

Fifteen years of struggle

In early January 1987, John Wilson talked to Tom Warner on the 15 year struggle for sexual orientation protection in the Ontario Human Rights Code. Warner has been involved in the Coalition for Gay Rights in Ontario (CGRO) almost continuously since it was founded in 1975. He has also been active in the Toronto Gay Alliance Towards Equality (GATE) in the 70s, several cross-country coalitions for lesbian and gay rights, the John Damien Defence Committee and numerous other groups. **John Wilson:** What do you think made this victory possible at this point in time?

Tom Warner: There were a couple of factors that were key. The most important of all was the change in government. I don't think that any sort of amendment would have come forward if the Conservatives were still in office. Not only was there a change in government but there was a minority government. Mainly through the work of the NDP the amendment was put through with at first only reluctant support from the Liberals. Second, it was just the sheer persistence on the part of the gay movement. It has been an issue for approximately 15 years. It's been CGRO's main issue for the 12 years since 1975. We have promoted the issue fairly relentlessly whenever there was any relevant discussion taking place at Queen's Park. These are the two key factors. Thirdly, there has also been an overall change on the part of the straight community. One of the successes of the gay liberation movement has been in terms of public education. Over this 15 year period we have been very successful in getting our message across and in getting people to take discrimination against lesbians and gay men seriously.

History of the campaign

J.W.: You and other CGRO activists have been campaigning for this type of protection since 1975 and before. Perhaps you could give our readers some background on this.

T.W.: Putting the issue of sexual orientation in the Human Rights Code has proceeded through a number of stages. In the beginning, it was just a basic civil rights issue that a lot of people could identify with, not just lesbians and gay men. It provided an opportunity for us to say a lot of things both from an educational and political point of view.

The first stage in the campaign was getting the Human Rights Commission itself to recognize that this was an important issue—that there was discrimination happening and that they should take an active position to educate and to pressure the government into amending the Code. In the years from 1972 through to about 1977 a lot of the effort was directed at the Commission itself. There were meetings with the Commission, briefs submitted to the Commission and even demonstrations outside the Commission offices. The John Damien case was very important. He was a very ordinary person. In the public's mind it was very enlightening that someone of Damien's character and position in life should be the victim of blatant discrimination. That was instrumental in changing lots of people's minds. This stage culminated in 1977 with the release of the *Life Together* report when the Human Rights Commission travelled around the province and received submissions on how the Code should be updated. One of their recommendations was that sexual orientation should be included in the Code.

The second stage involved putting pressure on the MPP's themselves. CGRO has done four briefs since 1975 documenting cases of discrimination, and listing organizations supporting sexual orientation protection. We have met with the Liberal and NDP caucuses and individual MPP's. In 1975 there was an election and there was a strong gay presence at all-candidates meetings, at places where the party leaders were appearing, and questions asked to the candidates as to where they stood on the inclusion in the code.

I think historically the turning point came in 1977 with the provincial election. In that year the first private member's bill supporting sexual orientation protection was defeated just before the election as a result of Conservative members standing in opposition. This gave us the opportunity to make the amendment of the code a real issue in the province. CGRO and GATE's campaign to "vote for gay rights, vote against the Tories" was very important in galvanizing the gay and lesbian communities into recognizing that it was in their best interests to support those candidates who supported sexual orientation protection. But also for the first time the issue entered the mainstream of politics in Ontario in terms of media coverage and the perception of candidates, at least in the larger urban centres which had gay populations.

In 1979 the Conservative government was committed to amending the Human Rights Code to include the disabled, because it was the International Year of the Disabled. They wanted to do that but avoid the whole issue of sexual orientation which in effect created a separate human rights code for the disabled. We organized very strongly and I think effectively against that. And so did the disabled community saying they wanted to be part of the overall code and not be put into some special legislation. So that died on the order paper. So that when the amendments to the Human Rights Code were coming up



Tom Warner

again in 1981 the Conservatives knew that they had a real problem on their hands. They were opening up the floodgates in terms of sexual orientation and didn't quite know how to deal with this. They had to do something for the disabled but they didn't want to deal with the gay issue. I think that created a political climate combined with the organizing of the religious right like Renaissance and Positive Parents, in which they thought they could generate a backlash to the gay community. The support for sexual orientation protection in the NDP and Liberal caucuses was increasing and there was more and more pressure being brought to bear on the government to do something.

The bath raids in 1981 were another turning point. I have always maintained that the bath raids were related to the Human Rights Code amendments that were coming up, in order to create a negative environment and a backlash against the gay community so that the government would then be justified in not amending the code to include sexual orientation.

J.W.: I think in the long run it had the opposite effect.

T.W.: I think it did. It mobilized not only our community but it mobilized the straight community and outraged a lot of people that the rights of a minority could be attacked in such an organized way. They ended up looking rather foolish by avoiding sexual orientation in 1981. The final turning point was the change in government in 1985.

The significance of victory

J.W.: The passage of sexual orientation was a big victory for lesbian and gay rights if only because it was such a long and persistent campaign. How do you see its significance beyond that?

T.W.: Well I think that it is primarily a symbolic victory. It establishes what we have been saying all along that there is discrimination against lesbians and gay men and that this discrimination pervades all aspects of our society and all institutions. What the amendment does finally say is that we acknowledge that there is discrimination and that there now is a mechanism, inadequate as it is, for dealing with it when it does take place. Beyond that it is not going to have any significant effect on the daily lives of lesbians and gay men. It was always viewed as the first of a series of issues that the movement would have to fight for gay people to attain their rights, not to mention gay liberation in a broader context. It was the issue around which we could mobilize large numbers of people and talk about some of the other issues that are also important in the process.

J.W.: One of the things that will be more difficult now is for employers to resist attempts by unions to get sexual orientation protection added to non-discrimination clauses in contracts.

T.W.: That's right. Unions have been in the forefront on this issue, at least certain of the unions have been. This has been helpful and now there is the legal force behind it which may perhaps give some of the other unions the courage they may have not had before—so that those sectors that might not automatically be covered by the human rights code could be

CELEST NATALE

covered through their contracts. I would see that as a very positive development.

New directions

J.W.: How do you see the future work of CGRO developing as a result of this? This has really been the major issue of the Coalition since it was formed.

T.W.: I can only give you my personal view on that. I suspect that we will be having a series of meetings over the next year to hammer out the direction in which we want to go. We do currently have 12 other planks in our program that effect other legislation. Those have been on the books for at least ten years. We may want to proceed with strengthening the Human Rights Commission itself and dealing with other provincial human rights legislation like child custody and adoption issues. We have an interest in the educational policy of the province since we have a position which is to establish a fair and unbiased presentation of homosexuality in the school system. In conjunction with the Human Rights Code there is also the Charter of Rights and I can see a lot of challenges in terms of spousal benefits, pension benefits, tax benefits for gay spouses, and OHIP coverage. That sort of extension of the human rights struggle could be one area we could move in. A number of people have an interest in working more closely with AIDS groups in terms of AIDS-related discrimination and educational work around that. There is a whole range of issues there that need to be addressed. Or it could be something new that could galvanize the community. There certainly is no absence of issues to pursue and I think CGRO will be around for a good long time yet.

Impact on the rest of the country

J.W.: I was wondering how you see the passage of such protection in Ontario affecting other provinces.

T.W.: This is one time when I subscribe to the domino theory. I would hope that the dominoes are starting to fall from one end of the country to the other. In a lot of ways what has happened in Ontario will be a lot more significant than what happened in Quebec in 1977. That is not in any way to diminish what happened in Quebec, since they were the first province to amend their Code. The reality is that Ontario generally leads the other provinces in legislation of this type. So I would see the other provinces gradually amending their codes as well. I am hopeful that Manitoba with its NDP government will now have the courage to proceed and I know that the gay community in Manitoba is gearing up for a campaign on this issue. There is the NDP government in the Yukon which backed down on putting it in their code because of right wing reaction. It may be in some provinces that there will have to be a change in government before there is any change. We know that the government in Nova Scotia is very stone age on rights issues and some of the statements that cabinet members have made about gay people there are certainly not encouraging. There will be some holdouts and some gay communities in some provinces are going to have a hell of a fight before they get their equivalent of Bill 7. The prospects in B.C. are not very good as long as Social Credit is in power. The only thing that is going to change that is a decision by the Supreme Court, if there were to be one, which states that the Charter by implication does include sexual orientation protection. But they are not going to do it on their own.

No compromises

J.W.: In Ontario unlike Quebec the passage of sexual orientation protection was the result of a long and public struggle. And I think it was perceived this way.

T.W.: I am gratified that we did it our way. We had opportunities to do it quietly. We had political deals offered to us to exclude child care workers and teachers and we turned them down. Some people thought we should go with half a loaf and hope the other half would come along later. Our view was, "No! We want it all or we don't want anything. We want it to come about as the result of a public debate. We want people to know it is in the Code." We never saw any value in trying to sneak it through quietly without any press coverage. The one nice thing about this whole issue and this campaign is that it was our issue. We defined it and we carried the ball on the issue. It was one of the few gay rights issues over the last 15 years around which we were pro-active. The only regret I have is that it didn't happen 10 or 15 years ago. Otherwise, I think that everyone who has been involved with this campaign over the years can feel really gratified that it was a victory on our terms.

Note to readers: The chair of the Ontario Human Rights Commission has commented publicly that underfunding of the commission threatens its effectiveness, especially in relation to taking up cases under the new amendments to the code. Letters supporting more funding and staff for the commission can be addressed to Premier David Peterson and Treasurer Robert Nixon: Queen's Park, Toronto, Ontario, Legislative Building.