERS

FIRST LETTER: March 8, 1985

This letter, written on the first day of the hunger strike, reminded the government of the NDP's policy of including "sexual orientation" in the MHRA. It attached a copy of a letter from Charles Bigelow, President of the Manitoba NDP reminding the government caucus about the party's promise during the 1983 legislative session to amend the Act to include sexual orientation. It urged the government to make that resolution a reality.

North's letter also reminded the government about the NDP's continuous affirmation of human rights as top priority item on its agenda during conventions. It noted that the Attorney-General and the caucus chairperson had both promised after the 1981 election to meet this demand. It expressed surprise at the Attorney-General's refusal to undertake the reforms he promised, adding that "it is part of the function of the Attorney-General to insure that the purposes of the legislation that he administrators are adequately served". It ended with a collorary question to the above statement:

How can the purposes of the Manitoba Human Rights Act be adequately served when a minority group comprising one tenth

of the population is completely vulnerable to discrimination?

SECOND LETTER: March 11, 1985 (Monday, Fourth Day of Hunger
Strike)

This letter provided background information on the appointment, functions and activities of the MHRC. It noted that during the Commission's public hearings throughout the province, it received two hundred odd submissions, sixty of which specifically favoured the inclusion of "sexual orientation" in the Act. There were only two letters from individuals opposed to this addition. It said, in page five of its report the MHRC recommended this addition "to remove the doubt created by a recent Board of Adjudication decision that discrimination on the basis of one's intimate lifestyle is unacceptable" (the attached copy of the relevant page to the letter).

It urged the government to respect its own Commission's recommendations and to implement them, now that the legislature had reconvened, adding that there was "no good reason why homosexuals cannot be treated in the same manner as other minority groups who are subjected to prejudice".

It indicated the state of public opinion on the amendment as of 1983 when the MHRC held its hearings. There was greater support than opposition from the public to this amendment. It also challenged the government to respect the opinion of its people and to undertake the amendment.

THIRD LETTER: March 12, 1985

This letter questioned the basis of the targets' refusal to add sexual orientation to the MHRA and wondered if this refusal was grounded in fear of opposition from religious groups. It assured the targets of the support of many religious people and provided a long list of North American Churches and other religious organizations which support human rights protection on the basis of sexual orientation (see Appendix). It said churches of all theologies and from all backgrounds understand the importance of preventing discrimination from harming the lives of innocent individuals. It quoted statements from two of Canada's largest churches: the United Church of Canada declared and reaffirmed the following statement at its General Council in Morden in 1984:

We can begin by affirming the right of persons regardless of sexual orientation to employment, accommodation and access to the services and facilities that they need and desire.

The Anglican Church of Canada stated:

The gospel of Jesus Christ compels Christians to guard against all forms of human injustice and to affirm that all persons are brothers and sisters for whom Christ died. We affirm that homosexual persons are entitled to equal protection under the law with all other Canadian citizens.

It ended with a call on the government to respect the voice of the

great majority of Canadian church people who were urging it to include "sexual orientation" in the Act.

FOURTH LETTER: March 13, 1985

This letter demonstrated the experience of Quebec which included this clause in its Charter of Human Rights and Freedoms on December 19, 1977. It noted that Quebec's seven-year experience with the amendment was an indication that it was necessary, unobtrusive, uncomplicated and unobjectionable. (For information on the Quebec experience, see Appendix . This is included because of its fundamental importance to the other sections of the thesis).

FIFTH LETTER: March 14, 1985

This missive urged the government to follow the example of Stanley Knowles, member of the House of Commons for Winnipeg North Centre, who had "long been a champion for the rights of the disadvantaged and the disinherited". In a letter to North dated October 20, 1976, Knowles expressed his belief and hope that "the proposed Canadian Human Rights Act should include a prohibition against discrimination on the grounds of sexual orientation". North attached a copy of this letter to his.

SIXTH LETTER: March 15, 1985

This was a covering letter on the submission by the Canadian Labour Congress on Bill C-25, the Canadian Human Rights Act, on March 29, 1977. The Congress urged the Canadian government to

include sexual orientation or sexual preference in the Act.

The Congress also made a submission to the Code Review Committee of the Ontario Human Rights Commission on September 16, 1976. It said homosexuals have constantly faced discrimination in all fields, and since there was no reason why their sexual preference should bar them from employment or accommodation it should be made a prohibited ground of discrimination.

SEVENTH LETTER: March 18, 1985

The objective of this letter was to educate the targets about the normality of homosexuality as evidenced in the 1948 Kinsey Report on sexual behavior. It said, Kinsey demonstrated not only that homosexual activity among both men and women was far more common than had ever been supposed, but also that it co-existed with complete normality in all other areas of life. Kinsey said:

The homosexual has been a significant part of human sexual activity ever since the dawn of history, primarily because it is an expression of capacities that are basic in the human animal (1948).

The letter claimed that homosexuals comprise 10% of the population of Manitoba (see p.), a proportion which was "larger than most ethnic groups and larger than many minority groups who are already covered under the Human Rights Act".

Attached to this letter was another letter from North dated February 10, 1985, to these targets. It highlighted the essential

conclusions of the Kinsey study and used them as grounds for demanding protective legislation since homosexuality was both normal and far more common than generally assumed. Edited portions of this letter are provided below:

"When Sexual Behavior in the Human Male was published in 1948, the public reacted with shock and disbelief, particularly in response to the studies on homosexuality. Until recently, ideas about sexuality were the product of cultural influences rather than scientific investigation. Because the taboo against homosexuality has been so strong in the Judeo-Christian tradition, this form of sexual behavior appeared to be a perversion of normal sexuality which contravened the laws of nature. Attitudes toward homosexuality were based on a conception of the natural order which originated in cultural tradition rather than scientific understanding.

The 'Kinsey report' represented a turning point in attitudes toward sexual matters generally, and toward homosexuality in particular. It was the first large-scale, thoroughly scientific, statistical study of human sexual behavior. It revealed the enormous discrepancy between conventional wisdom about sexuality and the realities of sexual behavior; what people were really doing was often inconsistent with what they said they were doing. In particular, the statistics on homosexual behavior completely contradicted the traditional conception of homosexuality as a

sexual anomaly that represented a perversion of human nature.

It is one thing if we are dealing with a type of activity that is unusual, without precedent among other animals, and restricted to peculiar types of individuals within the human population. It is another if the phenomenon proves to be a fundamental part, not only of human sexuality, but of all mammalian patterns as a whole.

We ourselves were totally unprepared to find such incidence data when this research was originally undertaken. Over a period of several years we were repeatedly assailed with doubts as to whether we were getting a fair cross-section of the total population, or whether a selection of cases was biasing the results. It has been our experience, however, that each new group into which we have gone has provided substantially the same data.

While the validity of the data on all of the sexual outlets has been tested and re-tested throughout the study, especially attention has been given to testing the material on the homosexual (Kinsey et al, 1948).

Attempts to challenge the statistical base of the Kinsey report have been unsuccessful, and there has not been any convincing evidence to suggest that Kinsey's sample was not typical of the entire male population. Criticisms concerning the inclusion of prison populations were answered when Kinsey's

research associate, Wardell Pomeroy, recalculated the data, omitting the prison samples. This recalculation caused no change in the overall statistics on the incidence of homosexuality. Subsequent statistical research has consistently reinforced the findings of the Kinsey studies."

North also provided his targets with excerpts from the Kinsey report. He ended this letter with a call on the government to provide homosexuals with the same basic protections and rights enjoyed by other minority groups.

EIGHTH LETTER: March 19, 1985

This letter dealt with the contributions of homosexuals to the development of Western civilization. It sought to show that these contributions have been concealed from society by heterosexuals as a means of rendering homosexuality invisible. This invisibility amounts to trivialization which is a mechanism of social control. By revealing the contributions of homosexuals, North hoped to convince his targets that homosexuality and homosexuals are normal just like heterosexuality and heterosexuals, and that civilization was a product of men and women, irrespective of their sexual orientation.

In this letter, North said:

We gave you Plato, perhaps the prime mover in the history of Western thought. We gave you leaders of the order of Alexander the Great, Hadrian Emperor of Rome, Richard the

Lion Heart, Frederick the Great, Lawrence of Arabia. We gave you the poetry of W.H. Auden, A.E. Housman, Robert Graves, and Allen Ginsberg. We gave you the novels of E.M. Forster, Jean Genet, Andre Gide, Marcel Proust, Somerset Maughm, Christopher Isherwood, May Sarton, Gore Vidal, Truman Capote. We gave you the plays of Joe Orton, Tennessee Williams, Edward Albee. We gave you the films of Fassbinder, Cocteau, Eisenstein, and Pasolini. We entertained you with the plays of Noel Coward, Oscar Wilde, and Cole Porter. We gave you the music of Tchaikovsky and Benjamin Britten. We helped to shape the course of 20th century thought with the writings of Wittgenstein, John Maynard Keynes, Gertrude Stein, Paul Goodman, Malcolm Boyd, Charles Reich, Kate Millett. In Canadian literature, we have given you the writings of Michel Tremblay, Marie-Claire Blais, Timothy Findley, Jane Rule.

We have given you all of this, and more. Why will you not acknowledge our contributions, or even our existence, by including this minority in human rights legislation?

NINTH LETTER: March 20, 1985

North noted that human rights laws are intended to protect groups and individuals who are vulnerable to discrimination because they are outside a dominant or majority class. He said popular groups and individuals do not need protection, and the responsibility of the legislator is to determine, not whether a

group is popular enough to be accorded protection, but whether an unpopular group can be protected without damage to the essential structures of society.

But owing to his recognition of the sensitivity which legislators have for the degree of public acceptance received by any proposed legislation, he provided copies of letters from a number of Manitoba organizations which he believed were representative of local support for the "sexual orientation" amendment. These bodies were: College of Family Physicians of Canada, Manitoba Chapter; Diocese of Rupert's Land, Anglican Church of Canada; Manitoba Action Committee on the Status of Women; Manitoba Association of Registered Nurses; Manitoba Library Association; Manitoba Psychological Association; Manitoba Teachers' Society; Planned Parenthood Manitoba; Province of Manitoba Department of Education, Student Personnel Services; University of Manitoba Faculty Association and University of Winnipeg Faculty Association.

All these organizations indicated support for the inclusion of "sexual orientation" in the MHRA.

TENTH LETTER: March 21, 1985

This letter showed the positive response of the Attorney-General to the question as to whether he would support the inclusion of sexual orientation in the MHRA. This was during a poll of all candidates before the 1981 provincial elections on

gay rights conducted by the University of Winnipeg Gay Students' Association. The Attorney-General indicated he would act to move this amendment if elected. He also indicated he was well informed on this issue.

North noted that, after his election, Mr. Penner was appointed the Attorney-General and therefore placed in an advantaged position to advance the amendment. He urged Mr. Penner to respect the call of the gay community, the Manitobans who respect the rights of others, and his own better principles and to go ahead with the amendment.

ELEVENTH LETTER: March 22, 1985

This was a covering letter on a number of correspondence from homosexual groups in Manitoba. The objective was to demonstrate that several gay groups were supportive of his actions. He attached statements from these gay/lesbian organizations: Council on Homosexuality and Religion; Committee for the Inclusion of "Sexual Orientation" in the MHRA; Dignity; Gays For Equality, Oscar Wilde Memorial Society; Winnipeg Gay Media Collective; Project Lambda and Gay Interest Group, Canadian Library Association.

All these groups urged the government to amend the MHRA to include sexual orientation as a prohibited ground for discrimination.

TWELFTH LETTER: March 25, 1985

The substance of this letter was that legal protection of the human rights of homosexuals is no more a matter of controversy among Canadians than many other issues passed into legislation. North attached copies of the results of several public opinion polls on "gay rights" in Canada and the United States. The majority of respondents in these polls indicated support for legislation protecting gays from discrimination.

The letter said some people have the impression that antagonism towards homosexuals has remained high because antagonistic statements are accorded extensive publicity while positive statements about homosexuality and homosexuals are not given profile coverage but treated as not newsworthy. It added that more and more people with knowledge of homosexuals are recognizing that they themselves do not need to be protected from homosexuals but that homosexuals need the protection of the law. It urged the targets to close the gap between public opinion and the needs of homosexuals on one hand, and the responsibilities of the ruling elites to provide basic human rights protection for all.

THIRTEENTH LETTER: March 26, 1985

This letter contained excerpts from the comments of Prof. Jack London and Prof. Dale Gibson, both of the University of Manitoba Faculty of Law, Jill Oliver and Lawrie Cherniack who were

panellists at a function convened by GFE. These persons were identified as "local experts on human rights law," and they were either current or past members of the MHRC. The panellists expressed unanimous agreement on three points:

1. There is no legal reason why "sexual orientation" should not be added to the Manitoba Human Rights Act to provide protection for homosexual persons;
2. The term "sex" among the enumerated grounds in the present Act provides no protection whatever against sexual orientation discrimination;
3. Whatever is the possibility of using the "general purpose" clauses in the present Act to act against sexual orientation discrimination, this possibility in no way precludes or diminishes the need to explicitly amend the Act to include "sexual orientation". Use of these general clauses would require costly and time-consuming litigation, with no promise of success, during which time no protection could be confidently offered. In addition, failing to include "sexual orientation" specifically would defeat the educational and statement-of-principle functions of the Act, while rendering both complaint and enforcement procedures hesitant, confused, and difficult, if these could take place at all.

All the panellists concluded by urging the government to add "sexual orientation" to the Act.

The goal of this letter, much like the panel discussion, itself, was to refute a statement in the media attributed to the Attorney-General to the effect that the addition of sexual orientation in the MHRA was unnecessary because some form of protection was already available in the Act against discrimination on this ground.

FOURTEENTH LETTER: March 27, 1987

A list of the various jurisdictions across North America that had already included "sexual orientation" in their human rights laws was provided in this letter. He argued that the need was not unique to Manitoba and if the experiences of these various governments, including Quebec, was anything to go by, then the amendment was very necessary, simple and feasible. It said many of these jurisdictions such as Quebec and Boston, Massachusetts were essentially conservative while others were known for their liberalism or progressivism in the past.

In other words "sexual orientation" has been added to the human rights laws in jurisdictions with varying degrees of tolerance of diversity and acceptance of difference. Thus there was no reason why Manitoba which has been traditionally liberal could not go ahead with the amendment.

The reference to Manitoba as having a long history of relative tolerance is interesting. The gay movement in Winnipeg has received very little resistance. Up until the Second World

War, at least, Winnipeg was a place to which unorthodox people of all sorts came, because it was known to be far more tolerant of them than most other places in Canada. It did not have the hostile political organization that were common on the West coast; it did not have the vicious puritan white Anglo-Saxon Protestant prejudices of the Maritimes or of Ontario, or the rural conservatism of Quebec.

This tolerance manifested itself in a number of small instances involving homosexuals in the years following the War. Perhaps, these instances were gratuitous, but they created the impression that in Manitoba homosexuality was not as objectionable as it was in other places. For example, while the police in Winnipeg did hound homosexuals, they never did so neither more than, nor more recently as did the police in Ontario, Quebec or British Columbia.

It may also be the case that the movement in Manitoba has been less publicly visible than is true in some of these other places, thereby provoking less reaction from anti-homosexual segments of the population and the police. On the other hand, there has never been any substantial religious opposition to gay liberation in Manitoba, although there has been such opposition in a great many other jurisdictions, large and small. Nor has there been any significant or substantial instances of discrimination. Those which have occurred have been minor ones affecting one or

two victims who are, in many instances unwilling to protest.

Nevertheless, the Winnipeg gay movement has not had the cataclysmic instances of discrimination as have occurred in Montreal, Toronto, or Vancouver. Thus, the movement as a whole has been unthreatened, and at the same time unstimulated and therefore has not in turn reacted in a way that would generate further reactions.

The consequence of this is that the movement has achieved a considerable improvement in public attitudes, but has done so imperceptively. Thus, the change in attitudes is only evidenced through the occasional public opinion polls but not in single occurrences and particular incidents.

FIFTEENTH LETTER: March 28, 1985

This letter reiterated the 1977 NDP federal policy on homosexual rights which affirmed support for the inclusion of "sexual orientation" in the Canadian Human Rights Act. It also contained a summary statement from Ed Broadbent, the Party's federal leader supporting the amendment. He urged the provincial NDP to align its actions with its promises and the position of the federal party on this matter.

SIXTEENTH LETTER: March 29, 1985

Attached to this letter were letters supportive of the amendment received from key federal NDP politicians in the House of Commons. Iain Angus, Les Benjamin, Derek Blackburn, Ed

Broadbent, Michael Cassidy, Ernie Epp, Jim Fulton and Simon de Jong all expressed support for the proposed amendment and identified it as an NDP policy. Cyril Keeper, Stanley Knowles, Jim Manley, Lorne Nystrom, Nelson Riis, Svend Robinson and John Rodriguez were others who also sent supportive letters to Mr. North.

Harping on the NDP's traditional support for human rights and equality as reflected in these letters, North urged the provincial NDP government to introduce the amendment in the MHRA.

SEVENTEENTH LETTER: April 1, 1985

In this letter North pressed his demand capitalizing on the justice and equality components of the Throne Speech delivered by the Hon. Pearl McGonigal, Lieutenant-Governor of Manitoba on March 7, 1985 at the opening of the Fourth Session of Manitoba's Thirty-Second Legislature. On this occasion, the Lieutenant-Governor declared:

My government is dedicated to achieving equality before and under the law in our statutes, regulations and programs. North said, "dedication" is a strong and honourable word and implies action in the cause to which it is given. He therefore urged the government to ensure that such a noble word did not become one more empty word for the homosexual community in its search for equality before and under the law.

This letter, like many others, employed a content analysis of

communication. It delved deeper into the meanings of words and symbolisms and urged the government to respect its commitment to these lofty principles and the sentiments which underlie them.

EIGHTEENTH LETTER: April 2, 1985

On May 11, 1983, Svend Robinson, MP for Burnaby introduced a Bill into Parliament to add "sexual orientation" to the Canadian Human Rights Act. In this letter, North referred to this action as the most recent chapter in the history of the New Democratic Party's struggle against discrimination. He quoted Mr. Robinson's concluding remarks:

A fundamental question of human rights, of the right to live and the right to love without fear of persecution and without fear of discrimination and without fear of the loss of one's livelihood, or one's home, or without fear of being denied goods or services. We are talking about the right of young people in Canada not to be afraid, not to have to keep silent and not to have to conceal their own identity. In fact, we are talking about a fundamental question of the civil

liberties of hundreds of thousands of Canadian men and women.

The crust of this letter was that the federal NDP had already taken up the leadership challenge by introducing the amendment in the House of Commons. This was in consonance with its commitment to minority rights, even where the issue is unpopular. Mr. Robinson's statement underlies the need to provide the kind of

atmosphere that would permit people to be honest with themselves and others, to "live and love their lovers in peace".

NINETEENTH LETTER: April 3, 1985

On March 7, 1985 North sent a packet to all the members of the Legislative Assembly (MLAs). In this letter, he recapitulated the main points in that packet which documents the extent to which employers were ceasing to regard homosexuality as a disqualification in the work place (see Appendix). These points were:

Firstly, many employers are no longer frightened by the bogey that the homosexual men and women are undesirable employees. Secondly, not all employers are represented on this list, so that in many firms and agencies homosexuals still run the risk of being unjustly treated. Thirdly, because the declarations and contracts referred to on the list are not backed by legislation, they cannot be depended upon by the employees affected for implementation--especially in the atmosphere where a "supposedly progressive government refuses to provide protection to the group in question."

North also enclosed letters from the Manitoba Progressive Conservative Association dated March 13, 1974 and Manitoba NDP dated March 4, 1974 (addressed to GFE) both of which rejected the suggestion that homosexuality and membership of homosexual organization was incompatible with membership in these parties.

Despite this stance, both parties had failed to extend legal protection for homosexuals.

TWENTIETH LETTER: April 4, 1985

This was a covering letter on the views expressed by leaders in the federal PC stating their support for this amendment. They included Pat Carney, David Crombie, Roch LaSalle, R.E.J. Layton and Flora MacDonald.

Pat Carney, then Minister for Energy, and Gordon Fairweather, Chief Commissioner of the Canadian Human Rights Commission and former M.P. attempted through amendment in Committee and Private Member's Bill to make this human rights reform a reality.

North's objective here was to demonstrate that supporters of the amendment were from all sorts of political backgrounds, and the leaders who took this position knew that their constituents supported them and the amendment as well.

TWENTY-FIRST LETTER: April 8, 1985

This letter portrayed the pains of being fired for being gay. It talked about rejections, denials, abuses, hopelessness and despondency as part of the multiple agonies of the experience. Materials from the National Gay Rights Lobby in the U.S. were attached. North said:

Being fired or evicted or refused service are concerns which threaten homosexual men and women every day of our lives. We don't want anything special...all we want is protection of

our basic human rights. Our objectives in this matter are no different from those of the numerous minority groups who are already protected by the Manitoba Human Rights Act.

His point here is that whereas the amendment would not make homosexuals anymore special than heterosexuals, the agonies of rejection and denigration consequent to being fired were greater than the experience of the average heterosexual who gets fired.

TWENTY-SECOND LETTER: April 9, 1985

This was a covering letter on a leaflet produced by Jerry Falwell's Christian fundamentalist organization, the "Moral Majority". The leaflet said in part:

While we believe that homosexuality is moral pervasion, we are committed to guaranteeing the civil rights of homosexuals.

This statement makes the point that even fundamentalist Christian organizations do not consider as controversial, the extension of legal protection for homosexuals. This was intended to calm the fears of the governing elites about their controversy surrounding the amendment. North said, if there was any controversy, it resided in the government's fear to act on the proposed amendment.

TWENTY-THIRD LETTER: April 10, 1985

North returned to the issue of widespread support for the amendment in this letter. He reemphasized that the support cuts across party lines, and attached a copy of Bill C-242 of May 2,

1980, moved by Conservative M.P. Pat Carney, and the supporting speeches in the House of Commons on June 19, 1981.

He said, it was regrettable that while politicians of all ideological persuasions were prepared to defend the rights of homosexuals, their efforts were being frustrated as though lives were not being affected by the government's inaction.

TWENTY-FOURTH LETTER: April 11, 1985

North, relying on a pamphlet titled "A Coming Out Miracle at 58" produced by "Mr. David", a retiring male homosexual in Winnipeg in 1983, talked about the sense of relief and self-acceptance which comes with being open about homosexuality. A younger co-worker at David's workplace had been warned that any public statement about his homosexuality would cost him his position. This amounted to silencing and trivialization of homosexuality which are veritable mechanisms of keeping homosexuals in the closet.

Keeping homosexuality in the closet is a form of social ordering, and "coming out" initially destabilizes the existing social order because it challenges the taken-for-granted assumptions of the heterosexual-dominated social world and its foundations. This process therefore necessarily engenders social conflict over the definition of sexuality and the control of sexual expression in society.

TWENTY-FIFTH LETTER: April 25, 1985

The crux of this letter was that even politicians who do not claim to have a special affinity for human rights know how important the legal protection of rights is to many people. Such people have felt the common conviction that it is essential to prevent discrimination from occurring to anyone, including homosexuals. He attached letters from Lloyd Axworthy (dated September 19, 1977), Alain Tardif (dated March 26, 1985), John Nunziata (dated March 18, 1985) and Sheila Copps (dated March 28, 1985) as well as newspaper clippings (Winnipeg Tribune, October 8, 1977, p. 17 and September 27, 1977, p. 10) all of which reflected the supportive positions of these and other politicians across Canada. He urged the government to make the reform.

TWENTY-SIXTH LETTER: April 15, 1985

North acknowledged the failure of the efforts to achieve this amendment, despite the admission of previous Human Rights Commissions and Attorneys-General that there was no protection for gays under the MHRA because none had been intended and no part of the Act could be construed as providing any protection. He referred to the case of Vogel vs. the Government of Manitoba in which the adjudicator, Marshall Rothstein Q.C., appointed by the Attorney-General determined as follows:

Had that been its intention, there has been ample opportunity for the Manitoba Legislature to amend the Manitoba Human

Rights Act to cover homosexuality or sexual orientation, and its failure to do so confirms that it did not so intend....

To hold that the Manitoba Human Rights Act covers homosexuality or sexual orientation would be to legislate in an area the legislature did not intend (see Appendix).

This decision was bolstered by the arguments from the counsel for the Government, Ron Perozzo, who was also appointed by the Attorney-General for this case. He insisted that there was no coverage for homosexuals under the Act.

North referred to the conclusions of a panel of legal experts who considered this question at the University of Manitoba Faculty of Law on March 18, 1985 (see p. 70-71). They concluded that the Act was completely inadequate in providing protection for homosexuals against discrimination. On that occasion, Jill Oliver, member of the MHRC stated:

I think that it is absolutely essential that the Act and the government be very specific about including "sexual orientation" per se....I am going to make a bit of a plea that it be included as soon as possible....I am appealing to the government to recognize the hardships that are being caused, there are only two isolated cases (cited in previous discussion) in, I am sure, a great number of instances where similar problems arise, and I certainly hope that something is being done about it very shortly.

Prof. Jack London, formerly Dean of the University of Manitoba Faculty of Law also said:

Whether or not the current Manitoba Human Rights Act was or was not capable of protecting sexual orientation...is irrelevant at this point....there are people who are hurting, there are people who are in need and there are rights to be protected and one ought not to have to go through that kind of process (i.e. litigation in attempt to use a general non-discrimination statement in the Act) in order to have them protected....These are serious current problems which ought not to be left to another government which is unlikely to act upon them.

North also indicated that in private conversations with him the Attorney-General had stated that he personally believed that effective protection for homosexuals required the addition of "sexual orientation" to the enumerated grounds of discrimination in the Act. North reasoned that since in Manitoba, as elsewhere, human rights legislation has only worked successfully when there was specific and explicit inclusion of the protected category, the Attorney-General ought to make the amendment.

TWENTY-SEVENTH LETTER: April 16, 1985

This document was missing from the files.

TWENTY-NINTH LETTER: April 17, 1985

The Equality Rights section (Section 15) of the Canadian Charter of Rights and Freedoms was coming into force on this day, having been delayed three years since passage. North said this delay had provided ample time for the government to update the laws of Manitoba to bring them in line with this section of the Charter.

He said, although this section specified prohibited grounds of discrimination, sexual orientation was not included, an omission which the federal NDP caucus had sought to rectify. This shortcoming had already drawn the criticism of the NDP and Liberal parties. NDP justice critic Svend Robinson said:

Canadian women and minorities, homosexuals, lesbians and the disabled, were told that they must keep waiting for full equality before the law as they thought was guaranteed them by the Charter (Winnipeg Free Press, February 2, 1985).

The federal Opposition parties pointed out another problem which resulted when legislation was not explicit. When the law is unclear, the onus falls on those who experience discrimination to take legal action to secure justice:

Opposition MPs said in the Commons that this means women and minorities will have to go to court--a lengthy and expensive process--to have their rights enforced after April 17 when all sections of the Charter are in effect (Winnipeg Free

Press, February 2, 1985).

North noted that whether or not the Government of Manitoba believed that Section 15 covered sexual orientation, it was not relieved of its responsibilities for dealing with the inclusion in the Manitoba Human Rights Act. If it believed that sexual orientation was covered by the Charter, then the Manitoba Human Rights Act should be one of those pieces of legislation it would be amending to bring them in line with it, and "sexual orientation" had to be added to achieve that alignment. If the government did not think that the Charter covered sexual orientation, then the need for explicit coverage under provincial legislation was all the more necessary.

In February 1985, Gordon Fairweather, Chief Commissioner of the Canadian Human Rights Commission stated that the Charter was not a substitute for human rights legislation, nor did it subsume the function of human rights commissions (emphasis added).

North added:

When the average person experiences discrimination, he/she is not going to resort to court action to obtain redress. The day-to-day job of providing redress in cases of discrimination will continue to fall to the federal and provincial human rights commissions. The Charter of Rights and Freedoms serves as a statement of the philosophical underpinnings of our laws, but it in no way replaces the body

of statute law now in existence. If the Government of Manitoba believes that there should be protection from sexual orientation discrimination, then it should include sexual orientation in the Manitoba Human Rights Act. Whether or not the Charter of Rights covers this form of discrimination, the provincial government must still deal with this issue as it pertains to provincial human rights legislation.

TWENTY-NINTH LETTER: April 18, 1985

North re-stated that there was no protection against discrimination based on sexual orientation in the Canadian Charter of Rights and Freedoms because "sexual orientation" was not mentioned in it. This was also because those who wrote and passed that legislation did not intend for it to be there. He said, the same was true of the MHRA.

He attached copies of the parliamentary debate on a Private Member's Bill (C-225) which was introduced in the House of Commons by the NDP Justice Critic Svend Robinson on March 4, 1985, urging that "sexual orientation" be included in the Canadian Human Rights Act. The debate took place on March 26, after which the matter was referred to the Standing Committee on Justice and Legal Affairs (Commons Debates, March 26, 3392-3399; the House of Commons of Canada, Bill C-225, March 4, 1985).

THIRTIETH LETTER: April 19, 1985

This was another letter aimed at calming any fears the government might have with the possible reaction of the religious community if it made the reform. North provided the government with the conclusions of a panel of "religious experts" who discussed the issue on April 9, 1985 at the University of Winnipeg. The panel discussion was convened by the University of Winnipeg Students Association and GFE.

The panellists represented a diverse selection of religious traditions, both Protestant and Roman Catholic. North said, all of them agreed with the statement by Rev. MacWatts, Dean of Theology at the University of Winnipeg that:

There is certainly plenty of the Church's teaching and in the Biblical teaching and in my own convictions about justice and righteousness that would argue in favour of the legal protection against discrimination for homosexuals.

They also agreed with Rev. (Prof.) Carl Ridd of the United Church of Canada and the Department of Religious Studies at the University of Winnipeg that there was nothing in the traditions of their respective denominations that argued against providing legal protection for the human rights of homosexuals. They also joined unanimously with Stefan Jonasson, Chaplain of the Unitarian Church at the University of Winnipeg and President of the Western Canadian District of the Unitarian-Universalist Association in

calling upon the government of Manitoba to add sexual orientation to the MHRA.

North expressed the hope that this information would make the government feel comfortable with making the reform, knowing that church people and religious bodies were overwhelmingly supportive of it.

THIRTY-FIRST LETTER: April 22, 1985

This letter addressed a concern expressed by Don Orchard, in the Manitoba Legislature that such a reform would prevent the Red Cross from protecting their blood bank from AIDS. North attached a copy of a letter on this issue from GFE, dated April 17, 1985.

He summarized the contents of GFE's letter as follows:

1. Human Rights legislation, with or without protection against sexual orientation discrimination, does not and cannot interfere with the blood bank system. Even if the Red Cross directly questioned potential donors about their sexual orientation, this would not violate any human rights legislation, since such a question is obviously relevant.
2. Success in screening donors, either by asking about homosexuality, or with the more indirect warning-pamphlet system that they now actually use, depends on the candour of the donors. The hostility of our society towards homosexuality, expressed in your government's refusal to protect our human rights, among other ways, discourages

anyone from making a public statement on the subject. Thus, your failure to provide this human rights protection endangers the blood banking system.

3. The Manitoba Department of Health now wants to use the new ELISA antibody test to discover everyone who has antibodies to AIDS, in order to contain spread of this disease. To do this will require the co-operation of the gay community. The Department of Health will also list all those who test positively on an uncoded register, and they propose to do contact tracing. This test is an indirect, unreliable, incidental, and indeterminate measure for the disease. In the present climate of hostility towards homosexuals (who are imagined to be the only ones with AIDS) and panic about AIDS, these limitations to the test will be ignored and anyone who is even known to have had the test, not to mention those who test positively, are listed on the register, and have their contacts traced, are certain to become the victims of discrimination. Because your government refuses to provide any protection against this discrimination, you will not receive co-operation from the gay community. Under the circumstances, the test is much more dangerous than the possibility of getting the disease.

THIRTY-SECOND LETTER: April 23, 1985

This letter made the point that every attempt to extend human rights protection through the use of other grounds, or of general non-discrimination clauses had failed. He attached copies of the rulings in the definitive cases where such attempts had been made. He said, the government had defended itself against the charge that it discriminated against its own homosexual employees by insisting that no part of the MHRA provided any protection against sexual orientation discrimination (Winnipeg Free Press, August 25, 1983).

He noted that court actions are costly and time-consuming, and court decisions, even if favourable, do not necessarily mean government compliance. He added that, going to court served neither the purposes of the MHRA nor the respect for human rights principles, especially when the decisions were always a forgone conclusion.

THIRTY-THIRD LETTER: April 14, 1985

Attached to this letter was the list of non-religious organizations supportive of the amendment (see Appendix). They included human rights commissions and organizations, political parties, labour unions and federations, health professions, and educational associations.

North said the Winnipeg Free Press could be added to the list and pointed out that the growing list indicated that many

organizations were becoming increasingly supportive of the reform.

THIRTY-FOURTH LETTER: April 25, 1985

This letter demonstrated the firm support of the NDP for homosexual rights and the attempts of NDP politicians to attract the support of homosexuals during election. Attached to this letter were campaign leaflets and other documents reflecting the NDP's policy on gay rights and promises of NDP politicians to reform the appropriate Canadian/provincial legislations to include "sexual orientation" as a prohibited ground of discrimination.

For instance, Ontario NDP leader Stephen Lewis, speaking at York University in October 1976 declared:

The NDP favours the immediate addition of the term sexual orientation to the Ontario Human Rights Code.

Similarly, Jim Turk, president of the party stated at a National Gay Rights Demonstration in September 1976:

The inclusion of sexual orientation in the Ontario Human Rights Code as only the first step to ensuring gay rights.

The NDP will continue to stand behind the gay minority after this minimal demand has been met.

These assertions were consistent with the official NDP position on gay rights.

THIRTY-FIFTH LETTER: April 26, 1985

North attached an editorial from a local newspaper (Jewish Post, Thursday April 4, 1985) which he said showed both that

leading members of one of Manitoba's major ethnic groups support adding "sexual orientation" to the MHRA, and also that they draw from their own experience the need for this reform.

He said the horrible treatment inflicted upon millions of Jews in the Nazi prison and work camps is common knowledge. So too, to Jews at least, is an understanding of the direct connection between this concentrated mistreatment and the broader anti-semitism believed by most Central and Eastern Europeans for centuries before this holocaust. He noted that it was not so commonly known that hundreds of thousands of homosexuals were also interned in these camps by the Nazis, most of whom perished there, adding that this horror also was no more than the concentrated implementation of the homophobia of the general population.

He said Jews and homosexuals had experienced all of their lives the circumstance of being mistreated, despised, hated by the other citizens of the communities in which they lived. They experienced the expression of this in individual ways in discrimination, assaults in public places, attacks both criminal and official on their institutions, and collectively in the indifference of the authorities to their victimization. He said they know that failure to provide deliberate and explicit protection of homosexual rights would mean that they would be perpetually threatened, adding that a genuinely pluralistic society cannot exist when the rights of some may be legally

violated without redress.

THIRTY-SIXTH LETTER: April 29, 1985

This was a response to a letter North received from the Attorney-General of Manitoba dated April 25, 1985 in which the latter stressed with reference to the MHRA that the general words in Section 3(1)(b) and 6(1) have the effect of prohibiting all forms of discrimination. North rejected this argument on the same grounds as those stated in his thirteenth letter. A copy of the Attorney-General's letter was attached.

THIRTY-SEVENTH LETTER: April 30, 1985

This letter contained the conclusions of the leaders of Manitoba's labour organizations who met on April 22, 1985 at the Union Centre to discuss the addition of "sexual orientation" to the MHRA. A copy of the proceedings was attached to this letter. The conclusions were as follows:

1. Most labour contracts do not include "sexual orientation", or, indeed, any no-discrimination clause at all. Beyond that, most workers are not union members, and do not have the protection of a collective agreement.
2. It is almost impossible to persuade employers to add to a contract no-discrimination clause anything that is different from the wording of the MHRA. It is therefore impossible, under present circumstances, to add "sexual orientation" to a contract, in most instances. On the other hand, many

employers are doubly anxious to add to their contracts the provisions which are explicitly included in the Act, to insure that disputes are settled internally by the contract grievance procedure and not externally by a public complaint to the Human Rights Commission. The wording of the Act therefore has enormous impact on contract protections.

3. Even the collective agreements which contain protection against sexual orientation protect only the employees already a part of the bargaining unit, but not those seeking employment. These contracts can have no effect on preventing discrimination in employment practices, since they do not cover non-employees. Only the Act governs employment practices.
4. The experience of the unions is that their basic principles with regard to employment, "hire only according to merit, fire only for cause", are equally readily applicable to employees regardless of whether they are homosexual or heterosexual.

North noted that the labour movement in Manitoba had found that their attempts to protect workers from discrimination based on sexual orientation had floundered because of the government's failure to amend the MHRA. They called on the government to amend the Act.

THIRTY-EIGHTH LETTER: May 1, 1985

This contained copies of letters and statements of support for the amendment from local religious leaders such as Rev. Barbara Barnett, Chaplain of St. John's College, University of Manitoba; Rev. Dirk Habermehl of the Christian Reformed Church; Rev. Doug Hartindale of the MHRC. Others were: Rev. Donna L. Atkinson; Rev. Norman N. Naylor of the Unitarian Center; Rev. John Caird of the Anglican Church of Canada, the Parish of Saint James; Archdeacon David Crawley of the Diocese of Rupert's Land and Rev. Timothy M. Appleton. Most of these people sent copies of their letters either to the Attorney-General or the Premier of Manitoba.

On the basis of their arguments and supportive positions, North urged the government to make the amendment.

THIRTY-NINTH LETTER: May 2, 1985

This letter pointed out that there were marked inconsistencies between the NDP's assertions of dedication to human rights and its actual actions on human rights demands. It urged the government to close the gap between its rhetorics of commitment and actions which reflect this commitment by, among other things, providing human rights protection for homosexuals.

FOURTIETH LETTER: May 3, 1985 (Fifty-seventh Day of the Hunger Strike)

Attached to this letter was a copy of an article by John Bowman captioned "Homosexuals: Change in Law Appears Far Away" in

the Winnipeg Tribune, October 1974. North said, a decade had passed since homosexuals in Manitoba first presented a brief to the government urging the inclusion of "sexual orientation" in the MHRA. He noted that the passage of those years has meant that many Manitobans have completely unnecessarily lost jobs, housing, access to services and many have had to live constantly in fear of being victimized in this way. He urged the government to take constructive action on human rights and make it unnecessary for people to waste financial and psychological resources in legal battles in defence of their rights.